PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

THURSDAY, 12 MAY 2022

hansard.parliament.vic.gov.au

By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU AC

The Lieutenant-Governor

The Honourable JAMES ANGUS AO

The ministry

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

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Finn, Mr Gepp, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Tarlamis.
Participating members: Dr Bach, Ms Bath, Dr Cumming, Mr Davis, Ms Lovell, Mr Meddick, Mr Ondarchie, Mr Rich-Phillips, Ms Vaghela and Ms Watt.

Environment and Planning Standing Committee

Dr Bach, Ms Bath, Dr Cumming, Mr Grimley, Mr Hayes, Mr Meddick, Mr Melhem, Dr Ratnam, Ms Terpstra and Ms Watt.
Participating members: Ms Burnett-Wake, Ms Crozier, Mr Davis, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Rich-Phillips.

Legal and Social Issues Standing Committee

Ms Burnett-Wake, Mr Erdogan, Dr Kieu, Ms Maxwell, Mr Ondarchie, Ms Patten and Ms Taylor.
Participating members: Dr Bach, Ms Bath, Ms Crozier, Dr Cumming, Mr Gepp, Mr Grimley, Ms Lovell, Mr Quilty, Dr Ratnam, Mr Tarlamis, Ms Terpstra, Ms Vaghela and Ms Watt.

Privileges Committee

Mr Atkinson, Mr Bourman, Mr Davis, Mr Grimley, Mr Leane, Mr Rich-Phillips, Ms Shing, Ms Symes and Ms Tierney.

Procedure Committee

The President, the Deputy President, Ms Crozier, Mr Davis, Mr Grimley, Dr Kieu, Ms Patten, Ms Pulford and Ms Symes.

Joint committees

Dispute Resolution Committee

Council: Mr Bourman, Ms Crozier, Mr Davis, Ms Symes and Ms Tierney.
Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula and Mr R Smith.

Electoral Matters Committee

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

House Committee

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

Integrity and Oversight Committee

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

Pandemic Declaration Accountability and Oversight Committee

Council: Ms Crozier and Mr Erdogan.
Assembly: Mr J Bull, Mr Eren, Ms Kealy, Mr Sheed, Ms Ward and Mr Wells.

Public Accounts and Estimates Committee

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

Scrutiny of Acts and Regulations Committee

Council: Mr Gepp, Ms Patten, Ms Terpstra and Ms Watt.
Assembly: Mr Burgess, Ms Connolly and Mr Morris.

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young

Parliamentary Services: Secretary: Ms T Burrows

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT—FIRST SESSION

President
The Hon. N ELASMAR (from 18 June 2020)
The Hon. SL LEANE (to 18 June 2020)

Deputy President
The Hon. WA LOVELL

Acting Presidents
Mr Bourman, Mr Gepp, Mr Melhem and Ms Patten

Leader of the Government
The Hon. J SYMES

Deputy Leader of the Government
The Hon. GA TIERNEY

Leader of the Opposition
The Hon. DM DAVIS

Deputy Leader of the Opposition
Ms G CROZIER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	McIntosh, Mr Thomas Andrew[9]	Eastern Victoria	ALP
Bach, Dr Matthew[1]	Eastern Metropolitan	LP	Maxwell, Ms Tania Maree	Northern Victoria	DHJP
Barton, Mr Rodney Brian	Eastern Metropolitan	TMP	Meddick, Mr Andy	Western Victoria	AJP
Bath, Ms Melina Gaye	Eastern Victoria	Nats	Melhem, Mr Cesar	Western Metropolitan	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	Mikakos, Ms Jenny[10]	Northern Metropolitan	ALP
Burnett-Wake, Ms Cathrine[2]	Eastern Victoria	LP	O'Donohue, Mr Edward John[11]	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Cumming, Dr Catherine Rebecca	Western Metropolitan	Ind	Patten, Ms Fiona Heather	Northern Metropolitan	FPRP
Dalidakis, Mr Philip[3]	Southern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Davis, Mr David McLean	Southern Metropolitan	LP	Quilty, Mr Timothy	Northern Victoria	LDP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ratnam, Dr Samantha Shantini	Northern Metropolitan	Greens
Erdogan, Mr Enver[4]	Southern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas Christopher[5]	Western Metropolitan	DLP	Shing, Ms Harriet	Eastern Victoria	ALP
Garrett, Ms Jane Furneaux[6]	Eastern Victoria	ALP	Somyurek, Mr Adem[12]	South Eastern Metropolitan	Ind
Gepp, Mr Mark	Northern Victoria	ALP	Stitt, Ms Ingrid	Western Metropolitan	ALP
Grimley, Mr Stuart James	Western Victoria	DHJP	Symes, Ms Jaclyn	Northern Victoria	ALP
Hayes, Mr Clifford	Southern Metropolitan	SAP	Tarlamis, Mr Lee[13]	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne[7]	South Eastern Metropolitan	ALP	Taylor, Ms Nina	Southern Metropolitan	ALP
Kieu, Dr Tien Dung	South Eastern Metropolitan	ALP	Terpstra, Ms Sonja	Eastern Metropolitan	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Limbrick, Mr David[8]	South Eastern Metropolitan	LDP	Vaghela, Ms Kaushaliya Virjibhai[14]	Western Metropolitan	Ind
Lovell, Ms Wendy Ann	Northern Victoria	LP	Watt, Ms Sheena[15]	Northern Metropolitan	ALP
McArthur, Mrs Beverley	Western Victoria	LP	Wooldridge, Ms Mary Louise Newling[16]	Eastern Metropolitan	LP

[1] Appointed 5 March 2020
[2] Appointed 2 December 2021
[3] Resigned 17 June 2019
[4] Appointed 15 August 2019
[5] LP until 24 May 2022
Ind 24 May–2 June 2022
[6] Died 2 July 2022
[7] Resigned 23 March 2020
[8] Resigned 11 April 2022
Appointed 23 June 2022
[9] Appointed 18 August 2022
[10] Resigned 26 September 2020
[11] Resigned 1 December 2021
[12] ALP until 15 June 2020
[13] Appointed 23 April 2020
[14] ALP until 7 March 2022
[15] Appointed 13 October 2020
[16] Resigned 28 February 2020

Party abbreviations

AJP—Animal Justice Party; ALP—Labor Party; DHJP—Derryn Hinch's Justice Party;
DLP—Democratic Labour Party; FPRP—Fiona Patten's Reason Party; Greens—Australian Greens;
Ind—Independent; LDP—Liberal Democratic Party; LP—Liberal Party; Nats—The Nationals;
SAP—Sustainable Australia Party; SFFP—Shooters, Fishers and Farmers Party; TMP—Transport Matters Party

CONTENTS

Thursday, 12 May 2022

The PRESIDENT (Hon. N Elasmar) took the chair at 10.04 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (10:04): On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the First People of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past, present and emerging and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament.

Condolences

SENIOR CONSTABLE BRIA JOYCE

Mr GEPP (Northern Victoria) (10:05): *(By leave)* I rise today to speak on behalf of the government on this condolence matter to mark the passing of Victoria Police member Senior Constable Bria Joyce. Senior Constable Joyce was tragically killed on 8 April 2022 whilst performing her highway patrol duties on a road in Red Cliffs, near Mildura. I know that this is an incredibly difficult time for Senior Constable Joyce's family and friends, her Victoria Police colleagues and the broader Mildura community. Whilst we also know our words here today will not take away their pain, we hope that the knowledge that the government and Parliament are standing with them at this time eases it just a little.

Senior Constable Joyce entered the police academy on 22 August 2016, and she graduated eighth in her squad of 27. That November she was sworn in, before continuing her training with initial operational duties in the Melbourne CBD. Bria commenced work with the Mildura uniform in April 2018 and was confirmed as a first constable in November 2018 and promoted to senior constable some two years later. On 11 October 2021 Bria commenced her final assignment post with duties with Mildura highway patrol. Bria was a dedicated and passionate officer. She was passionate about serving her community, and that was apparent to all her colleagues and is why they had such a deep and abiding respect for her. She will always be remembered for the values she brought to the job and the impact that she had on those that knew her.

We grieve as a Parliament for the tragic loss of Senior Constable Joyce because we know the courage and commitment it takes to be a serving police officer. As they suit up for work each day they do not know the circumstances that they will confront on that day, and yet despite this they fasten that last shirt button, they lace up that shoe and they walk out the door to serve the Victorian community, regardless of the unknown. The Premier I think said it best when asked why we have so much respect for and give so much unqualified thanks to Victoria Police members. He said, and I paraphrase, 'Because when we the public flee from danger, they run towards it, all in the name of serving and protecting their community. Nothing is more noble'.

I again extend our heartfelt condolences to Bria's family and friends. Can I also extend those condolences to Victoria Police Chief Commissioner Patton, to Police Association Victoria Secretary Gatt and to all past and present serving members of the Victoria Police force for the loss of their comrade. Vale, Senior Constable Bria Joyce.

Ms LOVELL (Northern Victoria) (10:09): *(By leave)* On behalf of the Liberal and National parties I rise to join this condolence for Senior Constable Bria Joyce. At 9.55 pm on Friday, 8 April, a horrific accident in Red Cliffs, about 16 kilometres south of Mildura, claimed the life of 25-year-old Senior Constable Bria Joyce and seriously injured Senior Constable Thomas Kinnane. This was a horrific accident that has saddened the entire Sunraysia region community. Bria has been described to me by people who knew her as a lovely person who was generous, warm hearted and a joy to have around.

Bria joined Victoria Police six years ago and moved to Mildura in 2018, and just 12 months ago she joined the highway patrol. The loss of any life in a workplace accident is tragic, but I think the community always feels it more when that loss is of one of our frontline workers, a person who gives of themselves every day to keep our community safe.

Bria will be sadly missed by her family, friends and colleagues. I extend the sincere condolences of the Liberal and National parties to her mother, Dianne; partner, Kyle; her extended family and friends; and also to her colleagues in Victoria Police.

One of Bria's colleagues at Mildura police station is the Liberal Party candidate for Mildura, Paul Matheson, and I would just like to include a few personal words from Paul, who said:

> Bria was a beautiful person and colleague who had such a profound impact on all of our lives. In the challenging environment in which we work, we remember her for the strength and enthusiasm she always displayed. Rest in peace.

From every member of the Liberal and National parties: rest in peace, Bria Joyce.

Ms MAXWELL (Northern Victoria) (10:11): *(By leave)* It is actually with great sorrow that I speak on behalf of Derryn Hinch's Justice Party to give our condolences for the loss of Bria Joyce. Ms Joyce was not only a well-respected and loved senior constable in Mildura, she was a cherished family member, a friend to many and an admired member of the local community.

The risks our police members take each day, as Mr Gepp said, and every day are profoundly demonstrated when a tragedy such as this occurs. Mr Grimley and I know this well—Mr Grimley as a former police member, and for me it is something I think of every time my husband walks out that door to go on shift.

We also recognise how traumatic this must have been for the first responders to the scene. When we lose a member of our police force in the line of duty, it has an enormous impact on us all. Police literally put their lives on the line for our safety each and every day. We all know this, and we should all respect that enormous commitment and sacrifice. I praise the courage of our serving members and express my gratitude for the work that they do.

Police members seem to never really be off duty. It is ingrained in them to help others, whether the uniform is on or off. This is demonstrated by reports that Ms Joyce rescued a young girl struggling in the Murray River when she was off duty. I have no doubt that child and family will be forever grateful. There are undoubtedly many others that Ms Joyce helped over the years and lives she saved in her more recent work patrolling our highways.

The Victoria Police hierarchy spoke glowingly of the contribution Ms Joyce made in her six years as a police officer, and I hope this will be cherished by those who loved her, knowing she clearly was doing very well in a job that she so loved. On behalf of Derryn Hinch's Justice Party, we hold Ms Joyce's family, friends, colleagues and community in our hearts.

Mr BOURMAN (Eastern Victoria) (10:13): *(By leave)* I am just going to make a very short statement. Police work is very dangerous, and in a lot of ways it is fortunate that we are not here doing this more often. People like Bria Joyce step into the uniform day in, day out and do things that are inherently dangerous, and sometimes tragedies come to unfold. Sadly, this is not the only instance we have had in recent times of having to deal with this. My condolences go to Bria Joyce's family, friends, colleagues and particularly those colleagues that had to turn up as the initial responders. I could not imagine what that would be like. Vale, Senior Constable Bria Joyce.

The PRESIDENT: As a mark of respect for the tragic death of Senior Constable Bria Joyce in Mildura on 8 April 2022, I ask members to stand in their places for 1 minute's silence.

Members stood in their places.

Bills

JUSTICE LEGISLATION AMENDMENT (FINES REFORM AND OTHER MATTERS) BILL 2022

Council's amendments

The PRESIDENT (10:15): I have received a message from the Legislative Assembly:

> The Legislative Assembly informs the Legislative Council that, in relation to 'A Bill for an Act to amend the **Fines Reform Act 2014**, the **Infringements Act 2006**, the **Magistrates' Court Act 1989**, the **Road Safety Act 1986**, the **Sentencing Act 1991**, the **Sheriff Act 2009**, the **EastLink Project Act 2004**, the **Melbourne City Link Act 1995**, the **North East Link Act 2020**, the **West Gate Tunnel (Truck Bans and Traffic Management) Act 2019**, the **Taxation Administration Act 1997** and the **Transfer of Land Act 1958** and other Acts and for other purposes' the amendments made by the Council have been agreed to.

Committees

LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Closure of I Cook Foods Pty Ltd

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (10:16): Pursuant to standing order 23.30, I lay on the table a copy of the government response to the Legal and Social Issues Committee's second report on the inquiry into the closure of I Cook Foods Pty Ltd.

Papers

PAPERS

Tabled by Clerk:

> Subordinate Legislation Act 1994—Documents under section 15 in respect of Statutory Rule No. 21.

Business of the house

NOTICES

Notice of motion given.

Notices of intention to make a statement given.

ADJOURNMENT

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (10:17): I move:

> That the Council, at its rising, adjourn until Tuesday, 24 May 2022.

Motion agreed to.

Members statements

AUSTRALIA'S BIGGEST BLOOD PRESSURE CHECK

Mr ONDARCHIE (Northern Metropolitan) (10:18): May is blood pressure awareness month, and I am encouraging all Victorians to go to their pharmacy or their doctor and get a blood pressure test as soon as they can. It may save their life. High blood pressure, or hypertension, is the greatest modifiable risk for stroke. A quick and painless blood pressure check can be all it takes for someone to change their life and reduce their stroke risk. Each May the Stroke Foundation promotes the importance of blood pressure checking as part of Australia's Biggest Blood Pressure Check campaign. It coincides with World Hypertension Day on 17 May.

High blood pressure often goes undiagnosed and has no immediate symptoms. Over time it puts extra stress on blood vessel walls and causes them to narrow or break down, eventually leading to a stroke. A staggering 4.7 million Australians are living with uncontrolled high blood pressure, and many do not realise it. A normal blood pressure measurement is described as around 120/80. A measurement of 140/90 is regarded as high blood pressure and puts you at increased risk of stroke, no matter what your age. To find a local pharmacy which provides blood pressure monitoring services, simply head to findapharmacy.com.au. I have had personal experience with stroke, so I know what it means.

Can I congratulate Sharon McGowan, Heidi Victoria and the whole team at the Stroke Foundation for this very important month. Can I encourage all Victorians: go get a blood pressure test—please.

MARYBOROUGH RAIL SERVICES

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (10:19): I was very pleased on budget day to visit Maryborough and to join with local members of the community to celebrate the budget announcement that Maryborough will have more options, with an additional four weekend train services for residents and visitors alike. These additional weekend services will stop at Creswick, Clunes and Talbot and will be scheduled at different times to the weekday services to account for the different needs and preferences of weekend users.

As well as connecting Maryborough to Melbourne and Ballarat, the trains will provide a fabulous opportunity to grow jobs and tourism opportunities for the Maryborough community. I am delighted that our government has been able to deliver the funding for these extra services that will drive tourism and create jobs but also provide additional opportunities for people from Maryborough to head to Ballarat or to Melbourne. I congratulate all of those who have advocated for these new services and look forward to making the journey in the not-too-distant future.

WEDDERBURN COLLEGE

Ms PULFORD: On another matter, I had the opportunity to visit Wedderburn College on budget day to announce that the Victorian budget is investing nearly $13 million for a major upgrade to modernise existing facilities at the school, including block A and the hall. Wedderburn is one of 29 mainstream schools across the state to receive major funding for an upgrade. It was a delight to tour the school, to meet a number of the students, staff and teachers and to hear about the positive impact that this funding will achieve. It was cross-country day, so there was much excitement to be had, but it was great to be able to add to the excitement with this significant announcement. I know it will be a wonderful thing for those who work at Wedderburn College and those who turn up to learn.

DRUG AND ALCOHOL SERVICES

Mr GRIMLEY (Western Victoria) (10:21): I rise today to send my thoughts, strength and solidarity to any family or person who is experiencing a loved one going through addiction. Our party believes that anyone facing an addiction should be able to get the help that they need without delay. There is often a very small window between the time someone says, 'I want help' and the time that they potentially relapse and do not want help for their addiction anymore. This is why availability of services, including detox, is so important and why we cannot accept a six-month or a six-week wait.

Recently I met with the mother of a former addict. She is grateful that her daughter has been able to overcome her addiction, but it was not an easy or a quick path by any stretch; it never is. Her daughter attempted suicide in 2012, her lowest point, but her story is one of success. She now has a beautiful family and is eight years clean. This mother has dedicated a lot of her time to pushing for the Lookout in Warrnambool to provide a residential rehabilitation service closer to home. This is one of the reasons I will continue to fight for more rehabilitation services, including residential and detox beds. I was very disappointed to see that this service, which has $1.2 million raised to build it, was overlooked in the budget, but I know these families will keep on fighting because lives depend on it. Once again, to

reiterate: my heart goes out to families experiencing addiction. It is a horrible scourge, and we desperately need the services to beat it.

FLINDERS PIER

Ms BURNETT-WAKE (Eastern Victoria) (10:22): I rise to congratulate the Save Flinders Pier committee for their success in saving the pier from demolition. The government announced last Tuesday it would provide funding towards critical works on the pier. This comes after a lengthy and tiring campaign by the Save Flinders Pier committee. The government originally intended to demolish the historic site of the pier despite its history and importance as a marine ecosystem for the weedy sea dragon. I would like to acknowledge the great work done by the members of the committee, especially the work of chairman Charles Reis. It was only through their persistence and hard work that this result was achieved. Signs have adorned countless shops and parks across the peninsula, and a petition to save the pier now has over 40 000 signatures. As an MP, the committee sought my assistance to request action by the government, which I was able to do through an adjournment matter. It is rewarding when matters you speak on and support get listened to and lead to good outcomes. Seeing the Flinders community celebrate this win is incredibly rewarding. Their win also demonstrates the power of grassroots activism and the need for MPs to listen to our constituents before making decisions. I am proud to have supported this fight and congratulate the committee again on their success.

LADDER STEP UP LATROBE VALLEY

Ms SHING (Eastern Victoria) (10:24): I rise today to congratulate each and every single one of the 178 graduates of the Ladder Step Up program in the Latrobe Valley. This is a transformative engagement for young people, some of the most vulnerable folk across the Latrobe Valley, who really need support, assistance, wraparound care and non-judgemental access to mentors and to role models. What we have seen over the period of these 19 programs, which have been held in partnership with the AFL, is young people getting access to steady and stable accommodation, to support networks and to the connections to help them to reintegrate into education or indeed to work towards pathways of vocational training or indeed employment. I want to give a special congratulations to Keisha, Bella, Simone, Harmonee, Maeve and Latoya, who shared their stories with me when we reconfirmed funding for the Ladder Step Up program as part of this year's budget. It is stories like yours which make all the difference. It is hearing about the work that you are doing to maximise your own potential that means that you are incredible role models for other people across our communities. Well done. My congratulations. I cannot wait to see where you go from here.

CONSTRUCTION INDUSTRY

Mr HAYES (Southern Metropolitan) (10:25): I am repeatedly asked by residents why the government insists that Victoria's only option for economic recovery from COVID is by stimulating the already rampant construction industry. Communities are well aware of the flaws that this favouritism is creating in the planning system, with negative impacts on local amenity and the environment. We see streets overloaded with construction vehicles, extensive tree canopy destruction, heritage demolition and huge amounts of construction materials taking landfill space, not to mention developments flouting design and development overlays and challenging council planning decisions. On top of this I see statistics from the Australian Institute of Landscape Architects that the building and demolition sector contributes almost 40 per cent of our greenhouse gas emissions. One has to question what evidence the government has to support this economic obsession with the construction industry, given the continued detrimental impact on climate change. We obsess about reducing fossil fuel use, but what pressure has been put on the construction industry to at least reduce and re-use? Where is the government's insistence on environmentally sustainable design? Dependence on one sector for economic growth is not a good strategy. There are better, sustainable economic options for long-term growth: smart manufacturing, agriculture, renewable energy exports, revegetation and recycling, to name a few.

INTERNATIONAL NURSES DAY

Mr ATKINSON (Eastern Metropolitan) (10:27): At a time when we are obviously facing significant health challenges in our services for Victorians, and of course over the past two years the extraordinary challenges to that system, it is important to recognise International Nurses Day today and the extraordinary commitment and dedication of so many people in our health services and hospitals but particularly those nurses who have been very much at the front line of our response to the COVID challenge and who indeed provide support and comfort as much as clinical care to so many Victorians when they are facing difficult circumstances with their health and of course to those people that care for them, also looking after them.

FAMILY VIOLENCE

Mr ATKINSON: Can I also just provide a shout-out to Samantha Ratnam, who last night was a liaison person for the multicultural women's alliance against family violence, which has just been formed. In fact it was founded last night in this place, and it is a significant organisation because whilst governments are spending a lot of money to try and support women and children in family violence circumstances, there is no doubt there is a gap in those services for multicultural communities. This organisation aims to tackle that, and I welcome its foundation.

CHISHOLM TAFE

Mr TARLAMIS (South Eastern Metropolitan) (10:28): Construction is now underway on a new $67.6 million learning facility at Chisholm TAFE's Frankston campus. This second stage of the $151.1 million redevelopment will introduce a new, multilevel learning facility, delivering 9600 square metres of learning spaces, including specialised learning spaces for community services, art and design, VCE, VCAL and foundation college courses, as well as a new student hub, gallery, food, retail and outdoor spaces. The facility will complement stage 1, replacing the two oldest buildings on the Fletcher Road campus. The entire project will generate an estimated 132 jobs, including employment for 25 apprentices during construction and at least 30 new teaching positions over the next decade. It is expected that students will be utilising the new building by late 2023. We are proud to be continuing our work to make TAFE better than ever, so whether you are studying mental health, youth work or cybersecurity this new campus will give locals from Frankston and beyond all the tools they need to start an exciting new career in an in-demand sector.

NEIGHBOURHOOD HOUSE WEEK

Mr TARLAMIS: On another matter, this week is Neighbourhood House Week. Our neighbourhood houses, also known as community houses and community learning and neighbourhood centres, are the heart of our communities, and there are 400 of them across Victoria. Around 200 000 Victorians are getting involved with their local community through these community-run organisations each week, and they do an incredible job creating a sense of connection and belonging for Victorians of all ages and walks of life. They offer a diverse range of activities, from social activities, exercise classes and support services to food relief, adult education and so much more. I encourage everyone to visit their local neighbourhood houses and community centres to say hi and find out what great activities are available for them. I want to thank the neighbourhood houses and community centres in my electorate and all the amazing people that make them the vital part of our community that they are.

EASTERN METROPOLITAN REGION CITIZENSHIP CEREMONIES

Mr BARTON (Eastern Metropolitan) (10:30): I was incredibly lucky recently to be invited to a number of citizenship ceremonies hosted by local councils in my electorate. After two long years of postponing such events these citizenship ceremonies feel even that little bit more special. Each time there is excitement in the air. Family and friends all come together to celebrate their loved ones being finally recognised as citizens of Australia. These ceremonies offer time to reflect on our fortunes as Australians. We all come from different backgrounds, different cultures and different ways of life; this

makes us all richer. As members of Parliament we get to bring our communities' voices, experiences and issues to this place. In this role we get to learn a lot about what it means to be an Australian today. Being an Aussie is about mateship, authenticity and respect. Congratulations again to the new citizens in Boroondara, Knox and Manningham. I feel very privileged to have been able to welcome you all as citizens of Australia.

INTERNATIONAL NURSES DAY

Ms CROZIER (Southern Metropolitan) (10:31): I, like Mr Atkinson, would like to recognise International Nurses Day. International Nurses Day is on this day, 12 May, the anniversary of Florence Nightingale's birth. Florence Nightingale lived to a ripe old age of something like 90 years and was an extraordinary nurse who really paved the way for modern nursing in those times. As Mr Atkinson said, in the last two years there have been extraordinary efforts from so many nurses across the system. Whether it is in hospital, whether it is in the community or whether it is in GP clinics, all nurses have put enormous effort into serving the community and assisting patients right across our healthcare system. It is a wonderful recognition, and I know that those friends of mine who are nurses and midwives who have been working throughout this period know how difficult it is. I have been hearing firsthand from so many of them and even from their daughters who have also taken up the great vocation of nursing. It has been tremendous for me to hear from them to understand exactly the challenges. I really want to pay tribute to every single nurse not only in Victoria but right around the country and right around the world. It is International Nurses Day, and I think the entire chamber would also welcome the congratulations for and recognition of the work that they have done.

NEIGHBOURHOOD HOUSE WEEK

Mr GEPP (Northern Victoria) (10:33): This week I also want to give a shout-out to Neighbourhood House Week, as per Mr Tarlamis, Ms Shing and everybody else in this place who has recognised it. What great organisations they are. There are 400 of them around this state, servicing over 200 000 Victorians, doing some extraordinary work, so good on them. I had the great pleasure recently of visiting the Crossenvale Community House in Echuca. It was fantastic to catch up with the tireless coordinator there, Sheridan Clark, and former Campaspe mayor and board member Peter Williams. The Crossenvale Community House aim to engage their local community, providing resources and services to fulfil the community's potential to achieve their aspirations. Last year they received $50 000 from the government through its food relief package to assist vulnerable community members in times of need, ensuring food security for those who need it most. Crossenvale assists around 100 locals each week, with a focus on public housing residents, low-income workers, the elderly and the Indigenous community. These people are retirees, stay-at-home parents and our youth. They offer computer access, community gardening projects, printing and scanning of documents, room hire and referrals to local services, and during COVID they worked with Good360 and provided $120 000 worth of clothes, footwear and toys for their local community. This month they will start a women's mentor program with a social enterprise coffee trailer training long-term unemployed women to become baristas, with the aim of getting them into full-time work. It was my honour to meet such an outstanding group of people—and not a comment was passed about the quality of their shoes or their mobile phones.

SOUTH YARRA PRESBYTERIAN CHURCH FIRE

Ms TAYLOR (Southern Metropolitan) (10:34): Firstly, I would like to acknowledge that there has certainly been a lot of shock around the suburb of South Yarra this morning with the fire in the church that is adjacent to South Yarra Primary School. I did actually telephone and manage to get on to the principal of South Yarra Primary School, and he said, 'Thankfully no-one was hurt, and the actual school wasn't damaged, although the school will be closed today. We're assessing the damage and making sure everything is as it should be and making sure that the requisite support is provided'. So a shout-out to Fire Rescue Victoria for their incredible efforts, because I think it was a pretty tall fire. I am not the one to give the run-down on the actual status of the building, but suffice to say that it has

certainly been a bit of a shock and Punt Road is shut down et cetera. I commend all involved and all in that area for coping with a pretty stressful morning all round, but I know that things are being managed very carefully at this point in time.

POWER SAVING BONUS

Ms TAYLOR: On another note, I would also like to give a shout-out to all our neighbourhood houses around Victoria. The Premier, Minister D'Ambrosio and I all went down to Caulfield South Community House, and there we actually announced the extension of the new $250 power saving bonus program, which builds on the success of the 2018–20 $50 power saving bonus program for households and the 2021–22 $250 bonus for concession recipients— *(Time expired)*

GARVOC COMMUNITY HUB AND GRASMERE PRIMARY SCHOOL

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education)

Incorporated pursuant to order of Council of 7 September 2021:

Recently, I had the great pleasure to officially open the new Garvoc community hub. This wonderful centre was built to replace the old Garvoc hall, which did not meet the modern-day needs of the community.

Garvoc's new facility is a beautiful modern space, multipurpose, and multigenerational too, in the way it will be used.

It's been in operation since late last year and is the product of $500 000 from the Andrews Labor government's Regional Infrastructure Fund, with a significant contribution from Moyne Shire Council towards the total cost of $679 000.

The Garvoc community was led in its quest for a new hall by the late Leo Campbell, whose vison and passion underpinned the construction of the hub.

I was able to share the opening with Leo's wife, Diane, and his family, and there's now a water gum planted in Leo's memory.

I also acknowledge the role of Adam Bellman, current president of the Garvoc Residents Association, who is a truly wonderful advocate for Garvoc.

On another matter, recently I was able to deliver the wonderful news that Grasmere Primary School is to enjoy a $2.6 million upgrade, which will make such a difference to this growing school.

Grasmere Primary is a small school doing fantastic work in a lovely rural setting and with really close links to its community.

How good it was to see principal Abby Madden receiving the news with such excitement, and I have no doubt that this funding not only is well deserved but will be put to great use. It will make a huge difference to students and staff at Grasmere Primary.

I look forward to returning when the upgrade is complete.

Both of these local communities are thriving and I congratulate them for their work.

Business of the house

NOTICES OF MOTION

Ms TAYLOR (Southern Metropolitan) (10:36): I move:

That the consideration of notices of motion, government business, 683 to 746, be postponed until later this day.

Motion agreed to.

Bills

ROAD SAFETY LEGISLATION AMENDMENT BILL 2022

Second reading

Debate resumed on motion of Ms PULFORD:

That the bill be now read a second time.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:37): I am pleased to rise and make a contribution on the Road Safety Legislation Amendment Bill 2022, noting this bill has come through the Assembly. It is a bill that the coalition will not oppose, but we will seek to amend and improve the bill dealing with the matter of road safety.

The primary objectives of the bill are to enable better enforcement of distracted driving and seatbelt-wearing offences by giving evidential status to images from new types of road safety cameras and to add to the list of serious offences that Victoria Police may use to trigger immediate licence suspension and disqualification where charges are laid under the Road Safety Act 1986. The bill is also intended to alter the traffic accident scheme by making various amendments to the Transport Accident Act 1986.

I want to make a few points here. Much of this is not material that the opposition disagrees with, so I just want to be clear about a good deal of that. The government conducted a trial of artificial intelligence technology to detect usage of mobile phones and incorrect usage of seatbelts. The trial ran for three months. It scanned over 600 000 motorists, finding one in 42 to be using mobile phones. The government is now seeking to provide evidential status to the new cameras and begin penalising motorists from early in 2023.

This forms part of the government's road safety strategy to reduce the road toll. Again, we see value in some of the points that the government is raising here and some of the measures that are proposed, but we will make further points about road safety, adding to the list of serious offences that may trigger Victoria Police on-the-spot licence suspension, which allows for more consistency in the legislation. Previously individuals involved in hit-and-run incidents could have their licences revoked of course on the spot, and correctly so, by Victoria Police.

The Transport Accident Act has been amended to ensure drivers convicted of manslaughter, murder or culpable driving will not be able to receive death benefits if they survive and are charged with the aforementioned offences. While this is very likely a rare circumstance, it guarantees that someone who kills their partner and is charged will not be eligible to receive financial compensation from the TAC, where they were in fact previously able to access that point. The bill also allows for compensation to be paid to cyclists who suffer harm as a result of the opening of a car door and makes provisions for the protection of privacy as well.

So again, in many of these areas, whilst there may be some layer of concern in certain spots, we in general support the government's steps here. I think the TAC change is something that people have different reactions to. People feel that somebody should not benefit, but on the other hand the scheme is meant to operate as a no-fault scheme, so there is that inherent tension in what the government is proposing here. We obviously do not intend to oppose it of course, and as I say, we understand why the government is doing this. These are steps that are reasonable.

What I do want to say, though, is that the road safety achievements of this government have been lacking. The government abolished the Road Safety Committee. The road safety achievements have not been good in terms of the overall rate. The changes that the government makes here are modest and worthy, and in that sense they are not opposed, but we think there are deeper problems that are not being tackled.

We think the road surface in many places is a significant matter, and the government's announcements about and predilection for reducing the speeds on roads where the surface has decayed or deteriorated are I think a significant problem. We have seen across the state a growing concern, particularly in country Victoria, but actually Mr Hayes and I also know of roads in our area that are not up to scratch. One of the things the government can do and should do is keep the quality of road surfaces high and make those decisions to prioritise the quality of our roads. Our roads have deteriorated.

As my colleague Steph Ryan said recently, launching her new campaign to expose Victoria's worst roads—she is the Shadow Minister for Public Transport and Roads:

> … the three-month campaign to find Victoria's worst roads will seek safety reports straight from drivers.

Drivers will be:

> … encouraged to submit road condition reports as they travel the state via an online portal …
>
> 'Decades of neglect has left Victoria's roads rough and potholed, risking the lives of motorcyclists, car drivers and truckies …

Steph makes the point very correctly that:

> 'There have been 76 lives lost on Victorian roads already this year, but Labor is spending less on maintaining and repairing the state's roads …

Meanwhile the Andrews Labor government has found a predilection for cost blowouts and surging costs in many of its major projects—$28 billion of project cost overruns, which could have been used to do much of the roadwork that is necessary around the state. That waste, that mismanagement, that incompetence—savings could have been delivered that could have funded these things. She makes the correct point that the government carved nearly $200 million from road asset maintenance in last year's state budget alone—a 25 per cent cut down to $616 million.

I want to put on the record our ongoing concern at the state government's decision to axe the country roads and bridges program. It disbanded the Road Safety Committee. Country roads and bridges was a great program. It was loved by country Victorians and loved by councils. It provided councils with that certainty of funding—there was $1 million a year in the period from 2010 to 2014—so they could ahead of time prioritise their own council roads to ensure that the standard was brought up in a scheduled and thoughtful way. At the moment for those council roads there is very little government support, and the bridge issue is also important. But in this context of road safety cutting the roads funding has not been a smart move, and we say that this is a strategic mistake of the government.

I want to put on record some of the huge cost blowouts. The North East Link, initially promised at $5 billion, is now listed in the 2022–23 state budget at $15.4 billion. I mean, this is some sort of record. I do not know what the record is, but the *Guinness Book of Records* is going to be able to put an entry in there for a road project that has surged beyond its initial cost, and I think this project is a worthy entrant into that terrible contest. How incompetent of this government.

The West Gate Tunnel Project—we all remember in 2014 they promised that little slip-road for $500 million. Then Transurban came knocking at the door seeking a market-led proposal, and the revised cost—a different project; entirely different from what had been promised—was $5.5 billion. The 2022–23 state budget was forced to fess up to the cost blowout. It is now $10.2 billion. That is a blowout of $4.7 billion and still ticking. I understand that that project has hardly commenced. The actual tunnelling component has hardly commenced. We are talking about a $4.7 billion blowout.

The Metro Tunnel was promised at $9 billion, and that is now $3.36 billion over budget. They spent $1.3 billion cancelling a road, in the east–west link, and $1.3 billion could have been spent on actually building a road rather than cancelling it.

I think it is important to look at examples like the Mordialloc bypass, a good road—it was Liberal policy in 2014 at $300 million. The state government commenced the project at $375 million. The project is completed, and we obviously welcomed that project, but it was more than $400 million—40 per cent over its budget. This is the nature of this government: they cannot control projects, they cannot constrain the costs and they cannot scope these projects properly at the start. You look around the state, and you say, 'Just find me a project that has been brought in near to budget. Find me a project that they've actually kept under control'. Lest people think that this is not a concern, people should be very aware of what this actually means. This is money that could have been spent on other worthwhile projects.

Even the suburban roads upgrade started off in the 2021–22 budget at $2.208 billion and ended up in this year's budget at $2.513 billion, a $305 million blowout. These are huge, huge blowouts, and all of this money is money that has been wasted by not having proper cost control, not having proper scoping of these projects and not actually being able to prioritise the management of these projects in the proper way. The outcomes for Victoria are waste, opportunities squandered and the parlous state of our roads, particularly in country Victoria, making it very, very clear that the result for the state is not up to scratch. The government's response where failing country roads are in evidence is to say, 'We're going to lower the speed'. They do not say, 'We're going to fix the roads and enable people to travel safely at a sensible speed'; they say, 'We're going to lower the speed because the quality of the roads has deteriorated'. That is what they say, and that is what they do.

The idea that you would knock all of these country roads down to 80 k's, as some government ministers have proposed, is absurd. It is very damaging to country Victorians who need to get to work, who need to move their produce, to tourists who need to move around the state and to all of the activities in the economy. There is a cost to these poor country roads. There is an economic cost and a social cost—a social cost in two ways: people are blocked from moving around the state, seeing relatives, undertaking business activities, all of those things, but there is also obviously the social cost of accidents. And poor roads are linked to accidents.

The government is making some changes in this bill. We do not oppose those changes, but we say you have actually got to spend properly on these country roads. You have got to spend properly on a number of city roads. Mr Hayes and I know our electorate, and we know that there are places where there are potholes in the road on quite significant arterial roads. That actually damages vehicles, but it is also clearly unsafe. The state government should be focusing on keeping the roads up to scratch, keeping the maintenance schedules up to scratch and actually making sure that in country Victoria those country roads are kept to a higher standard. We have said the government should never have abolished the country roads and bridges program. It was a good partnership between councils and the state government, and the idea that you had a regular flow of money so you could schedule proper repairs and proper maintenance across the municipality is something that has been lost to this government. I cannot understand their logic; I cannot understand their thinking.

I want to come to our amendment 2. We see that since 1967 the Road Safety Committee made a huge contribution. It was wrong of this government to abolish it. It actually led the way for so many decades, and Victoria has lost its way on a lot of these road safety initiatives now. It is our view that only by reinstating the Road Safety Committee and providing broad parliamentary, bipartisan leadership on this issue can we get it back. We actually need those bipartisan positions coming through the committee, with the committee doing proper investigations, providing proper leadership and proper solutions to government and doing it in a way that is beyond politics, above politics, that is bipartisan and indeed across the whole of the Parliament. The idea that the government would just cut that committee out is again bizarre. It is bizarre given the very strong record of that committee. Victorian people who have been around a little while would remember that 1034—which was in 1970 from recollection, or thereabouts—was the peak of the terrible road toll in this state. That parliamentary Road Safety Committee led a lot of the initiatives—seatbelts and breathalysers; all of those important initiatives where Victoria led the world. Now we are way behind the pack. We are not leading now; we are behind the pack. And that is why this committee is quite important.

If I could circulate that amendment, that would be good. This will require a widening motion, an instruction-to-committee motion, but we believe it is appropriate in a bill that deals with the issue of road safety that we revisit a key point that the coalition has raised again and again. We need that leadership, we need the outcomes and I would ask the clerks if they would kindly circulate that amendment.

Opposition amendments circulated by Mr DAVIS pursuant to standing orders.

Mr DAVIS: We will obviously seek to move that in committee and would welcome support across the chamber. We think it is a matter that is beyond politics. It should be beyond politics.

We have a couple of areas of concern that we will raise in committee. The government has not made public the report related to the trial of AI technology and, I understand, unless there has been some development very recently, is yet to provide some of the requested information on the frequency of deaths attributed to individuals convicted of murder, manslaughter and culpable driving. Data has also been requested on the car-dooring matters. We will seek those pieces of information in the committee stage. Again, the essence of the bill is relatively simple across those areas. I have outlined our view, and I have indicated that we will seek to move those amendments in committee if that is the chamber's will.

Dr KIEU (South Eastern Metropolitan) (10:56): It is with great pleasure that I rise to speak to and support the Road Safety Legislation Amendment Bill 2022. Road safety and the injuries and deaths coming from road accidents are some of the many concerns, and it has been high on the government's priority list to reduce them and to prevent accidents. In Australia recently we have improved on road safety and prevention, so we have been able to reduce fatalities on our roads. Still there are around 1000 or more deaths on the roads in Australia, and in Victoria the number has been hovering around 200, which is still too high. Now the government is working to halve the deaths on our roads by 2030 and is aiming to have zero deaths by 2050, with the *Victorian Road Safety Strategy 2021–2030*.

In Victoria, thankfully, we have the Transport Accident Commission, an entity to provide care, support and compensation for those who unfortunately are injured in road accidents. I know it well because I served on the board of the TAC for a few years. It is headquartered in Geelong. I want to take this opportunity to thank the board, the present one, and also to applaud all the staff at the TAC for their very important and hardworking efforts to provide care and compensation for those who are injured on the roads. But more than that, the TAC also works very hard in presenting and bringing road safety messages to road users, in providing education as well as in caring for, supporting and compensating those who are injured. During my time there and going on until now, the TAC have upgraded a lot of the technology, equipment and facilities and also had a lot of data collected for big data studies, including some longitudinal studies, to find out about the support, the conditions and the effectiveness of the education and safety messages they have been advocating and promoting in the community.

I also had the privilege to visit some of the facilities that the TAC provides—for example, a dedicated housing facility for some of the road-injured people. Those people need a lot of care and also need a very specialised and dedicated facility in order to carry on a life that is as close to normal as possible.

But the TAC can only do what the act allows, so these amendments amend the Transport Accident Act 1986 to address some of the anomalies and acquit these in the act. Namely, the improvements include raising the legislated age of a dependent child from under 16 to under 18 years old for the purposes of receiving certain benefits. Because people under 18 are still dependent, it raises the age so they can be cared for in case one of their parents gets injured. The amendments also include the improvements of ensuring that a dependent child whose parents were killed in the same accident is not financially disadvantaged compared with a child whose parents were killed in separate accidents. This is a very sad situation—if both parents are killed in a road accident—but at the moment there is still an anomaly: if the parents were killed in separate accidents, then the dependant would receive more compensation and support than those who unfortunately have both parents killed in the same accident. So the amendments will address that.

Another improvement is to ensure that people receiving loss-of-earnings entitlements who have a subsequent transport accident will receive the same entitlements as they received for their first transport accident claim. Someone who was working and then somehow unfortunately got involved in a road accident would then get compensation and support. During that time the support and the compensation would be calculated depending on their work prior to the accident. If that person, during the compensation time, during their recuperation and rehab time, somehow got involved in another

accident, then at the moment the second compensation following the second accident would be calculated based on the present situation—namely, the lower income. That is not a fair outcome. So this bill will make sure that, if unfortunately a person got involved in a second accident while still receiving compensation for another prior accident, they would receive the same entitlements as they had for the first transport accident claim.

The improvements also extend income benefits for people within three years of reaching retirement age in order to align with the entitlements of younger claimants. Also improvements are introduced to enable TAC to lay criminal charges in relation to fraudulent claims. Unfortunately there are some claims that are fraudulent, and the TAC has been using detective work as well as big data collection, machine learning and artificial intelligence to detect and correct those fraudulent claims and bring those making them to justice. The improvements in this amendment bill also ensure that a cyclist who collides with an open or opening door, which is also known as a dooring accident, is treated the same regardless of whether the person opening the door was an owner, a driver or a passenger of that vehicle, because sometimes the door could be opened by people who are not in the vehicle at that instant.

Also, improvements are being introduced to ensure that benefits, separate from medical-related benefits, will not be paid to people when they are convicted of murder, manslaughter or child homicide because of their use of a motor vehicle in a crash. So those are some of the improvements being introduced by this bill to rectify some anomalies and inequities for the TAC.

This bill also introduces some automated enforcement technologies, similar to the ones we already have on the roads—namely, speed cameras and red-light cameras for people who do not observe the speed limit or who run a red light. This bill also introduces enforcement technology for people using mobile phones and portable devices when they are driving or stationary but the car is not parked. There are some studies that have found that if people are using portable devices or mobile phones then the risk of having a crash is between twice and 10 times the risk for other drivers. The Monash University Accident Research Centre has estimated that an automated mobile phone enforcement camera program could prevent 95 deaths from crashes per year. This is a very big improvement in order to reduce trauma, deaths and injured people on our roads.

Automated enforcement technology is also being introduced for people not wearing seatbelts. It is very disappointing to have people, many years after seatbelt legislation was introduced decades ago, now still in a vehicle, as a driver or as a passenger in a vehicle, not wearing a seatbelt, and this has resulted in very serious injuries and even deaths in the case of collisions and accidents. So enforcement technology will be introduced to catch those who do not follow the rules for seatbelts or who use mobile phones or portable devices while the car is in motion or even stationary but not parked properly.

I have a few more minutes, so I just want to very quickly go to some of the other elements of the bill. I am sure that some of my colleagues will speak to them later on. Another important element of this bill is to introduce the ability for senior police to take drivers off the road when the driving offences are serious, including culpable driving causing death, dangerous driving causing death or serious injury or manslaughter arising from the use of a motor vehicle and also hit-and-run offences when they result in a person being killed or seriously injured.

So I commend the government for continuing to take action to improve safety on our roads and to provide care and compensation for people who are injured in transport accidents. This bill will help us achieve the targets we have set in the *Victorian Road Safety Strategy*, and I am more than confident that it will lead to improved safety outcomes and it will make the accident compensation scheme have fairer and more equitable outcomes.

Mr HAYES (Southern Metropolitan) (11:10): I want to say at the outset there is much to be commended about this bill. However, I do share many of the concerns that Mr Davis alluded to earlier about the condition of our roads, which are not in good shape. I think that there is a lot of work that needs to be done on local roads and local infrastructure in general. I have been talking to this and

asking questions about it over the last couple of days. Our local infrastructure is running down. We are not spending enough money on it. We have spent a lot of money and had blowouts on big projects. In the budget we talk about conditions returning to pre-COVID conditions, and they sing out with some triumph that we are going to return to the eye-watering rates of population growth that we had pre COVID. We are up at Third World levels for Melbourne in population growth, and also our population goals are quite incredible considering the environmental crisis we are faced with. But while we have Third World rates of growth, we are starting to see our infrastructure lag behind very seriously, heading towards Third World standards. The roads, the local roads in my area but also arterial roads, are not getting the care and attention they used to get.

As I said, there is much about this bill that I support. However, I am concerned about some of the measures in this bill. I will talk particularly about the installation of cameras that can look into people's cars to detect mobile phone use and lack of compliance with seatbelt laws. All of that is very important. Driving using a mobile phone, we all know, is really dangerous. I am sure we agree on that. And it is the same with people driving without seatbelts—it is almost unbelievable in this day and age. However, what the government is proposing to do in the bill is to utilise cameras that can spy into people's cars from a long distance away. To me this seems to set a new precedent on loss of privacy and community expectations of that privacy in this state. It seems to me that the authority's attitude to this ever more invasive technology when it comes to privacy is: 'If the technology exists, we'll use it'. Dr Kieu alluded to this: that now with facial recognition and what we can do with cameras we can go back, look through the evidence and see if fraudulent insurance claims have been made. This is all through the ability of computers and technology that is now becoming more and more prevalent.

Here there is no discussion, no framework for privacy. There seems to be no limit on what further invasions of the right to privacy will be justified in the name of road safety. Surely as I speak we have devices already that could be fitted to a car and relay information to a central control centre. We could record people's speeds and see if they are over the limit. You know, a device could compare that to the local speed limits. I am sure a lot of people would consider measures like that a step too far, but this increase in monitoring of individuals is done in other authoritarian countries. It can be argued probably here that such a loss of privacy, if it is done, could be done for a worthy policy goal, but my question is: where is all this going? The government now will be spying on people in their cars under this bill in the name of reducing the road toll, but many cynics might see this as primarily a revenue-grabbing measure.

People are as cynical about the use of speed cameras that might ping you now for being a few kilometres over the limit. There is no warning that these speed cameras are there, but they are there, and they are used in evidence against you. We are told that facial recognition enabled by cameras in the street supposedly reduces crime, but in other countries where these technologies are already in use jaywalking can be detected and prosecuted in retrospect. On incorrect assignment of rubbish to the relevant bins, I saw in a program people being recorded by street cameras putting the wrong rubbish in their rubbish bins and being prosecuted on the basis of this monitoring.

While we are seeing in this bill the government proposing to spy on what people are doing in their cars to save lives, not for revenue, the Victorian Alcohol and Drug Association has contacted me concerned that the government does not seem to have the same zeal when it comes to saving lives in regard to alcohol and drug addiction. VAADA, the drug and alcohol association, highlighted in the recent budget that despite Victoria already having some of the worst drug and alcohol rehab availability in the nation, another infrastructure run-down compared to population growth, money for drug and alcohol counsellors was actually reduced in last week's budget—nearly $40 million taken away from people who need this treatment. This saving might also put road users at risk. I do not know any expert that would recommend a cut to drug and alcohol rehab at the same time as we see serious addiction problems increasing. But we are told by the government that in order to save lives we have to support this large intrusion into people's privacy in this bill.

The lack of discussion about this and where this surveillance state is headed is a concern. All of us have seen the capacity of this technology to increase surveillance of citizens in dictatorships around the world. We need more guidance and discussion, I believe, about the intended trade-offs between surveillance technology and individual rights and liberty. To listen to the government on what they put forward in the bill, there is no trade-off at all. All we hear is that there are going to be benefits, but in the community many people will register that, while there are safety benefits, the use of technology to invade people's privacy has made another big leap forward with, it seems, no discussion whatsoever. I will finish there.

Ms BURNETT-WAKE (Eastern Victoria) (11:18): I rise to speak on the Road Safety Legislation Amendment Bill 2022. The Liberals and Nationals will not be opposing this bill. However, I will be supporting our amendments, which seek to reintroduce the Road Safety Committee, and I will outline my reasons throughout my contribution today. The bill before us seeks to create new offences for distracted drivers and those who fail to wear seatbelts on Victorian roads. It gives evidentiary status to road cameras that detect mobile phone use and creates a new list of offences that may trigger on-the-spot licence suspensions. If while in control of a motor vehicle a driver commits murder, attempted murder or manslaughter by harming some other person, they will be subject to immediate licence suspension too. Licence suspensions will also happen on the spot for intentionally exposing an emergency, custodial or youth worker to risk. Dangerous or negligent driving while being pursued by police will also see licences suspended on the spot. I do not think anyone would argue that someone doing any of these things should not be taken off our roads. The bill also makes various changes to payments under the TAC scheme, which I will also return to throughout my contribution today.

The government recently ran a three-month trial of mobile phone detection cameras. They have now introduced this bill, which will allow pictures taken by these cameras to be used to issue fines. These cameras will detect people who are using a mobile phone while driving. The picture will then go to a trained individual for verification before a fine is sent out, as a protection against technical error. The government trial found that one in 42 drivers were on their phones or had their phones in their laps while driving. I think all of us in this chamber have probably witnessed other road users using their phones while behind the wheel. I certainly have driven alongside people who have had both hands glued to their phone as they attempted to drive with their knees. It feels like it is becoming more common.

It is not just P-platers, it is people from all generations who think it is safe to multitask while driving on our roads. The lucky ones get fined; the unlucky ones lose a life—or worse, take the life of an innocent party due to their distracted driving. The education and TAC campaigns clearly are not getting through, so if fines are what it takes to get people off their phones I think it is worth trying. As it stands, the penalty for using a mobile phone is 4 demerit points and a $540 fine. If the government had fined every Victorian caught using a mobile phone during its three-month trial, it would have made just short of $9 million in revenue. The use of these cameras is going to be a big revenue earner for the government, and I hope that the money is used to fix other road safety hazards, such as our regional Victorian roads.

This bill also gives evidentiary status to cameras that detect those who are not wearing seatbelts, and those Victorians will also receive fines in the mail. The introduction of seatbelts came about because of a Victorian Parliament Joint Select Committee on Road Safety, which was established in 1967 to consider ways to reduce road accidents. By 1970 the road toll in Australia had reached critical levels, with 3798 motorists losing their lives that year. It was a Victorian Liberal government that became the first in the Western world to introduce legislation requiring that seatbelts be worn.

Road safety is one of those areas that we all want to get right. We all want our roads to be safe. That is why the Road Safety Committee had so much success. It allowed us to work together, and the work of the committee really shaped the road safety rules we have today. The committee delivered reports on licensing, demerit points, roadworthiness of vehicles, speed limits and rural road safety. It leads me to seriously question why the Andrews Labor government abolished the committee upon coming to

government in 2014. One of the first things they did was to disband that committee, which did some incredible work in the road safety space. That committee had been behind some of our most significant road safety reforms, and it is a real shame that this government decided to abolish it. As mentioned, I am supporting the Liberals' amendment to bring back that committee. It is evident how successful that committee was and how much difference we can make when we work together on these issues. The committee should still exist today, and I think it is important that we bring it back so that we can continue to create safe roads. It was this committee that pushed for the introduction of seatbelts around 1970.

The government's recent camera trial also looked at motorists who failed to wear a seatbelt. It found that one in 667 drivers were not wearing one. The fact that people still are not wearing seatbelts in 2022 is incredible. In 2021 more than 30 people died while not wearing a seatbelt. These deaths were all preventable, and that is the very sad thing about road-related deaths: the vast majority of them are preventable. The introduction of fines for not wearing seatbelts and using mobile phones is not contentious. It is evident that our road toll is severely heightened due to drivers being on their phones or unrestrained. Road safety campaigns and tearjerking TAC ads just are not getting through, and I think it will be interesting to see how these figures change once the cameras are introduced to detect people on their phones. I think it would also be very interesting to see how we could strengthen our road safety if that committee were to be brought back.

The bill is focused on driver behaviour, which of course is one of many important factors that contribute to road safety. However, there are a number of other factors relevant to road safety that have not been addressed in this bill, such as the condition of our roads past the tram tracks, outside of Melbourne. I do not think that our focus on road safety should just be about the loss of demerit points and fines. It should also be about making our roads safer for all road users. I can think of many roads in Eastern Victoria Region that are unsafe and riddled with deep potholes that are dangerous and cause significant damage to my constituents' vehicles. I have been the victim of potholes on two occasions. On one occasion my rim was completely smashed, and I had both children in my car, and on the second occasion another rim was smashed and my axle broke. So these potholes are really, really bad.

I have quite a large electorate, and no matter where I travel I notice road-surfacing issues. The roads are deteriorating, speed limits are all over the place and white lines are so faded in some spots that they are nearly not there at all. A prime example is the Princes Highway near Gumbuya World. They have been calling for an overpass at Tynong North near Gumbuya World for years after multiple horrific accidents and near misses. Between 1 July 2015 and 30 June 2020 there was one fatal and two serious crashes and two others involving injuries. Just last year a male driver died, while a female and a child were taken to hospital with critical injuries. It is an extremely busy road that constantly has trucks going by, entering and exiting the sand quarry. There are 7831 people who have signed a petition for an overpass, traffic lights or a roundabout to be installed, but all the government has done is lower the speed limit. That seems to be this government's way of fixing our roads. They lower the speed limit from 100 kilometres to 80 kilometres rather than investing in our roads.

In last week's state budget the Andrews Labor government slashed road asset maintenance funding for a second year in a row. They have reduced it by another $24 million after already taking $191 million in the previous 2021–22 budget. These cuts are definitely not because the roads have been fixed.

The last part of the bill that I wish to speak on is the changes to TAC benefits. This bill amends the Transport Accident Act 1986 to ensure drivers convicted of manslaughter, murder or culpable driving will not be able to receive death benefits if they survive the accident and are charged. This means people who kill their partners through the use of a motor vehicle and are charged will not be eligible to receive financial compensation. I think there are many people who upon hearing that would agree with it instantly. There are, however, numerous factors to consider here. Culpable driving includes negligently driving under section 318 of the Crimes Act 1958. Negligent driving is quite broad. This means there may be situations where the individuals charged with culpable driving do not receive a

death benefit despite losing a partner. I think there is some further information needed about how this will work because, as we all know, being charged does not always mean a guilty finding will be upheld. I think these are some questions that need to be fleshed out in the committee stage.

Overall the main purpose of this bill is to give evidentiary status to those mobile phone and seatbelt cameras, something that has been a long time coming. I look forward to seeing how much of a difference these cameras make to road safety and encourage the government to act immediately to fix our regional roads. Properly maintained roads are safer roads. That is why the Liberals and Nationals have launched a website seeking road condition reports from locals, councils, farmers and community groups to identify the roads most in need of maintenance. I would encourage Victorians to make use of that platform. I will end my contribution there.

Mr ERDOGAN (Southern Metropolitan) (11:28): It gives me great pleasure to rise and make a contribution to the debate on the Road Safety Legislation Amendment Bill 2022. This bill introduces a number of important measures to improve road safety in our state. It provides the legislative provisions needed to support the implementation of automated enforcement of driver-distraction and seatbelt-wearing offences. I recall that during our Economy and Infrastructure Committee inquiry into the road toll in 2020 it was a topic that came up with a number of expert witnesses, who said that driver distraction is one of the main causes of road accidents and hence trauma. It also addresses gaps in the list of serious road offences that should trigger immediate licence suspension or disqualification when charges for such offences are laid by police. I support these initiatives, and I am confident that they will make a tangible contribution to reducing road trauma, moving us closer to our target of reducing the number of lives lost each year on Victorian roads by 50 per cent by 2030. The bill also improves the transport accident compensation scheme in the Transport Accident Act 1986, with the aim of improving fairness and equality. I will focus most of my contribution on these changes, as my colleague Dr Kieu has already reflected and provided this chamber with a general overview of the bill before the house.

Victoria is right to be proud of its transport accident compensation scheme, which provides critical care and support to victims of road trauma. For those of you that might not be familiar, the TAC system provides medical and like expenses for those that are injured on our roads or in relation to a road accident. In provides no-fault benefits in terms of access to a no-fault compensation scheme, a lump sum, and it also provides a gateway to common-law benefits for larger amounts where there is a negligent party involved in the accident. It is a comprehensive scheme, and I believe by far and away the best scheme in Australia. In the last financial year more than 53 000 Victorians received a total of $1.57 billion in support and benefits after an accident. In addition, $192 million from the compensation fund was invested in measures to prevent and reduce road accidents.

The TAC does a great job in administering the scheme and tries to get the best possible outcome for its clients; however, when the TAC makes decisions about the treatment and services it can pay for, it must follow the Transport Accident Act 1986. In recent years the TAC, its clients, their representatives and other stakeholders have identified a number of anomalies and inequities that need to be addressed in order to achieve the fairest possible outcomes for victims of road trauma and their families. I would like to speak about some of these and these important reforms in this area.

As a starting point, the bill will increase the age of a dependent child from 16 to 18 years old. This brings the definition into line with the Victorian Charter of Human Rights and Responsibilities Act 2006. In practice it will ensure that benefits will continue to be paid for the care of children until they are adults.

The definition of a member of the immediate family has also been expanded to include a grandchild. This is due to the fact that it is both logical and fairer to have all relationships in the immediate family definition paired so that benefits flow in either direction in the event of an injury. In the same way as the scheme works for spouses, siblings, parents and children, it will now also be available reciprocally for both grandchild and grandparent if the grandparent or grandchild respectively is injured. In our

society there are plenty of examples of grandparents acting as the primary carer for grandchildren and vice versa when children become adults and grandparents reach a stage in their life where they need active support. The scheme needs to properly account for those relationships and the effect road accidents can have on the provision of care and support in those circumstances.

In the interests of fairness the bill provides for payments to dependent children to double where both parents are killed in the same road accident. This is because it is inconsistent that children get two benefits if their parents are killed in separate accidents but one payment if they were killed in the same accident. This is a change that will make an enormous difference to children that become orphans due to the consequences of road accidents. Obviously in these tragic circumstances we are ensuring that fairness is met.

The bill also addresses an anomaly surrounding the circumstances where a person convicted of a serious driving offence is not entitled to compensation—so it will fix that anomaly. The Transport Accident Act currently precludes a driver who is injured in a transport accident and convicted for culpable driving causing death or dangerous driving causing death from receiving benefits under the act. However, in some circumstances someone who has killed a person using a motor vehicle will not be charged with culpable or dangerous driving causing death but instead is charged with murder, manslaughter or child homicide. The bill recognises that it is appropriate to preclude someone from receiving benefits in these circumstances as well. The scheme must not provide a means for persons who have committed such crimes to benefit.

There are also a number of critical reforms associated with calculating loss-of-earnings benefits for people involved in subsequent accidents. Loss-of-earnings payments are generally paid at 80 to 85 per cent of the injured person's pre-accident weekly earnings. In most circumstances pre-accident weekly earnings are determined based on the weekly average of the past 12 months before the accident date. So picture a person who is receiving loss-of-earnings payments already and is involved in a subsequent accident. Their pre-accident weekly earnings are currently recalculated on the average of the usually reduced rate. That means they have already been reduced to 80 or 85 per cent and then, because there is a subsequent accident, there will be a calculation of 80 or 85 per cent of that reduced amount, which could result, theoretically at least, to a client's loss-of-earnings benefit being as low as 64 per cent of their usual wage if they have two accidents within an 18-month time frame. The bill ensures that a TAC client involved in another accident is not financially disadvantaged because they were already receiving TAC loss-of-earnings payments.

In a similar vein the bill also removes discrimination for older workers by increasing loss-of-earnings and loss-of-earnings capacity entitlements from 12 to 36 months and providing a total income benefit of up to three years, so making it fairer for people so pensioners and older workers have access to the same income entitlements as other earners. Again, this is about what is fair for people who have already lost so much through their road trauma.

The Transport Accident Act currently indemnifies owners who have paid the transport accident charge against a common-law damages claim for the tort of negligence for personal injury caused by that vehicle. This currently includes drivers who have car-doored a cyclist. However, passengers or other parties who door a cyclist are not covered by the Transport Accident Act 1986 despite an incident of this type being defined as a transport accident under the act. The effect of this is that cyclists can claim no-fault benefits for a dooring accident but can only claim common-law damages if it was an indemnified owner or driver who doored them or they were somehow proven to otherwise be at fault. If a passenger was at fault for the dooring accident, the cyclist cannot recover common-law damages from the TAC as the indemnity does not extend cover to a passenger. The bill adds that a person who opens or was opening a door that caused the collision with a cyclist is indemnified by the TAC regardless of whether the person opening the door is the driver or a passenger.

In addition to addressing these anomalies that cause inequity and unfairness, the bill also makes a number of administrative changes to the Transport Accident Act 1986. The bill amends information

privacy and disclosure provisions so the TAC can release information in specified circumstances—for example, to Victoria Police or authorities like the Coroners Court to pursue guardian and administration orders. The bill also gives the TAC broader powers to file charges under the Crimes Act 1958 in connection with crimes associated with claims. This is relevant where any of the TAC's clients or providers commit criminal offences such as fraud against the commission. The amendments enable the TAC to deliver the body of evidence for the prosecution and file charges and then hand over the proceeding to the Office of Public Prosecutions. This will ensure that roles and responsibilities reflect where the expertise lies. This will also save time and resources for the TAC.

In summary, the bill provides for important reforms to be made to the Transport Accident Act 1986 which improve the transport accident scheme by addressing anomalies and inequities. In regard to bringing this bill to the house, I also wanted to thank Minister Carroll and his team for bringing these important reforms that are included as part of the bill before us.

I did want to reflect about the opposition's comments about creating a website about roads that need repair. I could not help myself, because if only they focused on Victorian roads instead of focusing on roads in other jurisdictions and international roads. The Victorian taxpayer is already investing in critical infrastructure which improves road safety as it is. I doubt that as a state we have the resources or the means—or that it is our remit—to fix roads across the other side of the world, 20 000 or 30 000 kilometres away. It would be cognisant for the state opposition to reflect upon the misinformation they are sending out there when they are putting up pictures of roads from war-torn countries and trying to show Victorians that somehow our government has left our roads in that state. That is not the case, and I think it is important to clarify that.

I am not sure if they apologised for that misinformation, but I would ask the Leader of the Opposition in this house to at least apologise to Victorians for that misinformation, because like I said, the World Wide Web obviously has a lot of misinformation. It is a big issue. I recall the work of another committee I was on in which we saw that disinformation can also lead to people being misinformed when they are going to cast their vote, so it is a threat to our democracy. I hope that website they have set up reflects the real state of our roads, reflects the real investment we are making on important infrastructure and does not just try to knock off photos from war-torn countries as somehow being connected to the state of our country roads and our roads in Victoria. I was definitely shocked and surprised that the state opposition would be pointing to that website as an example of work they are doing in this space.

I will also be voting against the amendments put by the state opposition. I do note that they have made a number of calls for committees in this place. I have lost count—I will not name them all—but there are a number of new committees they want to set up. Call me a sceptic here, but it seems they are more interested in trying to frustrate and prevent the much-needed work being done in our state by setting up these committees—to frustrate the process and stop the delivery of essential services that are needed by setting up endless committees. Like I said, I have lost count—I will not name them all—but Mr Davis has form in suggesting committees that should be formed. It seems to me that whenever they are unhappy with something they want to just set up a committee and hope that progress is prevented in our state.

So I cannot vote for the amendments; I am sorry about that. I cannot get myself to vote for them because I feel that they are just going to prevent the implementation of these much-needed reforms—reforms which will assist in stopping driver distraction, reforms that will mean that people that commit offences are appropriately disqualified from the TAC process, reforms that will mean we have a fairer TAC system that recognises the grandparent-grandchild relationship appropriately. It means older workers will have access to longer weekly payments—instead of a 12-month limit they will have a 36-month limit. So there are a number of reforms that improve our system, embrace technology and are an overall improvement to our road safety network.

Dr Kieu reflected on the work of the TAC as well. I was not aware that he was involved in the TAC in his previous career. I think the TAC do a fantastic job. They pay for all reasonable and like medical expenses for the journey of your life following a road trauma accident. Anything that is reasonable is covered under this scheme. Like I said, it is a leading scheme in our nation and should serve as an example to other jurisdictions, if I may reflect. So the TAC do a great job. The TAC commissioner has reflected on these reforms and has said:

> These improvements … embody the TAC's single-minded purpose of caring for everyone who uses Victoria's roads—

whether that be—

> … helping injured people get their lives back on track or preventing road trauma …

I could not have put it better myself. In that light I commend the bill to the house.

Ms MAXWELL (Northern Victoria) (11:41): I rise to speak on the Road Safety Legislation Amendment Bill 2022. Amongst the many areas that this bill addresses there is one area of particular interest for me: this bill will trigger immediate licence suspension for hit-and-run and other serious charges. I am very pleased to see this legislation before Parliament, having moved a similar amendment last year during debate on the Transport Legislation Miscellaneous Amendments Bill 2021.

I pay special tribute today to Jeynelle Dean-Hayes, who has played a significant role in the drafting and development of this legislation. In 2017 Jeynelle's son Tyler Dean was killed in a hit-and-run incident, and this devastating event was the catalyst for a campaign to change the law so that someone charged with a hit-and-run event will immediately have their licence suspended. Monique Patterson's book *Tears for Tyler* details the night that Jeynelle and her husband Josh were driving to an event and the man responsible for the death of their boy drove up next to them and smiled. Jeynelle was gobsmacked that someone would not have their licence automatically suspended after a serious incident that resulted in her son losing his life. Campaigning for this law change, Jeynelle said:

> It makes you feel so powerless that you've lost so much and it is just another day for (the accused) …

The government first brought this important change to the law to Parliament as part of the Road Safety and Other Legislation Amendment Bill 2019. This was a genuine attempt to deliver on the advocacy of both Jeynelle Dean-Hayes and the victim-survivor of another accident, Chloe Dickman. After discovering some flaws in that legislation, I have worked with Minister Neville and Minister Carroll on these issues, which progressed to my bringing amendments to a road safety bill last year and the final resolution we have in this bill being debated today. I would also like to give a special mention to Simon Monk for his patience, consultation and dedication. His conversations with me were to ensure this legislation was amended and to ensure the appropriate outcome for hit-and-run crimes. This kind of collaboration shows what we can achieve together to make improvements to our laws, and I thank both Minister Neville and Minister Carroll and their staff for listening, considering and ultimately acting to bring changes to these laws that effect its original intention. It certainly took some time, perhaps longer than we hoped, but the most important thing is that we got there, which I know Jeynelle Dean-Hayes and Chloe Dickman will appreciate, as will their families and as will future victims—and we hope that those numbers will certainly be very few.

Moving on to other aspects of the bill, changes to TAC compensation provisions include the sensible increase of the age of a dependent child from 16 to 18, ensuring children who lose two parents in a single accident receive a benefit for each and expanding definitions so that grandchildren are included in the definition of 'immediate family member'. The bill will also prevent someone convicted of murder, manslaughter or culpable driving causing death from making a TAC claim if their partner or child is injured or killed in the process. I was very pleased to know from my inquiries to the government on this particular aspect of the bill that there have been no such claims made in the past,

as this would certainly be adding salt to the wounds of families who have lost a family member to an act of violence where a motor vehicle was used as a weapon.

One of the keynotes of this bill is the implementation of road safety camera technology to detect drivers who are using portable devices while driving or who are not wearing a seatbelt. It astounds me to this day that we are still seeing so many accidents where the drivers or passengers were not wearing seatbelts. It follows a successful trial and could prevent 95 casualty crashes each year. I think it is around 50 years since it became compulsory to wear a seatbelt, and it is surprising, as I said, and disappointing that the trial detected 667 drivers not wearing a seatbelt. If the rate of detection during the trial is any indicator, around one in 42 people are using a portable device while driving. That is a lot of people who are driving while distracted. I hope that this technology and enforcement will certainly deliver a lot of revenue and will have the desired impact of reducing our road toll and other serious injuries.

In closing I would like to make a quick couple of points about road safety more generally. In our submission to the inquiry into the increase in Victoria's road toll Derryn Hinch's Justice Party made five main recommendations, and some of those have been or are being delivered. This includes expanding the rate of drug testing of drivers, and I have had productive discussions with the Minister for Police about this. I hope that this important safety measure will soon be available for all police to help combat drug driving, which has now surpassed alcohol as a risk factor on our roads. We also recommended continued investment in improving our regional roads. I have worked closely with road ministers and the Department of Transport on a number of local road issues, which achieved improvements to the Black Spur road and the long-awaited safety provisions at the Hume Freeway intersection at Avenel.

We need to resolve the challenge faced by regional councils in funding road maintenance. For example, Buloke shire has 5300 kilometres of roads, which if put end to end would extend from Victoria to Singapore. That is more than 800 metres of road to maintain for every shire resident. These roads are not only important to residents for their everyday use but important to regional tourism, to our farmers, to our freight industry and to the safety of our emergency services. It is only fair that our roads are maintained at an acceptable safety standard whether they are in country areas or major metropolitan zones. While these matters are outside of the scope of this bill, they should be a priority for government and are something I will continue to advocate for. On that note I will end my contribution, and I commend this bill to the house.

Mr TARLAMIS (South Eastern Metropolitan) (11:49): I am also pleased to make a contribution to the debate on the Road Safety Legislation Amendment Bill 2022. While it is not a large bill, it is an important one, as too many people are still dying and being seriously injured on our roads. This bill introduces a number of important measures to improve road safety. It provides the legislative provision needed to support the implementation of automated enforcement of driver distraction and seatbelt-wearing offences, it addresses gaps in the list of serious road offences that should trigger immediate licence suspension or disqualification when charges for such offences are laid by police and it improves the transport accident compensation scheme in the Transport Accident Act 1986 with the aim of improving fairness and equality.

All of these initiatives will make tangible contributions to reducing road trauma and moving as close to our target of reducing the number of lives lost each year on Victorian roads by 50 per cent by 2030. Under the *Victorian Road Safety Action Plan 2021–2023* the government has committed to taking action that focuses on people at high risk of being injured and people who engage in high-risk behaviours. To be able to achieve our aim of a 50 per cent reduction in the road toll by the year 2030 we need to take all steps to reduce driver distraction and take stronger action to catch dangerous drivers and get them off our roads.

We all know that it can take time for a case to reach the court. But we need to find ways to detect unsafe drivers' behaviour more effectively, and we need to act quickly to prevent unsafe drivers from

putting our community at further risk. I am proud to say that this bill takes significant steps forward in this regard. In 2020 this government brought in laws enabling police to immediately ban people from driving if they had been charged with any of the following offences arising from the use of a motor vehicle and if they posed an unacceptable risk to road safety until charges were determined: murder or attempted murder using a vehicle as a weapon, causing serious injury intentionally or recklessly in circumstances of gross violence using a vehicle, causing serious injury intentionally or recklessly using a vehicle and causing injury intentionally or recklessly using a vehicle.

The bill follows through on the government's in-principle support of a proposal by Ms Maxwell, a member for Northern Victoria, in the Legislative Council last year during a debate on another transport bill. Ms Maxwell proposed that the list of offences created in 2020 should be expanded to include culpable driving, dangerous driving causing death or serious injury, failing to stop and failing to render assistance. Ms Maxwell's proposed house amendment did not succeed at the time, because it was drafted in a way that would have had unintended consequences. But this bill delivers on the concerns that she raised and other members of the community have raised. As she outlined in her contribution, extensive work has been conducted by her, the minister's office and a number of others to ensure that the changes in this bill address all of those concerns and will have the intended outcomes, which will basically address the matters in an appropriate and thorough way, will give the desired outcome that everyone will be happy with and hopefully will lead to much better outcomes in the future. Thank you for your work with the minister's office and the minister to land where we have and to get us to the point where we are today with this bill.

Under this bill the following offences arising out of the use of a motor vehicle will be added to the regime: culpable driving causing death, dangerous driving causing death or serious injury, failing to stop and render assistance after an accident where another person has died or been seriously injured, manslaughter, negligently causing serious injury, dangerous or negligent driving while pursued by police and intentionally or recklessly exposing an emergency worker, a custodial officer or a youth justice custodial worker to risk by driving. These are all serious driving offences that pose a risk to the community and attract mandatory court-imposed driving bans upon determination of guilt.

It is important to balance the competing interests in these situations. We need to remember that our democracy recognises a person's right to a fair trial and the presumption of innocence. We cannot allow police to be judge and jury and let them remove the driving privileges of anyone they fancy, but on the other hand I think every one of us has been impacted or at least knows someone who has been impacted by the actions of an unsafe and dangerous driver on our roads. I think this bill strikes the right balance in this regard. It only extends the power to senior police officers—that is, officers of or above the rank of sergeant. In order to impose a driving ban for a hit-and-run the senior police officer must be satisfied that another person has died or suffered serious injury and that the driver poses an unacceptable risk to road safety until charges are determined by a court.

The other main road safety focus of this bill is on reducing driver distraction and increasing compliance with seatbelt wearing requirements. Driver distraction is estimated to be the contributing factor to 11 per cent of road fatalities, amounting to approximately 24 lives lost each year. Driver distraction is also estimated to be the cause of more than 400 serious injuries per year. Despite seatbelt wearing being mandated over 50 years ago, failure to wear seatbelts is still contributing to the lives lost on our roads. Of the 232 people who died on our roads last year, 31 were not wearing seatbelts. A pilot of the camera technology in 2020 detected high levels of illegal mobile phone use while driving. The media release on the outcomes of the trial was issued on 9 April 2021. It indicated that the trial was undertaken over a three-month period and assessed a total of 679 438 vehicles. One in every 42 drivers was found to be illegally using their mobile phone. However, much higher levels of mobile phone use were detected in three locations: Craigieburn Road East, Wollert, with a one-in-18 offence rate; Calder Park Drive in Hillside, with a one-in-21 offence rate; and Old Geelong Road in Laverton, with a one-in-28 offence rate. The pilot also found that many drivers and passengers were not wearing a seatbelt.

Other dangerous behaviours, such as driving with no hands on the wheel or with pets on laps, were also observed.

A key focus of the *Victorian Road Safety Action Plan 2021–2023* is supporting and enforcing driver safety behaviour, such as improved compliance with seatbelt wearing, and deterrence of behaviours that lead to driver distraction. To this end, in December 2020 the government committed $33.72 million over five years to roll out mobile phone and seatbelt offence detection cameras as a priority project under the action plan. The cameras will capture high-resolution images of passing vehicles in all traffic and weather conditions, day and night. Images that are likely to contain a mobile phone offence will then be verified by appropriately trained personnel before further enforcement action takes place. There will be an extensive public communications campaign leading up to turning on the cameras. There will also be a three-month introduction period, before the cameras start operating in early 2023, where offending drivers will receive warning letters instead of fines. A key part of changing unsafe driving behaviour is effective enforcement and the perceived likelihood of getting caught.

As I said earlier, this bill also proposes to improve the transport accident compensation scheme by addressing anomalies and inequities in the Transport Accident Act 1986. These improvements are quite extensive, and my colleagues have gone through them in some detail. I will touch on a few of them here, but I am conscious that we are about to go to question time, so I will not go through all of them. A number of them relate to changes that will improve the transport accident compensation scheme to address anomalies and inequities in the Transport Accident Act. But basically this bill will improve road safety and help us achieve the targets we have set in the *Victorian Road Safety Strategy*. It will improve support for people that are hurt on our roads. That is why the changes within it are good and should be supported, and that is why I commend the bill to the house and wish it a speedy passage.

Business interrupted pursuant to sessional orders.

Questions without notice and ministers statements

EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:00): My question is for the Minister for Emergency Services. Minister, you are responsible for ESTA and the workers at ESTA. There is a memorandum of understanding signed between the government and ESTA workers. The MOU provides extraordinary benefits to these ESTA employees outside of and above their enterprise bargaining agreement entitlements. How much has been paid to date to ESTA workers or employees pursuant to the MOU over and above the required EBA entitlements?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:00): I thank Mr Davis for his question. As we know, the pandemic has placed incredible pressure across the board on our health systems, and ESTA is the front line of the front line when it comes to ambulance response and working side by side with our paramedics. What we know is that the pandemic also impacted our workforce. We had a lot of staff furloughed, particularly during the January period, across our hospitals, across our ambulance services and indeed in ESTA. So asking an already exhausted workforce to turn up, take overtime shifts, work outside their ordinary hours and spend less time with their families indeed required a response from government that financially recognised the sacrifices that they were giving, and I will certainly not make any apologies for the cost of that. I think the sacrifices that our hardworking health professionals have made have got us through this pandemic, and every Victorian is grateful for that effort. So, Mr Davis, there have been additional payments made to those staff, and in fact that memorandum of understanding currently is in force. In relation to the payments going, I am so glad that they have been made available for those staff so that they can continue to do the great work they do for Victoria.

Mr Davis: On a point of order, President, the question was actually quite specific about how much has been paid to date, and that was not answered.

The PRESIDENT: As you know, Mr Davis, I cannot direct the minister how to answer. But I will deal with it at the end.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:02): Minister, thank you for your answer. I note that the key point, which was how much, has not been specifically answered. I ask in that circumstance: will you confirm that the rollover of the MOU, which is due in June, will see ESTA workers paid up to an additional $10 million in extra payments beyond their EBA entitlements for the next six months? And if this is not correct, what is the value of the MOU entitlements over the same period?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:03): Mr Davis, the money that has been provided to support the additional work, the efforts over and beyond an ordinary full-time equivalent employee at ESTA, is in recognition of the sacrifices that they give to take up those additional hours. They normally work four on, four off, so ensuring that people are incentivised to give up more of their time to provide a vital service is something that I am actually proud of. Will it cost millions of dollars? Of course. The original allocation for the MOU was $28 million to ensure that all of the resources were available so that management could work with the industrial partners to ensure that as great a flexibility as possible was afforded to workers to ensure that we could respond to surge capacity, demand days—we have had a lot of public holidays and things, for instance—so we will continue to provide financial support to this important organisation.

HORSE-DRAWN VEHICLES

Mr BOURMAN (Eastern Victoria) (12:04): My question is for the Minister for Roads and Road Safety in the other place. Horse-drawn carriages are yet another issue that seems to have become important, and I am yet to understand why. Overnight, with no warning to the operators that will be impacted, the government has announced the banning of horse-drawn carriages from Melbourne's CBD. The small businesses affected by this decision will be decimated and jobs will be lost at a time when we are trying to rebuild our economy, so this ban is counterintuitive and really should never have been contemplated. So my substantive question is: will the minister urgently prepare a compensation package for the owners of these businesses and their employees that have lost their jobs through government actions and no fault of their own?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:04): I thank Mr Bourman for his question, and I will seek a written response on this matter from Minister Carroll for him.

Mr BOURMAN (Eastern Victoria) (12:05): I thank the minister for her answer. After two years of being forced out of earning a living, these businesses and employees have been barely holding on, only waiting for the opportunity to begin their livelihoods once again. With only a few months of returning to some form of normality, the government has effectively ended this industry. They have not been given a fair go, so my supplementary is: will the minister offer an acknowledgement and an apology to the families reliant on these businesses that would have been in a far better position today if they had been aware at any point that this outcome was going to come today?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:05): Again, I thank Mr Bourman for his question on this matter, and I will seek a response from Minister Carroll for him.

MINISTERS STATEMENTS: POLICE NUMBERS

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:05): Last week I was proud to announce more than $1 million to be awarded by the Regional and Specialist Training Fund to Victoria University's policing recruitment pathways course. This important investment builds on the extremely successful Victoria Police diversity recruitment program which supports African Australians to commence a career with Victoria Police. The pilot program was a triumph of collaboration and cross-sector support. I was so pleased to meet Constable Birty Weaven-Cahill, who is a graduate of this program, and to hear how her personal experience combined with her professional expertise is really making a difference to Victoria Police and how we engage with our communities. This government is proud to be able to support initiatives that will help Victoria Police reflect the community it serves in a very real way.

Programs such as this require strong partnerships, and I am proud that Victoria Police, Africause, Jesuit Social Services, Victoria University, AMES Australia, Maurice Blackburn and MatchWorks all joined together to ensure the success of the program. The funding will focus on engaging First Nations Australians and culturally and linguistically diverse members of our community to embark on a career with Victoria Police. It will continue across the metropolitan area but will also be delivered in Geelong, Western Victoria, Ballarat, Bendigo, Shepparton and the Latrobe Valley. The key to this initiative is engagement and outreach, which are vital to achieving true diversity. This program exemplifies the importance of collaboration across government and agencies that will benefit communities throughout Victoria.

Ms Crozier: On a point of order, President, before I ask my question if I may, yesterday I asked a question to the Minister for Emergency Services regarding ESTA times and I was due to have an answer by midday today. I have not received that answer. I am just wondering if the minister could explain why I have not received the answer to the question that I asked of her yesterday.

Ms Symes: Ms Crozier, I have signed that off and I understand it is lodged.

EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY

Ms CROZIER (Southern Metropolitan) (12:08): My question is to the Minister for Emergency Services. Minister, did recommendations from Graham Ashton's secret report into ESTA prompt the funding announcement in the budget last week, or is this money to fix additional problems?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:08): Ms Crozier, it is not a secret report. We announced the appointment of Mr Ashton. I have explained that the report has been received by me. I have read the report. There are government processes to go along. I think to give respect to the people that spoke to Mr Ashton on their views, they expect a government response with a report.

But in relation to your specific question, it is oversimplifying this whole thing. You think that since I have been minister I am waiting around for an independent report to start acting on supporting this organisation. That is ludicrous. Of course the funding announcement is not in direct response to Mr Ashton's recommendations. I am very thankful for Mr Ashton's work, but I am also thankful to the organisation which has been really focused on the challenges, focused on supporting its workforce and focused on improving call takers' experience, and we are seeing those improvements day in, day out. Mr Ashton's report is about the future state of the organisation. It looks at capability, governance and future reform. It is all important work, but to suggest that I am waiting for anybody's independent report or anybody's individual view before I act is certainly not the way I do business.

Ms CROZIER (Southern Metropolitan) (12:10): Minister, thank you for that response. I say again that these issues with ESTA have been known since 2016 and the government has failed to act on them. You have done a lot of consultancy and reviews that we cannot get access to either; you have denied those to the Parliament and the people of Victoria, as well as this ESTA report by Mr Ashton.

Minister, this is an extremely serious issue. In recent times people have died on hold waiting for their call to be answered. Why wasn't the $300 million allocated just recently—last week—allocated years ago when these problems first started?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:10): Ms Crozier, we continually have this conversation, and the fact that you have asked me a question like that indicates that you have not been following the narrative of the themes that we have been discussing in this place. I am very proud to have secured $333 million, but everybody in this chamber has heard me talking about investments since I have been the minister. There was last year's budget to employ 43 additional call takers. In March I announced hundreds of millions of dollars to lift call taker and training capacity at the organisation. This is an ongoing reform that I have been driving since I have been in the role, since September. So to suggest that we only just started last week, when we announced $333 million, is ridiculous. As I have indicated in this chamber since January, I am very proud to report that there are ongoing improvements in call taking, reductions in delays in any call-taking things, and that is going to get better and better with the ongoing support of this government.

Ms CROZIER (Southern Metropolitan) (12:11): I move:

> That the minister's answer be taken into consideration.

I also note that your response was lodged to me after the time it was due.

The PRESIDENT: Order! Ms Crozier, you know the standing order. You just move the motion.

Motion agreed to.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:12): I move, by leave:

> That under standing order 11.01 the Ashton report on ESTA's failings be tabled by the Leader of the Government in the house within three days of the passage of this motion.

The PRESIDENT: Mr Davis, I have just had advice. I am not convinced you can move it during question time, because if leave is granted then you can debate it, so my advice to you is to wait until after question time.

GLOBAL VICTORIA

Dr RATNAM (Northern Metropolitan) (12:13): My question is to the Leader of the Government, representing the Premier. It has been reported overnight that Global Victoria, the government's trade facilitation agency, has invited a representative from the military junta in Myanmar to address an ASEAN business forum in Melbourne. Rather than support the National Unity Government as the legitimate representatives of the people of Myanmar, why is the Victorian government giving legitimacy to the military junta, their corrupt practices and human rights abuses?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:14): I thank Dr Ratnam for her question, and I will seek an answer.

Dr RATNAM (Northern Metropolitan) (12:14): Thank you, Leader of the Government, for following that up. By way of supplementary, will the Premier ensure the invitation is rescinded immediately?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:14): I will be happy to pass on your question. I guess the only caveat I would put on that is that, given Global Victoria is an agency that reports to Minister Pakula, that would probably be more appropriately directed to him. But I am happy to forward it on.

MINISTERS STATEMENTS: KINDERGARTEN FUNDING

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:15): We know the significant impact that two years of kindergarten has on the outcomes for children, but the benefits for vulnerable children are even more pronounced and we know that providing these kids with access to two years of kindergarten can change their life trajectory. I am proud of this year's budget. It delivers $60.5 million over four years for the continuation of the early intervention programs that increase vulnerable children's access to and participation in quality kindergarten programs.

This funding will support a range of programs so that more children and the children who need it the most can benefit. We will expand the eligibility of the kindergarten fee subsidy to make kinder free or low cost for asylum seeker and refugee families. We will expand the Access to Early Learning program to more children and families experiencing significant trauma or disadvantage. We will continue funding for the kindergarten inclusion support program for children with a disability or complex medical needs. We will continue the Lookout program to support children in child protection and out-of-home care. And we will continue to fund outreach and bicultural support to lift the kinder participation of children from culturally and linguistically diverse backgrounds, including families living in public housing communities.

I know firsthand from speaking to teachers and support agencies how much this funding is valued and the difference it will continue to make, and I am proud that our government takes care of children and families who need that extra bit of support.

YOUTH JUSTICE STAFF SAFETY

Ms CROZIER (Southern Metropolitan) (12:17): My question is to the Minister for Workplace Safety. Minister, I refer to recent reports that two of the most senior managers at the Malmsbury Youth Justice Centre were seriously assaulted while at work last month and had to be hospitalised, one with multiple facial fractures, a broken jaw, two broken eye sockets and an injured shoulder—the injuries being so severe he may never be able to work again. Minister, what action will you take to make workers in the youth justice system safe?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:17): I thank Ms Crozier for her question. Can I say up-front that work-related violence and aggression is never okay. I am obviously aware of the issues that have happened in our youth justice and corrections facilities, and the Andrews Labor government and WorkSafe Victoria are committed to the prevention of those sorts of incidents occurring and of course to supporting workers who are faced with injury in the workplace and injuries of this nature.

The staff in our corrections facilities, including youth justice facilities, are working in very complex situations. They are incredibly dedicated and capable, but they are working with some of our young people who have got particularly complex needs. Of course they do an amazing job, so I just want to acknowledge that. WorkSafe has been working very closely with the Department of Justice and Community Safety and with the CPSU, the union that represents corrections and youth justice staff, because we want to ensure that we are doing whatever we can to make sure that these risks are mitigated.

I know that the Minister for Corrections has been working very hard in this area to make sure that with the new investments in corrections in Victoria staff safety is a key feature of some of the new facilities that are being built, for example. But from my perspective as workplace safety minister I know that WorkSafe have been very responsive to these issues and are very engaged in making sure that they are working with all duty holders to mitigate the risk for these hardworking staff in our corrections facilities.

Ms CROZIER (Southern Metropolitan) (12:19): Thank you, Minister, for that response. Of course for many, many years, as this chamber knows only too well, there have been many, many issues under the Andrews government in the youth justice system—pizza and Coke, all of those issues that we had to go through a few years ago. But, Minister, Daniel Andrews said in announcing your appointment:

> In this role, Ms Stitt will continue our Government's commitment to making our workplaces safer and ensuring every worker makes it home to their loved ones.

But under the Daniel Andrews government, traumatised youth justice workers are scared to go to work—to a dangerously unsafe workplace, as they say—with assaults happening every second day. One worker said she witnessed two of her colleagues go home in an ambulance after an instance involving a cricket bat. Is this what a safe workplace looks like under the Andrews government?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:20): I thank Ms Crozier for her supplementary question. I have already said very clearly that these sorts of incidents are completely unacceptable in any workplace. As workplace safety minister I have a very high expectation that WorkSafe will be undertaking their role as—

Ms Crozier interjected.

Ms STITT: I do not know that you need to remind me about the importance of speaking to workers, Ms Crozier, so let us not reinvent history here. I can indicate—

Members interjecting.

The PRESIDENT: Order! Thank you, members. The call is with the minister.

Ms STITT: These are incredibly important issues, and I want to reassure the house that WorkSafe are absolutely focused on making sure that our staff in corrections right across the state are given the support that they deserve, and they are actively involved in making sure that duty holders are mitigating the risks. These are very complex workplaces, but nothing excuses the kinds of assaults that we have seen, and I am committed to making sure that that is— *(Time expired)*

GREEN WEDGE PLANNING

Mr HAYES (Southern Metropolitan) (12:21): My question is to the minister representing the Minister for Planning. On 4 November 2018, prior to the 2018 election, the government promised that it would permanently tighten controls to better protect Melbourne's green wedges against overdevelopment, with the protections enshrined in legislation. This was accompanied by a press release from the Minister for Planning titled 'Protecting Melbourne's green wedges from skyscraper Guy', in which the minister promised that:

> Only Labor will stop Melbourne's green wedges from inappropriate development and protect our prime agricultural land in the outer suburbs.

Minister, I ask: why is the Heatherton chain of parks, a site that sits within the green wedge A zone under the Kingston planning scheme and a location where a proposed stabling yard will involve the loss of almost 40 hectares of green wedge land, even being considered as a location for stabling trains?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:22): I thank Mr Hayes for his question, and I will seek a written response from the Minister for Planning in accordance with the standing orders.

Mr HAYES (Southern Metropolitan) (12:23): Thank you, Minister. My supplementary is: the failure to protect the green wedges has arisen from intense population pressure for housing, which has seen overdevelopment in areas adjacent to our protected green wedges and expansion beyond the urban growth boundary. This has meant that essential infrastructure such as schools and hospitals, which have been inadequately provided in these areas since priority has been given to housing, are now in shortfall for these communities. This lack of foresight by the government has now led to the

government proposing a rezoning of the green wedges to include industrial uses, residential development, schools and places of worship in the green wedge. My question is: how does rezoning the green wedges in this way assist to 'permanently tighten controls to better protect Melbourne's green wedges', as promised by your government?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:24): I thank Mr Hayes for his supplementary, and I will seek a written response for him from the Minister for Planning.

MINISTERS STATEMENTS: READY FOR GROWTH PROGRAM

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:24): The Andrews government's $5 million Ready for Growth program is helping up to 1000 high-potential businesses to identify barriers to growth and expand their operations. Accelerating growth across these businesses is vital to Victoria's pandemic recovery and will support job creation across the state. The program commenced on 6 April, and it will run for two years. It supports businesses to define their goals, build their capability and develop a detailed understanding of their needs to ensure that they can take their operations to the next level.

Ready for Growth is modelled on international best practice. It begins with businesses undertaking an assessment to obtain insights into their growth potential in five areas: business strategy, financial management, customers and marketing, human resources and business operations. The businesses then develop a growth action plan to address the barriers identified through the assessment. With ongoing one-on-one support from an expert facilitator, they will then enact their plan, including building capability, finding suitable Victorian and federal government grants and programs, improving connections to existing business networks and connecting with peers through the Ready for Growth alumni network.

Upon graduation from the program, our department will maintain contact with graduates to monitor their progress and to offer ongoing support. Businesses can self-nominate to be part of this program through an expression of interest via the Business Victoria website. Business Victoria has also identified 225 high-growth-potential businesses that are currently receiving invitations to participate in the program. I am really pleased to report to the house that a diverse range of small businesses have already signed up, including food and beverage manufacturers, software developers, professional services firms and advanced manufacturers.

YOUTH JUSTICE STAFF SAFETY

Ms BURNETT-WAKE (Eastern Victoria) (12:26): My question is for the Minister for Workplace Safety. Crime statistics show that police have recorded more than 600 assaults at the Malmsbury youth justice facility since 2016. WorkSafe Victoria investigated 91 assaults on staff at the facility over the same period. In fact the department of justice was convicted and fined $100 000 for failing to provide a safe workplace. One youth justice worker reported being assaulted on three separate occasions at the facility, yet in 2022 the government is still failing to provide a safe workplace for youth justice workers. When will these vital and valued staff members be given the support and protection they need?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:26): I thank the member for her question. As I indicated in my answer to Ms Crozier's question earlier in question time today, WorkSafe continues to work very closely with the Department of Justice and Community Safety, the CPSU and those corrections facilities to respond to any workplace safety concern that any worker may have in this sector. As I have said a number of times before in the house, WorkSafe is the independent safety regulator. I do not direct their compliance and enforcement activities. Our job in here is to set the occupational health and safety framework through legislation. WorkSafe's job as the independent safety regulator is to enforce that legislation, and they have been very actively engaged in making sure that issues in our corrections facilities are addressed. They have,

from July 2021 to April this year, conducted over 195 inspections in response to safety concerns that have been raised. Can I just reiterate the point that no workplace violence or aggression is acceptable, and that is enshrined in our legislation in our health and safety act. WorkSafe take their responsibilities as the enforcer of that act very seriously, and they are working very closely with the duty holders and with the representatives of those workers to stamp out these concerns.

Ms BURNETT-WAKE (Eastern Victoria) (12:28): Youth justice workers say that their workplace environments are so unsafe they fear someone will be killed. Minister, will it take the death of a worker for you to intervene and fix these dangerously unsafe workplaces?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:28): I have to say that that is a pretty disgraceful way in which to frame these really serious issues. I have indicated on more than four occasions in the house today my support for the safety and wellbeing of those workers. To actually come in here and try and sensationalise the very serious and stressful situation that some of those workers have been put under is, quite frankly, disgraceful.

FAMILY VIOLENCE

Mr GRIMLEY (Western Victoria) (12:29): My question is for the Minister for Workplace Safety, representing the Minister for Prevention of Family Violence. Queensland has just announced that it will criminalise coercive control through a standalone offence. We all know the tragic outcome for Hannah Clarke and her children after her ex-husband devastatingly took their lives. Whilst we are yet to see the fine print of this legislation, this is a fantastic step in recognising that family violence is not always incident based. But this is not what our courts often decide on; they regularly prosecute one incident and base a sentence around that rather than sentencing on the course of conduct by the offender. The government agreed to Ms Maxwell's motion late last year which was centred around exploring course-of-conduct offending. We are now in May, and we are yet to receive any update on this. Therefore, Minister, in lieu of committing to criminalising coercive control in Victoria, will this government commit to course-of-conduct laws for family violence cases?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:30): I thank Mr Grimley for his question, and I will certainly seek a written response from the Minister for Prevention of Family Violence in accordance with the standing orders.

Mr GRIMLEY (Western Victoria) (12:30): Thank you, Minister. Recommendation 57 of the Queensland report stated that Queensland should change its laws:

> … to specify that where a party has intentionally used proceedings as a means of committing or continuing domestic and family violence including coercive control, the court has the power to award costs against them.

Queensland's response to this was that they will:

> … progress amendments to the *Domestic and Family Violence Protection Act 2012* to specify that the court has the power to award costs in cases where a party has intentionally used proceedings as a means of perpetrating domestic and family violence.

This is fantastic news. We know that perpetrators will use any means possible to try to inflict pain and suffering on their victims. My supplementary question is: will the minister explore this recommendation and how it might translate to Victorian legislation?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:31): I thank Mr Grimley for his supplementary, and I will get a written response from the minister.

WRITTEN RESPONSES

The PRESIDENT (12:31): Regarding questions and answers today: Mr Davis's first question to Ms Symes, one day; Mr Bourman, two days, question and supplementary, Ms Pulford; Dr Ratnam to the Premier, Ms Symes, two days, question and supplementary; Mr Hayes to planning, Ms Stitt, two

days, question and supplementary; and Mr Grimley to family violence, Ms Stitt, two days, question and supplementary.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:32): I desire to move, by leave:

> That under standing order 11.01 the Ashton report on ESTA's failings be tabled by the Leader of the Government in the house within three days of the passage of this motion.

Leave refused.

Ms Symes: On a point of order, President, in regard to your wrap-up of answers to be provided, I was of the view that I answered Mr Davis's questions.

The PRESIDENT: I know you went through the answer, Ms Symes, but the question was how much, I believe. I will review my decision after I look at *Hansard*.

Mr Davis: I am actually going to agree with the leader and say I think she did answer the first part in the second part, so she came later with the actual answer, which was $28 million. But what she did not do was answer the question in the second part, which was the $10 million. If that is not correct, what is the actual figure?

The PRESIDENT: Order! I will check *Hansard*.

Constituency questions

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (12:33): (1775) My constituency question today is for the Minister for Education. Kalkallo residents in my electorate of Northern Metropolitan Region are concerned about student safety during pick-up and drop-off at Gilgai Plains Primary School. I want to thank the residents of Kalkallo who responded to my recent community survey with this feedback about children's safety. I served on a school council for 11 years, nine years as president, so I know the challenges that these parents are facing. Kalkallo is a new community, and it shows great promise, but facilities are getting built and creating challenges for local residents. Residents mentioned the tight roads surrounding the school—and picking up their children on a nature strip is not ideal. The question I have for the minister is: will the minister direct the department to work with the school and the school community to do a safety audit of the school's drop-off area to find a solution that keeps our children safe?

WESTERN METROPOLITAN REGION

Ms VAGHELA (Western Metropolitan) (12:34): (1776) My constituency question is directed to the Minister for Water and Minister for Police, the Honourable Lisa Neville MP. New crime statistics have noted a rise in car thefts in the city's western suburbs. An increase of more than 5 per cent has been seen in the west in reference to motor vehicle thefts. The west remains an anomaly, as there has been a significant reduction in car thefts in the eastern, southern and northern suburbs. This is an alarming situation for the communities in the west. While these crimes are opportunistic, according to the community survey I conducted people in the west are very concerned about their safety. My question to the minister is: can you advise me what action the Victorian government is taking to ensure that car thefts are reduced in Western Metropolitan Region?

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (12:35): (1777) My constituency question is directed to the Minister for Tourism, Sport and Major Events. Last night, along with a number of colleagues from both houses, I attended a presentation by the Western United Football Club upstairs in the Federation Room. I was delighted to meet players and officials, who told me of the club's plans for the future, and I have to say their excitement was quite infectious. Indeed their plans for a new home in Tarneit should get everyone very excited. New playing fields, new facilities, new teams and other sports will

be a major boost to the Wyndham community. It is the sort of project we have long wanted, particularly for local young people. I cannot help but add my support to Western United and its plans, and I certainly share its excitement. Minister, will you give any request for financial support for the Western United development in Tarneit serious consideration, with a view to a favourable response?

WESTERN METROPOLITAN REGION

Dr CUMMING (Western Metropolitan) (12:36): (1778) My question is to the Minister for Emergency Services, and it is from Eddie in West Footscray. When can we expect ambulance response times to meet targets and the expectations of residents? Ambulance response times in Maribyrnong have increased beyond the recommended time for code 1 incidents of 15 minutes. The latest data shows the average response time was 15 minutes and 27 seconds if you live in Maribyrnong. Residents in Hobsons Bay have better response times, with an average wait time of 14 minutes and 55 seconds for an ambulance to arrive. While this is below the recommended times, it is a slight increase from the previous quarter's average response times. We know that the paramedics are burnt out. They are pushed beyond acceptable levels in order to keep the service going. Minister, how are you going to actually help our ambulance service and response times for the safety of our residents?

NORTHERN VICTORIA REGION

Mr QUILTY (Northern Victoria) (12:38): (1779) My constituency question is for the Minister for Emergency Services. Currently the government is collecting $800 million through the fire services property levy. The budget papers make it clear that all levy proceeds go to supporting the state's fire services. Given the amount raked in, it is hard to understand the lack of infrastructure spending on the CFA in Northern Victoria, with only $12 million being spent on new infrastructure across the whole of the fire services in all of Victoria. At some stage the lack of infrastructure spending will start to reduce the capacity of the CFA to defend Victoria. I recently visited the Chiltern CFA and learned of the OH&S problems and limitations with their current shed and saw the site of their proposed new facility. This week we heard that the Strathbogie CFA local sheds do not have proper toilets or even working running water. These are not isolated cases, there are issues all across Northern Victoria. Minister, will you allocate more funds from the $800 million fire services property levy to build this much-needed infrastructure for Northern Victoria CFA units?

NORTHERN METROPOLITAN REGION

Ms PATTEN (Northern Metropolitan) (12:39): (1780) My constituency question is for the Minister for Education. My constituent is a parent at Coburg High School. They ask why the following non-government Catholic schools have received capital funding since 2019—St Fidelis School, St Paul's Primary School, Penola Catholic College and St Francis de Sales—whereas Coburg High School has not received any capital funding. While Coburg High School has grown exponentially over the last six years and has a population of 1250 students—well in excess of any nearby inner-north secondary school—Coburg High has only two permanent specialist rooms, resulting in an under-entitlement of six permanent specialist rooms. Coburg High is entitled to six permanent and one relocatable science room; however, the school only contains four permanent science rooms. Students at Coburg High are now currently receiving their music lessons in a storeroom.

EASTERN METROPOLITAN REGION

Mr BARTON (Eastern Metropolitan) (12:40): (1781) My constituency question is for the minister for transport. I have had a constituent contact me regarding the proposed realigned bus routes in Box Hill. $109 million has been allocated to improving bus services throughout Victoria, yet it is my understanding that it is unclear what this funding will actually deliver, especially for my constituents in Box Hill. No information has been provided regarding how much funding has been allocated for Box Hill station and the bus interchange improvements. On top of that we do not know what the new frequency of bus services in Box Hill will be, so the information I seek is: of the $109 million package,

how much has been allocated to improving bus services in Box Hill, and what will these improvements be?

NORTHERN VICTORIA REGION

Ms MAXWELL (Northern Victoria) (1782)

Incorporated pursuant to order of Council of 7 September 2021:

My constituency question is to the Minister for Emergency Services on behalf of the Chiltern community.

The Chiltern fire brigade is a busy, vital emergency service of more than 100 members, proudly supported by the community.

The brigade is under significant pressure to expand its premises. The current motor room does not meet occupational health and safety requirements. The building is too small for modern vehicles and too small for the safe movement of personnel. The meeting room, which also doubles as the CFA local command facility, is very cramped and diesel fumes in the building are a concern.

A local landowner has offered to donate a parcel of land in Chiltern to establish a co-located ambulance station and Chiltern fire brigade. CFA, Ambulance Victoria, Indigo shire and VicRoads have discussed the establishment of the new site, and CFA has appointed a consultant to undertake a feasibility study.

So my question to the minister is: will the government commit to providing the necessary funding of approximately $2 million to establish a new facility for the Chiltern fire brigade?

Bills

ROAD SAFETY LEGISLATION AMENDMENT BILL 2022

Second reading

Debate resumed.

Mr BARTON (Eastern Metropolitan) (12:41): I rise to speak on the Road Safety Legislation Amendment Bill 2022. Road traffic death remains the number one killer of children in Australia. Death on our roads does not need to be a certainty. These accidents, these deaths, are preventable. There are more than 150 cities across the world where no kids or adults have died on their roads for five years or more since 2009. We have much to learn. In cities such as Oslo and Helsinki, pedestrian and cyclist deaths were cut to zero in 2019. In Belfast and Edinburgh they have managed to reduce speed crashes and road deaths as well.

I absolutely support the delivery of the road safety strategy but believe that we can go further. The government's aim of reducing the road toll by 50 per cent by 2030 could be more ambitious. This bill is a step in the right direction and will address the distracted driving that has plagued our roads. I for one know what it is like to be in a head-on collision, being hit by a person at high speed while he was distracted on his phone. By enforcing the use of seatbelts and penalising those caught using handheld devices while driving we can deter these dangerous driving habits. In 2021, 31 people died while not wearing a seatbelt. For most of us, wearing a seatbelt seems obvious, but we cannot become complacent. New South Wales and Queensland have already deployed camera detection technology.

This bill will mean that we can employ discreet cameras to identify drivers illegally using a phone or not wearing a seatbelt. The cameras allow high-resolution images to be captured in all conditions and for those images to be reviewed in real time to detect potential offences. There will be a $496 fine, and four licence demerit points would then be issued to the registered owner of the vehicle, who can then pay the penalty or elect to go to court. This comes off the back of a trial from two years ago. The trial was conducted over three months in Melbourne, and in that time it identified 679 438 vehicles breaking the law, equating to one in every 42 photographed drivers. It is clear we have a real problem on our hands. Road safety regulations have to adapt to modern technology. When phones were first introduced, driver distraction was not recognised as a really serious or emerging road safety issue.

However, it has become apparent that mobile phones and our reliance on them are impacting road safety. Up until now, distracted driving has caused a whole lot of new road accidents, and it has been entirely unaddressed. This is unlike drink driving or speeding, which are now fairly in control. Make no mistake, distracted driving is a killer on our roads. For those that are concerned about being unfairly fined by the new technology, let me address your fears. The photo behind every mobile phone camera fine, captured and transmitted electronically, is assessed by a human eye, by a team of people based in Australia, before being sent to the vehicle owner's address. Only images suspected of showing a mobile phone or seatbelt offence are sent through to be checked by the assessment team. This provision has public support. We have all seen those cars veering into other lanes, driving too close to the car in front or sitting at traffic lights long after they have already turned green and then, on closer inspection, seen the phone in the hand of that driver.

Studies suggest that drivers using a mobile phone are approximately four times more likely to be involved in a crash than when a driver does not use a phone. While the bill does address distracted driving and seatbelt use, we can improve the safety of our roads by introducing meaningful fatigue management regulations in our commercial passenger vehicle industry. There are too many loopholes, yet no efforts to seriously regulate fatigue management practices of operators have been made. This is about not just ensuring safe workplaces but also ensuring the travelling public have access to safe transport.

Due to their high amount of time on the road the drivers most at risk of fatigue are commercial drivers. On top of that, they face severe financial pressures to work beyond the legal requirements to make ends meet. Those in the gig economy have little to no protections and find themselves being forced to work more and more hours. Failing to do so can leave them without a job. We know that driving drowsy is similar in terms of slow response times and judgement errors to driving while intoxicated. Twenty-four hours without sleep is roughly equivalent to having a blood alcohol content of .10. Fatigue management and road safety go hand in hand. Regulating the hours our commercial drivers spend on the road is low-hanging fruit. I am disappointed to see fatigue management measures absent from this bill. Until the issue is addressed, Victorian transport workers will continue to be forced to drive for hours over the legal limit. We discussed this just yesterday. Until this issue is addressed, there will be pressure on truck drivers to drive from one side of Australia to the other and back without sleep. These workers are operating incredibly heavy vehicles that require constant attention. Failing to manage this fatigue puts all of us at risk. However, I will commend this bill to the house.

Ms TAYLOR (Southern Metropolitan) (12:47): I am next on the list. I am very happy to rise to speak on this bill. It is certainly bringing about significant reforms which are very important for safety on our roads. I query, in thinking about the debate today, some of the assertions from the opposition about the conviction with, in particular, some of their amendments today with regard to road safety et cetera, because as has already been stated by my learned colleague Mr Erdogan they could not even find a Victorian picture to put in their promotion on this issue with regard to the status of the roads. I wondered, if they are taking it so seriously, why they could not find a local picture. They actually used something from overseas. That was a little bit odd, a little bit weird, and it does make you query their conviction to some extent. I am sure that everyone in the chamber wants safety per se, but it does make one query some of the changes that are being proposed today by the opposition.

Another point Mr Davis raised was with regard to the Mordialloc Freeway, with assertions that they could have done it better or differently or at a different price or something else. Who knows? 'Would have, could have'—didn't. 'Gonna, wanna'—didn't. We did. We have delivered, and that is what matters. I think it is so easy to sit back in the peanut gallery and say, 'Oh, well, we could have done something magical there. We could have created a new highway going to X, Y, Z, to the other side of the universe'. But they did not. I think really what that says is that this has delivered something pretty fantastic for the community in the south-eastern suburbs and also those wanting to connect to the south-eastern suburbs—and I will say that myself, having driven on that fabulous freeway and noting how convenient it is—so I would suggest that sometimes it is the politics of envy when they are

looking at what we have delivered and what we continue to do in that space. So I did think that was a little bit of a cheap shot, but do you know what? We will take it as flattery in the sense that we have actually delivered on this project, and if you want to tell more people about the project we have delivered, then we can deal with that as well.

Another point raised by Mr Davis was about modest changes that are being made with this bill. I took a little bit of exception to that, because I think using that descriptor is quite a significant understatement of the significance of the changes that we are bringing about with this bill in terms of safety for fellow Victorians. Maybe it is just because they are not delivering this bill and we are, I do not know, but I do take exception. I want to validate the point that I am making, because we know that driver distraction is estimated to be the contributing factor in 11 per cent of road fatalities, amounting to approximately 24 lives lost each year. Driver distraction is also estimated to be the cause of over 400 serious injuries per year, and we know that for each individual person and all the people connected to their lives and all those that might be connected in rehabilitation et cetera, there can be very significant ramifications.

In 2020 an investigation found one in 42 drivers to be illegally using their mobile phones while driving, and much has already been discussed here today about the dangers associated with that. Using available data, the Monash University Accident Research Centre has estimated that an automated enforcement camera program focused on mobile phone use and seatbelt wearing could prevent 95 casualty crashes per year and save taxpayers $21 million annually. So again, I would query the use of the word 'modest' in regard to the significant changes and also to the lives that might be saved and also those serious injuries which could be prevented.

The bill will also make our roads safer by adding to the list of serious offences that Victoria Police may use to trigger immediate licence suspension and disqualification. Again, the word 'modest' with regard to that I do not think fits. I think really understating the various significant elements of these reforms is not helpful. The bill will also—and I am going to speak a little bit more to this shortly—improve and make the transport accident scheme fairer.

Another point that I want to make is with regard to the amendment proposed by the opposition. I do not like to be cynical, but really we have already got so many committees in place. We have got the Economy and Infrastructure Committee. We have got so much committee work being undertaken—good-quality committee work—so I am not resiling from the work that is being undertaken. And yet: 'We need another committee and another committee'. Really? All you are doing is at the end of the day holding back the significant reforms that we are seeking to bring through this chamber here for the benefit of Victorians out there—that means for all our relatives, our friends, our colleagues, everyone, our communities. These are reforms that we are trying to deliver here and now, and really, I am sorry, but it is just grandstanding, because there are so many committees already. I know Mr Davis—and further to Mr Erdogan's point—certainly has form on this. It is like, 'Let's just create another committee. We might stifle that bill. I might get brownie points for that'. That is fine and well, but what about the Victorians out there who are waiting on us to drive these reforms through? They are relying on us to get these reforms through the chamber—very good and sound reforms—and I think it is good and well that we make that happen.

With regard to investment in roads et cetera, there were a lot of criticisms that were flying about but there were not really any statistics along with that. So I just want to put some clarity on the table with regard to what we have invested in here, because I think that was also greatly underestimated. If we are looking at regional Victoria—because much was said about roads in regional Victoria—we are delivering new and upgraded roads across regional Victoria, including the $272 million upgrade of the Great Ocean Road and dairy supply chain routes in south-west Victoria; the $60.8 million Keeping Ballarat Moving program, which will improve the flow of traffic across seven of the city's most notorious traffic hotspots; the $513 million upgrade of Princes Highway east, which is duplicating a total of 43 kilometres of road between Traralgon and Sale; the $365 million Barwon Heads Road

duplication; and the $323.7 million Echuca–Moama bridge project. Other regional projects are also in the early planning and investigation phase, including the Bellarine link and the Shepparton bypass.

Our government is also investing well over $700 million in maintaining Victorian roads in the current financial year alone. This far exceeds the yearly average under the previous coalition government. Can I repeat that: this far exceeds the yearly average under the previous coalition government. We have a lot of faffing about and a lot of hot air over there, but when you put the cards on the table and you compare accurately and you look at the data, we far exceed the yearly average of the previous coalition government in terms of investment. Let us just be really factual in this discussion, because let us face it, you can get in here and you can say anything you want, but at the end of the day you need to provide the data and you need to back up what you are saying. I think I just want to put to bed some of the rather fanciful discussions that have gone on today in terms of investment by the coalition versus investment by the government with regard to upgrading roads.

There was another point with regard to dooring improvements—I mean dooring, D-O-O-R-I-N-G—with regard to the TAC. The TAC already covers cyclists doored by the driver, which is the majority of dooring offences which occur. Changes from this legislation address the gap where a cyclist is injured by a passenger door. My understanding is that peak cycling bodies are very keen to see this change come through; hence the imperative to get these reforms through the chamber for the betterment of those who particularly want to see enhanced safety for cyclists, TAC improvements with regard to cyclists and sustainability with regard to low-carbon transport. I would have thought that was a really good imperative and a sound reason, among many, to be supportive of this legislation in its entirety and to not try to stifle and faff about with an amendment which merely seeks to hold back reforms that Victorians deserve now. That is certainly something that I hope is understood here. This is really serious in terms of the reforms that need to come through this chamber, and trying to stifle those reforms is frankly at risk, I will posture here, of being irresponsible, because it is timely.

We know that many on all sides of the chamber have talked about the challenges with people trying to drive, somebody said, with their knees while they are playing on their mobile phone. I do not know how you would do that. That is extremely dangerous of course. I have not witnessed this myself, but of course if others have witnessed it that is certainly quite shocking. Nevertheless it emphasises why we do need to take this action to make sure that we can make the roads in this way safer by encouraging better behaviour from fellow Victorian drivers. I would like to think that most drivers would seek to do the right thing, but of course there are those who do not. Therefore this is why there is such an imperative to get these reforms through.

The other thing that I wanted to look at, amongst others, is what we have done in our time in government with regard to investments in road safety initiatives, because there were so many allegations by the opposition about what we have not done. I think it is actually better to put on the table factually what we have done. During our time in government we have invested over $1.7 billion in road safety initiatives, including delivering over 2300 kilometres of flexible barriers installed on high-traffic and high-risk rural roads; completing 50 safer intersection upgrades, with a further 51 underway; and targeting improvements to motorcycling safety, with a new mandatory training program for novices. We have delivered pre-licence preparation for young Victorians to be future safer drivers with the Road to Zero education complex and the Road Smart program of teacher resources, classes and in-car activities; an uplift in the number of roadside drug tests from 100 000 to 150 000 per year; new drug driver and drink driver behaviour change programs; and a requirement to fit an alcohol interlock for any driver found to have blown over .05.

I know when I first learned how to drive that I did a driver safety course, and I have to say, from objective feedback from family, that the standard of my driving improved significantly after being put through various safety requirements and being tested in a safe environment, in a controlled road space. It certainly significantly improved the way that I drove and the way that I reacted. I know that since doing that, when under pressure at times or when I have had to brake suddenly, for some reason that training has stayed with me. I am going on a tangent slightly, but I am just saying the benefit of the

various mechanisms to improve the way we drive and our behaviour and our responses in driving are just so critical. I know from having felt it myself—it was only a one-day training session that I did, but it stayed with me. And so now when there is something on the road, I go into that autopilot. I am not saying all the time. Let me not deem perfection in my driving—certainly not—but I am just saying it lends itself to having protective mechanisms and preventative mechanisms to get the best out of Victorian drivers as opposed to—

Mr Ondarchie: You shouldn't be on autopilot, though.

Ms TAYLOR: What's this?

Mr Ondarchie: You shouldn't be on autopilot. You should be concentrating.

Ms TAYLOR: No, no, no, no. I just mean that when you are under pressure, and you are faced—I am saying I went into a good response. That is what I am saying, to unpack that, further to your comment. *(Time expired)*

Sitting suspended 1.02 pm until 2.12 pm.

Mr QUILTY (Northern Victoria) (14:12): I will be brief. The chief purpose of this bill is to allow the government to spend $34 million of taxpayers money on new road cameras. While the claim is that this will reduce road deaths by better enforcing seatbelt and mobile device rules, the major outcome will be to further increase fine revenue. Victorians cannot afford another new expense because this government's COVID response has already maxed out the credit cards. Worse still, this bill criminalises safe driver behaviour just to make it easier to fine drivers. For example, passing something to a passenger will be illegal, so if your phone rings and you pass it to the passenger to answer it, you will still be breaking the law. Apparently if you have your phone poking out of your shirt pocket, you will be breaking the law. There are already many ordinary driver behaviours that are criminalised, including eating while you drive. This bill will only add to them. It is undoubtedly true that people on their phones while driving is a contributing factor in accidents, but this bill aims to criminalise a wide range of behaviours that are not distracting as well.

The reason for these changes is to make it easier to fine a driver. They do not make people safer; they only make people more vulnerable to losing their money and their licence. And we should be aware of the shambles at Fines Victoria that is currently denying Victorians procedural justice in these fines. This bill will only add to that confusion and that mess.

The government's excuse for ramping up fines and surveillance is that Victoria's road toll has increased. The toll increased despite record spending on police and on TAC advertising. We see this all the time. When the road toll drops the government says, 'What we are doing is working, and we must spend more money on it'. When the road toll rises they say that what they are doing is not working and they must spend more money on it.

Another issue here is city versus regional, applying one single rule to both city driving and regional roads. But they are quite different situations. Where it can be very, very dangerous to be touching your phone in the city, on a long empty country highway briefly tapping your screen is not a problem. There should be more differentiation between the regions. I drive a lot using my phone for navigation and also for audio, and I have touched my screen from time to time as I drive; I think most everyone does on country roads. It is not as dangerous as doing it in the city, and there should be a differentiation based on that.

If we are going to spend another $34 million to attempt to reduce the road toll, we should instead be spending it on improving the quality of our roads. We know that road standards are falling across the state—and the government know it too, because they are planning on lowering speed limits on country roads from 100 to 80 specifically because the roads are not in good enough condition to support the high speed. The $34 million you plan on spending on cameras to further surveil and prosecute Victorians would be better spent on road improvements that make our lives better. These cameras will

be another huge intrusion into our lives. It is another step in building the surveillance state. It is always easy to pass off government intrusion as a safety measure. Who does not want people to be safe? But freedom matters, and in the long run government overreach does not keep us safe. As modern history tells us, government is by far the greatest threat to our safety. We oppose strengthening government intrusion and oversight on principle. We do not trust the government with more surveillance powers. I will not go into that further; Mr Hayes already addressed it quite well earlier today.

We have heard people today expressing shock about seatbelts not being worn despite 40 years of the government pushing for it, making laws about it and advertising about it. Perhaps what you are doing is just not working anymore. The vast majority of Victorians have adopted safe seatbelt-wearing behaviour. The small minority who have not probably never will. In our road safety inquiry a couple of years back we heard evidence from Sweden that while most people will modify their behaviour with appropriate education and enforcement, there will always be a very small minority that breaks the rules and will always break the rules, and that cannot be eliminated. Just as it is not practically possible to get the road toll to zero, it is likely that it is impossible to get the failure to wear a seatbelt to zero or indeed to get mobile phone usage in cars to zero. There are diminishing returns to be had. You spend more money and get less results.

The Liberal Democrats oppose this legislation on principle. We oppose it for the expansion of government intrusion and monitoring, we oppose it for the criminalising of behaviours that are actually safe to make prosecution simpler and we oppose it for its focus on revenue raising. I will be introducing an amendment in a moment to raise speed limits for motorbike riders to 5 kilometres above other traffic. Variable speed limits for different vehicles is something we discussed in the road safety inquiry. This would allow motorcycle riders to move through traffic, avoiding the traffic slug, which is the build-up of vehicles travelling at the same speed, which is actually quite dangerous, and to only focus on vehicles ahead of them instead of those that are coming up behind them. I would like to circulate my amendments to the Road Safety Legislation Amendment Bill 2022.

Liberal Democratic Party amendments circulated by Mr QUILTY pursuant to standing orders.

Mr QUILTY: I desire to move, by leave:

> That, contingent upon the Road Safety Legislation Amendment Bill 2022 being committed, it be an instruction to the committee that they have the power to consider an amendment and a new clause to amend the Road Safety Act 1986 to provide that certain offences against that act and the road rules do not apply in certain cases where the drivers of motorcycles exceed the speed limit by no more than 5 kilometres an hour.

Leave refused.

Mr ONDARCHIE (Northern Metropolitan) (14:19): I rise to speak on the Road Safety Legislation Amendment Bill 2022, the bill that is designed to enable better enforcement of distracted-driving and seatbelt-wearing offences by giving evidential status to images from new types of road safety cameras and, secondly, to add to the list of serious offences that Victoria Police use to trigger immediate licence suspension and disqualification when charges are laid under the Road Safety Act 1986. The bill is also intended to transform the accident scheme by making various amendments to the Transport Accident Act 1986.

Recently the government conducted a new AI trial of some new technology designed to detect usage of mobile phones and incorrect usage of seatbelts. The trial ran for three months and scanned over 600 000 motorists, finding one in 42 to be using mobile phones. I question that data, because I drive an SUV that sits higher than most cars in the traffic and I reckon the number is higher than one in 42, to be perfectly honest with you. As a result of the trial the government is seeking to provide evidential status to the new cameras and begin penalising motorists from early 2023.

Adding to the list of offences for which Victoria Police may trigger on-the-spot licence suspensions would allow for more consistency in the legislation. Previously individuals involved in hit-and-run accidents could have their licence revoked on the spot by VicPol. The Transport Accident Act has

been amended to ensure drivers convicted of manslaughter, murder or culpable driving will not be able to receive death benefits if they survive and are charged with the aforementioned offences. It is very rare, but this guarantees someone who kills their partner and is charged would not be eligible to receive financial compensation from the TAC, which they were previously able to access. The bill also allows for compensation to be paid to cyclists who suffer harm as a result of the opening of a car door and makes provisions for the protection of privacy.

Just this Monday past, as I was driving here to this building, I was stopped in traffic in my electorate in the northern suburbs of Melbourne. I pulled up at a set of lights behind a small car to observe a child who I think was probably three or four years of age running up and down the back seat while the car was stopped in traffic. The child clearly had no restraint. The parent was busy driving, distracted. I do not know what it was, but I have got to tell you, who would let their child run up and down a back seat in moving traffic in this day and age? So it is very appropriate that we should fine for that. The reason I have highlighted this is that many years ago travelling on an outer suburban road that had an increased speed limit I observed a car grind to a halt very quickly because a kangaroo was coming across the road. That car ground to a halt, and at the time an eight-year-old child sitting in the front seat who was unrestrained went through the windscreen and finished a number of metres up the road. They subsequently passed away. What is it with people in cars who do not wear seatbelts? What is it with people in cars who do not restrain children? There is a show on TV every now and again called *Highway Patrol* that talks about Victoria Police, and every now and again when I do catch it I am amazed at the number of people who are not wearing seatbelts. What is going on?

One of the things we should do is make sure we are examining road safety appropriately as a Parliament, and that is why Mr Davis's amendment which has been tabled today to provide for the re-establishment of the Road Safety Committee as a joint house committee is so appropriate for us—a committee that was dissolved before—

The ACTING PRESIDENT (Mr Gepp): If I can interrupt, Mr Ondarchie, please, members, it is getting a bit noisy in the chamber, and Mr Ondarchie is entitled to be heard.

Mr ONDARCHIE: Thank you, Acting President. We should not be distracted, whether we are driving or people are speaking in Parliament, so I take that as very valid.

In response to Mr Davis's very valid amendment about re-establishing the Road Safety Committee, a joint house committee which is a very important committee that goes to the heart of the matter that is before us today, Ms Taylor said, 'Oh, there are too many committees. We've just got too many committees'. I do not know why you would trade off an excuse of too many committees for the very important purpose of ensuring road safety in this state. That is hardly an excuse—'There are too many committees'. This is a very important committee that should be re-established by this Parliament, and simply to write it off with 'Oh, we're just too busy—we've got too many committees' is inexcusable.

This gives me the opportunity, this piece of legislation that is before us today, to follow on from Ms Taylor and her discussion about roads and things that have happened on roads. I think she used the expression 'Let me tell you about what we have done'. I think she used that expression. So let me talk about roads, and in relation to Ms Taylor's expression about 'what we have done', let me tell you about what the government have not done. What they have not done is paid any attention to roads in Melbourne's north—none whatsoever. Somerton Road has been ignored for decades—nothing in this state budget. Craigieburn Road, the duplication which was promised four years ago—guess what they are doing in an election year? In an election year they are finally turning a bit of soil to show: 'We're going to start Craigieburn Road in Melbourne's north'. But I tell you what, the people of Craigieburn and the people of the new electorate of Kalkallo are awake to this con job. You have done nothing for four years, and just before the election you turn a bit of soil, put up a few bollards, put up a bit of temporary fencing and say, 'Oh, we're starting it'. They are well aware of it. You know what they did not start? They did not start the Craigieburn hospital they promised over four years ago. Nothing has happened with that.

But back to roads, the government have been dragged kicking and screaming, reluctantly, to co-fund and co-help the wonderful commitment by the federal Liberal government to duplicate parts of Mickleham Road. I have to say the funding that has come from the state government in the latest budget does not quite cut it; it is not enough. And they completely ignored in this funding the need for an important pedestrian crossing to get residents and schoolchildren from one side of Mickleham Road over to the other side so they can go to school safely. These kids are still playing *Frogger* on Mickleham Road, trying to get across in the morning and back after school. They completely ignored Epping Road, a single-lane country road. All the development is happening in Melbourne's north, and there is nothing in the state budget.

I would like to continue about what they have not done in this term of government. The Kalkallo exits, where it takes residents of Kalkallo over half an hour to get out of their estate so they can go to work: nothing, despite continual asks by the people of Kalkallo through me in this Parliament—nothing for Kalkallo. The Wollert roads: nothing for the Wollert roads, despite, as members sometimes joke about in this chamber, responses to many surveys I have done in that area about needing some support for Kalkallo roads and Wollert roads—nothing in this state budget. And the roundabout at Settlement Road and Dalton Road, where people literally take their lives into their own hands—somebody responded to me on Facebook the other day saying someone is going to die there soon. I know the member for Thomastown went out and did a video on that roundabout and said, 'We need to do something about this'—do you think? It has been a problem for years and years and years. And what happened in this state budget? Not a cracker, not a cent, for that road. I hope that person's response on Facebook is inaccurate, that no-one dies or gets injured on that road. But I tell you what, it is not far away, because this government have refused to commit to it.

Today—just today—in Parliament I talked about drop-off zones for schools and the lack of safety around schools and drop-off zones. This is another example, Ms Taylor and the government, of something that you have not done. The government have introduced a program to put smart traffic lights, coordinated traffic lights, across Melbourne. And where have they decided to do that? In the south-east of Melbourne, in the west of Melbourne and in the east of Melbourne—there is not anything for Melbourne's north, part of the fastest growing corridor anywhere in this country; there is nothing for Melbourne's north, nothing for Cooper Street and nothing for Plenty Road. Ms Taylor can stand up here and talk about what they have done. There is a longer list of what they have not done when it comes to road safety.

Ms Taylor also talked about the installation of what she called flexible barriers. I think we call them wire rope barriers sometimes as well. Well, let me talk about that. When they did some work on Plenty Road over the last few years, they took down all the wire rope barriers and they replaced them with—and I will use the expression that is most commonly used—the steel Armco that was there originally. So they took down the steel Armco a few years ago and replaced it with the wire rope barriers, and they have just taken down the wire rope barriers and replaced them with steel Armco. And when I asked the question in this place, 'Can somebody give me a reason why, when you say so much about the effectiveness of wire rope barriers, you took them down and replaced them with the old steel Armco?', nobody could give me a response, other than to say, 'That's the appropriate safety measure'. So which is it? Are wire rope barriers appropriate? I do not think they are. Or is steel Armco appropriate? I do not know, but I cannot get an answer out of this government.

Similarly, I have asked so many times about the speed humps they have put on a major road, Dalton Road, through Epping and Thomastown. When cars go along it, they hit a speed hump with very little warning. The ambulance people are telling me it is hurtful for them. The fire brigade are telling me when they go over them at speed with little warning on this major road and when they get to a fire job they open the cupboards and suddenly the stuff falls out. I have asked time and time again in this place the Minister for Roads and Road Safety and the Minister for Transport Infrastructure about why this has happened. Either they refer me to the other one—to the other minister—or they come back and say, 'It's based on strong safety advice', so naturally I ask, 'Could you tell me what that safety advice

is?'. Well, it does not exist; nobody could tell me what the safety advice was because it does not exist. It was a thought bubble in somebody's mind. The Minister for Transport Infrastructure oversaw the installation of these speed humps on Dalton Road. They are a dismal failure both for traffic and safety and for cars, and nobody can give me an answer as to why they have done it.

This happens time and time again. This government have failed to do so many things when it comes to roads and road safety. If they were genuinely concerned about road safety in this state, what they could do in adding to this bill today is support Mr Davis's amendment to establish a road safety committee as a joint house committee so we can oversee appropriate responses to road safety in our state. We lose too many people on our roads. Too many people are injured. The TAC charges people say are excessive—

Mr Melhem interjected.

Mr ONDARCHIE: They are excessive because there has not been an appropriate response, Mr Melhem—through you, Chair—to road safety in this state. A road safety committee as a joint house committee is an appropriate mechanism—I was going to say as a pun 'an appropriate vehicle'—to ensure appropriate road safety in this state, and the government, if they were genuine about their commitment to road safety in this state, would support this amendment today. Should they fail to do so, we would know once again it is all smoke and mirrors from Dan's con job, and quite frankly I have had enough.

Ms Taylor: On a point of order, Acting President, he is the Premier. I think we should just be careful when referencing the Premier that we address him appropriately.

The ACTING PRESIDENT (Mr Gepp): I just remind all members, when referring to a member either in this chamber or in the other place, to use their correct title.

Mr Ondarchie: On the point of order, Acting President, I note the member's concern about me referring to the Premier as 'Dan' and your ruling that he should be referred to as the Premier. Regularly, almost on a daily basis, those opposite refer to the Andrews Labor government. Should they be referring to the Premier's Labor government instead?

The ACTING PRESIDENT (Mr Gepp): It is not a point of order.

Ms SHING (Eastern Victoria) (14:33): There has been a lot of white noise, a lot of peripheral verbiage around the debate on this bill here today. There has been a lot of sidelining of what I think is the most important part of this bill, which is to give effect to provisions that already exist in road safety legislation through evolutions in technology that enable us as a community—not just us as a Parliament or us as a government but us as a community—to identify and in fact to sanction conduct which, while somebody is in control of a vehicle, compromises the health and safety of themselves or indeed someone else.

I was Parliamentary Secretary for Emergency Services about 481 years ago, and one of the things that I found most profoundly moving was attending memorial services for road trauma support services and indeed other community organisations. It is devastating—it is absolutely devastating—to hear the volume of tragedies and the volume of avoidable distresses that are carried by families, that are carried by people who made the wrong decision: the wrong decision to drive when drunk, the wrong decision to speed, the wrong decision to drive whilst distracted. And that is what these amendments to existing road safety legislation are intended to address directly. This is about making sure that wherever possible we do not leave families—more families—with another empty chair at Christmas time, that we do not leave people wondering whether their loved ones will survive the night because they have been called in from a devastating collision that occurred because somebody was distracted.

This calls to mind the debates that we had, or our predecessors had, in this place when Victoria led the way in introducing mandatory safety belts. That legislation was subject to exactly the same kind of straw man attempts at scapegoating and at duckshoving. I hate to use analogies here, but that is exactly

what it was. Go back and have a look at the debates that occurred prior to the introduction of safety belts in Victoria, and you will see that it was exactly the same sorts of issues and sets of excuses being raised as those for why we should not proceed with the legislation in its current form before the chamber. Firstly people say, 'It's a revenue-raising exercise'. Secondly people say, 'It's an encumbrance'. Thirdly people say, 'If people are going to do it, they're going to do it anyway'. I have heard all of those reasons put forward in the chamber today. They were put forward in the other place when the bill came up, and they are not good enough. They are not good enough because when I think about the families of the 232 people who died on Victoria's roads last year, I think not just about those people who lost their lives but anybody else who was involved in them losing their lives or responsible for that loss of life. I think about the first responders who were on the scene. We have heard people talk about that just this week. First responders who are on the scene see some of the most traumatic things you can possibly imagine. Anyone who has ever been to an SES unit will understand the impact that that has on people who volunteer their time in our communities.

I cannot underscore enough the importance of making sure that we as a Parliament do what we can and do what is reasonable but most of all do what is responsible to make sure that road users throughout the entire state have the best possible opportunity through education, through compliance and through technology not just to make it to their destination safe and sound but to make sure that others do too. This is why we see changes to the number of hours which learner drivers have to undertake before sitting for their licence. This is why we have limitations on the sorts of vehicles which people can drive under certain licensing conditions. This is why we have invested around $34 million as part of a five-year strategy in relation to the rollout of mobile phone and seatbelt offence detection cameras. It is not a revenue-raising exercise. To even suggest that that is the primary motivating factor for this public safety initiative is actually really crass. It is out of respect for those 232 people who lost their lives last year that these initiatives are necessary, including the evidentiary change to the way in which road camera technology can be used to identify and make out offences where people have been driving without safety belts or indeed whilst using their mobile phones.

The TAC has run numerous campaigns on this. Throughout Eastern Victoria and throughout Gippsland, wherever I drive, inevitably there is a billboard that says, 'On your phone? You're driving blind'. Signs are really important. Signs are good. But the deterrent effect of not only the introduction of new technology but awareness about that technology being able to undertake the making out of offences is in and of itself important, because as we know, the way in which behaviour can be influenced or indeed improved goes to a range of factors. It goes to education, it goes to the carrot-and-stick approach of encouraging people to do the right thing, it goes to positive messaging around encouraging people to do the right thing and it goes to education and driver training awareness. But there also need to be penalties for that behaviour, which if left unchecked is vastly over-represented in a number of serious injuries, fatalities and collisions across this state.

Year to date in Victoria we have seen 91 people lose their lives. That is two more than yesterday. That is two more chairs around tables that are empty. That in and of itself, just that change from yesterday, should be enough to prompt people in this place to support this bill, which enables the use of technology to improve public safety. Our roads are not an inherently safe place to be. We have just finished discussing earlier this week the way in which heavy vehicles are vastly over-represented in the number and range of fatalities that occur in a workplace setting. Drivers of vehicles, including heavy vehicles, account for more than 30 per cent of fatalities—people doing their jobs. And you know what? Distraction, speed, fatigue or being under the influence are top drivers of the irresponsible conduct on our roads that leads to serious injuries and collisions.

This is not new. The Monash University Accident Research Centre has been publishing research on this sort of issue for many, many years. This is not a controversy. It is only a controversy where people seek in fact to return to the days when safety belts were not considered an appropriate, reasonable or convenient way to manage road safety issues in the 1970s in Victoria. Well, now they are universally accepted, and now there are penalties for being in a car and not wearing a safety belt whilst driving or

having control of that vehicle or indeed, as Mr Ondarchie pointed to in his contribution, having a child unrestrained in the back seat of a car. These things are now uncontroversial.

The existence of penalties is an important part of making sure that compliance occurs. It is not so that state coffers can be lined, it is so that people have chairs and highchairs in their homes that are not empty. It is about making sure that as technology improves and as we have an education phase, which is in fact an important part of introducing any change to legislation, we are clear on what is driving this particular raft of improvements and we are using technology to the best extent possible to improve the way in which people use our roads, the way in which people interface with our roads, including as pedestrians, and the way in which we do everything we can to move towards zero. And *Towards Zero* was in fact the name of the campaign that was at the heart of our road safety policies—the name of the framework created to drive a better understanding of the risks for road users across this state.

When I first came to this place in 2014 I was part of a range of regional round tables and discussions, including as they relate to wire rope safety barriers and the impact that they can have on reducing fatalities and the way in which they can actually, through their very existence, prevent people from going off the road either to kill themselves or indeed to plough into an oncoming vehicle; the way in which lighting, visibility and changes to road design can improve the safety of those environments; education about driving at dawn and driving at dusk; signage around wildlife and animals; bypasses; and the sorts of challenges associated with improving through upgrades, maintenance and resurfacing all of our regional and road networks.

I know firsthand that there is a lot to do in the space of improving our road network. I know firsthand with the many tens of thousands of kilometres that I drive every year that there is a lot to do to make sure that council roads are in a fit state, that state roads are in a fit state, that federal roads are in a fit state and that the interface between these three levels of responsibility for our road network is adequately managed and is managed well, because at the heart of this, no matter what road you are driving on, you should be protected by a legal framework that condemns behaviour and applies punishments and sanctions to behaviour which endangers life and safety on our roads. In regional road terms, 53 people, representing 59 per cent of fatalities, died on our rural roads. These are vast stretches of road that often require people to concentrate really, really hard for long periods of time. There is a reason why we have the rest and revive programs staffed by our extraordinary SES volunteers, which involve having a cuppa, stopping, stretching and breaking that focus on the road in order to be able to return to the wheel refreshed and indeed more in control of a piece of extremely heavy machinery.

When I think about the work that is yet to be done, I think about the fact that we need to make sure that as our roads become busier we are doing more and that as the way in which our roads are used becomes more diverse we are doing more. This is where technology can be the great equaliser for making sure that everybody is aware of their obligations to drive safely and that everybody is aware that seatbelts must be worn and that, in the event that they are not, at its lightest the price for that is an infringement; at its worst it is taking someone else's life. At its worst it is being responsible for someone else dying, to say nothing of what might happen if you are permanently injured as well and to say nothing of what might happen if you cause reckless endangerment through negligible and careless driving that ends up before the courts when in fact you should have known better, when in fact you should have not driven distracted and when in fact you should have had a safety belt on.

There will always be people who say, 'Raise the speed limits, because everybody's safe, because people know what they're doing, because country roads deserve kilometre speed limits that in fact allow people to get to their destinations'—I don't know—'5 or 10 minutes earlier'. We know that speed kills. We know that driving whilst distracted kills. We know that driving whilst under the influence kills. We know that driving whilst fatigued kills. We also know that deterrence and detection go hand in hand. There is a direct correlation between these things being in play and people in fact doing the right thing. And you know what? If that means that you slow down because you can see a fixed speed camera up ahead, then that means that in fact maybe you are doing the very thing that you should have been doing in the first place—that you should not have been speeding and that maybe

you will take that opportunity to check yourself and to understand that there is a responsibility to play by the rules and that the rules have not been magically conjured out of thin air. They are there for a reason. The rules as they relate to not using mobile phones are there for a reason. The rules around safety belts are there for a reason. That is why it is so critical that we can engage with technology to make sure that that message is abundantly clear.

After the initial education period, after we work through that transition period of three months, in early 2023, next year, we will be in a position to make sure that every Victorian is under no illusion about the fact that the road rules apply to them for good reason and to make sure that we do not have more empty chairs around tables than is currently the case. I commend this bill to the house.

Dr CUMMING (Western Metropolitan) (14:48): I rise to speak on the Road Safety Legislation Amendment Bill 2022, and in rising I have to say that this government should be embarrassed at the amount of money they actually spend on roads. They might believe that big projects like the West Gate Tunnel Project are great line items that actually say that they are spending money on roads, but they actually do not. If you look at the detail and the little roads that need to be fixed, here in Victoria we drive around on the most dismal, disgusting road infrastructure in probably the whole of Australia. And you should know—you guys go over to Europe on your little trips and you know when you come back here that the roads are horrible.

Ms Symes: On a point of order, Acting President, Dr Cumming is reflecting on members in this chamber, implying that we are using our position as government members to take 'little trips', and frankly that is really offensive because it is untrue. Can you just come back to the motion and maybe be a little bit more factual? I do not mean to be too sensitive about it, and I usually let you go, but you really are straying into being nitpicking and offensive just for fun, and it is not very funny.

Mr Ondarchie: On the point of order, Acting President, Dr Cumming had been on her feet on this matter for, at the time, about 60 seconds, and she did not name anybody in this chamber. She made a general comment. She could have been reflecting on anybody in this chamber, so it is not quite valid, and we should allow her to continue.

The ACTING PRESIDENT (Mr Gepp): Thank you, Mr Ondarchie. I would ask the member to come back to the substance of the bill and resume debate, please, and constrain her comments to the bill.

Dr CUMMING: Thank you, Acting President. I appreciate that. The government obviously does not like to hear that we have the worst roads in Victoria—

Ms Symes: Because it's not true.

Dr CUMMING: No, it is true. You obviously do not drive around on the roads, into the little potholes, the roads that do not have lines painted on them—

Members interjecting.

Dr CUMMING: No, I drive rurally all the time. I drive on the roads here in Victoria, government, and they are the worst.

The ACTING PRESIDENT (Mr Gepp): Dr Cumming, through the Chair. Your comments should come through the Chair, please. Could members cease interjecting so Dr Cumming can be heard in silence, but, please, through the Chair.

Dr CUMMING: Not a problem, Acting President. Yes, we have the worst roads. At the end of the day, do not believe me; believe our constituents, believe the councils that actually complain to you as well as apply for grants to get money for their local roads. You obviously do not drive around, because if you drove around you would see the amount of unsealed roads in regional Victoria.

Ms Symes interjected.

Dr CUMMING: You obviously do not, because if you drove around regional Victoria, the amount of unsealed roads is dismal, pathetic. We all know, because every regional council complains to us that the way that this government deals with bad roads is to actually lower the speed limit rather than fixing the roads, and we know this. We see this. We drive around on these bad roads.

Ms Symes interjected.

Dr CUMMING: Go for it. Absolutely pretend that there is not a bad road here in Victoria and you spend enough money on the roads, because you do not. You do not. I can actually give you examples of intersections that have been on VicRoads's books to be fixed or upgraded for 30-plus years. There are old Melways, probably here in our library. If you pulled one out, you would actually see the lines that are meant to be built, such as in Ashley Street under the Tottenham railway station. There is meant to be a north–south link—not there—two lanes, but it needs to be four lanes underneath. There is actually the infrastructure there. The actual railway bridge has just got a pile of dirt where the other two lanes are meant to be, but it has been sitting there, as well as a road reserve, right down Ashley Street, that has never been touched. How about all the roads from Werribee all the way around to Sunbury that need upgrading that are single lanes and that really need two lanes each way—no, not there. Go to Williamstown, go to Altona and then drive around regional Victoria; there are roads everywhere that this government does not spend money on—not sealed.

But let us talk about just the little primary schools in my area that I have raised in this place. It is 70 kilometres an hour past the special school in Ballarat Road. I have requested that it actually be seen as a school and the limit go down to 40 kilometres, which it is meant to—not touched by this government. St Monica's in Footscray: it is 60 kilometres when you go past St Monica's in the morning, and there have been deaths of children there, but does this government do anything about it when I raise it in this place? Oh, no. Kids of the west, do not worry—or the roads of the west, forget about it. Unmarked roads, not sealed, intersections that need upgrading, do not worry; we have the most cameras in the west—safety cameras, revenue-raising cameras.

The government just a moment ago touched on heavy vehicles. We have the most heavy vehicles going through our city, and if you know anything about heavy vehicles you know that they have got a huge amount of blind spots. In Europe, how they tackle this is that when they are in built-up areas or residential areas heavy vehicles do not have the same speed limit as cars. So if it is 60, the car can do 60 but the truck has to do 40. If it is 50, the truck has to do 30, and they have signs that show '50' and '30' because everybody knows that trucks have multiple blind spots and should not be travelling at the same speed as a car. But have you ever done anything about that? No. And that safety data from Europe has been there forever.

We talk about bikes and pedestrians. In Europe if you hit a bike it is your fault, if you are in a vehicle. With pedestrians here it is the driver's fault, but no, not with bikes. Has this government ever done anything about that? No, not at all, and we continue to have people being killed on bikes.

Let me go into the bill—why not? This bill makes amendments to the Transport Accident Act 1986 in relation to the payment of benefits under the act. It also amends the Road Safety Act 1986 to support the implementation of new camera technology to detect distracted drivers and seatbelt offenders. Last year 232 people lost their lives on Victorian roads. Any life lost on our roads is tragic, and I believe every measure should be taken to minimise the number of lost lives and the many more who are seriously injured. I assumed that any changes to the act would aim to reduce the toll. There are many different causes: drink driving—one in five drivers killed has a blood alcohol reading of more than .05; not wearing a seatbelt—last year 31 deaths were because of not wearing a seatbelt; speed, which is still one of the biggest factors; running off the road, which causes more than 40 per cent of deaths; and we also know that drivers are four times more likely to crash when using a phone.

But we also have to look beyond the driver. A large-scale Monash University study revealed that the major causes of serious injuries on Victorian roads are the actual roads themselves. Each crash was

examined in forensic detail, with research nurses interviewing drivers or their family following their admission to the Alfred or the Royal Melbourne Hospital. Crash investigation teams also inspected the scene of each crash and the vehicles involved. Impact speed has been shown to be a significant factor in injury severity, with serious injuries more common in crashes that occur on lower quality roads with higher posted speed limits. The report also said that it was critical to create safe roads by matching speed limits to the road infrastructure and highlighted the need for safe vehicles and safe roads.

So what are we doing to create safe roads? Well, in this year's budget maintaining Victorian road networks statewide gets $119 million. Metropolitan road upgrades get $6.5 million and regional roads get $13.2 million. Now, before everyone goes, 'Wait one moment, didn't you just say $119 million? Then you only pointed out roughly $19 million. Where's the other $100 million?', well, the other $100 million obviously goes towards the big government projects, such as the Calder or the Monash or the West Gate Tunnel Project, not towards our little roads. Only $19 million—and you should be disgusted, Victorians, because most local councils spend more on their roads than this whole state government is spending on all of our roads. That is why when you drive around they are so rubbish, with potholes and no line markings and rubbish on the side of the roads and rubbish on our roads.

What is really concerning is the rate of progress that has been made on a number of existing road projects. Regional road upgrades from 2017–18 are still not complete—over 10 per cent of the total investment allocated to this year's budget, and they will not be completed until 2023. Regional road upgrades in 2021–22 had no expenditure in last year's budget and less than $3 million allocated this year—$3 million for regional roads. If we are really going to address the number of people dying and being injured on our roads, more has to be done to maintain our roads and improve our roads.

Have we got the balance right in terms of fines? The penalty for using a mobile phone is four demerit points. It is $545. However, it also results in a court order, which could be a penalty of up to $29 000. The penalty for failing to wear a seatbelt or not wearing one properly is three demerit points, which is $364. All fines actually need to be reviewed, and so does our demerit point system. Our demerit point system is archaic and continues to penalise people for a 12-month period where it should be longer. The amount of points over a 12-month period is not good enough.

If penalty notices had been issued over the last three months, from the trial period for these new cameras the revenue would be $9 million. So in three months this government could have raised $9 million. This government stands to gain a large amount of money by introducing this. Is it really about road safety, or is it simply revenue raising?

The government also need to be reminded that the money they will collect from these cameras needs to be spent on our roads. Victorians work hard to earn a living. They balance their budget, they put food on the table, they clothe their family, they pay rent, they pay their mortgage. They pay enough taxes to this government, and this government has to realise that the money they collect needs to be spent wisely. It needs to be spent on our roads.

The government has overspent on nearly every project—not by a couple of thousand dollars but by billions. That is our money, our hardworking Victorians' money, that they continue to waste by not being able to balance a budget and by not being able to deliver a project.

For me, as I have said, this government need to have a serious look at the amount of money they are proposing to gain from this but also how they are going to spend the money on the roads. They should hang their heads in shame at the amount of money they spend on Victorian roads with the quality of our roads, the amount of unsealed roads that we have, the amount of intersections that need to be upgraded that have not been upgraded, the amount of signage that is lacking and the amount of flashing lights and safety measures that money could be spent on. These are the technologies that the community want you to spend money on—making sure that our schools, our public areas and

pedestrian traffic are safe. This government should be embarrassed about the state of the roads in Victoria. They need to spend more money on our roads, especially in the west.

Motion agreed to.

Read second time.

Instruction to committee

The ACTING PRESIDENT (Mr Gepp) (15:04): I have considered the amendments proposed by Mr Davis, set DD106C, and in my view these amendments are not within the scope of the bill. Therefore an instruction motion pursuant to standing order 15.07 is required.

Mr ONDARCHIE (Northern Metropolitan) (15:04): I move:

> That it be an instruction to the committee that they have the power to consider amendments and new clauses to amend the Parliamentary Committees Act 2003 to provide for the establishment of a road safety committee as a joint house committee under that act.

House divided on motion:

Ayes, 17

Atkinson, Mr	Finn, Mr	Patten, Ms
Barton, Mr	Grimley, Mr	Quilty, Mr
Burnett-Wake, Ms	Hayes, Mr	Ratnam, Dr
Crozier, Ms	Lovell, Ms	Rich-Phillips, Mr
Cumming, Dr	Maxwell, Ms	Vaghela, Ms
Davis, Mr	Ondarchie, Mr	

Noes, 15

Bourman, Mr	Melhem, Mr	Tarlamis, Mr
Elasmar, Mr	Pulford, Ms	Taylor, Ms
Gepp, Mr	Shing, Ms	Terpstra, Ms
Kieu, Dr	Stitt, Ms	Tierney, Ms
Meddick, Mr	Symes, Ms	Watt, Ms

Motion agreed to.

Committed.

Committee

Clause 1 (15:12)

Mr ONDARCHIE: I have some questions on clause 1, but I would like to immediately move to my amendment. I move:

1. Clause 1, page 2, line 6, omit "purposes." and insert "purposes; and".
2. Clause 1, page 2, after line 6 insert—

> "(c) to amend the **Parliamentary Committees Act 2003** to provide for the establishment of a Road Safety Committee as a Joint House Committee.".

I have spoken to the amendment already in my second-reading debate speech.

Ms PULFORD: I just indicate that the government will not be supporting this amendment. There are processes at the commencement of every Parliament, indeed through the life of any Parliament, where the Parliamentary Committees Act 2003 is considered by members along with the establishment of committees for the term of the Parliament, and then through the course of the Parliament references and on occasions other committees are established. There is a time and a place to be doing that. Of course there are few areas of public policy more impactful to people in the Victorian community than safety on the roads that they travel on each and every day, but we do not believe that this legislation is

the vehicle by which the opposition ought to be prosecuting this. It is available to them to introduce such a measure by any number of other mechanisms through the Parliament.

Ms MAXWELL: I note that the amendments propose to reinstate the Road Safety Committee. We know committee work is very important, particularly in this Parliament, and work done by the Road Safety Committee and subsequent committees have over time delivered reforms that have improved road safety, including compulsory seatbelts, random breath testing, roadworthies et cetera. In lieu of a standalone committee, inquiries into road safety matters can be conducted by the Economy and Infrastructure Committee. While we are not supporting the coalition's amendments today to reinstate a standalone committee, we do hope the referrals will continue to be made on road safety issues to the existing committee.

Mr DAVIS: I understand Ms Maxwell's point, but with the greatest of respect it is not the same as a joint committee. The joint committees actually have the authority across the Parliament to bring in support from all parties and all parts of the Parliament, across both chambers. That is why the coalition has been steadfastly pursuing the reinstatement of a proper joint road safety committee that has the authority and the breadth across the Parliament. That is why we think, given the long history in the state and given the challenges we currently face with road safety, that there really must be a reinstatement of a joint committee across the Parliament devoted to road safety.

Committee divided on amendments:

Ayes, 16

Atkinson, Mr	Davis, Mr	Patten, Ms
Barton, Mr	Finn, Mr	Quilty, Mr
Bourman, Mr	Hayes, Mr	Ratnam, Dr
Burnett-Wake, Ms	Lovell, Ms	Rich-Phillips, Mr
Crozier, Ms	Ondarchie, Mr	Vaghela, Ms
Cumming, Dr		

Noes, 16

Elasmar, Mr	Melhem, Mr	Tarlamis, Mr
Gepp, Mr	Pulford, Ms	Taylor, Ms
Grimley, Mr	Shing, Ms	Terpstra, Ms
Kieu, Dr	Stitt, Ms	Tierney, Ms
Maxwell, Ms	Symes, Ms	Watt, Ms
Meddick, Mr		

Amendments negatived.

Mr ONDARCHIE: Minister, the bill refers directly to AI technology, artificial intelligence technology. Now, I know the government has a report about AI technology, and whilst requests have been made for information as to the frequency of death benefits paid to individuals convicted of murder da da da, we have not seen that report yet. Where is it?

Ms PULFORD: I thank Mr Ondarchie for his question and his interest in this report and I assume its contents, as well as its location, and I can indicate to Mr Ondarchie that the distracted driver pilot report was procured by the Department of Justice and Community Safety. The Department of Justice and Community Safety has advised that the report contains commercially sensitive information about the technology which it is not permitted to disclose. The Department of Transport recommends that any parties interested in gaining access to the final report from the pilot should make a formal request under the Freedom of Information Act 1982. That will then enable commercially sensitive information in the report to be identified and redacted as needed so that parties interested in perusing the rest of the contents of the report are able to do so in a way that is sensitive to those commercial matters.

Mr ONDARCHIE: Minister, I am going to ask something that I suspect is not commercially sensitive. The bill relates to compensation paid to cyclists who suffer harm as a result of opening car

doors. Can you give us some data on the prevalence or the number of cyclists that have been injured or otherwise as a result of car-dooring incidents?

Ms PULFORD: Some members may recall an upper house committee undertook an inquiry into the prevalence of car-dooring. Some of us would have been around. Indeed I had the opportunity to participate in that inquiry, and we heard some incredible evidence from people who had experienced car-dooring, including, as I recall, public evidence presented by family members who had lost loved ones and indeed a long-time cyclist who had suffered profound, life-changing injuries as a result of car-dooring. That report, if this is of interest to members, would be available from the papers office, no doubt, and I would encourage people to have a look at that. But in response to your question, Mr Ondarchie, there are on average 70 car-dooring accidents each year. It is estimated that 25 per cent are by passengers opening a door or leaving a car door open.

Mr ONDARCHIE: Thanks, Minister. That is some information we were looking for. Regarding the amendment to the Transport Accident Act 1986 relating to death benefits being paid to individuals convicted of murder, manslaughter and culpable driving, what is the frequency of death benefits that have been paid to individuals in the past?

Ms PULFORD: Sorry, Mr Ondarchie, in total or in circumstances such as the provision envisages?

Mr ONDARCHIE: In total is fine.

Ms PULFORD: In total. Death benefits annually—

Mr ONDARCHIE: As a result of—

Ms PULFORD: Yes. Mr Ondarchie, that information is not available immediately to hand, though we are tracking it down and will endeavour to get it to you by the end of this committee stage if it is able to be ascertained quickly. If it is not, we will take that on notice and come back to you.

Mr ONDARCHIE: One of the things we are concerned about is the removal of death benefits to individuals charged with culpable driving, which includes negligence behind the wheel. Whilst these cases are rare, does the fact that you will change the bill in this way create a level of inconsistency, where under certain circumstances no-one can get those benefits?

Ms PULFORD: It is a very narrow change that is proposed by the bill for very specific and quite horrific circumstances. It is proposed to deprive persons of benefits in circumstances where they have been convicted of causing the death. There is one recent circumstance of a person convicted of a relevant offence killing their partner in a transport accident. There are two circumstances in the past where the new child homicide provisions might have applied. There are not any cases to date of a dependent child killing a parent and being entitled to benefits. However, should this circumstance occur, currently the dependent child is not excluded from benefits, and the amendment addresses these potential circumstances.

Mr ONDARCHIE: I want to pursue that just a little further if I can. Should this bill pass, we understand that death benefits will no longer be paid to partners in these very tragic circumstances—this is a tragedy all round, no matter which way we do it. In terms of the death benefits, if they are not going to be paid to the partners, will they be paid to the next of kin?

Ms PULFORD: I thank Mr Ondarchie for this question. It is an important question. I think the scenario that perhaps you are envisaging in asking it, and certainly the scenario that the drafters have contemplated, is where one parent is killed by another but the children are surviving and the parent that is not deceased has been convicted of an offence on that very short list of very, very serious offences. In that event the compensation would flow to the next of kin.

Mr QUILTY: I have some significant concerns about the rules around what you can touch in your vehicle under these changes. I think most people acknowledge that texting while driving is dangerous, but there seems to be a gap between that and what is actually being enforced here, which is that you

cannot touch any device anywhere, anytime. So if you have your phone with a navigation app on it in a cradle fixed to your dashboard, is that allowed under these changes?

Ms PULFORD: I think perhaps this question is beyond the scope of the bill and is something that is not impacted by this bill. There are no changes proposed to the current rules about what you can and cannot do with your phone in your vehicle. Can I perhaps offer you a briefing from the department on the way those current uses of devices interact with the current road safety laws as a way forward? My short answer is that the bill does not have an effect on that.

Mr QUILTY: All right, I will accept that. But it seems to me the bill does have an effect on that, because while we might have had theoretically a bunch of laws about what is happening in the car, up until now there has been no real way to enforce them. Now suddenly we will have cameras peering into cars seeing what people are doing. I think at the least we need a lot of education around what is actually allowed and not allowed to be done while you are driving, because I think there are a lot of ordinary behaviours that people do in their cars, especially on country roads but also everywhere, that are potentially illegal that people do not even know about.

Ms PULFORD: I think that is not an unreasonable comment. In the evidence around the relationship between driver distraction and fatal and serious crashes on slower roads in urban settings and on faster roads in rural settings, the one thing that is common is that those kinds of distractions can be incredibly dangerous. I would perhaps take as a comment and a suggestion your comments on the need for us all to make sure that people are aware of the current rules and arrangements as they stand. As is always the case with passage of legislation in this place and the commencement of new penalties and new measures in road safety, there is always an element of both free media and also various campaigns making sure the community are aware and that they learn or are reminded of what their obligations are. But I think it is an important suggestion.

Clause agreed to; clauses 2 to 38 agreed to.

Clause 39 (15:36)

Mr ONDARCHIE: Minister, I draw your attention to clause 39, line 28, which is titled 'Division 14—Road Legislation Amendment Act 2022'. Is that correct?

Ms PULFORD: Yes, it is there.

Mr ONDARCHIE: Is that correct?

Ms PULFORD: Is it correct that it is there at this point on this page?

The DEPUTY PRESIDENT: Minister, I might be able to answer this question for you.

Mr ONDARCHIE: I have not finished my question yet.

The DEPUTY PRESIDENT: You asked a question about the title.

Mr ONDARCHIE: I asked it of the minister.

The DEPUTY PRESIDENT: I have the explanation from the Clerk.

Mr ONDARCHIE: I did not realise you were answering on behalf of the minister. Sorry, Deputy President.

The DEPUTY PRESIDENT: I am not answering on behalf of the minister; I am just making a clarification that the clerks have advised me of.

Ms PULFORD: I am not entirely sure what your question is yet.

Mr ONDARCHIE: I was asking if that title is correct.

The DEPUTY PRESIDENT: Mr Ondarchie, there is an error in the title in the bill. It should be the Road Safety Legislation Amendment Act 2022. The Office of the Chief Parliamentary Counsel (OCPC) are aware of this, and they have drawn it to the Clerk's attention. The Clerk will make a correction after we have passed the third reading.

Mr Rich-Phillips: On a point of order, Deputy President, given this error was notified by OCPC, what is the standard practice for advising the house of that error? You have given us advice now because Mr Ondarchie has asked a question which has highlighted the error. In the absence of Mr Ondarchie's question, how would the house be notified of the error and when?

The DEPUTY PRESIDENT: I will just get some advice from the clerks because I have only just found out about this now.

Mr Rich-Phillips, I am advised that the normal process is that after the third reading the President will read a letter from the Clerk advising that he will make a clerical amendment. The reason it is done at that point is that there is no amendment to be made until there is actually a bill passed.

Ms PULFORD: Just on that, I want to thank you for your assistance on that procedural process, Deputy President, and our Clerk as well. The government has no intention of changing the name of this legislation, so it is good to know that it is going to be sorted out through a pretty standard process.

Clause agreed to; clause 40 agreed to.

Reported to house without amendment.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (15:42): I move:

> That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (15:42): I move:

> That the bill be now read a third time.

With the house's indulgence and with your indulgence for just a moment, Deputy President, I missed the opportunity to make a couple of comments in summing up. I just want to recognise the significant contribution of Jeynelle Dean-Hayes in her advocacy on behalf of her late son, Tyler Dean, assisted by Minister Neville and assisted by Ms Maxwell in particular on some elements of this legislation. I think we can all be very proud of the work that, as a Parliament, has been done in providing an outcome for Jeynelle. I am advised by Ms Maxwell that today is indeed Jeynelle's birthday. I am sure a day like a birthday is an incredibly hard day for her, but perhaps this will give her some comfort and some peace that we have been able to have this bill concluded for her today.

The PRESIDENT: The question is:

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

House divided on question:

Ayes, 29

Atkinson, Mr	Kieu, Dr	Shing, Ms
Barton, Mr	Lovell, Ms	Stitt, Ms
Bourman, Mr	Maxwell, Ms	Symes, Ms
Burnett-Wake, Ms	Meddick, Mr	Tarlamis, Mr
Crozier, Ms	Melhem, Mr	Taylor, Ms
Davis, Mr	Ondarchie, Mr	Terpstra, Ms
Elasmar, Mr	Patten, Ms	Tierney, Ms
Finn, Mr	Pulford, Ms	Vaghela, Ms
Gepp, Mr	Ratnam, Dr	Watt, Ms
Grimley, Mr	Rich-Phillips, Mr	

Noes, 3

Cumming, Dr	Hayes, Mr	Quilty, Mr

Question agreed to.

Read third time.

The PRESIDENT: Pursuant to standing order 14.27, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Clerk's amendments

The PRESIDENT (15:50): Under standing order 14.33, I have received a report from the Clerk of the Legislative Council informing the house that he has made a correction in the Road Safety Legislation Amendment Bill 2022. The report is as follows:

> Under Standing Order 14.33, I have made a correction in the Road Safety Legislation Amendment Bill 2022, listed as follows:
>
> In Clause 39, line 28, I have inserted '**Safety**' after '**Road**' in the new Division heading to be inserted into the *Transport Accident Act 1986*.

HEALTH LEGISLATION AMENDMENT (INFORMATION SHARING) BILL 2021

Second reading

Debate resumed on motion of Mr LEANE:

> That the bill be now read a second time.

Ms CROZIER (Southern Metropolitan) (15:51): I rise to speak this afternoon to the Health Legislation Amendment (Information Sharing) Bill 2021, which we are finally debating today. This bill was brought into the Parliament last year—very quickly, I might add. It was introduced into the Parliament and it was debated a week later, and that again demonstrates the chaos of the government when bringing together a government program. I have real concerns about the way the government has undertaken putting this particular piece of legislation together because of the number of stakeholders that have since spoken to me saying that they were also concerned about those time frames.

Before I do speak about the concerns of the stakeholders, can I just outline the purpose and what the bill intends to do. I think the intention of the bill is actually very sound. I understand why the government is trying to bring this legislation into the Parliament. They want to be able to better communicate with health professionals within health services—as they specify; these are specified health services—and they want to get that information so that there are more efficient processes when a patient is admitted to hospital or comes into contact with Victoria's health system.

Whilst I am mentioning Victoria's health system, I cannot go without saying that I am extremely concerned about the state of our health system in Victoria at present. After two years of COVID, after

six lockdowns where the government kept telling Victorians that we needed to go into lockdown to prepare our health system, our health system is not any better for that. It is worse, and tragically too many Victorians' health conditions are deteriorating. They are getting sicker and, tragically and sadly, they are dying. They are dying before they get an ambulance, before they get through to 000 and in the back of ambulances. They are dying because their elective surgery has been delayed and postponed and they have not got the care that they have needed and deserved.

Two nights ago Ambulance Victoria went into another code orange. That is a very serious situation. It is just prior to a code red, meaning there is just no capacity within the system for Ambulance Victoria to respond to code 1 emergencies—or any response. That again demonstrates the state. We have had a number of code reds and we have had a number of code oranges over the past few months, indicating just the pressures on the system. I was listening to question time with the Minister for Health, and the Premier was in there interjecting at every occasion, which I think was quite disgraceful, because we were asking questions about very serious issues around the 000 crisis, around the terrible situations of Victorians who have died and around their family members and their loved ones actually wanting to understand the reasons for the delays and how we can improve the system. They want to have greater transparency so that we can improve the system and so that what they have experienced will not happen to another Victorian.

So that is the state of our health system in Victoria. It is verging on Third World at times. I am a former nurse—a former midwife—having worked in the public system for 16 years. It was a great privilege to look after so many Victorians at their most vulnerable, and we were always very proud of Victoria's health system. It had its challenges, there was no question, but the state of our system today is so dire. When you have got senior physicians and clinicians walking away because they have lost confidence in the system, it just demonstrates how dire the situation is.

So with that being said, yes, the government is looking to improve our health system, and one of their measures is to introduce this piece of legislation. What the legislation will do is permit the Secretary of the Department of Health and their delegates to create and maintain an electronic health information sharing platform. It will enable specified health services to access information about patients and their previous treatments, medications, allergies, alerts, admissions, discharge summaries, outpatient consultations, laboratory and image results and any other information that is determined by the Secretary of the Department of Health at that health service and other specified health services. It will require specified health services to provide information to the secretary or their delegates in order to establish the health information sharing platform and ensure clinicians at specified health services have access to complete and accurate health information about a patient so that the best care and treatment can be provided. That is the intent of this bill.

As I have just said in my preamble, our health system in this state is far from providing the best care and treatment, which I think is reflective not of the clinicians—far from it—but of the failure of the Andrews Labor government to get policy settings right, to have the proper investment and to have the proper management to be able to oversee very significant services such as our healthcare system provides. The government will use COVID as the excuse and as the cover for all of their failures. Well, they cannot, because the Productivity Commission prior to COVID actually highlighted the shortage of beds, the extension in wait times here and the fewer staff per capita. They were the official figures prior to COVID.

And of course, as many have heard me say, the record numbers on the elective surgery waitlist were there prior to COVID. We have got nearly 90 000 Victorians waiting on that elective surgery waitlist, and their health is deteriorating. Today's report in one of Melbourne's papers talks about the shortage of contrast dyes in very important procedures such as CT scanning, X-rays and other vital diagnostic tools for very significant health issues. There are shortages there—yes, there is a global shortage worldwide for these mediums—but with better planning and better preparation by the department and the government we would not be in this situation where there is such a dire shortage. There will be

more Victorians who will suffer as a result of this lack of planning and this mismanagement—and quite frankly the incompetence—that have been overlooked in the last few years.

That last point about the best care and treatment, which is not happening, comes out when the government says that was as a result of *Targeting Zero: Supporting the Victorian Hospital System to Eliminate Avoidable Harm and Strengthen Quality of Care*. I really do think that that report should be repeated because of the number of Victorians who are dying within the system and who are not getting the care that they need, as I have previously said. There are so many examples. I do not have enough time to talk about those, but the misdiagnoses, the lack of attention that has been given and the sentinel events are there for everyone to see, and sadly those numbers are stacking up in the coroner's office.

This possibly is a little bit out of date, this *Targeting Zero*. There is a summary of recommendations in it, and some of those recommendations relate to how this legislation has been drafted. It talks about how:

> **The flow of information in the health system ensures deficiencies in care are identified and focuses attention on opportunities for improvement.**

It talks about establishing:

> … modern data management systems by expediting the development of a statewide patient identifier and the transition to electronic patient record systems in hospitals …

and a number of other recommendations. That intent I think is very understandable; I understand that. I actually do not mind if my information is shared across health services in the interests of efficiency and to assist those clinicians that would be caring for me should the need arise. But there are many people in the state that do not share that view, and they have a right to have that view. There are many advocates and stakeholders who also do not share that view, and I want to go back to where I started about the chaotic process that the government has undertaken to introduce this bill, whereby it was rushed—

Sitting suspended 4.02 pm until 4.21 pm.

Ms CROZIER: As I was speaking just prior to the break, I was talking about the chaotic introduction of this bill and the number of issues that stakeholders have had with the bill, and I want to go through those in a moment.

At the bill briefing there were a number of concerns that I raised in terms of why the government was bringing in this bill. There was a limited time for stakeholders to provide any feedback. There was no indication of any budget allocation in this financial year. This is a very large undertaking. Putting a system like this in place will cost billions of dollars, and it has to be right. We know the government's history on this. We had HealthSMART back when Daniel Andrews was the health minister. That was an absolute dog's breakfast. It really demonstrated just how poorly the system was thought through. The cost blowouts on that were just exorbitant. We are used to that with Labor governments, but at that point in time they were very, very large—not as large as the cost blowouts in projects that are occurring right across the state at the moment, but the Victorian Ombudsman in 2011 reported that the project was going to cost another $243 million to complete. That was an absolute dog's breakfast, that project. We need to understand, if the government is going to do these projects, where the budget is and how they are going to do it.

There have been issues around cybersecurity. I was assured by the government that that would be addressed, but we know that in 2019 there were really significant cyber attacks across our health system, particularly in the south-west of Victoria and also in parts of Gippsland, that really brought the whole system to a standstill. Actually in some metropolitan hospitals too there were problems with their IT systems. At Eastern Health, I think I recall, there were significant issues too, but the cyber attack in south-west Victoria was very significant and really caused a huge amount of problems for many months.

So there is cybersecurity, the lack of budget and the issue around compatibility with systems. I was up at Albury Wodonga Health with the Leader of the Opposition a few weeks ago. We were having a health forum and hearing of the very devastating circumstances of that health service from clinicians and community members. The Wodonga Hospital cannot even speak with the Albury Base Hospital. Those systems are not even in place. This is what this system will be designed to do, but they have not even got that right at this point in time, let alone rolling out a big system across the state. There is no business case. There are many issues with this.

I want to move on to the issues that stakeholders have come back to me on. They also have raised significant concerns about the feedback; they feel that there was not enough consultation. I will speak about a number of those who have given me some information. Liberty Victoria, for instance, is very concerned about the privacy implications of the legislation. They explained that the Australian government's health records scheme had extensive consultation that took place with civil society groups over a number of years. This is not what has happened with the Andrews government's legislation that we are debating this afternoon. They said in the letter:

> The speed with which this Bill is being ushered through Parliament is of grave concern. Such fundamental long-term policy must be thoroughly vetted by concerned parties and by the Parliament.

They go on to say that those privacy concerns which they have got concerns with—and they have had discussions with many groups—have also been highlighted by others. The issues, as I said, with the federal government scheme took four years and lots of consultation, and they were looking at various groups to look at those high-risk groups that might be impacted by the federal legislation. They also asked: where has the call been to public interest groups from the government to have a look at this to make sure that those at-risk groups are identified so that all of these flaws can be ironed out before the legislation goes through the Parliament?

The Australian Privacy Foundation also has very serious concerns about the legislation. They question the proportionate functionality and security of the proposed electronic patient health information sharing system described in the bill. They also go on to say—and they are referring obviously to what I just referred to with HealthSMART, which was also highlighted by my colleague Emma Kealy in the other place—that any government and any department ICT programs are always fraught and always have high risks, and therefore they must be thought through properly. They said:

> We ask you to pause the Bill's passage and send it back to the lower house for amendment, requesting a more thorough community consult than has occurred.

This is fairly significant when you have got so much concern from these groups about the speed with which it has been passed through the Parliament and them asking for more consultation.

The Health Issues Centre is very concerned about the absence of an opt-out option, and I want to talk to that because I will be moving an amendment about an opt-out option. They do not believe that there is a proper process for consumers to redact sensitive information. They particularly raise concerns around mental health diagnoses or conditions that have stigma attached to them, such as if a patient is HIV-positive. Those are sensitive issues, and that has been raised with me by many, many people. I do not want my health records to be able to be accessed and to be seen by people that might have an interest in understanding what I have had done. Particularly for women, if they have had a termination, mental health issues or, as I have said, domestic violence issues and all of those issues, they are very sensitive issues and they do not want that information to be able to be accessed easily.

In this letter in which they have provided some background to me they actually give a summary of the consumer groups that they spoke with. They say that they had a constrained time frame to undertake this consultation with participants and to have a look at the legislation, and they were concerned about that. Their participants included consumer representatives, consumers representing conditions, specific community groups and consumers experiencing special circumstances that increase the complexity of data sharing, and there were a whole range of other issues that they highlighted. They

had 150 consumers that registered to have a look at this, I might say. They really thought that the consumers understood, as I understand, the intent of this legislation, but those concerns, they felt, were too risky to proceed with as the government is currently pushing it through the Parliament. They wanted to understand the non-contextual disclosure of sensitive information that could lead to overtly discriminatory practices or at least unconscious bias in treatment decisions, thereby negating any potential benefits of information sharing. There were other concerns that they raised, such as what I have just described, that really gave a thorough insight into the concerns of these particular consumer groups. That came from the Health Issues Centre.

There were other groups that also put their concerns to me. The Australian Doctors Federation had a lot of questions, and I will go through those during the committee stage, but they also noted that:

> … governments have a very poor track record at implementing trustworthy systems, which provide quality health information whilst maintaining the confidence of doctors and patients.

The Law Institute of Victoria also had real concerns, and I want to thank them for their input that they provided to me in terms of their concerns. Again, it is very much around what I have described about an inability for a patient to have any say about this sensitive information. Where is the provision for an opt-out system? How can patients really be thoroughly confident that their information will not be abused in some way? I think they had some excellent points that they raised with me around their concerns. I want to come back to that a bit later on in the committee stage, when I want to move my house amendments on the opt-out. Basically, again, it is an understanding of the situation, but it does not go far enough in terms of providing the protections for people to be able to have their say.

There are other concerns I have. I actually wrote to OVIC about this and wanted to get their take on it—the Office of the Victorian Information Commissioner—and they asked me to write to the health complaints commissioner to get the concerns that might have gone to the health complaints commissioner, because obviously when information and situations like this occur, then the health complaints commissioner will be subjected to a lot of those complaints. Unfortunately I have not had a response from the health complaints commissioner, which I find quite concerning. This is a serious piece of legislation. I know they are busy, but I would have expected to have some response from them about their feedback on this legislation, given that it is going to affect them if this legislation is passed in its current form, where people have no ability to control their own private information.

This is, I think, a huge concern for many, many Victorians, and I say that because over the last two years we have been micromanaged by government. We have been living through COVID, and what we have had to go through in Victoria compared to some other states and territories in Australia certainly and other places around the world has been much more subject to government control than anywhere else. I think in the context of where we are today people do want to have control. They want to take back control of their information and be able to have some control of very sensitive information, such as patient information, as we are discussing, in a platform with this information-sharing that is being proposed by the government.

I just think that it is a fair and reasonable proposition for people to want to have an ability to say, 'Look, I don't want my information shared', especially if you have come out of a situation where there is domestic violence and there is somebody working on a ward or in a hospital that knows the perpetrator. You just do not know what information is going to be accessed and how it may be used. Yes, there are penalties in here; there are jail terms and there are financial implications. But this is really serious—how that information could be accessed and by whom and how it is controlled. So I do have really huge concerns around the government's inability or not wanting to allow people to have that opt-out. I think this is incredibly important. And for the government to just bring this in so quickly without having thought it through or not even mirroring what is happening at a national level is concerning.

It took, as I said, four years for them to get it right. This legislation is going to start to be in operation next year, or the process will start. So it is happening far too quickly without proper analysis and depth

of looking at all the scenarios and without having really critical feedback from stakeholders. I have listed some of them, but there are many, many more out there. When I spoke to the law institute, I did ask them when they last spoke to the government. They said it was in December. I do not think that is good enough. When you are dealing with significant legislation such as this, these bodies should have far more consultation. It just demonstrates how this government operates. It is, 'My way or the highway. We're pushing through and we don't care'.

The AMA largely support this reform, as they have indicated, but they say that the model is flawed because it does not incorporate general practice. They talk about how for optimal care GPs need to be informed and be able to view that health information as well. So it makes no sense, if you are having various health services in this system, why you would not have others in primary health care able to access that health information as well.

I have a reasoned amendment that I want to speak to in the last few moments that I have. I move:

> That all the words after 'That' be omitted and replaced with the words 'this bill be referred to the Legal and Social Issues Committee for inquiry, consideration and report by 15 September 2022.'.

The reason I wanted to move this amendment is largely based on what I have just said. It is the lack of stakeholder consultation. Very important stakeholders, advocacy groups, have real concerns about the model the government is proposing, and they feel that it is very important, as do I, that this legislation be referred off to a committee so that it can be looked at in more detail and that that proper consultation that has not taken place by the government can be done. Going to a committee such as the Legal and Social Issues Committee, Acting President Patten, of which you and I are members, for it to consider, inquire and report by 15 September this year would give those groups time to put their concerns to a committee so that the Parliament does its job where the government has failed, and that is to look at options there to enable the best model and the best outcome for the people of Victoria.

That is why I have moved this reasoned amendment. I think it is an important amendment, and I would hope that the Parliament would see fit to support it on the basis of what I have said: lack of stakeholder consultation on such an important issue as patient information. It is your information. It is not government information; it is yours. You have a right to understand and control it. For the government to say, 'No, we're going to look at it and we're going to have the secretary of the department hold it. Various delegates and health services will be included but some won't be' is not a proper process or model that could be used in a health system that is on its knees. It is coming out of COVID, and we have got so many issues. The government is trying to bring patients from the public system into the private system; those systems are not going to be compatible. There are so many issues around the sharing of information, and I do not believe that this legislation goes towards that aim. It is not fair and reasonable for the government to say to Victorian citizens, 'We are going to control your patient information, and you don't have any say over it'. That is wrong, especially as Victorians have experienced so much control by this government in the last two years.

I think every Victorian, if they knew the extent of what was going to happen with the passage of this legislation, would be very concerned that the government is doing this but more concerned that the government has failed to consult properly with the Victorian community and with a raft of very significant stakeholders. I see that I am out of time, but I am happy to move my amendment. And I do urge all to support that amendment to ensure that we get the right outcomes.

Ms WATT (Northern Metropolitan) (16:41): I rise to speak on this bill. I would like to note that the Health Legislation Amendment (Information Sharing) Bill 2021 reinforces the Andrews government's steadfast commitment to improving the quality and safety of Victoria's health system. We proved this in the recent state budget, where we put both patients and the health system first. Our pandemic repair plan will mean more staff, better hospitals and first-class care for patients. It means training thousands of nurses to give Victorians the care they deserve, and I will just take a moment to acknowledge International Nurses—are just the very best—Day. I am not sure that that is the title, but it possibly should be. It means upgrading every existing hospital emergency department across our

state, and it means building some new ones too. Unlike those opposite, who cut funding when they were in government, those on my side of the house are getting on with properly funding our system, making investments akin to the $12 billion of funding in the state budget to ensure our healthcare system is there for everyone when they need it most.

Having led clinical governance efforts in hospital and health settings, this is a really good bill for me to speak on; it gives me great perspective on safety and quality in our state. This bill addresses a number of recommendations in *Targeting Zero*, a report that I am well familiar with, which was a review of hospital safety and quality assurance in Victoria. The *Targeting Zero* report was commissioned by the then Minister for Health following the discovery of a cluster of tragically avoidable perinatal deaths at Djerriwarrh Health Services. The review is a detailed and extensive analysis of how the department oversees and supports the quality and safety of care across the Victorian health system. The Department of Health and Human Services consulted widely, seeking the views and experiences of patients, clinicians, hospital managers and boards about how to make Victoria's healthcare system safer, and I recall those conversations in the boardroom. The review highlights several cases as missed opportunities where practice excellence was not shared across the health system. The department accepted in principle all of the recommendations, and work is underway to implement them.

As part of this response new organisations were established to simplify the current system and better respond to the needs of patients and healthcare workers. Safer Care Victoria was established and will work with health services to monitor and improve the quality and safety of care delivered across our state system, with the goal of achieving zero avoidable patient harm. A new health information system will analyse and share information across our system to ensure that everyone has an accurate picture of where the concerns are and where we are getting it right. The Victorian Clinical Council will provide clinical expertise to the government, the department and health services on how to make the system safer and provide better care for all Victorians, and I thank the members of that council for the impressive and quite substantial work that they do. The Boards Ministerial Advisory Committee will ensure our hospitals and health service boards have the right mix of knowledge, skills and experience to strengthen local governance and decision-making.

It is five years on from the *Targeting Zero* report, and the Victorian health system has improved on quality and safety monitoring, clinical governance and reporting. Of the 179 recommendations in that report, significant progress has been made on almost every recommendation, and well over 70 per cent of these have been 100 per cent completed. For example, Safer Care Victoria has made great progress with information sharing about system trends and risks, establishing information-sharing arrangements and agreements with many organisations for the very first time. This includes working with organisations such as the Consultative Council on Obstetric and Paediatric Mortality and Morbidity. Safer Care Victoria is also working to supplement the annual Victorian Audit of Surgical Mortality with monthly progress reports that contain de-identified information on surgical mortality.

Our hardworking nurses, doctors, paramedics and other healthcare workers provide all Victorians with high-quality care, but we know that there is always more work to be done. Leading surgeon Professor David Watters OBE said in response to the *Targeting Zero* report:

> Victorians should have confidence in the fact that they have access to one of the best and safest health systems in the world.
>
> Implementing the recommendations of the Duckett report across the state will reduce adverse events and avoidable harm …

The bill will support the *Targeting Zero: Supporting the Victorian Hospital System to Eliminate Avoidable Harm and Strengthen Quality of Care* report led by Professor Stephen Duckett in 2016 and commissioned by the former Minister for Health.

Furthermore, the bill also supports the findings in the final report of the Royal Commission into Victoria's Mental Health System, which notes a lack of information sharing culture.

Recommendation 62.1.c says that the Victorian government should develop, fund and implement a mental health information and data exchange. The royal commission's final report included 65 recommendations in addition to the nine interim report recommendations. The recommendations set out a 10-year vision for a future mental health system in our state where people can access treatment close to their homes and in their communities. The Victorian government has committed to implementing all recommendations of that royal commission, including recommendation 62.1.c, which is, again, that the Victorian government develop, fund and implement a mental health information and data exchange.

Furthermore, information use and sharing was featured as a priority capability for a future mental health system. The royal commission's final report notes:

> **Information use and sharing**: understanding of and practice alignment with new expectations in information collection, use and sharing and practice, including approaches to support and respond to consumer consent to share information with other service providers, families, carers and supporters. In addition, competency in using the new Mental Health Record and Mental Health Information and Data Exchange.

Throughout the final report there are, sadly—and we have heard about this all too many times in this chamber—too many real-life examples from individuals who are trying to navigate a really complex mental health system, revealing the significant benefits of a health information sharing system. There is a de-identified quote in the final report that I just want to share with you now. It is pretty significant.

> My private doctor doesn't have a fax. They wouldn't take an email, they wouldn't take a phone call. And so I ended up getting my parents to print a copy so that I could physically hand it to the treating team so that they would have the relevant information. However, what happened in that exchange was that my parents, particularly my mother read it, which is a huge violation of privacy, but also there's a history of family violence there. And so it really wasn't an appropriate mechanism at all for that information sharing to occur between my private doctor and the public hospital treating team. And it was incredibly disempowering that there was no efficient, streamlined way for that information sharing to occur, it was detrimental to my treatment, it was detrimental for them not to have that contextual information.

The commission recommended as part of three new ICT components that the new mental health information and data exchange would allow for the sharing of information outside of public mental health and wellbeing services, such as GPs and community mental health and wellbeing services, where appropriate. This could happen for one of two purposes: to facilitate service delivery or to enable access to de-identified data for research and administrative purposes. The mental health information and data exchange should allow interoperability between the recommended electronic mental health and wellbeing record and other major systems, such as the hospital electronic medical records or GP practice management systems or specialist psychiatric and psychologist systems and My Health Record.

There is so much more to this bill that I could speak to, but throughout this bill what is really clear is that the Victorian government continues to put the health, privacy and security of Victorians first. I commend this bill.

Mr HAYES (Southern Metropolitan) (16:49): We are all for efficiency, and we are all for better patient care. However, we are also concerned about privacy and the rights of the individual to have complete ownership of their personal health information. It is difficult to think of many more sensitive subjects for a person than this, and in a time of increased assaults on privacy I do feel that the lack of an opt-out clause in this bill is a bridge too far. After all, we saw with the federal government—themselves no defenders of privacy—the provision of an opt-out clause for health information in their My Health Record system. This opt-out was selected by millions of Australians, because with the increasing creep of governments and, let us not forget, big corporations into our personal lives, privacy is an important issue for many Australians.

We are all aware of data breaches with these types of systems, and a significant number of people do not trust it not to happen in their case. Generally speaking, a healthy distrust of excessive government power is a tradition of this country and the parliamentary system as it has evolved with common law,

a system which we are part of. Let me be perfectly clear: privacy is an assumed right; it should not be a privilege granted at the behest of governments. I have expressed my concern about that in the previous debate about the Road Safety Legislation Amendment Bill 2022 and the use of camera surveillance and facial recognition.

I feel that privacy is something that is under great attack these days not only from governments, as I said, but from large corporations and databanks in general. But as far back as 1969, Professor Zelman Cowen, later a distinguished Governor-General, gave a Boyer lecture entitled 'The Private Man', and I quote from it:

> A man without privacy is a man without dignity; the fear that Big Brother is watching and listening threatens the freedom of the individual no less than the prison bars.

These words are as true today as they were back then, so I question why this bill does not simply provide an opt-out clause for Victorians while a similar federal system does.

If people do not trust this database to protect their privacy, they should be given the chance to opt out of the system. The My Health Record system provides an ability to control access to the documents that are held on that system; however, none of those features are part of this legislation we are debating here today. I agree with Ms Crozier that this has been once again, like the road safety legislation and the use of cameras, just dumped on us without proper discussion and consultation. Why the rush, and why no consultation?

Another issue with this bill beyond that of privacy and consent is cost. Cost blowouts are a concern with these massive IT projects. The HealthSMART system, which was announced here in Victoria in 2003, is a great example of an attempt at improving health record information which ended in tears. According to the tech website *IEEE Spectrum* the original budget was $323 million, with a completion date of 2007; by the time the project was abandoned the cost had blown out to $566 million, and that was in the year 2012. So it ended up not being so smart—and hopefully never so smart again.

So while I welcome the intention to improve patient care, and that is something that I would really like to see—the situation is absolutely dire—I would like to see an opt-out clause provided and a full accounting of who will have legitimate access to this information, complete with safeguards as to who gets access. As well, the project needs a full and regular accounting of how the system is protecting people's privacy and dignity while delivering better health outcomes for all Victorians. I will leave it there.

Ms BURNETT-WAKE (Eastern Victoria) (16:54): I rise to speak on the Health Legislation Amendment (Information Sharing) Bill 2021. Under this bill as it stands a new system will be created allowing a person's private medical information to be shared between hospitals and health services without their consent. That is key here, and I will be talking about that quite a bit through my contribution. This bill amends the Health Services Act 1988 to create and maintain an electronic health information sharing platform to share information between hospitals and health services. It intends to address challenges associated with accessing patient health information. We have been told information is currently spread across different health services in different databases and in paper records. This statewide collation of patient health information intends to create a more efficient, safer and more secure method of sharing health information between services. However, there is a flip side to that. There are genuine concerns that exist in the community around privacy and the inability of patients to opt out of this system which are worthy of discussion today. Firstly, there is no list in the legislation of exactly what information will be included in this new database. It is assumed it will include all information about patients and their previous treatments, medications, allergies, discharge summaries, outpatient consultations, lab and image results and other information deemed suitable by the Department of Health.

The bill makes it mandatory for health services to adopt the new system, including but not limited to ambulance services, hospitals, public health services, community health services, the Victorian

Institute of Forensic Mental Health and aged care facilities. It is the Secretary of the Department of Health that is responsible for establishing and maintaining the new information sharing system. The secretary is empowered to specify the health information required to be contained in the system, direct health services to provide prescribed information to the secretary and disclose specified health information for the purposes of the new system, without requiring consent—again, those words, 'without requiring consent'—of patients to whom the information relates. If passed as is, patients would have no ability to opt out of the new database before it is proposed to be launched in February 2023. Victorians would lose control over access to their sensitive information and would have no control over what parties and agencies are accessing that information. It essentially gives health professionals complete authority over our medical information. There is nothing in the bill that prevents health information that is not relevant or appropriate from being seen by treating doctors. It allows specified persons to access the database. To put it simply, it allows agents of the Victorian government to view a complete record of every Victorian's most sensitive and private information.

We saw something similar when My Health Record was introduced at a federal level. That is the national health record system that has been around for some years now. The difference with My Health Record was that there was a period of time during which people could opt out. Everyone would have a My Health Record unless they opted out, which allowed people to have control over where their information is stored and who can access it. More than 2.5 million people withdrew from My Health Record when it moved to an opt-out system, because not everyone wants their health information being shared around. A further 300 000 people cancelled their records. Under this system there is no opportunity to opt out. We know this is the government of mandates, and this is yet another mandate scenario as far as I can see. Hospitals and health services have no choice but to opt in, and everyday Victorians have no choice but for their private health information to be available in this database. This includes current and historical mental health information, and people will not be afforded the benefit of a list that shows exactly who can access this information. It does not appear like there are many limits or regulations on who can access it. One section of this bill states that:

> A person employed or engaged by a … health service and who is authorised … may access the … System and use and disclose … patient … information for the purpose of providing medical treatment to a person.

There is a long list—not in this bill, but hypothetically—of health practitioners and those outside the health system that could end up with access to this information. With My Health Record, people are able to control access to documents by restricting access to certain documents by putting in place access codes. People can also remove documents completely and request their entire record be deleted. None of these options that give Victorians the right to control and consent to their information being shared are incorporated into this bill or this new system. What happens to people who want to keep their health information private? There are people who are concerned that information may be available to their workplace or others and may become a reason for discrimination. This bill imposes fines for unauthorised access to the system, but is that really enough to stop the urge for some people to look up files that they should not?

The Royal Commission into Victoria's Mental Health System recommended we adopt a system that allows for mental health information to be shared. There are obvious benefits in health practitioners having access to a complete health record in times of patient crisis. It becomes much easier to support and treat someone when they have an understanding of their background and their triggers. However, the flip side to that argument is of course the people who do not go around openly disclosing their mental health struggles. There should not be shame in addressing and overcoming mental health struggles, but for many there is. Where that information becomes accessible to everyone in the health sphere, it opens the door for discrimination. While I can see the obvious ease in having a central system, there are some people who prefer to keep their health information private, especially mental health information. If people become worried that their mental health information will be accessible by a range of people, they are less likely to be forthcoming in seeking help. That is the last thing we need right now. We are currently living in a shadow pandemic where the mental health of Victorians

has been severely impacted by lockdowns and the associated impacts. We need people to be confident to come forward and seek help. They should have the right to decide if they want their information shared.

Another concern I wish to touch on is data protection and security. There have been numerous cases of security breaches in recent years. There was the time that 30 000 Victorian public servants had their personal details downloaded by an unknown party when the system was hacked, and in 2016 it came out that the Department of Health and Human Services had been breaching the privacy and safety of children in foster care by giving access to dangerous parents. The potential for mishaps with data is huge, and they have extraordinary consequences for victims of these data breaches. While the bill imposes fines for unauthorised access, a fine is not a strong deterrent. Fines are a reactive penalty in the sense that they are issued after the harm is done and after the breach comes to light. These are not protections from unauthorised use, and that is a serious concern. For victims of family violence in particular there need to be proper safeguards in place, and at this stage we just do not have the information on how the system will work.

Implementing this database will require both money and planning, yet the Victorian state budget that was handed down on 3 May had no provision. No provision seems to have been made for this project, so I am not sure where the money is coming from; it has not been outlined yet. We have not received any information about when the project will be complete or whether it will be compatible with the systems used in other states and territories. If we are going to the effort of creating a new database, it would make sense to make it compatible with other systems for Victorians who move interstate to reduce any issues in tracking down records.

Overall there are many unanswered questions. How will we manage access to information other than by saying there are penalties for wrongful access? How will we monitor how and when people are accessing the data and for what purposes? How will we protect the system from cybersecurity attacks, which seem to be happening more frequently and particularly to government departments? There are endless questions that we do not have answers for at this point in time, and that is why I am supporting the recommendation that this be referred to the Legal and Social Issues Committee, of which I am a member, for further analysis, which is definitely needed. There is no harm in an additional level of scrutiny and consideration. Given that there are so many questions that remain unanswered and given the implications of this bill if passed as is and the privacy issues for Victorians, it really needs to be referred to the Legal and Social Issues Committee. I will leave my contribution there.

Mr QUILTY (Northern Victoria) (17:04): This bill represents yet another example of this government taking a good idea and ruining it. This is yet another example of this government leaning into their authoritarian and patronising tendencies. There seem to be very few limits to how far they are willing to go in intruding into your lives if it is for your own good—your own good as they see it—or, worse, if they think it is for the greater good, a terrifying principle that can be and has been used to justify just about anything. Consent is always required, or else it is tyranny.

The good idea in this bill is that information should be available in a secure digital database that can be shared across the health network to improve patient care. Of course this should be done rather than the information existing on dusty bits of paper in manila folders in various offices of GPs and clinicians around the state. It is an important update to our healthcare network in Victoria. It does not take much imagination to see how it could be beneficial for a paramedic or emergency department to have better information about patients. I do not dispute that this offers an opportunity to save lives and improve patient outcomes as well as efficiency in health care.

I have serious doubts about this government's ability to manage another significant IT project, and I do not trust this government or indeed any government to properly manage data security. I also do not trust this government not to misuse the medical information that it will collect on the people of Victoria against those people if it suits its policy agenda. We only have to look at the outrageous vaccine passport mandates still in place to realise the potential for abuse of this information. If this government

had had these records, they would not have needed the federal government to collaborate with them on mandates; they could and would have done it alone.

However, I do not oppose the creation of a database in principle. The benefits are obvious. What I do have a concern about is proposed new clause 134ZL, 'No consent required'. The title of the clause all by itself is probably enough to let you know that the Liberal Democrats have a problem with it. What this clause outlines is that the state, not you, owns your medical records. You will participate in this data-sharing scheme whether you want to or not—no choice, no involvement, no options and no privacy. If you go to the government's Better Health Channel website, there is a section there on patient-centred care. The principle of involving consumers of health services in the process so that they are encouraged to ask questions, have their views respected and participate in decision-making is one that has been increasingly adopted in health care around the world. It is worth touching on a few of the principles and how they might apply to the legislation before us today:

> Patient-centred care is about treating a person receiving healthcare with dignity and respect and involving them in all decisions about their health. This type of care is also called 'person-centred care'. It is an approach that is linked to a person's healthcare rights.

Among the dot points on that page it also states:

> Patient-centred care actively gives you and your family a say in the decision-making process when planning care and treatment.

It states that it is about:

> … respecting your individual preferences and diversity—

and that it—

> … involves recognising your needs and respects your right to make health decisions and choices.

Apparently none of that matters when it comes to involving people in choices about their health records. I do not think there is any conspiracy, just an outdated link, but it is a bit amusing that when you click on the hyperlink to 'a person's healthcare rights' it comes up with a 404 error, 'Page not found'. Perhaps that is a metaphor for Victoria.

It is possible to find the Australian Charter of Healthcare Rights, which was launched in 2019, and it is worth noting the key elements. The charter covers seven key areas, and I think four of them are relevant to this debate. Respect: people have a right to be treated as an individual, with dignity and respect, and have their beliefs and choices recognised and respected—unless, of course, it relates to their health records. Partnership: people have a right to ask questions and be involved in open and honest communication to make decisions with their healthcare provider—except, of course, around their health records. Information: people have a right to be given assistance to help them understand and use health information and to access their own health information—unless that relates to their own health records of course. Privacy: people have a right to have their personal privacy respected—unless that relates to their health records.

What this bill does is undermine both the principle of patient-centred care and the Australian Charter of Healthcare Rights. I am obviously not usually one to praise government, federal or state, but on the odd occasion when they do get things right, I like to give them credit to encourage them to keep doing it. On that topic the federal government deserve some credit. When they introduced the My Health Record system they included an option to opt out, which about 10 per cent of Australians chose to do. The other thing that My Health Record allows is for people to view their medical information and check it for accuracy as well as selecting which specific bits of information they want included. In other words, the federal My Health Record attempts to give effect to both the principle of patient-centred care and the rights enshrined in the Australian Charter of Healthcare Rights, whereas this bill seeks to undermine those rights and principles. The federal scheme, which is not without its own issues, also demonstrates that it is possible to have a functional system that allows for streamlined

digital health information sharing and to also respect privacy and involve people in the management of their health information. The amendments that the Liberal Democrats are introducing seek to rectify this in this bill.

I would like to take a moment to thank David Limbrick and his team, who are very passionate about this bill and did the initial work on it. I know that David is quite unhappy about missing this debate and this vote.

Our amendment, rather than having a clause with the title 'No consent required', would ensure that only people who have provided explicit consent would be included in the scheme. We did not want to create a binary choice, however, as some people might be very enthusiastic about including some health information that might be relevant if they were to experience a health emergency but not other information, such as whether they have received an abortion, been a victim of sexual violence or recovered from drug addiction. Therefore our amendments allow for people to select which information is included in the database in a similar way to My Health Record. We also wanted to allow a process that did not disenfranchise people who might have complex circumstances or poor English language skills or be otherwise disadvantaged and might not know about the scheme or how to participate. The last part of our amendment addresses this by ensuring that people could opt in with the assistance of a GP or healthcare provider. This is exactly what patient-centred care is supposed to be.

When it comes to concerns about this bill, you do not have to take my word for it. Liberty Victoria president Michael Stanton has called for an opt-in scheme. The Law Institute of Victoria has called for the bill to be withdrawn for further consultation. The Health Issues Centre, a consumer advocacy organisation that has conducted consultations with service users, also expressed concerns with this bill, as did the Australian Privacy Foundation and the Australian Doctors Federation. While they have not been quoted in the media, we also consulted with the Victorian Alcohol and Drug Association, VADA, the peak body for drug and alcohol treatment centres. While they could see the value in sharing health information, they expressed concern that people who use drugs may be, due to stigma, reluctant to seek medical help due to the risk of this information being shared.

I would like to see something like this bill passed. I agree that improvements in this area could improve efficiency and outcomes in healthcare delivery and could save lives, but I want it to pass in a form that respects people's autonomy and consent. The Liberal Democrats will not be supporting this bill in its current form, and I urge members to support our amendments.

Ms TAYLOR (Southern Metropolitan) (17:13): I move:

That debate be adjourned until later this day.

Motion agreed to and debate adjourned until later this day.

TRANSPORT LEGISLATION AMENDMENT (PORT REFORMS AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Ms PULFORD:

That the bill be now read a second time.

Motion agreed to.

Read second time.

Instruction to committee

The PRESIDENT (17:14): I have considered the amendments proposed by Mr Davis, set DD104C, and in my view these amendments are not within the scope of the bill. Therefore an instruction motion pursuant to standing order 15.07 is required.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (17:15): I move:

That it be an instruction to the committee that they have power to consider a new clause to amend the Transport Integration Act 2010 in relation to laying before each house of Parliament the transport plan prepared under the act.

House divided on motion:

Ayes, 17

Atkinson, Mr	Finn, Mr	Patten, Ms
Barton, Mr	Grimley, Mr	Quilty, Mr
Burnett-Wake, Ms	Hayes, Mr	Ratnam, Dr
Crozier, Ms	Lovell, Ms	Rich-Phillips, Mr
Cumming, Dr	Maxwell, Ms	Vaghela, Ms
Davis, Mr	Ondarchie, Mr	

Noes, 14

Elasmar, Mr	Pulford, Ms	Taylor, Ms
Gepp, Mr	Shing, Ms	Terpstra, Ms
Kieu, Dr	Stitt, Ms	Tierney, Ms
Meddick, Mr	Symes, Ms	Watt, Ms
Melhem, Mr	Tarlamis, Mr	

Motion agreed to.

Committed.

Committee

Clauses 1 to 4 agreed to.

Clause 5 (17:24)

Mr RICH-PHILLIPS: I move:

1. Clause 5, page 9, line 13, omit "system." and insert "system;".
2. Clause 5, page 9, after line 13 insert—

"(f) to ensure that the development of the Victorian ports system is prudent and efficient and is carried out consistently with any relevant transport legislation and any standards and codes developed under relevant transport legislation.".

3. Clause 5, page 9, after line 24 insert—

"(ba) to monitor proposals relating to the development of the capacity of port land and port waters for which Ports Victoria is responsible; and

(bb) to monitor and provide advice, guidance and expertise to the Minister on any emerging trends relating to the Victorian ports system, including but not limited to trends relating to the capacity of port land and port waters; and".

4. Clause 5, page 10, after line 25 insert—

"(ja) to provide advice, guidance and expertise to port managers of commercial trading ports in relation to the preparation of Port Development Strategies in accordance with the **Port Management Act 1995**; and".

5. Clause 5, page 13, after line 16 insert—

"(8) In this section—

Port Development Strategy has the same meaning as it has in section 91J of the **Port Management Act 1995**.".

Clause 5, section 133E, which clause 5 seeks to insert in the Transport Integration Act 2010, sets out a range of functions for Ports Victoria. The substantive purpose of these amendments is to insert four additional purposes: to reflect an obligation on Ports Victoria to oversee the development of ports in a way which is prudent and efficient; to oversee the development of port capacity and to monitor the

development of port capacity; to provide advice, guidance and expertise to the minister on any issues and trends which are emerging in the Victorian ports system; and to provide advice, guidance and expertise to port managers of commercial trading ports in respect of preparation of port development strategies pursuant to the Port Management Act 1995. In addition to the existing functions of Ports Victoria contained in the bill, the purpose of these amendments is to add those additional functions I have just outlined.

Ms PULFORD: I thank Mr Rich-Phillips for his comments and explanation of the objectives of these. I note Dr Bach also had some involvement in their drafting; I think the earlier version I have has his name on them. But thank you, Mr Rich-Phillips.

In response to the amendments, for a bit of context I want to run through the consultation that has underpinned these reforms. It has been very extensive. There was an independent review of the Victorian ports system in 2020. There were 40 targeted stakeholder sessions with 80 individual stakeholders represented. Sessions were held across the state. In July 2020 the review's discussion paper was released. There were over 70 written submissions received after that point, which informed the final report. Then in February 2021 the initial government response to the review was publicly released at a ports industry round table, at which point the announcement of the establishment of Ports Victoria was made. And then in August 2021 the full government response was publicly released. For context, in speaking on and outlining the government's opposition to the amendments, I just wanted to provide that background. The reforms in the bill are very much about greater accountability and transparency in our ports system, and they certainly have been developed through a process of deep engagement and consultation with stakeholders.

On the specific question before us, these clause 5 amendments, the government does not support them. I would like to provide some detail as to why we have come to that view. In part the proposal of the opposition is to add an amendment that requires compliance with transport legislation and any standards and codes developed under relevant transport legislation. This amendment is unnecessary. Ports Victoria is already required to comply with these.

The other part of the proposed new object is to ensure the development of the Victorian ports system in a prudent and efficient manner. That is an objective that Ports Victoria cannot deliver because it cannot ensure the development of the whole Victorian ports system is efficient, because it does not have nor can it exercise the level of control required to ensure—'ensure' being the most active word in that new object—that efficient and prudent decisions are made by independent, commercially focused corporate entities. So the amendment is seeking Ports Victoria to have a role and responsibility for something that it does not have control of in terms of the way in which those decisions are made. Ports Victoria's role is not to regulate or second-guess the roles and functions that are being fulfilled by commercial ports managers. Ports Victoria will support port managers' strategic planning activities and provide the channels, navigation systems and other forms of marine infrastructure that are necessary to promote and enable trade. Providing Ports Victoria with such an object does not enable that objective to be fulfilled, for the reasons that I have outlined.

The amendment to monitor proposals relating to the development of the capacity of port land and port waters is, we believe, unnecessary because the bill already prescribes the following functions to Ports Victoria:

> (b) to manage and develop, or enable and control the management and development of, port land and infrastructure for which Ports Victoria is responsible; and
>
> …
>
> (i) to provide advice and information to port managers in relation to the integrated planning, development, management and promotion activities for ports …

The amendment around emerging trends, similarly, we believe is unnecessary. It is already covered by the bill, which states that Ports Victoria's objects include:

> to support the strategic planning and development of the Victorian ports system;
>
> …
>
> to provide technical and consultancy services in relation to the Victorian ports system.

This is also inconsistent with the Transport Integration Act 2010. It is the role of the secretary to provide advice to the minister. However, the minister can give a direction and provide a statement of expectation to Ports Victoria regarding provision of advice. Similarly, the amendment around advice, guidance and expertise—this function is already covered.

There are aspects of these amendments that are impractical, and there are aspects to these amendments that would be unnecessarily duplicative of functions that are already required elsewhere.

Committee divided on amendments:

Ayes, 10

Atkinson, Mr	Davis, Mr	Lovell, Ms
Burnett-Wake, Ms	Finn, Mr	Ondarchie, Mr
Crozier, Ms	Hayes, Mr	Rich-Phillips, Mr
Cumming, Dr		

Noes, 21

Barton, Mr	Melhem, Mr	Symes, Ms
Elasmar, Mr	Patten, Ms	Tarlamis, Mr
Gepp, Mr	Pulford, Ms	Taylor, Ms
Grimley, Mr	Quilty, Mr	Terpstra, Ms
Kieu, Dr	Ratnam, Dr	Tierney, Ms
Maxwell, Ms	Shing, Ms	Vaghela, Ms
Meddick, Mr	Stitt, Ms	Watt, Ms

Amendments negatived.

Clause agreed to; clauses 6 to 27 agreed to.

New clause (17:38)

Mr RICH-PHILLIPS: This amendment is the subject of the earlier instruction motion to allow the committee to consider this amendment, which would require that the transport plan under the Transport Integration Act 2010 be laid before both houses of Parliament. The purpose of this amendment is to in fact ensure that that plan is actually made, implemented and made public. It is a simple amendment requiring that the plan be laid before each house of Parliament within 120 days of the plan being received from the secretary, and I accordingly move that amendment:

1. After clause 27 insert—

'**27A Transport Plan**

For section 63(4) of the **Transport Integration Act 2010 substitute**—

"(4) The Minister must ensure that a copy of the transport plan is laid before each House of the Parliament within 120 days after receiving the plan from the Secretary.".'.

Committee divided on new clause:

Ayes, 15

Atkinson, Mr	Finn, Mr	Ondarchie, Mr
Burnett-Wake, Ms	Grimley, Mr	Patten, Ms
Crozier, Ms	Hayes, Mr	Quilty, Mr
Cumming, Dr	Lovell, Ms	Ratnam, Dr
Davis, Mr	Maxwell, Ms	Rich-Phillips, Mr

Noes, 16

Barton, Mr	Pulford, Ms	Taylor, Ms
Elasmar, Mr	Shing, Ms	Terpstra, Ms
Gepp, Mr	Stitt, Ms	Tierney, Ms
Kieu, Dr	Symes, Ms	Vaghela, Ms
Meddick, Mr	Tarlamis, Mr	Watt, Ms
Melhem, Mr		

New clause negatived.

Clauses 28 to 31 agreed to.

Clause 32 (17:46)

Mr RICH-PHILLIPS: I move:

6. Clause 32, page 35, line 10, omit "provided; and" and insert "provided.".
7. Clause 32, page 35, lines 11 and 12, omit all words and expressions on these lines.
8. Clause 32, page 36, after line 2 insert—

"(3) In determining whether to make a towage service licence subject to a condition under this section, Ports Victoria must be satisfied that the condition would not have an unreasonable adverse impact on the licence holder, having regard to the conditions to which similar towage service licences are subject.".

9. Clause 32, page 38, after line 6 insert—

"(4) In determining whether to amend, remove or impose a condition of a towage service licence under this section, Ports Victoria must consider whether the proposed amendment, removal or imposition of the condition would have an unreasonable adverse impact on the licence holder, having regard to the conditions to which similar towage service licences are subject.".

10. Clause 32, page 39, after line 11 insert—

"(5) In determining whether to amend, remove or impose a condition of a towage service licence under this section, Ports Victoria must consider whether the proposed amendment, removal or imposition of the condition would have an unreasonable adverse impact on the licence holder, having regard to the conditions to which similar towage service licences are subject.".

The purpose of this set of amendments is to insert a reasonableness test with respect to decisions made by Ports Victoria on the conditions on towage service licences. It is basically to ensure that Ports Victoria, in imposing conditions on a towage service licence, has regard to any adverse impacts that conditions on those licences may have on licence-holders, including those relevant to other towage service licence holders.

Ms PULFORD: The government will not be supporting these amendments. The amendments propose to remove the discretion of Ports Victoria to 'have regard to any other matter that Ports Victoria considers relevant' when deciding to grant or not grant a towage licence. Towage, pilotage and harbourmaster services are the backbone of navigational safety in any port, and it is standard legislative practice to make provision for unforeseen events or conditions. Removing the ability of Ports Victoria to respond to things unforeseen that might impact safe navigation we believe is irresponsible. I encourage people to think about an unforeseen event occurring to which everyone would reasonably expect Ports Victoria to be able to respond or consider but they could not because the legislation was too prescriptive and they were limited in their ability to ensure the safety of those involved. The level of discretion that the bill provides we do believe is necessary. The checks and balances on the use of that discretion are the review rights that the bill provides.

The other part of the amendments to clause 32 that the coalition is proposing adds considerations that Ports Victoria must make when determining whether licence conditions should be applied. Linking the requirement to consideration of adverse impacts to conditions to which similar towage service licences are subject will be difficult, if not impossible, to reconcile with subsection (2), which explicitly provides scope to vary the conditions that apply to a licence-holder from those that apply to

other licence-holders in the same specified port. I would again draw members attention to the review rights that the bill provides and encourage everyone to reflect on the extensive consultation over 2020–21, where industry were very closely involved in the development of this policy and this reform, and so I would encourage people to oppose these amendments.

Committee divided on amendments:

Ayes, 9

Atkinson, Mr	Cumming, Dr	Lovell, Ms
Burnett-Wake, Ms	Davis, Mr	Ondarchie, Mr
Crozier, Ms	Finn, Mr	Rich-Phillips, Mr

Noes, 22

Barton, Mr	Melhem, Mr	Symes, Ms
Elasmar, Mr	Patten, Ms	Tarlamis, Mr
Gepp, Mr	Pulford, Ms	Taylor, Ms
Grimley, Mr	Quilty, Mr	Terpstra, Ms
Hayes, Mr	Ratnam, Dr	Tierney, Ms
Kieu, Dr	Shing, Ms	Vaghela, Ms
Maxwell, Ms	Stitt, Ms	Watt, Ms
Meddick, Mr		

Amendments negatived.

Clause agreed to.

Clause 33 (17:52)

Mr RICH-PHILLIPS: I move:

11. Clause 33, page 52, after line 20 insert—

"(2A) Without limiting subsection (1), standards determined under that subsection must provide for continuity of pilotage services, including but not limited to—

(a) the hours during which pilotage services must be provided; and

(b) the prevention or minimisation of threats to the continuity of pilotage services, including threats (whether temporary or permanent) to the availability of physical or labour resources required for the service.".

This is the final amendment. This seeks to make an amendment with respect to determination of pilotage service standards to provide that continuity of service and regard to minimum disruption of pilotage services be criteria in making determinations with respect to pilotage services.

Ms PULFORD: I thank Mr Rich-Phillips. The government will not be supporting the amendment to clause 33. We fear that this amendment would only serve to create confusion. A standard cannot provide for continuity of pilotage services. Providing for continuity is a responsibility that can be allocated to a party. Put simply, you cannot use a permission to operate, like a licence, to require services to be available and/or provided. Indeed provision of service is a contractual matter to be determined between the parties that are procuring pilotage services and the pilot service providers. The role and function of the state here is to ensure the services provided are safe and fit for purpose, and that is the purpose of the scheme included in the bill. So for those reasons we will not be supporting this amendment.

Committee divided on amendment:

Ayes, 8

Atkinson, Mr	Davis, Mr	Ondarchie, Mr
Burnett-Wake, Ms	Finn, Mr	Rich-Phillips, Mr
Crozier, Ms	Lovell, Ms	

Noes, 23

Barton, Mr	Meddick, Mr	Symes, Ms
Cumming, Dr	Melhem, Mr	Tarlamis, Mr
Elasmar, Mr	Patten, Ms	Taylor, Ms
Gepp, Mr	Pulford, Ms	Terpstra, Ms
Grimley, Mr	Quilty, Mr	Tierney, Ms
Hayes, Mr	Ratnam, Dr	Vaghela, Ms
Kieu, Dr	Shing, Ms	Watt, Ms
Maxwell, Ms	Stitt, Ms	

Amendment negatived.

Clause agreed to; clauses 34 to 98 agreed to.

Reported to house without amendment.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (17:59): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (17:59): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

The PRESIDENT: Pursuant to standing order 14.27, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

ROAD SAFETY LEGISLATION AMENDMENT BILL 2022

Clerk's amendments

The PRESIDENT (17:59): Under standing order 14.33, I have received a report from the Clerk of the Legislative Council informing the Council that he has made a further correction in the Road Safety Legislation Amendment Bill 2022. The report is as follows:

Under Standing Order 14.33, I have made a further correction in the Road Safety Legislation Amendment Bill 2022, listed as follows:

In Clause 39, page 35, line 4, I have inserted '**Safety**' after '**Road**'.

Rulings by the Chair

QUESTIONS WITHOUT NOTICE

The PRESIDENT (18:00): After question time I said I would check *Hansard* regarding my ruling, but then I discussed it with Mr Davis. I believe Mr Davis was happy with the minister's answer, so I am not going to require the minister to provide an answer.

Bills

AGRICULTURE LEGISLATION AMENDMENT BILL 2022

Introduction and first reading

The PRESIDENT (18:01): I have a message from the Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, the **Catchment and Land Protection Act 1994**, the **Dairy Act 2000**, the **Drugs, Poisons and Controlled Substances Act 1981**, the **Farm Debt Mediation Act 2011**, the **Livestock Disease Control Act 1994**, the **Plant Biosecurity Act 2010**, the **Rural Assistance Schemes Act 2016**, the **Veterinary Practice Act 1997**, the **Wildlife Act 1975** and the **Meat Industry Act 1993** and for other purposes'.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:02): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms PULFORD: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:02): 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 Agriculture Legislation Amendment Bill 2022 (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 various amendments to the following Acts:
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> - Agricultural and Veterinary Chemicals (Control of Use) Act 1992;
> - Catchment and Land Protection Act 1994;
> - Dairy Act 2000;
> - Drugs, Poisons and Controlled Substances Act 1981;
> - Farm Debt Mediation Act 2011;
> - the Livestock Disease Control Act 1994;
> - Meat Industry Act 1993;
> - Plant Biosecurity Act 2010;
> - Rural Assistance Schemes Act 2016;
> - Veterinary Practice Act 1997; and
> - Wildlife Act 1975.

Part 1—Human rights issues

In light of the range of Acts amended by the Bill and issues that arise, this Statement of Compatibility commences with an outline of all rights engaged by the Bill. It then discusses the compatibility of relevant Parts of the Bill with those rights.

Equality

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 section 6 of that Act (including, for example, age, sex and disability). Discrimination can either be 'direct' or 'indirect'. 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 freedom of movement

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely within Victoria, to enter and leave Victoria, and to choose where to live in Victoria. The right extends, generally, to movement without impediment throughout the State, and a right of access to places and services used by members of the public, subject to compliance with instructions legitimately made in the public interest. The right is directed at restrictions that fall short of physical detention (restrictions amounting to physical detention fall within the right to liberty, protected under section 21 of the Charter).

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 broad and extends beyond information privacy to include, for example, the right to personal autonomy, dignity and identity. It may also apply to protect a person against unlawful or arbitrary restrictions on employment, which may affect a person's personal relationships and private life.

Right to freedom of expression

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

Right to take part in public life

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.

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.

Right to a fair hearing

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

Right to be presumed innocent

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until 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 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 requirement to produce information. Accordingly, any protection afforded to pre-existing documents by the privilege is limited in scope and not as fundamental to the nature of the right as the protection given to the compulsion of oral testimony.

Right not to be tried or punished more than once

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 reflects the principle of double jeopardy. However the principle only applies in respect of criminal offences—it will not prevent civil proceedings being brought in respect of a person's conduct which has previously been the subject of criminal proceedings, or vice versa.

Penalties and sanctions imposed by professional disciplinary bodies do not usually constitute a form of 'punishment' for the purposes of this right as they are not considered to be punitive.

Part 2—Amendment of Agricultural and Veterinary Chemicals (Control of Use) Act 1992

Part 2 of the Bill amends the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (**AVCU Act**) in relation to the inspection and enforcement powers of Authorised Officers (**AOs**). Relevantly, new s 53A provides that AOs may exercise powers for the purposes of determining whether the Act has been complied with, preventing the commission of an offence or determining the source of agricultural spraying or the cause of contamination.

Powers of entry, inspection and information-gathering

Clause 10 inserts new ss 54 to 54AJ into the AVCU Act. New s 54(1) empowers AOs to, at any reasonable time, enter any place, other than a place occupied as a residence, and inspect anything found at that place, if they reasonably suspect that certain things are or may take place relating to the manufacture, storage, use and or contamination of chemical products or equipment; or the place is occupied by a person who holds or is reasonably suspected to require a licence under the Act. AOs may also, at any reasonable time, enter any other place (other than a place occupied as a residence) if they reasonably believe that it is necessary to do so to access a place that may be entered under s 54(1). Amended s 54 provides that AOs must cause as little inconvenience as possible and must not remain at a place any longer than necessary.

Under new s 54AB AOs may, at any reasonable time, stop, enter and inspect any vehicle, vessel or aircraft the inspector reasonably believes or suspects is, has been or may be used to transport, keep or store certain chemical products or stock, or for agricultural spraying. AOs may also enter and inspect any other vehicle, vessel or aircraft the AO reasonable believes or suspects is, has been or may be used for such purposes. If the AO considers a stopped vehicle is not safe or practical to inspect, they may require the driver or person in charge to present it at some other reasonable time and place for inspection. AOs may also request or require assistance from certain persons (non-compliance with an AO requirement without reasonable excuse is an offence: s 54J). In exercising these powers, s 54AC requires AO to take all reasonable steps to notify occupants on entry and if such persons are not present, to leave a notice of their entry, unless doing so would unreasonably interfere with their exercise of powers or cause unreasonable delay.

Privacy

These powers may engage the right to privacy of persons present at a place or within a vehicle, vessel or aircraft the subject of an AO's decision to stop, search and or inspect. New ss 54AH–54AJ permit AOs at any reasonable time to take photographs and recordings, and require persons to answer questions, give information and produce documents. To the extent that a person's personal information is captured in the course of an inspection, their privacy may be interfered with. However, to the extent that the new provisions interfere with the right to privacy, I consider that the right will not be limited. Any interference is authorised by legislation that is appropriately circumscribed. AOs are precluded from inspecting residential premises

and may exercise their inspection and information-gathering powers to ensure compliance with the regulatory scheme of the Act, per new s 53A. Relevant powers may only be exercised at reasonable times, and on a reasonable suspicion. As such, I am satisfied that interferences with individuals' privacy that may occur under these provisions will be predictable and proportionate to the aims of the regulatory scheme under the AVCU Act, and will therefore not be arbitrary.

Property

Exercise of these powers may also interfere with a persons' enjoyment of premises or vehicles, vessels or aircraft which are stopped, entered and or inspected, and or deprive owners of chemical or other products the subject of inspection from the right to deal with those products, thereby engaging the right to property. Relevantly, new ss 54AF–54AG also permit AOs to, at any reasonable time, open packages they reasonably suspect contain certain products, remove any label or advice note and take and remove for analysis or examination samples or equipment. A person may be deprived of property if packages are opened and or it is taken for examination. However, I am satisfied that no limitation of the right to property will occur. Any deprivation of property will be confined to that required by AOs to check compliance with the Act under 53A, and can only occur at a reasonable time and on the relevant reasonable suspicion of AOs. AOs must announce or give notice of their entering a place to relevant owners or occupants. As such, I consider that the right to property is not limited by these provisions.

Freedom of movement

The stopping, entry and inspection of vehicles may interfere with persons' ability to move freely in Victoria. This is particularly so for persons who are required to bring a vehicle to a separate place for entry and inspection. However, any interference will be temporary–only for the duration of time required by an inspection, and will be for the important purpose of ensuring compliance with the controls on the use of certain products in the AVCU Act, regulation which is in the public interest. I am therefore satisfied that the provisions are compatible with the freedom.

New offence provisions

The Bill inserts new ss 54J–54L, which are offence provisions. Relevantly, s 54J renders it an offence to fail to comply with an AO requirement without reasonable excuse. Officers of a body corporate which breach these provisions may be also be liable for breach if they authorised or permitted or were otherwise knowingly concerned (by act or omission) in the commission of the offence.

Reverse onus

By creating a 'reasonable excuse' offence exception, s 54J may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse. (This provision may also apply personally to officers of bodies corporate which satisfy s 72A.) 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 do not consider that an evidential onus such as this limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

Powers to require answers to questions and the production of documents

New ss 54AI–AJ empower AOs to, at any reasonable time, require a person to answer a question to the best of their knowledge and take reasonable steps to provide information, and to produce any document the AO reasonably requires. Existing s 54I provides that it is a reasonable excuse to refuse or fail to give information or do any other thing if required to do if doing so would tend to incriminate a person. However, it is not a reasonable excuse to refuse to fail to produce a document.

Right against self-incrimination

The amendments engage the right against self-incrimination. However, where an AO asks questions, the requirement is subject to a reasonable excuse, including the privilege against self-incrimination, so the right will not be interfered with. In the case of the production of documents, there is not a reasonable excuse for the production of documents and so the right may be interfered with. However, the right doesn't attach as strongly to pre-existing documents. Therefore, I consider that the protection will not be limited by the amendment.

Provision for electronic service

Clause 24 of the Bill inserts new s 73A, which clarifies that AOs may give any notice under the Act orally or in writing, and that any written notice or other document may be given or served on a person under the Act in person, by post, by leaving it at an address with certain persons or by sending it by electronic communication to a person's usual or last known electronic address.

Fair hearing

The fair hearing right may be relevant to the electronic issuing of infringement notices within the meaning of the *Infringements Act 2006*. The Infringements Act provides that an infringement penalty must be responded to within the period specified in the infringement notice, and that infringement notices may be referred to a court or be registered under the *Fines Reform Act 2014*. These steps may fall within the s 24(1) definition of 'civil proceeding' and engage an individual's Charter right to a fair hearing. The Supreme Court has held that, in civil proceedings, the right in s 24 of the Charter applies to the initiation of a proceeding as well as to all the steps taken, orders made or directions given in the course of the proceeding.

There may appear to be a risk that persons will not be aware that they have been sent an infringement notice by electronic communication, and thereby affect the procedural fairness of enforcement processes that follow. If individuals do not know they have been issued with a notice, they will not be aware of when they have to pay a penalty, or the period within which they may seek review of the notice. However, the option for electronic issuing is supplementary to the other service options set out above and AOs can employ the mode of service appropriate in the circumstances. Individuals who have provided their electronic address to AOs will be on notice that they may receive correspondence or notices at that address. Further, procedures for the provision of penalty reminder notices and other correspondence under the Infringements Act and *Fines Reform Act 2014*, which provide for personal service, will remain unaltered, and must occur prior to any penalties in infringement notices being finally enforced.

Because of these factors, I consider that the amendments in the Bill relating to electronic service do not limit the right to a fair hearing and are compatible with the Charter.

Part 3—Amendment of Catchment and Land Protection Act 1994

Part 3 of the Bill relevantly amends the *Catchment and Land Protection Act 1994* (**CLP Act**) to improve the controls for noxious weeds and pest animals; to strengthen AO inspection and enforcement powers; and to amend offence provisions relating to the spreading of noxious weeds.

Privacy

A person must notify the Secretary of a notifiable species on land

The Bill inserts new section 58C(8) into the CLP Act, which requires a person who suspects the presence of a notifiable species on land to notify the Secretary of that fact without delay. Insofar as these provisions may require disclosure of personal information, it will not be arbitrary as the information required must relate to noxious weeds and pest animals that pose a serious risk to the environment, community health and primary production.

Power to require a person to produce information or documents

The Bill inserts a number of new provisions which allow AOs to require a person to produce information or documents kept by that person as well as examine and make copies or notes of the documents.

The production of information or documents on entry

New section 79B allows an AO to require a person, on reasonable notice and for the purpose of ascertaining whether or not a person is complying with the Act or the regulations, to produce information or documents kept by that person as well as examine and make copies or notes of the documents. These documents may be any record or documents relating to the person (including financial, accounting to business records) that are kept by the person; or the production of such records or documents by any other person who is holding those records on behalf of the person.

The Bill also adds a new section 82(4)(bb) in the context of an emergency entry, requiring a person to produce any document if the AO reasonably believes it to be relevant for the purpose of ascertaining whether or not this Act and regulations have been complied with as well as examine and make copies of the document. While there is no safeguard of reasonable notice as provided under section 79B, the Act requires an AO, on leaving the land, to leave a notice which sets out details of the emergency entry (82(5)) which limits arbitrary interference, which is appropriate in the context of an emergency entry.

The requirement to produce any records relating to the person, including financial and business records, will necessarily interfere with the private spheres of persons. However, any such interference will not be arbitrary. The purpose of the power to compel production is strictly prescribed, for the purpose of monitoring compliance with the CLP Act. In my view, this power is necessary to properly enforce the CLP Act, as an AO may have difficulty determining compliance with the CLP in the absence of communication from an owner or occupier of land, such as if they fail to fulfil their notification requirements under the Act or choose not to attend any inspections. The power also enables noncompliance to detected more promptly and remedial actions undertaken in response, particularly where there may be serious and pressing risks to biosecurity with the

potential to affect large areas. Accordingly, I am satisfied that any interference with privacy is proportionate to the important objectives of protecting primary production, the environment and community health.

Entry and land search powers where a prohibited weed 'may' be on the land

Previously, authorised officers have relied on emergency entry powers under section 82 and powers to undertake certain work under section 79 in order to enter and search neighbouring properties for the presence of State prohibited weeds and restricted pest animals and to undertake broader surveillance programs of areas to ascertain their presence.

Clause 41 of the Bill amends section 82 of the CLP Act to provide authorised officers with explicit powers to enter properties, without an authorised officer needing to hold a belief on reasonable grounds that prohibited weed 'is' on the land; rather, it will be sufficient that they have a reasonable belief that a prohibited weed 'may' be on the land.

While these powers engage privacy rights and expand the circumstances in which entry powers may be exercised, they are not arbitrary as they assist in achieving the objectives of monitoring land within a wider geographical area, following detection of a prohibited weed. This expansion will allow, for example, an authorised officer to check for the absence of a prohibited weed, or to re-check a property at which eradication works have been undertaken to see if that work is deemed effective to achieve its purpose and so serves an important land management purpose. There is also a seven day notice requirement as well as a provision stating that the power to enter does not apply to a dwelling, which protects the privacy of the home. In my view, the right to privacy is not therefore not limited because the interference with privacy is neither arbitrary nor unlawful.

Enabling an officer, without a warrant, to search a vehicle, trailer machinery or equipment

The Bill inserts new section 83EA, which allows an AO, at any time without a warrant, to search a vehicle, trailer machinery or equipment. The officer may search any parcel, basket, bag, box or receptacle for anything which the authorised officer reasonably believes has been or is being used in the importing, keeping or trading pest animals or noxious weeds. Again, while these powers engage privacy rights, these search powers are necessary as high-risk invasive species, such as prohibited weeds or pest animals, present a serious threat to the economy and environment. As the overall volume and movement of people and goods continues to grow, and becomes faster and easier as technology improves, enhanced enforcement powers are required to manage the increased potential for the entry of infested or noxious goods into the state. As well as serving an important regulatory purpose the most cost-effective management of these high risk species is to prevent their entry as quickly as possible, which is enabled by this provision. Accordingly, in my view, the privacy rights will not be limited.

Direct entry powers

Clause 40(4) of the Bill repeals a number of consent-based provisions in the CLP Act (81(4)), which has the effect of giving AOs powers of direct entry under section 81(1).

Entry, search and examination without occupier consent

Repealing the consent-based provisions under the CLP Act will allow an AO to enter, search and examine goods and vehicles on land, under section 81(1), without consent of the occupier of land. While this may engage privacy rights, any interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. In this case, to enable the Secretary to fulfil these duties and protect Victoria's environment and agriculture from pests, it is both necessary and reasonable that an AO is allowed to access land to check for their presence and absence. In practice, the requirement for authorised officers to obtain consent of the occupier simply gives the occupier the opportunity to refuse consent and then remove and destroy evidence of contravention. In any event, if an authorised officer believes on reasonable grounds that there is on premises evidence that a person has contravened the act or the regulations, they will seek approval for the issue of a search warrant under the Act. However, in these circumstances a warrant is not appropriate as they take significant time and administrative effort, where quick detection of noxious weeds is required.

It may also be operationally impractical due to resourcing limitations, such as availability of authorised officers combined with remote locations, to arrange consent to enter all properties within an area so that they can be visited in a coordinated and short timeframe, particularly if there are absentee landowners. Thus, repealing these provisions serves an important land management purpose. There is a short window during which these weeds and pest animals, which cause or have potential to cause significant damage, can be eradicated. The legislation aims to support early detection and eradication before they become a significant problem for Victoria. Accordingly, in my view the repeal of the section does not give rise to any limit on the right to privacy.

Taking of photos and video recordings during a search on land without occupier consent

The repeal of the consent-based provisions will allow an AO to take of photographs (including video recordings) during a land search under section 81(1). The taking of photos and video during a land search will allow for further and better analysis of what is on the premises in order to accurately ascertain whether or not a person is complying with this Act or the regulations.

In addition, a number of factors safeguard against arbitrary interferences with the right, including: that the occupier must be given seven days written notice of entry, setting out the reasons for entry; the power to enter does not apply to a dwelling; and that the right to take photos and video recordings will be confined by the parameters of AOs functions and duties when entering relevant land. Accordingly, the power is appropriately confined such that there is no limit on the right to privacy.

Officers can take photos and videos during searches of vehicles for noxious weeds

Section 83E of the CLP Act allows an authorised officer to search vehicles for noxious weeds, at any time, without a warrant if the authorised officer believes it is necessary in order to comply with 70A(1) of the Act. The Bill amends s 83E to enable an authorised officer or police officer, when inspecting a vehicle for noxious weeds, to take photographs and videos of anything found during the search of a vehicle and to inspect and make copies of any document. As above, I consider no arbitrary or unlawful interference with the right to privacy as the power to take photos and videos or examine items is reasonable in the circumstances.

Owners of land who sell or transfer land are required to provide personal information to the Secretary

The Bill inserts section 85B which requires a person who is the owner of land that is the subject of a land management notice, a priority area notice or a directions notice, to give written notice to the Secretary if they decide to sell or transfer their land. The notice will include: the land owner's name and contact details, the street address of the land and the volume and folio numbers of the certificate of title (or the Crown allotment details of the land). It also requires the name and contact details of the new owners of the land. The compulsion of information sharing will engage privacy rights. However, a landowner will only receive notice where they have failed to comply with their duties to take reasonable steps to eradicate or prevent the spread of noxious or prohibited weeks or otherwise needs to take these steps. Accordingly, providing the Secretary with their contact information will allow the Secretary to better monitor the potential growth and spread of noxious weeds or pest animals on at-risk land areas. That information will only be shared in limited circumstances, for the purpose of controlling the threat of weeds and pests on land identified that this is necessary to do so, will mean that there is no arbitrary or unlawful interference with the right.

Property

Under section 71, the CLP Act currently requires a person to obtain a permit from the Secretary to buy, sell, possess, display, plant, propagate, import into Victoria or transport noxious weeds in Victoria. It also requires the movement or sale of various materials and things such as soil, fodder, machinery or animals which are likely to do, or do, contain the seeds of noxious weeds.

Person must apply for a permit to sell or move animal bedding materials

The Bill inserts new s 71(15) which requires a permit for the removal or sale of bedding materials used by animals in primary production. It further creates an offence to move such materials and other goods that are likely to contain seeds or other parts of noxious weed that are capable of growing. This may engage the right to property, as requiring a person to apply for a permit may operate to restrict how a person may use their property or interfere with a person's ability to derive a profit from their property. However, in my opinion there is no limitation on the right to property in section 20 of the Charter because there is no permanent deprivation of a person's property. Also, the interference is in accordance with law as it is for an important public purpose and will occur pursuant to and circumscribed by legislation.

Powers of Secretary to refuse a permit to buy, sell, or otherwise possess noxious weed in Victoria

The Bill inserts new section 71A requiring a person to apply to the Secretary in writing for a permit or for the renewal of a permit to do any of the things referred to in 71(1) to (17). The section further provides the permit may be granted, refused by the Secretary 71A(4) made subject to any conditions 71A(6)(c) or revoked (71B). Insofar as existing permits could be characterised as 'property' under the Charter, the Secretary's powers to refuse applications may be seen to constitute a deprivation of property, in that refusing permit would deprive a person of using or selling their property in a way that they choose. However, any deprivation will consequently be confined and not arbitrary but for the important purpose of limiting the transfer of plants affected by disease. I therefore consider that any interference will not be arbitrary and as such, compatible with the Charter right.

Taking of sample soil, stone or land during a search without occupier consent

Repealing the consent-based provisions under the CLP Act (section 81(4)) will allow an AO to take any sample soil, stone or land during a search under section 81(1), which may deprive a person of their property. However, I am satisfied that no limitation of the right to property will occur. As above, any deprivation will consequently be confined and not arbitrary but for the important purpose of limiting the transfer of plants affected by disease. AOs must also give notice of their entering a place to the relevant owner or occupants As such, I consider that the right to property is not limited, compatible with the Charter right.

Seizure of pest animal or thing during boat or vehicle search

Section 83D provides powers to authorised officers and police officers to enter and search any boat or vehicle suspected of being involved in the importing, keeping, trading and releasing of pest animals. The Bill amends section 83D(2) to include reference to the seizure of a pest animal or a thing to prevent its loss, concealment and destruction and its use in committing or continuing to commit an offence against the Act or regulations. Powers to seize pest animals or things may in certain circumstances amount to deprivation of property. However I consider the seizure of pest animals to be in accordance with the law; the circumstances in which the property can be seize is clearly specified and constrained, which is to prevent loss, concealment or destruction and to prevent the person from continuing to commit or repeating an offence against the CLP Act.

Take and keep samples of blood, bodily fluids or other matter from any pest animal, noxious weed or other thing or seize anything during search of personal property

Similarly, new Section 83EA in the context of a search of a personal property on the basis of a reasonably belief the property is used in the importing, keeping, trading or releasing of pest animals or noxious weeds in contravention of this Act, the AO may without warrant take and keep samples of blood, bodily fluids or other matter from any pest animal, noxious weed or other thing or seize anything found during the course of the search. Again, I consider this provision does not limit the right to property as it relates only to the taking of samples and is unlikely to lead to a material deprivation of property rights. In the event that it may, I consider any limit to justified in relation to preventing a serious threat to the economy and environment, as outlined above.

The right against self-incrimination

The Bill inserts new section 84AA(2)to provide that a natural person who received a request to produce a document or to answer a question under section 82 is not excluded from producing a document or answering a question on the grounds that the production of the record or the response to the question would tend to incriminate that person.

Section 25(2)(k) of the Charter provides minimum guarantees in criminal proceedings including the right to be free from self-incrimination. A compulsion to produce documents or answer questions may limit this right by abrogating the privilege against self-incrimination.

However, if a person, before producing a document or answering a question, claims that it may incriminate them, new provision 84AA(3) says that their refusal to produce documents or answer questions is not admissible as evidence in any criminal or civil proceedings. An exception is carved out for an offence under section 84(1)(e) (which relates to the provision of false information). Accordingly, I am satisfied that this immunity is sufficient protection to ensure the right is not limited in this context.

While I note this immunity does not extend to prevent derivative use of information obtained through this provision, to do so would unreasonably restrict the effective monitoring and investigation of compliance with the CP Act, by either making AOs reluctant to exercise essential investigative powers for risk of having evidence deemed inadmissible, or lead to an unacceptable risk of those responsible for wrongdoing escaping liability and continuing to pose threats to biosecurity, the environment and the economy. Further, to extend the immunity to proceedings in respect of the provision of false information in breach of the CPL Act would render such prosecutions unworkable, and undermine the essential duty that a person not knowingly provide false information where required under the Act.

Accordingly, to the extent that the provision may limit section 25(2)(k) of the Charter, I consider that it is reasonably justified.

Part 5—Amendment of Drugs, Poisons and Controlled Substances Act 1981

Part 5 of the Bill relevantly amends the *Drugs, Poisons and Controlled Substances Act 1981* (**DPCS Act**) in relation to the regulation of applications for authorities for activities relating to low-THC cannabis, as well as the renewal, cancellation and suspension of such authorities. Consequential amendments are made to the existing poppy cultivation and processing licences, renewal, cancellation and suspension provisions to achieve consistency with the modified low-THC cannabis scheme.

Applications for authorities

Clause 56 amends s 62 to provide that a person may apply to the Secretary for an authority authorising that person to engage in certain activities relating to low-THC cannabis, for commercial or research purposes relating to non-therapeutic use. Clause 57 amends s 63 to require the Secretary to investigate such an application upon receipt, and require the applicant or any 'associate' (as relevantly defined in the Act) to submit a national criminal history check that was undertaken within 6 months of submission. The Chief Commissioner of Police (**CCP**) must inquire and report on matters they believe are appropriate or necessary or that the Secretary requests, and notify the Secretary of their decision to oppose or not oppose the issuing of an authority, and subject to s 69AC(1) (which provides that 'protected information' must not be disclosed), provide reasons. If the Secretary is notified the CCP opposes an application, they must not issue the authority. If an application is refused, the Secretary must give notice to the applicant, with reasons (excluding protected information) and information on their right to seek VCAT review. Similar notice requirements are introduced for decisions to refuse application renewals, as well as applications for poppy cultivation and processing licences or licence renewals (see cls 63, 72, 74, 76 and 78).

Other requirements for a national criminal history check

Clauses 71, 73, 75 and 77 amend the Act to require that on receipt of an application for a licence, the Secretary must require that an applicant or their associate submit a national criminal history check undertaken within 6 months of submission. A 'national criminal history check' is a check of the criminal history of the person in or outside of Australia with or through a police force or other authority of Victoria, another State, a Territory or the Commonwealth, as defined in amended ss 61(1) and 69N.

Privacy

The requirement that an application for an authority or licence be investigated by the Secretary, and or be inquired into by the CCP, may engage an applicant's right to privacy, as any investigation or inquiry is likely to reveal personal information relating to them. These provisions may also engage a person's right to privacy to the extent that they compel the provision of a national criminal history check (**check**) from applicants and their associates. Both the process of having a check conducted and the provision of a completed check may involve the collection and sharing of personal information, including sensitive information, which will engage the privacy right. However, any interference with a person's privacy occasioned by either process will be for the important purpose of assessing whether a person is a fit and proper person who should be granted a licence or authority to deal with a drug of dependence. Persons apply for authorities or licences voluntarily and as such become aware that a check must be provided. Investigation of an application or renewal is necessary for the important purpose of ensuring that the Secretary is satisfied that a person is suitable to hold an authority or licence. I am satisfied that the amendments do not limit the Charter right to privacy.

Suspension or cancellation of authorities and licences

Clause 64 amends s 69A which provides for the suspension or cancellation of authorities. Under the amendments, the Secretary may suspend or cancel an authority if satisfied the authority holder or their associate is no longer a fit and proper person to hold or be associated with the authority, or if the CCP requests it on the basis of protected information, which may occur at any time. The CCP must provide reasons for doing so (excluding protected information). Clause 79 makes equivalent amendments to s 69QA, which provides for the suspension or cancellation of poppy cultivation and processing licences, to allow the Secretary to request a suspension or cancellation, giving reasons (excluding protected information). On receipt of either such request, the Secretary must suspend or cancel the licence or authority, and as soon as practicable, notify the relevant person, providing reasons, and inform them of their right to seek VCAT review.

Privacy

To the extent that an authority or licence is required for a person's work, these amendments may interfere with a person's ability to work and therefore their ability to maintain a private life. However, I consider that any interference that occurs will be authorised by law and not arbitrary. The drugs of dependence that authorities and licences authorise being dealt with are otherwise controlled and it is appropriate that there be strict safeguards around the provision and maintenance of such authorities and licences. The right to seek review of adverse decisions protects against any arbitrary outcomes. Any interference can therefore be seen to operate for a protective purpose and I consider that the provisions are compatible with the right.

Right not to be punished more than once for the same offence

The right to not be punished more than once may appear to be engaged by decisions to cancel or suspend licences on the basis of 'fit and proper' person decisions or protected information that each relate to a holder having received a criminal penalty. However, a cancellation or suspension is protective and not punitive in nature, and can only occur where the Secretary is satisfied of certain matters or on the CCP's request. Therefore, the amendments do not constitute a 'punishment', and do not engage the right in s 26.

Decisions based on protected information and procedure for VCAT review

Clause 65 inserts new s 69AC to provide that if the CCP opposes the issuing or renewal of an authority or requests a suspension or cancellation wholly or partly based on protected information, the CCP may decide to include or not include specified protected information. If the Secretary's decision is based on protected information, they must specify that their decision is based on CCP advice. Clause 80 makes equivalent amendments to s 69U, which relate to poppy cultivation or processing licences. Each section provides that s 8 of the Administrative Law Act 1978 does not apply to such decisions.

Clause 66 inserts new ss 69BA–BF, which relate to the procedure for VCAT review of a decision to refuse, suspend, cancel or amend an authority. Under the amendments, VCAT must enquire as to whether the decision was based on any protected information, and the Secretary must respond in writing. If the decision was based on protected information, VCAT must appoint a special counsel to represent the interests of the applicant, who may communicate with them to obtain information and seek instructions. However the special counsel must not do so once they have commenced attending hearings or have obtained any confidential affidavit.

In such matters, the CCP must be joined as a party and at the first hearing and VCAT must decide whether or not the information is protected. This and subsequent hearings involving protected information must be heard in private. The Secretary is only entitled to attend if protected information was given to the Secretary from the CCP, otherwise only the CCP and special counsel may attend. Parties may make submissions as to whether information was protected information, and if VCAT determines that it is, as to the weight that should be given the protected information. In making its review decision, VCAT must determine whether the applicant is a fit and proper person, and may only make orders answering this question and whether a decision has been upheld. If the special counsel wishes to seek instructions from an applicant in relation to protected information, they must submit written questions to VCAT for approval, which must hear from the CCP on the content of the questions. Under new s 69BD, VCAT may only publish reasons to the extent that they do not relate to protected information.

Fair hearing

The amendments which provide for decisions made on the basis of protected information and for VCAT review engage the fair hearing right. Relevantly, a person the subject of protected information may be affected by it but unable to challenge its contents. The requirement that hearings be held in private interferes with the principle of open justice. That an applicant themselves cannot attend a hearing and is precluded from giving their counsel instructions once a hearing has commenced may interfere with the ability of an applicant to have a reasonable opportunity to put their case. That the CCP may make submissions to VCAT on the content of questions counsel proposes to ask an applicant in relation to protected information disadvantage applicants. As VCAT cannot refer in its reasons to protected information, the ability of applicants to mount an effective appeal to a decision based on protected information may be hampered. I therefore consider that the right may be limited by these amendments, and the question becomes whether the limitation is justifiable.

The limitation on the fair hearing right is for the protective purpose of ensuring protected information is not released. Protected information includes information that is 'likely' to reveal identities, methods or jeopardise safety, or put investigations at risk, or may prejudice investigations. The need to protect law enforcement investigative techniques and intelligence has been accepted by courts as a legitimate and necessary objective justifying limits on fair hearing, in order to maintain the confidentiality of information that is essential to the proper discharge of police functions. The amendments are for the important purpose of ensuring that the CCP can share protected information, or give notice of a decision being based on protected information, with, where relevant, the Secretary and or VCAT to facilitate proper and informed decision-making.

The High Court has permitted the judicial use of protected information not disclosed to an affected party, provided the court or Tribunal retain discretion to independently assess the confidential information and how much weight to afford it in terms of fairness to the parties. I note that under the amendments, VCAT will have an opportunity to assess whether information is, in fact, 'protected', and must permit the excluded party to attend the hearing if it determines that the evidence does not amount to protected information. Parties have the opportunity to make submissions as to what weight to accord the protected information in a proceeding, with the applicant being represented by a special counsel with appropriate skills and ability to represent their interests, who may obtain instructions from the applicant prior to attending the hearing or obtaining any confidential affidavit. While the special counsel is subject to limits regarding their ability to take instructions from the applicant during the hearing or after obtaining any confidential affidavit, the Bill provides for seeking additional instructions through written questions approved by VCAT.

I note that a number of schemes in Victoria provide similarly for a scheme of protected information and the appointment of special counsel to represent an applicant's interests at a closed hearing, particular in relation to regulated industries where there is strong public interest that participants and authority holders be fit and

proper persons. Additionally, any limits on fair hearing apply only to a person who has voluntarily sought to assume the special duties and responsibilities of an authority or licence holder in relation to activities relating to authorities for low-THC cannabis, poppy cultivation and processing licences, which include accepting limits on the procedural fairness afforded in relation to decisions under the scheme.

I am also satisfied that there is no less restrictive means available to achieve the objective. There can be a complexity to police intelligence which makes it difficult to release details or provide summaries to affected parties without comprising the information. Information can come from a variety of agencies (including federal or international sources) and have varying levels of classification and protection requirements regarding access and disclosure. Any inappropriate release of such information may place the community at imminent risk of danger or impair the ability of police to obtain similar intelligence in the future, which is of heightened concern in the context of organised crime and proliferation of controlled substances. I consider the special counsel model to be an appropriate balance that mitigates the extent of limits on rights to the greatest extent possible.

I therefore consider the limitation to be a lawful one to protect the important public interest in maintaining the confidentiality of protected information, and as such, consider that it is compatible with the Charter.

Freedom of expression

The fact that VCAT hearings are held in private will engage the right to freedom of expression, as it limits the ability of people to attend hearings to seek and receive information, and the ability of people to report on hearings. However, as VCAT hearings involving protected information will involve sensitive material relating to policing practices and other matters, I consider that the requirement that hearings be private is a lawful restriction. I also consider that it is reasonably necessary, for instance to protect the interests of persons whom protected information may relate to or the broader public interest in ongoing police operations or methods. Therefore, the amendments are compatible with the right to freedom of expression.

Part 6—Amendment of Farm Debt Mediation Act 2011

Part 6 of the Bill relevantly amends the *Farm Debt Mediation Act 2011* (**FDM Act**) to streamline and harmonise the operation of that Act with other jurisdictions.

Property

The Act requires creditors to offer farmers farm debt mediation before taking enforcement action. Clause 91 of the Bill inserts new s 7A which requires a creditor to hold an exemption certificate prior to taking enforcement action under a farm mortgage. Cl 92 substitutes new ss 8 and 9 which require creditors to give notice of their intention to take enforcement action, and preserve the right of farmers who initiated farm debt mediation when not in default to be offered the procedure if or when a creditor intends to take enforcement action under a farm mortgage.

To the extent that a creditor is a natural person, the amendments introduced by the Bill may be seen to interfere with their right to 'use and enjoy' their beneficial interest in mortgaged property by enforcing their interests against a mortgagee farmer in default. Practically, the Bill introduces further limits on creditors being able to take enforcement action. However, the amendments made by the Bill are for the beneficial purpose of clarifying and preserving farmers' ability to seek farm debt mediation. Any deprivation of the ability to enforce an interest will be temporary and confined to the limited circumstances set out in the Act as amended by the Bill. As such, I consider that the right will not be limited by the amendments in the Bill.

Part 7—Amendment of Livestock Disease Control Act 1994

Part 7 of the Bill amends the *Livestock Disease Control Act 1994* (**LDC Act**).

Limits on dealing in certain livestock

Clause 109 of the Bill substitutes s 9 with new s 9 which prohibits the dispatch, transport, sale, slaughter, processing and moving of non-branded or unidentified cattle, livestock or carcase. Clause 115 inserts new s 44B which prohibits the sale of 'exposed cattle or pigs', being cattle or pigs that have been on, fed or been provided with access to pastures or crops grown on sewerage land.

Property

These amendments may interfere with livestock owners' ability to sell their livestock and therefore to 'enjoy' their property interests in the livestock, engaging their property rights. However, owners will not necessarily be deprived of property. Owners will be precluded from dealing with certain livestock until they have complied with the requirements in the Bill, including requirements to brand and identify livestock, and obtain any relevant approval from the Secretary. The requirements are confined and structured and as such I am satisfied that the Bill will not limit persons' property rights.

Amendment to composition of various committees

The Bill (clauses 120, 122, 125 and 127) amends the provision for the composition of the Apicultural Industry Advisory Committee, Cattle Compensation Advisory Committee, Sheep and Goat Compensation Advisory Committee and the Swine Industry Projects Advisory Committee. The Bill relevantly sets criteria for committee membership to allow the Minister to appoint members after considering the recommendation of the Secretary and having regard to each appointees' experience in certain relevant industry areas.

Taking part in public life

Section 18(2) of the Charter provides that every eligible person has the right, and is to have the opportunity, without discrimination—to have access, on general terms of equality, to the Victorian public service and public office. There is a question about the meaning of 'eligible person' in this provision. It could mean eligible under the general law—so that a change to the eligibility criteria does not engage this right, or it could incorporate a fundamental standard of 'eligibility'—such as citizenship. In any event, the criteria to which the Minister must have regard—experience in a particular industry—is not a protected attribute for the purposes of discrimination and is clearly related to the functions of the Committees. For these reasons, the amendments do not limit the right.

Information collection, storage and sharing provisions

The Bill contains various amendments which provide for information collection, storage and sharing. Clause 115 inserts new s 44A which requires the owners of exposed cattle or pigs to notify the Secretary in the prescribed manner. The Secretary may disclose any information contained in or accompanying that notice to the Environmental Protection Authority (EPA) and or the local water corporation. Clause 134 extends the functions of the Secretary under s 107A to relevantly keep records as required under regulations, and to analyse and or publish such information. Clause 135 amends the record-keeping obligations in s 107B to require the Secretary to keep certain records, and to make records available to all 'relevant persons'. Relevant persons are defined to include, broadly, prescribed persons, contracting parties, and government workers, where the Secretary is satisfied that certain criteria or circumstances apply.

Privacy

To the extent that a person's personal information is captured in information collected, kept in records, or shared under these provisions, their right to privacy will be engaged. However, any interference will be authorised by law, and will not be arbitrary. In the case of s 44A, the Secretary can only disclose information to the EPA or a water corporation where satisfied that information is necessary to the body's functions. In relation to amended s 107A, any regulations made which require the Secretary to keep records that include personal information will themselves be the subject of human rights scrutiny in the form of a Human Rights Certificate, and the provision only extends record-keeping obligations (as distinct from information collection). Amended s 107B may allow personal information to be made available to 'relevant persons', however this can only take place if the Secretary is satisfied that making a record available is in the public interest, or will assist with the control of disease or the relevant persons to protect markets for livestock products, or doing so is for certain purposes including emergency response planning, reuniting livestock with owners, the administration of Acts, legal proceedings, protecting safety or relevant research or analysis work. As such, I am satisfied that any interference will not be arbitrary, and the amendments will not limit the privacy right.

Clause 136 amends s 109 to provide that inspectors can require the production of documents by electronic means, extends their power to require the production of documents to also include 'other thing[s]' and allows inspectors to make sketch, still or recording of any land, vehicle, place or premises or any animal or other thing on or at the land, vehicle, place or premises. These amendments may engage the right to privacy of persons whose personal information is captured in the course of inspectors exercising their new information-gathering powers. However, inspectors can only do so for the purposes of exercising other powers or determining compliance with the Act, and as such any interference will not be arbitrary.

Enforcement powers

Amended s 109 also permits inspectors to take and remove for analysis or examination samples of or from, or specimens of, any land, vehicle, place or premise or any animal or thing on or at the land, vehicle, place or premise. The amended power to take samples may interfere the property rights of persons who own the property sampled, however any deprivation will be minor—only sample-sized quantities may be taken. Furthermore, this can only occur in the limited circumstances where an inspector's powers are enlivened. For these reasons, I consider that the amendments will not limit the Charter rights to privacy and property, and are therefore compatible with the rights.

Clause 137 inserts new s 115AB which empowers inspectors to give notice to persons with directions to remove, destroy or dispose of contravening material in relation to the feeding of pigs, where they believe on

reasonable grounds that a contravention of s 41(1) has occurred, is occurring or is about to occur (s 41(1) prohibits feeding pigs with material originating from other mammals). If the relevant person is not present, the inspector may leave the notice in a prominent place or give it by means of electronic communication.

Property

This provision may be seen to interfere with person's property rights in the relevant material, however any deprivation will be confined to material that was already in breach of the Act. Inspectors can give a notice when they believe on reasonable grounds that a contravention has occurred. I am therefore satisfied that the provision will not limit the property right. I note that giving a notice by electronic communication may engage the fair hearing right in the same manner set out above in relation to the provision for electronic service under the AVCU Act. To the extent that any proceeding may flow from the issuing of a notice under s 115AB, for the same reasons as discussed above, I consider that this provision is also compatible with the right.

Part 8—Amendment of Plant Biosecurity Act 2010

Part 8 of the Bill relevantly amends the amend the *Plant Biosecurity Act 2010* (**PB Act**) in relation to assurance certificates, plant health certificates, plant health declarations, the sale of diseased plants, the detention and seizure of plant and plant products, border security and fees and charges for beehives.

Property

Clause 153 amends s 18 of the PB Act to prohibit the sale of any plant or plant product, other than seeds, that is affected by any disease or pest. By limiting a person's ability to deal in affected plants or plant products, the amendments may interfere with their use and enjoyment of the property, engaging their property rights. However, persons will not be deprived of the property, just the ability to sell it. Any deprivation will consequently be confined and not arbitrary but for the important purpose of limiting the transfer of plants affected by disease. I therefore consider that any interference will not be arbitrary and as such, compatible with the Charter right.

Part 10—Amendment of Veterinary Practice Act 1997

Part 10 of the Bill amends miscellaneous aspects of the *Veterinary Practice Act 1997* (**VP Act**) relating to the registration of veterinary practitioners, the conduct of investigations and hearings relating to professional conduct and fitness to practice, and governance matters pertaining to the Veterinary Practitioners Registration Board of Victoria (the **Board**).

Powers of Board to suspend, or impose conditions upon registration pending investigation or hearing

Clauses 178–179 of the Bill amend sections 24 and 26A of the VP Act (respectively). The amendments relevantly empower the Board to suspend the registration of a veterinary practitioner, or to impose a condition, limitation, or restriction upon the registration, pending completion of: i) a professional misconduct preliminary investigation or hearing (clause 178); or ii) a preliminary investigation under section 25 of the VP Act into the fitness of a registered veterinary practitioner to practice veterinary medicine or surgery, and any hearing into the matter (clause 179).

The rights to equality, privacy, and fair hearing protected under sections 8(3), 13(a), and 24(1) of the Charter, respectively, are relevant to these amendments. For the reasons set out below, it is my opinion that any limit on the equality right is reasonable and justified, and that the rights to privacy and fair hearing are not limited.

Equality

Under section 25 of the VP Act, the Board may appoint a person to conduct a preliminary investigation where the ability of a registered veterinary practitioner to practise may be affected because of their physical or mental health, or because the person has an incapacity or severe substance dependence. Clause 179 of the Bill may therefore limit the right to equality as it could result in unfavourable treatment of persons with a disability (a protected attribute in section 6 of the *Equal Opportunity Act 2010*) who are subject to a preliminary investigation under section 25 of the VP Act. In particular, a practitioner with a disability may have their registration suspended, or a condition imposed upon their registration, as a result of their disability.

In my view, however, any limitation on the right to equality is reasonable and justified. The purpose of clause 179 of the Bill is to expand the range of responses available to the Board to protect the health and safety of the public, and the health and welfare of animals, pending completion of a fitness to practice investigation and (where applicable) hearing. Prior to the amendments, the Board could only suspend a registration (not impose conditions, restrictions, or limitations), or permit the practitioner to continue to practise with no controls. The power to temporarily suspend, or, with the agreement of the practitioner, to limit or impose conditions on a practitioner's registration is necessary to achieve the important legislative objective of protecting the public. I note that discrimination on the basis of disability for the protection of health and safety is a permitted form of discrimination under the *Equal Opportunity Act 2010*.

The extent of the limitation is carefully tailored to the legislative objective. In particular, the Board has discretion whether to impose any limitation upon a person's registration, and flexibility to impose conditions in lieu of complete suspension in circumstances where conditions can adequately protect the public and ensure animal welfare. As a 'public authority', the Board must give proper consideration to, and act compatibly with human rights, when exercising its discretion (section 38 of the Charter).

In addition, there are numerous opportunities to adjust, rescind, or review a registration suspension or conditions. For example, the Board is empowered under clause 179(4) of the Bill to vary or revoke any condition, limitation, or restriction before an investigation or any hearing is complete, and must revoke a suspension if it no longer believes that the ability of the practitioner to practise is likely to be affected to such an extent that allowing the person to continue practising would pose an unacceptable risk (section 26A(9) of the VP Act). A person may also apply to VCAT for review of a decision to suspend their registration if the Board has not instituted an investigation within a reasonable time of the suspension (section 55(1)(c) of the VP Act).

In my view, there are no less restrictive means available to achieve the legislative purpose. The discretionary nature of the power in clause 179 of the Bill permits the Board to choose the least rights-impairing response that will achieve the protective objectives in the circumstances of any given case. In some circumstances, the Board may decline to exercise its discretion at all.

Privacy

Clauses 178–179 of the Bill are relevant to the right to privacy in section 13(a) of the Charter, insofar as they empower the Board to temporarily suspend, or to limit, the ability of a registered veterinary practitioner to work in their chosen profession. Restrictions upon employment may engage the right to privacy in circumstances where they have a sufficient impact upon a person's capacity to experience a private life, maintain social relations or pursue employment.

However, any interference authorised by clauses 178–179 of the Bill is lawful in the sense that it is prescribed by law. And, as discussed above, any restriction is not arbitrary because the Board must exercise its discretion to impose a suspension or condition in a manner that is proportionate to the risk posed to the health and safety of the public or of animals.

Fair hearing

Clauses 178–179 of the Bill are relevant to the right to a fair hearing in civil proceedings, protected under section 24(1) of the Charter, insofar as they empower the Board to temporarily suspend, or impose conditions upon, a practitioner's registration prior to the completion of an investigation or hearing.

Any impact on the right to a fair hearing does not, in my view, constitute a limit upon the right. Part 3 of the VP Act provides numerous safeguards which ensure that a person whose registration may be suspended or subject to restrictions is accorded procedural fairness. The safeguards include written notice requirements in relation to a decision to commence a preliminary investigation or hearing, and in relation to a decision to suspend or place conditions upon a registration, as well as the opportunity to make submissions with respect to a decision to suspend or place limitations upon a registration.

Offence to disclose information identifying complainant or witness whose identity is protected

Clause 184 of the Bill substitutes a new provision for existing section 53 of the VP Act. The new provision makes it an offence to publish or broadcast a report of a formal hearing held under Part 3, where the report contains information which would enable the identification of the complainant, or of a witness whose identity is the subject of a non-publication determination made by the panel. The prohibition does not apply where the complainant or witness consents to the publication or broadcast.

A number of existing sections of the VP Act are relevant to the Charter analysis. Section 44(c) provides that, if a formal hearing arises out a complaint, the identity of the complainant is not to be published or broadcast. Moreover, pursuant to section 44(d) of the VP Act, the panel may only make a determination prohibiting the publication or broadcast of the identity of a witness to a formal hearing if it has first determined that the proceedings should be closed because the hearing is taking evidence of intimate, personal or financial matters.

In my opinion, clause 184 of the Bill engages, but does not limit, freedom of expression under section 15(2) of the Charter. Any restriction on freedom of expression is reasonably necessary to respect the rights of other persons, including the right to privacy, and is therefore permitted by section 15(3) of the Charter.

Offences relating to claims of registration

Clause 186 of the Bill substitutes new subsections for existing subsections 57(1)–(5) of the VP Act, and amends the penalty at the foot of existing subsection 57(6). New subsections (1)–(1C) prohibit a person who is not a registered veterinary practitioner from making representations that they are registered or qualified to practise as a veterinary practitioner (eg, by using the title of registered veterinary practitioner). New

subsections (2)–(2A) and (3)–(3A) prohibit a registered veterinary practitioner from making false claims or representations about the nature of their registration (eg, that the registration is general when it is specific). Last, new subsections (4)–(4B) and (5)–(5B) prohibit persons from making false representations in relation to registration or qualification to practise as a veterinary specialist.

Clause 186 of the Bill limits freedom of expression under section 15(2) of the Charter, because it restricts the kinds of claims that a person may make in relation to registration under the VP Act. However, in my opinion, that limitation is reasonable and justified under section 7(2) of the Charter for the following reasons.

The purpose of the offences is to protect the integrity of the registration scheme established by the VP Act and, relatedly, to protect the public and animals from the risks associated with unauthorised veterinary practise.

The extent of the limitation is proportionately tailored to this important objective. In particular, the offences are concerned with representations or claims that are misleading in the specific context of the regulatory scheme established under the VP Act. For instance, the offence in subsection 57(1) prohibits the use of the title of registered veterinary practitioner in a way that suggests the person is registered under the VP Act (when they are not). It does not prohibit, generally, appropriate uses of the title. In addition, section 60 of the VP Act exempts certain persons undergoing approved veterinary training courses from the offences in section 57.

Furthermore, the type of expression that is restricted is likely to be commercial in nature (eg, a title may be used inappropriately to generate business for the unauthorised provision of veterinary services). It therefore falls outside the core of the interests protected by freedom of expression.

Last, there is no less restrictive means available to achieve this important legislative objective. Anything less than a full prohibition (subject to the exceptions in section 60) on persons misrepresenting their qualification to provide veterinary services will undermine public confidence in the registration scheme and the ability of the public to rely on the register of veterinary practitioners (established under section 16 of the VP Act) as evidence of a person's qualification to practise.

Duty of confidentiality

Clause 191 of the Bill substitutes a new confidentiality provision for section 77 of the VP Act. It provides that a person who is or has been a member of the Board, or a member of the staff of the Board, must not make a record of, disclose, or communicate any information obtained in the course of the performance of their functions under the VP Act. The prohibition is subject to exceptions for the purposes or in the circumstances listed in subsection (2).

Two Charter rights are relevant to clause 191 of the Bill: privacy, protected under section 13(a), and freedom of expression, protected under section 15. For the reasons set out below, it is my opinion that neither right is limited.

Privacy

Clause 191 permits interferences with privacy by authorising certain disclosure of personal information pursuant to new subsection 77(2).

However, disclosure in these situations is for legitimate purposes, including to administer and enforce the provisions of the VP Act, or to reduce risks to health, safety and wellbeing of natural persons or animals. Additionally, in relation to a disclosure to a 'relevant person' (as defined), subsection (1)(b) provides that the person disclosing must first be satisfied that privacy protections exist and that disclosure is necessary to enable the relevant person to perform their functions. Thus, provided disclosure is made in accordance with the criteria in subsections (1) and (2), any interference with privacy will be lawful and not arbitrary, and therefore permitted under section 13(a) of the Charter.

Moreover, as 'public authorities' under the Charter, persons who are members of the Board, or members of the staff of the Board, must give proper consideration to, and act compatibly with, human rights in making decisions to disclose information (section 38(1) of the Charter). This will oblige those persons to ensure that the extent of disclosure is proportionate to the legitimate purpose for disclosure in any given case. The Board is also bound by the *Privacy and Data Protection Act 2014* in respect of the use and disclosure of personal information, which provides further safeguards against unlawful or arbitrary interferences with privacy.

Freedom of expression

In my view, clause 191 of the Bill does not limit freedom of expression. Any restriction on freedom of expression is reasonably necessary to respect the rights of other persons, including the right to privacy, and is therefore permitted by section 15(3) of the Charter. Additionally, the persons to whom these restrictions will apply have voluntarily assumed the obligations and duties that attach to these roles.

Part 12—Amendment of Meat Industry Act 1993

Part 12 of the Bill relevantly amends the *Meat Industry Act 1993* (**MI Act**) in relation to the sale and slaughter of meat for consumption.

Prohibitions on sale or disposal of certain meat products

Clause 199 substitutes s 34 to ban the sale or disposal of meat and poultry meat for human consumption, unless the meat is from a consumable animal slaughtered and processed at a licensed or authorised facility, and has been inspected and branded, or certified as fit for human consumption, as the case may be. The offence in relation to game meat is treated differently, where the processing and certification requirements are different for the sale of game meat for human consumption, and the disposal of game meat for human consumption. This is to reflect that game meat, in contrast to other meat from a consumable animal, may be disposed of for human consumption where it has been processed at a meat processing facility that solely processes game not intended for sale, and if so is not required to be branded or certified as fit for human consumption.. Clause 202 inserts new s 37B which bans the sale or disposal of certain meat for consumption as pet food unless it has been inspected in accordance with the Act and all applicable procedures under regulations have been complied with. Clause 204 amends s 39(1) to require that a person must not remove game meat from a game processing facility unless certain conditions are complied with.

Property

These provisions may engage the property rights of persons who purport to deal in meat products for human consumption, or consumption as pet food, that will be banned under the amendments. However, the amendments are for the purpose of clarifying the offences in relation to the disposal of game meat for human consumption, and meat for consumption as pet food, for clarifying when meat may be legally sold and disposed of for human consumption, and to remove inconsistencies between various offence provisions in the Act. Affected persons will be part of a regulated industry and aware of their obligations to process meat accordingly, and the broader scheme is for the important purpose of protecting the health of humans or animals which consume meat. I therefore consider that any interference will be confined and proportionate and will not limit the right.

The Hon. Gayle Tierney
Minister for Training and Skills
Minister for Higher Education

Second reading

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:02): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms PULFORD: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Bill makes amendments to 11 Acts to improve efficiency, operation, administration and enforcement.

Amendments to the Agricultural and Veterinary Chemicals (Control of Use) Act 1992

The Bill modernises authorised officer powers, removes unnecessary barriers to sharing information with other regulators and clarifies requirements for giving notices, making requests and recovery of debts. This will resolve ambiguity, improve efficiency and the ability for authorised officers to protect public safety, animal health and welfare, the environment and trade.

The Bill expands the definition of a 'label' so that the Australian Pesticides and Veterinary Medicines Authority (APVMA) 'approved label' will be the applicable standard in most circumstances instead of the label affixed to the chemical product. This harmonises Victoria's requirements with other jurisdictions and improves the ability to communicate and enforce the legal obligations of chemical users when label changes are made.

The Bill broadens the scope of a destruction notice that may be issued under the Act to allow discretion for alternatives such as recycling, in alignment with government policy for waste and resource recovery.

Amendments to the Catchment and Land Protection Act 1994

The Bill improves the controls for noxious weeds and pest animals and strengthens inspection and enforcement powers of authorised officers to better regulate the risk of introduction or spread of noxious weeds and pest animals in Victoria. Globalisation and the expansion of trade have increased Victoria's exposure to biosecurity risks and increased the rate of new incursions into the State. The amendments create new offences and impose new requirements to address these risks. The Bill provides for graduated penalties for offences relating to the spreading of noxious weeds without a permit and improve consistency of penalties to similar offences relating to pest animals. These amendments will improve our ability to manage the risks associated with noxious weeds and pest animals.

Amendments to the Dairy Act 2000

The Bill removes ambiguity about the application of the *Public Administration Act 2004* to Dairy Food Safety Victoria employees and clarifies that all public sector employees are subject to the values and principles set out in that Act.

Amendments to the Drugs, Poisons and Controlled Substances Act 1981

The Bill ensures that in the event of a large-scale natural disaster, such as the 2019–20 bushfires or biosecurity responses, the health and welfare outcomes for animals, both domestic and wild, are improved. By mirroring the existing human health emergency order to allow broader, controlled access to Schedule 4 and 8 medicines for animal treatment, the impacts of these events on animal health and welfare can be reduced such as by ensuring rapid provision of pain relief and anaesthetics for the surgical and medical treatment of wounds. The Australian Veterinary Association and Zoos Victoria are supportive of this important initiative. If it been in place for the 2019–20 bushfires it is likely to have had a significant impact on relief activities, including ministration of care to impacted wildlife, and allowing compassionate donation of medicines by veterinary practitioners to be quickly supplied to impacted areas.

The Bill removes potential impediments to interstate trade in the hemp industry through harmonising legislated thresholds for tetrahydrocannabinol (THC) in low-THC cannabis with other states and territories.

The Bill improves the efficiency and effectiveness of Part IVA of the DPCSA for authorities for low-THC cannabis by: introducing further regulation making powers; improving the fit and proper person assessments for applicants; introducing new provisions for the protection of sensitive information; and introducing the ability to issue infringement notices and establishing a new, lesser offence for non-compliance with minor conditions of an authority. The amendments also widen the eligibility criteria for an authority by narrowing the definitions of 'serious offence' and 'relative'.

Amendments to the Farm Debt Mediation Act 2011

The Bill strengthens an already effective Act and harmonises some provisions with farm debt mediation legislation in other States.

The Bill will strengthen farmers' rights to farm debt mediation by expanding the definition of 'farming operation' to include forestry and aquaculture; retaining a farmer's right to be offered mediation by a creditor if the farmer has previously initiated mediation when not in default; and requiring a creditor to hold an exemption certificate in all instances prior to taking enforcement action under a farm mortgage.

The Bill will also streamline the administration of the farm debt mediation scheme by transferring all administrative responsibilities to the Victorian Small Business Commission.

Amendments to the Livestock Disease Control Act 1994

The Bill strengthens the existing legislative framework available for the prevention, monitoring and control of animal diseases in Victoria by improving compliance and enforcement tools, creating new offences to underpin livestock and bee traceability through the supply chain and extending and clarifying the powers of inspectors.

The Bill supports Victoria's biosecurity system by extending beekeeper registration requirements, establishing better risk management of livestock exposed to sewage and pigs exposed to prohibited pig feed, and providing for the Exotic Diseases Fund to pay the costs of administering exotic disease response activities associated with protecting animal welfare.

The Bill also modernises the governance arrangements for the livestock compensation funds by revising the structure of the advisory committees to improve openness and transparency, consistent with the Premier's Circular No. 2015/02 on Good Board Governance, which requires that selection processes be merit-based, fair, open and diverse. These amendments will facilitate a broader, more diverse range of candidates and will be complemented by advice from the compensation fund advisory committees on specific skills and experience necessary for each committee. The composition of the committees will continue to include strong producer and industry representation.

Amendments to the Meat Industry Act 1993

The Bill removes ambiguity about the application of the *Public Administration Act 2004* to PrimeSafe employees and clarifies that all public sector employees are subject to the values and principles set out in that Act. Other minor amendments to the Meat Industry Act will improve its operation and provide greater clarity on the food safety regulatory framework for meat, including the regulatory arrangements that apply to packaged meat.

Amendments to the Plant Biosecurity Act 2010

The Bill provides additional support to inspectors when interpreting and applying the requirements of the *Plant Biosecurity Act 2010* to prevent the entry and spread of plant pests and diseases in Victoria.

The Bill amends the definition of a plant health declaration to provide a clear power to authorise a person to issue a declaration. It clarifies circumstances in which an Importation Order can be made to prevent entry of pests and diseases into Victoria; and the notification of relevant persons, and taking of samples, when plants are seized or detained. It also provides new offences for inappropriate use of plant health documents, and the sale of diseased plants, both of which complement existing offence provisions, and will support the use of Infringement Notices for the offences.

Amendments to the Rural Assistance Schemes Act 2016

The Bill improves flexibility for an externally appointed Member of the Rural Assistance Commissioner to operate part time, rather than full time. Accountability and administrative efficiency are improved by requiring only the responsible minister of a rural assistance scheme to approve an instrument of delegation as it relates to their portfolio, rather than the lead minister of a department.

Amendments to the Veterinary Practice Act 1997

The Bill provides greater flexibility to the Veterinary Practitioners Registration Board of Victoria (the Board) to register veterinary practitioners, conduct hearings and investigations and modernises disclosure of information provisions. It also restructures several offences to ensure those that are suitable may be enforced by infringement notice.

The Bill improves the efficiency and flexibility of the Board to conduct professional misconduct preliminary investigations by providing it with an option to enter into an agreement with a veterinary practitioner to impose conditions or restrictions on their practising, as an alternative to continuing to allow the veterinary practitioner to continue practising unrestricted or suspending their registration, pending the outcome of an investigation.

The Bill improves governance of the Board by removing the requirement that the President and Deputy President roles be restricted to registered veterinarians, allowing for a broader range of skill sets to be considered. It also removes the requirement that one veterinary position be an employee of the University of Melbourne, instead requiring that position to be filled by a registered veterinarian with skills and experience in veterinary education thereby broadening the range of professionals available for Board appointment.

Amendments to the Wildlife Act 1975

The Bill corrects an administrative error, to clarify who can remain on specified hunting areas at certain times during the duck season. This will improve public safety on duck hunting wetlands by ensuring people in specified hunting areas during specified times during the duck hunting season hold the relevant game licence.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (18:02): I move, on behalf of my colleague Ms Bath:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

JUSTICE LEGISLATION AMENDMENT BILL 2022

Introduction and first reading

The PRESIDENT (18:03): I have a further message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Crimes at Sea Act 1999** to update references to Commonwealth legislation, to amend the **Equal Opportunity Act 2010** in relation to secrecy provisions and an exemption relating to religious schools, to amend the **Charter of Human Rights and Responsibilities Act 2006** to use gender inclusive language, to make miscellaneous amendments to the **Judicial College of Victoria Act 2001**, to amend the **Magistrates' Court Act 1989** in relation to rule making powers, to amend the **Victorian Civil and Administrative**

Tribunal Act 1998 in relation to federal subject matter, to amend the **Births, Deaths and Marriages Registration Act 1996** in relation to integrated birth certificates, to make miscellaneous amendments to the **Adoption Act 1984** and to amend the **Gender Equality Act 2020** to enable the Commissioner and specified persons to use or disclose information obtained under Division 3 of Part 7 of that Act in certain circumstances and for other purposes'.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:04): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms PULFORD: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:04): 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 Justice Legislation Amendment Bill 2022.

In my opinion, the Justice Legislation Amendment Bill 2022, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill engages and promotes a number of Charter rights.

The Bill will expand the exceptions to the *Equal Opportunity Act 2010* (EO Act) secrecy provision to enable the sharing of information in certain circumstances. These amendments promote the protection of children (section 17(2)) and engage but do not limit the right to privacy (section 13).

The Bill removes gender binary terms and provides gender inclusive language in the Charter. In doing so the Bill promotes the right to equality (section 8).

The Bill will introduce integrated birth certificates and make miscellaneous amendments to the *Adoption Act 1984* and the *Births, Deaths and Marriages Registration Act 1996* (BDMR Act). These amendments engage privacy rights (section 13) and the protection of families and children (section 17) but are considered compatible with the Charter.

The Bill clarifies the Magistrates' Court's (MCV) jurisdiction to hear and determine federal jurisdiction matters which promotes privacy rights (section 13) and the right to a fair hearing (section 24).

The Bill expands the circumstances under which the Public Sector Gender Equality Commissioner and other prescribed persons may disclose information gained through their dispute resolution function. These amendments engage the right to privacy (section 13) but is considered compatible.

Amendments to the *Judicial College of Victoria Act 2001*, the *Magistrates' Court of Victoria Act 1989* and the *Crimes at Sea Act 1999* are not considered to engage any Charter rights.

Human Rights Issues

Equal Opportunity Act 2010

The Bill will expand the exceptions to the EO Act secrecy provision to enable the sharing of information:

a. where there is a serious threat of harm to a person or persons,

b. to comply with a mandatory reporting requirement,

c. where VEOHRC is the respondent to a freedom of information review at the Victorian Civil and Administrative Tribunal (VCAT), to the extent necessary to facilitate the review.

These amendments promote the protection of children (section 17(2)) and engage but do not limit the right to privacy (section 13).

The Bill will also amend section 83 the Equal Opportunity Act 2010 to include an avoidance of doubt provision which was inadvertently omitted from the Equal Opportunity (Religious Exceptions) Act 2021. Given the amendment is an avoidance of doubt provision and does not substantively change the legal effect of the Religious Exceptions Act, this amendment will neither limit nor promote any rights under the Charter.

Protection of children (section 17(2))

Section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child.

The Bill promotes the right of a child to protection that is in the child's best interests. It does this by enabling the disclosure of information where there is a serious threat of harm to a person (which may include a child) and enabling disclosure in compliance with a mandatory reporting obligation, such as the obligation to contact Victoria Police when a person reasonably believes that a sexual offence has been committed against a child.

In doing so, the Bill promotes the protection of children through appropriate disclosure of information, in the child's best interests.

Right to privacy and reputation (section 13)

Section 13 of the Charter provides all persons with the right to not have their privacy, family, home, or correspondence unlawfully or arbitrarily interfered with.

The Bill engages the right to privacy by enabling the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) to share private, confidential information in particular circumstances. However, these amendments do not constitute arbitrary or unlawful interference with the right to privacy, and therefore do not limit this right.

The amendment to enable disclosure where there is a serious threat of harm to one or more persons will only operate in circumstances where the threat is assessed as credible, and imminent—limiting the circumstances in which confidential information is disclosed. Similarly, the exception to enable disclosure to comply with a mandatory reporting obligation will only operate in narrow circumstances—where there is an existing legal requirement to report certain information.

The purpose of these amendments is to allow for the sharing of information only when it is necessary to promote the safety and wellbeing of others, including some of the most vulnerable members of our community—children. When balanced against the risk and potential degree of harm associated with not disclosing information in these circumstances, I consider these amendments are compatible with the right to privacy.

The narrow application of the FOI exception—being applications for review made to VCAT—ensures that individuals' information will not be released arbitrarily. Individuals' privacy is further protected by sections 53A and 56 of the FOI Act, which impose protections and restrictions on VCAT's use and distribution of 'exempt' documents, and a right of intervention for persons whose personal information is contained in the documents (and who are not otherwise party to the review).

The amendment appropriately balances the right to privacy with the efficient and effective functioning of the FOI review process and I am therefore satisfied that it does not limit the right to privacy.

Charter of Human Rights and Responsibilities Act 2006

The Bill removes gender binary terms and provides gender inclusive language to the Charter of Human Rights and Responsibilities Act 2006 (the Charter). In doing so the Bill promotes the right to equality (section 8).

Right to equality (section 8)

Section 8 of the Charter provides that every person has the right to recognition and is equal before the law. It also recognises every person is entitled to the equal protection of the law without discrimination. These three limbs of entitlement collectively ensure that all laws and policies are applied equally to all Victorians, and do not have a discriminatory effect.

Introducing gender inclusive language into the Charter promotes the right to equality by recognising every person has the right to recognition before the law and is therefore afforded equal protection under the law, regardless of gender identity.

Adoption Act 1984 and Births, Deaths and Marriages Registration Act 1996

The amendments to the Adoption Act and the BDMR Act are introduced to support the adoption community in Victoria by giving effect to several recommendations of the Legal and Social Issues Committee's *Inquiry into responses to historical forced adoption in Victoria*, and to provide a discretionary power to the Secretary of the Department of Justice and Community Safety to use and disclose adoption information.

Right to privacy and reputation (section 13)

Under section 13 of the Charter, a person has the right not to have their privacy or family unlawfully interfered with, and not to have their reputation unlawfully attacked. This right is relevant to new section 100A to be inserted into the Adoption Act, which provides a discretionary power to the Secretary of the Department of Justice and Community Safety to use and disclose adoption information. This will allow the Secretary to use and disclose information as not currently allowed for in the Act, for example:

a. Providing a foster care agency with information about a child awaiting adoption;

b. Providing child protection with specific information if they are investigating an adoptive family;

c. Providing an Aboriginal Community Controlled Organisation with information about the adoption of an Aboriginal child.

In determining whether to disclose adoption information, the Secretary must have regard to certain matters, including whether disclosure would be in the best interest of any adopted child or adopted person who may be able to be identified from the adoption information, and whether there are risks to the safety or privacy of any individual who may be identified as a result of the disclosure and whether those risks can be managed. The person to whom adoption information is disclosed must only use or disclose it for the purpose for which it was provided.

Additionally, the Secretary, as a public authority, is required to consider the Charter before making a decision to use or disclose information. If such a decision is likely to limit a human right, the Secretary must assess whether the limitation is reasonable and justified, taking into account all relevant factors.

I therefore consider that any interference under new section 100A with a person's privacy or reputation is lawful and not arbitrary and is compatible with the Charter.

Protection of families and children (section 17)

Section 17 of the Charter states that families are the fundamental group unit of society and are entitled to protection, and that every child has the right, without discrimination, to protection in their best interests needed by reason of being a child.

The Bill will amend section 43 of the Adoption Act, which enables the court to dispense with the consent of a person to the adoption of a child on certain grounds. Consent is a fundamental component of adoption, with the informed, voluntary consent of the parents or guardians of a child required in most cases before an adoption can take place. The Bill will remove some of the grounds which indicate a child may be in need of protection for dispensing with consent—i.e. where the court is satisfied the person has 'deserted, persistently neglected or ill-treated' the child or 'has seriously ill-treated the child to the extent that it is unlikely that the child would accept, or be accepted by the person within, the family of that person'. An adoption order permanently severs the legal connection between the child and their birth family. Dispensing with consent may limit the right to protection of family, as it can result in a child being adopted without the consent of one or both birth parents. Therefore, limiting the grounds for dispensing with consent promotes the right to family, as there are fewer reasons where the consent of birth parents is not needed for an adoption to take place. The child's right to protection will not be compromised, as where those grounds exist, they will be dealt with under the child protection system. That system is established to make decisions in relation to children at risk of harm, with the best interests of the child being the paramount consideration. Therefore, this amendment is compatible with section 17 of the Charter.

Victorian and Civil Administrative Tribunal Act 1998

As a result of High Court and Victorian Court of Appeal decisions, VCAT cannot determine 'federal jurisdiction' matters. These include matters where the dispute is between residents of different states.

To address this jurisdictional gap, the *Victorian Civil and Administrative Tribunal and Other Acts Amendment (Federal Jurisdiction and Other Matters) Act 2021* inserted Part 3A into the *Victorian Civil and Administrative Tribunal Act 1998* ('VCAT Act') to establish a regime for the MCV to hear and determine federal jurisdiction matters.

Relevantly, provisions in Part 3A allow persons to apply to the MCV (under section 57B(1)(b)) and the MCV to hear and determine matters if their 'application' to VCAT that was struck out, rejected, dismissed or withdrawn on the grounds of federal jurisdiction. The Bill clarifies that these provisions also apply if the

VCAT proceeding that was struck out, rejected, dismissed or withdrawn was commenced by way of 'referral' from a third party, rather than an 'application'.

Referrals are made under enabling legislation, for example by a public authority if requested or required by a person, or by the relevant Minister in some cases. The amendment will clarify that both the person or body who made the referral and the party who requested the referral are entitled to apply to the MCV under section 57B(1)(b).

Right to privacy and reputation (section 13)

Section 13(a) of the Charter states that a person must not, relevantly, have his or her privacy unlawfully or arbitrarily interfered with.

The Bill promotes this right, by providing accessible legal recourse for parties if a complaint about an act or practice that may be an interference with the privacy of an individual has been referred to VCAT under the *Health Records Act 2001* or *Privacy and Data Protection Act 2014* and it is struck out, dismissed, rejected, or withdrawn because it involves a federal jurisdiction matter.

Right to a fair hearing (section 24)

Section 24 of the Charter provides that a party to a civil proceeding has the right to have that proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The amendments to the VCAT Act promote the right to a fair hearing by facilitating access to justice. A narrow interpretation of Part 3A could exclude matters commenced in VCAT by referral from existing provisions which allow parties to apply to the MCV to hear, and the MCV to resolve, matters that have been struck out by VCAT due to federal jurisdiction. This would prevent individuals from vindicating their rights.

For example, if the Health Complaints Commissioner referred a complaint to VCAT under the *Health Records Act 2001* and the respondent was a natural person who resided in different State to the complainant, VCAT would strike-out, dismiss or reject the matter or it would be withdrawn. On a narrow interpretation of s 57B(1)(b), the complainant would be unable to use the mechanism under Part 3A of the VCAT Act to apply to MCV and MCV could not hear the complaint. By clarifying that the relevant provisions apply to matters commenced in VCAT by 'referral', the Bill enhances the right to fair hearing.

For these reasons, I consider that the Bill promotes the right to a fair hearing.

Gender Equality Act 2020

Division 3 of Part 7 of the GE Act sets out the Public Sector Gender Equality Commissioner's (Commissioner) functions in relation to enterprise agreements, enabling the Commissioner to deal with public sector gender equality disputes. In the course of exercising these functions, the Commissioner may be in receipt of personal and sensitive information about individuals, including information about their personal circumstances and their involvement in workplace conflicts. The Commissioner may also be in receipt of other forms of confidential information relating to organisations who are party to a dispute.

Right to privacy and reputation (section 13)

Section 46 of the Gender Equality Act currently prohibits the Commissioner from using or disclosing information obtained or provided under Division 3 of Part 7 of the GE Act for any purpose other than that for which it was obtained or provided. The Bill makes a number of changes to this requirement that engage the right to privacy in section 13(a) of the Charter.

First, the secrecy obligation in section 46 of the GE Act is extended beyond the Commissioner to include the Commissioner's delegates or persons employed or engaged to assist the Commissioner ('specified persons'). This amendment affirms that those working for the Commissioner are also bound by the secrecy obligation. In my view, this change promotes the right to privacy by strengthening the secrecy obligation in section 46, ensuring better protection of personal and sensitive information.

Second, the Bill also inserts new section 46A into the GE Act, providing a limited number of exceptions to the secrecy obligation in section 46. Section 46A will allow the Commissioner and specified persons to disclose information obtained through Division 3 of Part 7 of the GE Act to each other, and to use or disclose such information in the following circumstances:

a. if reasonably necessary for the Commissioner to perform a duty or function, or to exercise a power, under the GE Act or any other Act provided the information is not personal information, with the consent of the relevant;

b. to a court or tribunal during a legal proceeding or pursuant to an order;

c. to obtain or seek legal advice; or

d. if authorised, required or permitted by any other Act or law.

New section 46A also enables the Commissioner to disclose information to the Victorian Equal Opportunity and Human Rights Commission, Fair Work Commission, or another prescribed person or body, where the Commissioner considers that the information is relevant to the duties, functions and powers of the Commissioner or person or body to whom the information is being disclosed.

Whilst new section 46A broadens the circumstances in which information collected under Division 3 of Part 7 of the GE Act may be used and disclosed, to the extent that this may interfere with the privacy of persons to whom the information relates, the interference will be neither unlawful nor arbitrary. The interference will be prescribed by law and may only be shared for specified circumstances or with certain persons and bodies. The permitted uses and disclosures would thereby be authorised by law under the *Privacy and Data Protection Act 2014* and the Information Privacy Principles.

Further, the interference is not arbitrary as the amendments are designed to allow the Commissioner to more effectively and expeditiously perform the Commissioner's duties, functions and powers under the Act, and to align the Commissioner's obligations under the Act with obligations arising under other laws.

The provisions authorising information use or disclosure for the purpose of performing the Commissioner's duties, functions or powers are also subject to safeguards as information use or disclosure under this exception requires the consent of the relevant persons where the information to be used or disclosed contains personal information. Similarly, disclosing personal information to VEOHRC, Fair Work Commission and other prescribed persons or bodies is only permitted where the Commissioner obtains the consent of the person to whom the personal information relates, where it is reasonably practicable to obtain consent. Where consent is not obtained, the Commissioner can only disclose the information if the Commissioner is satisfied that the public interest in disclosing the information without consent outweighs the public interest in the non-disclosure of the information.

In my view, these safeguards, along with the narrow circumstances in which the use of personal information may be used and disclosed, mean any interference with a person's privacy is not unlawful or arbitrary. Therefore, in my view, new section 46A is compatible with the right to privacy.

I consider that the GE Act amendments are compatible with the right in section 13(a) of the Charter, and, to the extent that the amendments limit this right, that such limits are reasonable and demonstrably justified having regard to the improvements the amendments will make to the ability of the Commissioner to operate in the broader public sector context.

Judicial College of Victoria Act 1999

The Bill increases the number of directors on the Judicial College of Victoria (College) Board who have experience outside the judiciary and acquits recommendation seven of the Review of Sexual Harassment in Victorian Courts and VCAT (Szoke Review). The Bill also amends the Judicial College governance processes to ensure the efficient operation of the College Board. As these changes are purely administrative, they are not expected to engage any Charter rights.

Magistrates' Court Act 1989

This Bill will create administrative efficiencies in the MCV by requiring one instead of two Deputy Chief Magistrates in conjunction to the Chief Magistrate to make the rules of the court. As these changes are purely administrative, they are not expected to engage any Charter rights.

Crimes at Sea Act 1999

The Bill makes amendments to the *Crimes at Sea Act 1999* to update the applicable criminal jurisdictions for areas adjacent to Australia's coastline. The Crimes at Sea Act along with corresponding legislation in the Commonwealth, other Australian states and the Northern Territory ratify the national cooperative scheme for the operation of criminal jurisdiction in areas adjacent to Australia's coast. As the Crimes at Sea Act describes the criminal jurisdiction of Victoria, it engages rights in the Charter that are relevant criminal proceedings and the rule of law, including sections 21 to 27.

The Bill does not make any changes to the criminal jurisdiction of Victoria, the only changes to jurisdictions are to those of Western Australia and the Northern Territory. The remaining changes are purely technical as they only relate to updating references to Commonwealth legislation. On this basis it is considered that no Charter rights are engaged by the Bill in relation to the Crimes at Sea Act amendments.

Jaclyn Symes MP
Attorney -General
Minister for Emergency Services

Second reading

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:05): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms PULFORD: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Justice Legislation Amendment Bill 2022 makes a number of minor but important amendments to update and clarify the law and support procedural improvements. The Bill responds to recommendations arising from inquiries including the Legislative Assembly Legal and Social Issues Committee's *Inquiry into responses to historical forced adoption in Victoria* and the Szoke Review of Sexual Harassment in Victorian Courts and the Victorian Civil and Administrative Tribunal (or VCAT). The Bill also supports the Government's ongoing commitment to the equal recognition and protection of all Victorians under the law regardless of gender.

I turn now to the detail of the Bill:

Clarifying and improving the operation of the Equal Opportunity Act 2010

The Bill creates new exceptions to the secrecy provision within the *Equal Opportunity Act 2010*, enabling the Victorian Equal Opportunity and Human Rights Commission to disclose confidential information when it is necessary to promote the safety and wellbeing of others, including children.

Under these exceptions, the Victorian Equal Opportunity and Human Rights Commission can disclose information where there is a credible and imminent threat of harm to a person or persons, and to comply with a mandatory reporting obligation, such as the obligation to contact Victoria Police when a person reasonably believes that a sexual offence has been committed against a child. The appropriate sharing of information is vital in promoting the safety and wellbeing of others.

These changes align with existing information sharing schemes across family violence and child protection and will ensure the continued protection of some of the most vulnerable members of our community, such as children. The narrow scope of these exceptions will ensure that a person's right to privacy is respected, and confidential information is only shared when it is absolutely necessary to do so.

The Bill also creates a further exception to the secrecy provision to enable the Victorian Equal Opportunity and Human Rights Commission to disclose information to VCAT in respect of freedom of information review applications. Review of freedom of information decisions made by government and government agencies is a crucial accountability and transparency mechanism in our democracy, and it's important that this vital function of government can continue to proceed in an efficient and timely way, while also ensuring appropriate privacy protections are still in place.

The Bill will also amend section 83 the Equal Opportunity Act to include an avoidance of doubt provision which was inadvertently omitted from the *Equal Opportunity (Religious Exceptions) Act 2021*. The Religious Exceptions Act already includes the same avoidance of doubt provisions in sections 82, 82A and 82B. While the proposed amendment does not alter the legal operation of section 83 given it is an avoidance of doubt provision, it will aid with interpretation and provide greater clarity and consistency within the Act.

Gender inclusive language in the Charter of Human Rights and Responsibilities Act 2006

This Bill will update the *Charter of Human Rights and Responsibilities Act 2006* with gender inclusive language. This will include removing references to language such as 'his,' or 'her' and replacing these terms with language that does not denote gender, such as 'person.'

Adopting gender inclusive language within legislation is an important step in modernising our laws and ensuring they are inclusive for all Victorians.

We know that a gender inclusive society has many social benefits—including improving social inclusion and cohesion, and better health and wellbeing outcomes across the community. As the foundational human rights law in Victoria, it's important that the Charter reflects the more inclusive society we wish to be and should strive for.

The Government recognises that many other pieces of legislation contain outdated language. Addressing this issue for the Charter, which is a foundational document establishing equality for all Victorians, is an important first step but by no means the end of the process. Other legislation is being reviewed for inappropriate language and, as has occurred for some time now, will be updated progressively in conjunction with other reforms.

Reforms to the Adoption Act 1984 and Births, Deaths and Marriages Registration Act 1996

The Bill swiftly implements priority recommendations arising out of the Legislative Assembly Legal and Social Issues Committee's *Inquiry into responses to historical forced adoption in Victoria*.

The forced separation of children from their mothers is a shameful part of our history. For many people this has resulted in significant distress, grief and lifelong trauma. The government recognises the significant harm caused by these practices, which for many is still traumatic to this day. We are committed to providing meaningful acknowledgement and support to those who are impacted.

The Bill amends the *Adoption Act 1984* and the *Births, Deaths and Marriages Registration Act 1996* to enable the issuing of an integrated birth certificate upon request by an adopted person who is 18 years of age or above. An integrated birth certificate is a legal identity document which includes both the names of the adoptive and birth parents of the adopted person. It is of equal status to other birth certificates and will be issued free of charge for first time applicants. This is an important change that is already in place in other jurisdictions.

Providing an adopted person with the choice to obtain an integrated birth certificate is the most appropriate way to address the interests of people who are adopted, as recommended by the Inquiry. The right to choose balances the adopted person's right to have their identity and heritage recognised with their right to privacy and protection from unwanted disclosures.

The Bill improves access to adoption information for critical service organisations by providing the Secretary of the Department of Justice and Community Safety with a discretionary power to use and disclose adoption information. Adoption information can only be disclosed if the Secretary has considered the best interests of the adopted child or person and is satisfied in all the circumstances it is desirable to disclose such information.

In addition, the Secretary of the Department of Justice and Community Safety will have the power to obtain historical adoption records and information so they can be properly protected and be accessible into the future. It is vital that this history is preserved, to help ensure the mistakes of the past are never repeated.

The Bill will remove the requirement for a mandatory interview prior to the release of adoption records to adoptees and other applicants. The mandatory requirement will be altered to an 'offer' of counselling should it be required. This implements another recommendation of the Inquiry and recognises current modern practice.

The Bill will also make amendments that remove some of the current grounds for dispensing with consent to adoption of a child on grounds which indicate the child may be in need of protection. This will mean that where a situation of neglect or ill-treatment of a child exists, and the parents did not consent to the child being subject to an adoption order, the child could be kept safe and be cared for within the child protection system instead.

Increasing diversity and improving governance arrangements for the Judicial College of Victoria Board

The Bill will acquit Recommendation 7 from the Szoke Review of Sexual Harassment in Victorian Courts and VCAT by increasing the number of appointed directors on the Judicial College Board from 2 to up to 4 directors. This increase will help to ensure the education for Victoria's judicial officers is directed by a more culturally diverse and community-based Board of directors. This diversity will help the judiciary to tackle the problems of sexual harassment as well as ensuring judicial education is reflective of Victoria's diverse community.

Other amendments to the Judicial College governance processes will help to ensure that the College can continue to focus on providing the best education for Victorian judicial officers by streamlining their processes and reducing administrative inefficiencies.

The Bill will amend the decision making around rules of the court so that one or more Deputy Chief Magistrates are required to make rules of the court instead of two or more. This change better reflects the governance arrangements of the court and will assist to improve efficiencies in the court's operations.

Clarifying federal jurisdiction matters in the Victorian and Civil Administrative Tribunal Act 1998

The *Victorian Civil and Administrative Tribunal Act 1998* empowers the Magistrates' Court to resolve disputes involving federal jurisdiction that cannot be heard by VCAT.

Matters can be commenced in VCAT by 'application' by a party or by 'referral' from a third party, such as a public authority or Minister.

The Bill puts beyond doubt that existing provisions that allow people to apply to the Magistrates' Court to hear matters which were struck out, dismissed or rejected by VCAT or withdrawn on the ground that they involve federal jurisdiction, apply to 'referrals' as well as 'applications' and can be heard by the Magistrates' Court.

These amendments ensure the existing provisions are not interpreted in a way which would leave referring entities and parties to referrals without a legal avenue to resolve the matters if they involve federal jurisdiction.

Updating criminal jurisdictions in the Crimes at Sea Act 1999

The Bill will make technical amendments to update the *Crimes at Sea Act 1999*. Victoria is part of a national cooperative scheme for applying and enforcing criminal jurisdiction in areas adjacent to Australia's coast. Following the 2018 Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea, the areas of criminal jurisdiction adjacent to Australia's coastline were amended in the relevant Commonwealth legislation.

The amendment to the Crimes at Sea Act will achieve consistency with the national cooperative scheme by updating descriptions of the areas adjacent to Australia's coastline. The proposed amendments have no substantive impact on Victoria's criminal jurisdiction as they primarily relate to Western Australia's and the Northern Territory's criminal jurisdictions.

Amending the secrecy provision in Gender Equality Act 2020

The Bill also includes amendments that will support better gender equality outcomes in Victorian workplaces, helping to achieve the objectives of the *Gender Equality Act 2020*.

One of the functions available to the Public Sector Gender Equality Commissioner is to conduct dispute resolution for a systemic gender equality issue that adversely affects a group or class of employees within a designated body. Currently, the Commissioner is subjected to a secrecy provision which prevents them from using or disclosing information obtained during the course of dispute resolution. This Bill amends the secrecy provision in section 46 of the *Gender Equality Act 2020* to allow the Commissioner and specified persons to, in certain circumstances, use or disclose information obtained during the course of dispute resolution.

The amendments will allow the Commissioner to more effectively discharge their educative, research and reporting functions under section 36 of the *Gender Equality Act 2020*. They will also enable the Commissioner to enter into meaningful information sharing schemes with relevant bodies, including the Victorian Equal Opportunity and Human Rights Commission and the Fair Work Commission, where the information is relevant to the performance of the duties and functions or the exercise of powers of the Commissioner or that relevant person or body. This will support more effective processes and improve outcomes for affected parties, for example where a party to a systemic gender equality dispute referred to the Commissioner has also raised a related individual complaint of discrimination with the Victorian Equal Opportunity and Human Rights Commission. The amendments would also align the Commissioner's obligations under the *Gender Equality Act 2020* with obligations arising under other laws.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (18:05): I move, on behalf of my colleague Dr Bach:

That this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

VICTIMS OF CRIME (FINANCIAL ASSISTANCE SCHEME) BILL 2022

Introduction and first reading

The PRESIDENT (18:05): I have a final message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to provide a new scheme for providing financial assistance to victims of crime, to amend the **Victims of Crime Assistance Act 1996** and the **Victims of Crime Commissioner Act 2015**, to make consequential amendments to other Acts and for other purposes'.

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:05): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms PULFORD: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:06): 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 Victims of Crime (Financial Assistance Scheme) Bill 2022 (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.

Human rights issues

The Bill among, other things, provides a new scheme to assist victims of crime in their recovery from acts of violence.

The Bill engages the following rights under the Charter:

- privacy and reputation (s 13)
- fair hearing (s 24)
- right against self-incrimination (s 25(2)(k))
- property rights (s 20)
- freedom of expression (s 15)
- right to life (s 9)
- protection of families and children (s 17)

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

Improved access to financial assistance for more victims

The Bill implements the recommendations of the Victorian Law Reform Commission (VLRC) to reform state-funded financial assistance for victims of crime. The Bill establishes an administrative scheme that simplifies the application process for victims of crime and begins the transition away from the Victims of Crime Assistance Tribunal (VOCAT).

Importantly, the Bill will make the new financial assistance scheme victim-centred and trauma-informed and allow more victims to access support through a fair and consistent process. The scheme is designed to support victims of crime and their families to recover from acts of violence.

Clause 40 of the Bill allows a victim to request a victim recognition statement from the scheme decision maker, and clause 41 allows a victim to request a victim recognition meeting. This acknowledgement is a key-feature of the scheme to support a victim's recovery.

The scheme increases victims' eligibility to access seek financial assistance. The Bill expands, among other things, the definition of 'close family member' to better recognise contemporary understandings of familial relationships, including Aboriginal kinship relationships, and LGBTIQ+ chosen families. Importantly, the Bill removes the shared pool of financial assistance for families bereaved by homicide and enables them to make individual claims and so reduces the trauma and conflict in bereaved families by allowing the scheme to be more responsive to individual family members.

The Bill clarifies and makes it easier for victims to establish their claim. For example, the Bill removes the need for people applying to the scheme to establish 'mental illness or disorder' and provides a revised definition of injury to include 'psychological or psychiatric harm' instead. This aligns the new Victorian scheme with other jurisdictions across Australia.

The new scheme retains the position at VOCAT where all victims are currently required to provide a police report with their application. Where a victim has not reported the act of violence to the police and is not able

to establish the exceptional circumstances, that victim will not be eligible for financial assistance under the scheme. At a future stage, requirements could be reduced and streamlined through regulations by exempting certain victim cohorts, such as survivors of sexual assault and child abuse, from having their applications mandatorily refused for a failure to report the crime or assist in a police investigation or prosecution.

Finally, the Bill enshrines cultural safety for Aboriginal Victorians in its guiding principles (clause 6) and explicitly acknowledges that Aboriginal and Torres Strait Islander people have been disproportionately affected by the criminal justice system, which has contributed to intergenerational trauma and entrenched social disadvantage. While this is does not expand eligibility, the guiding principle in legislation enshrines the commitment to deliver a culturally safe service that considers Aboriginal and Torres Strait Islander cultural rights and familial connections.

General promotion of Charter rights

The Bill promotes victims' rights as set out in the Victims' Charter and which are beyond the scope of the civil and political rights protected by the Charter. The reforms also improve outcomes for victims of violent crime and their families and promote Charter rights including:

- the right to life (section 9) which encompasses a general obligation on the State to take positive steps to protect life, including by enacting schemes that uphold public welfare and safety and the scheme could be characterised as improving the standard of life of persons affected by violent crime
- the right to protection of family (section 17(1)) which includes a positive requirement on the State to provide protection to families as the fundamental group unit of society, and ensuring families are not deprived of support in unreasonable circumstances
- cultural rights (section 19) which includes the specific protection for Aboriginal persons at section 19(2), and provides that they must not be denied the right to enjoy their identity and culture, maintain kinship ties, or to maintain their distinct spiritual, material and economic relationship with the land, waters and other resources with which they have a connection under traditional laws and customs, and
- the right to privacy and reputation (section 13) which will be discussed further below.

No alleged offender notifications

This scheme will not notify a person who committed, or is alleged to have committed, an act of violence in respect of an application that an application has been made. Furthermore, a person who is alleged to have committed an act of violence is not entitled to make submissions or refute any allegations made against them. This aligns with recent amendments to the Victims of Crime Assistance Act 1996 to remove alleged offender notifications.

This engages both the rights to protection of reputation (section 13) and fair hearing (section 24) of alleged offenders.

Right to reputation (section 13)

Section 13(b) of the Charter provides that a person has the right not to have his or her reputation unlawfully attacked.

The scheme does not allow alleged offenders to refute allegations made against them and therefore may limit their reputational right. This feature implements the recommendations of the VLRC, who identified widespread concerns related the prospect of offenders being notified of hearings, which can significantly re-traumatise victims, raise concerns for their safety and wellbeing and ultimately discourage them from applying for assistance. I consider that protecting victims against these consequences provides a compelling justification for limits on offenders' rights.

Further, any interference with this right is mitigated through the confidentiality and non-publication provisions in the Bill which apply to application materials and decisions (clauses 57 and Division 1 of Part 6), which prohibit the publishing of materials that may identify any person connected with an application including an alleged offender (discussed further below). Additionally, the Bill does not abrogate a person's existing rights at law to protect their interests and reputation, including pursuing civil action such as defamation for any unlawful attacks on their reputation.

Accordingly, in my opinion any limitation of the right is reasonable and justified under section 7(2) of the Charter in the interests of protecting victims and furthering their capacity to access assistance under the scheme.

Right to a fair and public 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.

In my view, the 'non-notification' of offenders does not engage the right to fair hearing. While it is unsettled at law whether administrative applications for assistance before the scheme decision maker would constitute 'civil proceedings', in my view an offender would not be considered a 'party' to these proceedings. The applications are ultimately concerned with the payment of assistance and involve findings about whether the applicant was subject to an act of violence and is eligible to receive state funded assistance. Decisions and assistance paid are confidential and restricted from publication where it would identify a party. Accordingly, while the application may consider the identity of an alleged offender, any findings do not affect their legal rights and liabilities and they are not liable for the payment of assistance under the scheme. It is important to note however, the Bill does allow for the victim to assign its right to the State their right to recover from any other person, by civil proceedings, damages or compensation in respect of the injury or death to which the assistance relates.

In any event, even if this right is engaged, a limit on this right is reasonable and justified under section 7(2) of the Charter by reference to the benefit of promoting victims' interests and access to financial assistance, which is the fundamental purpose of the scheme.

Information gathering powers

The Bill provides the scheme decision maker with broad powers to obtain information to ensure the effective operation of the scheme and enable the scheme decision maker to perform their functions, including deciding applications for financial assistance.

Authorisation by applicant for decision maker to obtain information

Clause 22(1)(c) of the Bill requires a victim to provide an authorisation for the scheme decision maker to obtain any other information or document that the decision maker considers necessary to decide the application. This authorisation also allows the scheme decision maker to obtain information regarding any other applications made by the applicant for damages, compensation or assistance of any kind under another scheme, and to share information about the financial assistance application with another scheme that provides for damages, compensation, assistance or payments of any kind. Clause 56(1)(b) also enables the scheme decision maker to request a person to provide to the scheme decision maker any information or documents relevant to the application.

Clause 22(1)(c) makes a victim's application for assistance contingent on authorising the scheme decision maker to collect a broad range of information and documents about them. Further, information from the application may be disclosed to other decision makers under another scheme.

These provisions authorising broad information gathering and disclosure by the scheme decision maker engages the right to privacy (section 13).

Right to privacy

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. This includes a right to information privacy in relation to personal affairs.

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.

In my view this provision is reasonable and appropriate to the legitimate aim sought, which is to establish an accessible and streamlined financial assistance scheme for victims of crime. The ability of the scheme decision maker (or their delegate) to expeditiously obtain necessary information to allow assessment of an application will facilitate the scheme providing timely financial assistance to victims and ensure applications are decided on their merits. This in turn will promote the economic and social rights of victims by enabling victims to access support that assists in their recovery and so participation in the community and economy. Applications to the scheme are voluntary, and it is appropriate that a victim may need to share private information with the scheme decision maker to ensure their application is appropriately considered. Sufficient safeguards are in place, as highlighted, to ensure this information is not shared beyond what is necessary.

Confidentiality provisions in the Bill ensure that any information obtained by a decision maker is not disclosed, except in very limited circumstances. Interferences with privacy are further limited by the obligation on the scheme decisionmaker to act expeditiously to decide an application.

Accordingly, I consider that the right to privacy is not limited.

Notice to provide information

Clause 56 of the Bill gives the scheme decision maker the power to compulsorily obtain information and documents from any person other than the victim by written notice and creates an offence for non-compliance

with this written notice. The information the scheme decision maker may require in the written notice must be relevant to the performance of their functions.

The time for compliance with a written notice is not stipulated in the Bill but may be extended at the scheme decision maker's discretion. The clause contains what is in effect a defence of 'reasonable excuse' so that a person with a legitimate reason for not providing the requested information to the decision maker, or for not providing it within time, is not guilty of an offence under the provision. Importantly, this protects the right against self-incrimination (section 25(2)(k) of the Charter), such that a 'reasonable excuse' for not providing information to a decision maker would include the fact that the information would tend to incriminate them.

Given clause 56 and its offence provision involving the compulsory acquisition of potentially private information from a person, the right to privacy (section 13) is engaged.

Right to privacy

As discussed above, section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. I consider that clause 56 falls within the qualification on the right to privacy because it is reasonable and proportionate to the aim of enabling the scheme decision maker to appropriately and thoroughly evaluate applications for assistance in order to ensure that victims obtain timely financial assistance. The confidentiality protections contained in clause 57 that place non-disclosure obligations on the scheme decision maker and their staff mitigates any impacts on privacy rights.

As such, I am of the view that clause 56 of the Bill is compatible with the Charter.

Restriction of publication

Clauses 60–62 relate to the restriction of publication of documents and information relating to an application.

Clause 61 of the Bill restricts the publication of scheme documents, which includes those documents created in the performance of a function under the Bill by the scheme decision maker or a member of their staff that identifies or is likely to lead to the identification of a person who has made an application under the scheme or is otherwise connected with an application, or a copy or extract of any of these documents.

Subclause (2) then stipulates that a written notice of a decision made on an application, a victim recognition statement and any written material provided to a person by the scheme decision maker or other staff member at a victim recognition meeting, must not be published. Subclause (3) contains an exception for documents that are otherwise admissible as evidence in a legal proceeding and are required to be published pursuant to a court order in that proceeding.

Clause 62 similarly prevents the publication of any information related to a decision of a scheme decision maker or a member of their staff on an application that identifies, or is likely to lead to the identification of, a person who has made or is otherwise connected with the application. An adult applicant may also publish or consent to the publication of information pursuant to subclause (3) of the Bill, as long as the information only identifies them, or a person connected with the application who has consented to the publication. Subclause (4) then prevents the publication of information which would identify an under-age offender or alleged offender.

For both clauses, a 'person connected with an application' includes a person who committed, or is alleged to have committed, an act of violence in respect of which an application has been made.

Given these provisions will prevent, in particular, a victim of crime from publishing material connected to their application for assistance, the right to freedom of expression (section 15) is engaged.

Right to freedom of expression

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

The provisions seek to protect the privacy rights of victims of crime, by ensuring that personal and sensitive information connected with their applications for assistance is not published. This supports the overarching aim of encouraging victims to access assistance through the scheme by reassuring them that the process will be confidential.

Additionally, the provisions also prevent the publication of information which identifies a person connected with an application, including the person who has committed, or is alleged to have committed, an act of violence in respect of which an application has been made and other victims. As discussed above, alleged offenders are not a party to the application and have no right to test or refute the allegations made against them in the application process, these non-publication provisions protect against interferences with such a

person's reputation. Victims may talk about their experiences with the scheme and the contents of their application as long as they do not identify of others connected to the application without their consent.

I am therefore of the view that clauses 60–62 fall within the internal limitation of the right to freedom of expression and is therefore compatible with the Charter.

Admissibility of scheme materials in legal proceedings

Clause 63 of the Bill prohibits the following documents (including copies or extracts of or from them) from being admitted as evidence in any legal proceeding:

- an application for assistance or variation of assistance under the scheme
- a document accompanying an application that was prepared solely for the purposes of the application
- a document provided to the scheme decision maker, or a member of staff, in connection with an application that was prepared solely for the purposes of the application, and
- a document prepared by the scheme decision maker, or a member of staff, in connection with an application.

These documents are only admissible if a victim consents to the admission of such documents, or for one of the new scheme offences, for perjury or fraud related offences, or for offences involving an interference with the due administration of justice and may not be subpoenaed or otherwise compulsorily acquired under any court process (including through discovery obligations in civil proceedings).

Clause 64 provides that victims cannot be cross-examined on the contents of inadmissible documents or be compelled to consent to the admission of such documents, with subclause (3) requiring the court to advise the victim of the protected status of the documents and the consequences of the victim providing that consent. The court may also disallow cross-examination of a victim on the contents of a document that they have consented to be admitted it is considered appropriate in the interests of justice.

By deeming evidence inadmissible in other legal proceedings, the provision engages the rights to fair hearing (section 24) and criminal process rights (section 25).

Right to fair hearing (section 24) and criminal process rights (section 25)

Section 24 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 determines by a competent, independent and impartial court or tribunal after a fair and public hearing.

In addition, section 25 of the Charter identifies specific rights in criminal proceedings that can be characterised as elements of fair hearing, including the right to be presumed innocent until proven guilty (section 25(1)), the right to adequate time and facilities to prepare one's defence (section 25(2)(b))) and the right to cross-examine witnesses (section 25(2)(h)).

As these provisions may have the effect of prohibiting disclosure or admissibility of evidence that may be relevant to a criminal or civil proceeding, which may have the effect of disadvantaging a party in that proceeding, this may pose a limit on these rights. The Bill additionally provides that, within two years of the commencement, the Minister must cause an independent review to be conducted on the operation of the Bill, once passed. It is intended that, as part of the independent review, the operation of clause 63 will be considered to ensure that any limit on the accused rights to a fair trial remains reasonable and justified.

Nature of the right

A fair hearing includes a reasonable opportunity for each party to present its case. This includes the opportunity to be informed of the opposing party's case and to respond. The Supreme Court has also found that the right to a fair trial under Article 14 of the International Covenant on Civil and Political Rights and the principle of equality of arms that it incorporates includes the right of an accused person to seek documents from the prosecution that are necessary for a fair trial. This includes the right (which is expressly recognised in section 25) to obtain the attendance of, and examine witnesses, under the same conditions as the prosecution.

The precise content of the right is context-dependent, but the overarching concern is to ensure a party has a reasonable opportunity to put their case in conditions that do not place them at a substantial disadvantage compared to their opponent. This encompasses the duty of prosecutors to disclose relevant material to the accused in criminal proceedings that may assist in the defence, the subpoena process (to seek information from non-parties), as well as the discovery process in civil proceedings.

However, the High Court has acknowledged that, in some circumstances, the requirements of procedural fairness may be qualified where necessary to protect important countervailing interests. More broadly, courts have consistently recognised the importance of privacy rights of victims of sexualised violence, particularly with respect to communications made in a context of trust for the purpose of seeking support for recovery.

Importance of the purpose of the limitation

This provision serves the pressing importance of protecting a victim's right to privacy so that personal and sensitive documents are not admissible in the criminal proceedings of the alleged offender or other legal proceedings. Under the previous scheme, victims' records could be subpoenaed and used in criminal proceedings to challenge the credibility of a victim.

The scheme provides an entitlement for victims to apply for assistance to help them with their recovery from acts of violence. Having a victim's private and sensitive information compelled for production may cause further distress and emotional harm for a victim and may lead to further traumatisation. Protecting the integrity and informational privacy of the application process is about ensuring victims are not discouraged from seeking assistance or from providing the information necessary to determine their application.

The personal information prepared for the specific purpose of the application and provided to the scheme is not appropriate for use in legal proceedings without the victim's consent. Additionally, it may be particularly harmful for a victim if an alleged offender obtains information about the impact of the crime on the victim, including any physical or psychological injuries, and then uses that information against the victim. This may also undermine the benefit of any assistance provided under the scheme.

This purpose supports the victim-centred focus of the scheme, implements the recommendations of the VLRC and follows the approach adopted in New South Wales.

The nature and extent of the limitation

The right to a fair hearing does not protect against mere 'inconvenience.' The ultimate question is whether the provision would lead to a 'substantial disadvantage' for an accused in a criminal proceeding or party in a civil proceeding. Given that the content of the right to fair hearing is dependent on the context, the extent of the limitation on that right cannot be determined in the abstract.

However, it is possible that the provision may prevent the production or tendering of evidence relevant to a criminal proceeding, that relates to the credibility of a victim. For example, comparing the consistency of a victim's prior statements at different times may be used as a test of credibility.

The provision only applies to application material provided to the scheme and that was prepared solely for the purpose of the application, so pre-existing documents that were not prepared specifically for the application, or pre-existing documents held by other sources, may still be subpoenaed or otherwise adduced in legal proceedings. The provision will also not prevent a document being admissible as evidence in specified proceedings such as fraud or perjury offences, offences against the Bill or with the consent of the applicant.

Relationship between the limitation and purpose

The provision bears a rational connection to the legislative purpose, in that it promotes access to, and the integrity of, the scheme by ensuring that a victim's personal and sensitive information is protected from compelled disclosure.

Availability of less restrictive means

In my view, the provision seeks to protect and promote the right to privacy of victims, and to ensure that victims are not disincentivised from applying for assistance under the scheme, due to the fear that their personal and sensitive documents and information may potentially be disclosed to the alleged perpetrator of an offence against them.

As such, I am of the view that there are no less restrictive means available, consistent with the recommendation of the VLRC, which was made following a detailed public consultation and consideration of submissions of various stakeholders.

I am thus satisfied that this provision is compatible with the right to fair hearing.

Transitioning from the Victims of Crime Assistance Tribunal (VOCAT)

The transitional provisions of the Bill facilitate the transition to the new scheme from VOCAT awards, such that VOCAT can focus on finalising all pending matters. Clause 74 of the Bill provides that a recipient of assistance under the Victims of Crime Assistance Act 1996 may apply to the scheme decision maker for a substantive variation of their award, and more than once for a minor variation. A minor variation of an award means a variation that gives effect to the original intention of the award and a substantive variation is not a minor variation.

This provision seeks to allow recipients of assistance under the old regime to apply to the scheme to substantively vary their award to account for a change in circumstance. Victims may apply for a minor variation as many times as required, and victims may seek additional assistance through a substantive variation, are limited to one further application. This aims to promote the economic social and property rights of victims as the financial assistance scheme is overhauled.

However, this has the potential to limit the rights of those victims who, under the old scheme, were still within the period to apply for variations to their award. This engages a victim's property rights (section 20) of the Charter.

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.

'Property' is not defined in the Charter, and the scope of the right is yet to be examined by Victorian courts in any detail. Although 'property' is generally considered to include all real and personal property interests recognised under general law, it may include some statutory rights. Rights that have been recognised as 'possessions' under the European Convention on Human Rights include a court or arbitral award, but only if it is final and enforceable.

Accordingly, it is unclear as to whether a right to apply for a statutory award falls under 'property' for the purposes of section 20 of the Charter. In any event, section 20 contains a qualification: if a person is deprived of their property 'in accordance with law' there has been no limitation on the right under section 20. For deprivation of a property right to be lawful, the relevant law must be sufficiently accessible and precise to allow members of the public to regulate their own conduct.

In my view, clause 74 is sufficiently accessible and precise to allow for victims and other members to have certainty with regard to their rights, and to regulate their conduct accordingly. As such, I am of the view that even if the right to apply for a substantive variation of assistance is a property right, clause 74 of the Bill constitutes a lawful deprivation of any such property right, so that section 20 is not in fact limited.

Further, any limitation of property rights under section 20 of the Charter are reasonable and justifiable under section 7(2) of the Charter given clause 74 has the important purpose of providing certainty in the costing and resourcing of the new scheme, so that it can be implemented effectively without any risks to the ongoing viability of the scheme. Accordingly, it is necessary to partially cap historic claims, so that VOCAT can be abolished once all pending matters are finalised.

The Hon Gayle Tierney MP
Minister for Training and Skills

Second reading

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (18:06): I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Ms PULFORD: I move:

That the bill be now read a second time.

Incorporated speech as follows:

In 2018, the Victorian Law Reform Commission reported on its review of the Victims of Crime Assistance Tribunal (VOCAT) and its governing legislation, the Victims of Crime Assistance Act 1996. The VLRC found that the experience for victims in applying to VOCAT is highly retraumatising and requires engagement with an often complex, lengthy and delayed process. This is often after victims have already assisted police with investigations and been through the trauma of participating in a criminal prosecution process. Under the previous approach, victims often faced lengthy delays before receiving awards, and were sometimes exposed to the indignity of the perpetrator being notified to attend a hearing.

These issues were not new. For years, victims have been emphatically telling us that more work needs to be done to provide them with real access to justice. They have shown courage and fortitude, in drawing on their own experiences, to call for change in how victims of crime are treated and supported during what is likely to be one of the most difficult periods of their lives. They see the system as broken and in urgent need of being rebuilt. Rightly so, their expectations for reform are high.

This Bill tabled today, addresses these issues by establishing a new administrative financial assistance scheme for victims of crime that acknowledges the harm and experience of the victim and is built to assist in their recovery from acts of violence.

This Bill will bring Victoria in line with other jurisdictions that have shifted form a courts-based approach to an administrative scheme, ensuring that victims of crime in our community are given the financial support and assistance they need to help them recover from the far-reaching effects of violence. This is the most significant reform for victims of crime in Victoria in decades and is well overdue.

The Bill in detail

I now turn to the substance of the Bill in detail.

The Bill establishes a new administrative scheme overseen by a scheme decision maker which will sit within the Department of Justice and Community Safety, alongside other victim services, leading to greater streamlining and co-ordination with other major elements of our victim support system. The scheme is underpinned by a focus on assisting victims to understand their entitlement to assistance, to supporting their wellbeing and dignity, and is built on principles of ensuring the scheme is accessible and flexible in the assistance provided. These fundamental values are crystallised in the Bill as guiding principles which must be considered when making a decision and include:

- the need to protect victims from further trauma, intimidation or distress
- that victims' needs, safety and wellbeing must be paramount
- that the scheme must be accessible and flexible in the assistance provided, as victims' needs may vary, and
- the promotion of cultural safety for victims who are Aboriginal, Torres Strait Islander or both.

Building on the approach under the Victims of Crime Assistance Act 1996, the scheme will provide eligible 'primary victims', 'secondary victims' and 'related victims' with financial assistance to assist in their recovery from acts of violence, including assistance for counselling services, reasonable medical expenses and loss of earnings. Primary victims include victims who are injured as a direct result of an act of violence and are eligible for assistance up to $60,000. In addition to this assistance, primary victims are eligible for special financial assistance in recognition of the harm they suffered. Secondary victims include victims who are present at the scene of an act of violence, and related victims are those who had a close personal relationship with a deceased victim, both being eligible for up to $50,000 to assist in their recovery from an act of violence. Assistance is also available to anyone who has incurred funeral expenses as a result of an act of violence, and the scheme may pay interim assistance for immediate needs pending the final determination of an application. Furthermore, through regulations, the current maximum of special financial assistance available will be doubled from $10,000 to $20,000, or to $25,000 for 'related criminal acts' as defined under the scheme, therein increasing the assistance available to victims.

Recognising the delays that victims currently face at VOCAT, the Bill provides that the scheme must act expeditiously when deciding applications and cannot delay determination because there are pending legal proceedings. Once a decision has been made on an application, the scheme decision maker is obliged to provide to any applicant a written notice of decision as to the outcome of their application. Communication and correspondence from the scheme will be trauma informed and use a plain language approach to communication.

Some of the most significant changes from the current approach under the Victims of Crime Assistance Act 1996 include increasing the time-limit to make an application for victim survivors of family violence and survivors of sexual offences to 10 years and for other offences to three years. The Bill also increases the time limit to apply for a variation of assistance to 10 years. Importantly, the Bill retains the position that victims who were under the age of 18 years of age when the act of violence occurred, and where that act of violence consisted of or involved child abuse or family violence, may apply at any time. These measures will ensure that victims have enough time to feel comfortable enough to apply for the financial assistance they need.

The scheme will provide for meaningful acknowledgement of the harm and the ways in which the victim's experience has impacted their lives. To this end, and unlike any other jurisdiction around this country, the Bill will allow victims to request a victim recognition meeting. The scheme decision maker may hold victim recognition meetings if requested. This is to ensure that meetings are held in appropriate circumstances. The meeting, to be held after a decision on the application is made, will provide victims with an opportunity to have their experience acknowledged and for an appropriate representative to express their condolences on behalf of the State. The Bill also requires the scheme decision maker to ensure that a victim recognition meeting is held in a culturally safe manner which is tailored to, and prioritises, the victim's needs, safety and wellbeing. The victim will also have the opportunity to read aloud any statement or document which sets out the effects of the violence experienced by the victim and to discuss those effects with the scheme decision

maker. Victims will also be entitled to receive a victim recognition statement on behalf of the State, acknowledging the effects of the act of violence and expressing the State's condolences.

Victims will continue to be entitled to be represented by a legal practitioner, including Victoria Legal Aid, when applying to the scheme for assistance. However, the scheme is also designed to reduce reliance on legal representation by making the process simple and easy to understand. Victims will continue to be able to apply to the scheme to have the grant of assistance varied following final determination.

Victims who have applied to the scheme for financial assistance may apply to the scheme decision maker for internal review of a final decision. Decisions which can be reviewed internally include the decision to refuse an application for financial assistance, a decision of the amount of assistance payable and a refusal to vary assistance. An application for internal review must be made within 28 days of the original final decision, although the scheme decision maker retains the discretion to extend this deadline. The Bill also provides that those same types of decisions made by the scheme decision maker, or their delegate, can be reviewed externally by the Victorian Civil and Administrative Tribunal. Again, the Bill provides that an application for external review should be made within 28 days from the final decision reached by the scheme decision maker.

The scheme decision maker will be employed by the Secretary of the Department of Justice and Community Safety. The scheme decision maker will be supported by deputy decision makers and other staff.

The Bill provides the scheme decision maker with the functions required to administer the scheme and support victims in their recovery from acts of violence. Importantly, the Bill empowers the scheme decision maker to assist victims in their recovery from the effects of acts of violence by providing victims with information about the scheme and other support services and assistance available. This includes referring and connecting victims to other victim support services, including restorative justice initiatives, as victims may not be aware of the types of support services which are available to them. The scheme decision maker will have the power to request information from other bodies to assist in determining applications and must keep a victim's information confidential and only disclose it particular circumstances, which includes with the victim's consent and where required by another law.

The scheme decision maker, as statutory head of the scheme, may make, vary, revoke and externally publish guidelines about the performance of functions and the exercise of powers under the Bill. Guidelines are intended to provide support to the scheme making sound and reasoned decisions. Examples of the types of matters which could be outlined in publicly available guidelines include the documentary evidence requirements to support an application to the scheme, processes and procedures for the scheme decision maker to provide victim recognition meetings and statements, and considerations relevant to whether applications can be made and determined out of time. Published guidelines will provide flexibility to the scheme decision maker and their response to victims while ensuring transparency as to the decision-making process.

One consideration which the scheme decision maker must take into account when deciding whether to pay assistance or refuse an application is the character, behaviour and attitude of the applicant at any time, including their criminal history. It is not intended that an applicant's irrelevant criminal convictions will be taken into consideration as part of the decision-making process (such as taking into account an unrelated shop theft charge when considering an application related to a sexual offence), but instead ensures that the scheme decision maker has sufficient discretion to refuse to grant assistance to a person involved in the commission of the act of violence or where an application has been made improperly.

The Bill provides that an independent review of the Bill, the scheme and its operation must take place within two years after the commencement of the Bill. This reflects the VLRC's recommendation that a review into the operation and effectiveness of the Act and the scheme should take place. In fact, the Bill goes further than the VLRC recommendations, which proposed the review take place within five years after its commencement. Instead, the Bill ensures the review take place within two years after the commencement of the Bill and mandates that the review be an independent one. The report produced after that review must be tabled in Parliament within 10 sitting days after the report is received by the Minister. This measure promotes transparency while also ensuring that the scheme can respond to the evolving needs of victims.

Victims will be protected from further trauma by preventing their application for assistance from being used in other legal proceedings. The Bill better protects victims' information by preventing the subpoena of scheme materials and controlling the sharing of information held by the scheme decision maker. The Bill prevents scheme documents from being admissible as evidence in legal proceedings unless in limited circumstances (such as with the victim's consent), and provides that victims cannot be cross-examined in any legal proceeding on any scheme documents.

These protections are important steps towards reducing the risk that a victim will be subjected to the confronting and potentially traumatising experience of being cross-examined and the fear that their confidential information provided in support of an application will be used elsewhere. We know this is especially important to sexual assault victims, many of whom may have opted not to apply for assistance for

fear of having their personal information used against them in criminal proceedings. To ensure that this approach is working as intended and not adversely impacting legal proceedings and the administration of justice, this will be considered and reviewed as part of two year independent review of the Act.

The prohibition of the publication of any scheme documents or details of the outcome of an application for assistance likely to identify a person who has made, or is otherwise connected with an application, will protect the privacy of victims and other involved parties. Examples of scheme documents which are prohibited from being published include written notice of a decision made on an application, a victim recognition statement and any written material provided at a victim recognition meeting. However, the prohibition on publication does not restrict a victim from self-identifying publicly where the information published is not a scheme document or does not relate to an outcome of an application for assistance that would identify any other party, including the alleged offender or other victims. This measure balances the rights to privacy of all parties while ensuring that victims are not unduly restricted from publicly discussing their own experiences, should they wish to do so.

The Bill also amends the functions of the Victims of Crime Commissioner under the Victims of Crime Commissioner Act 2015 to confirm that the Commissioner can receive and deal with complaints referred by the scheme decision maker under the Bill and to perform any other functions conferred by the Bill and also amends reporting requirements under that Act.

In alignment with the VLRC's recommendation that VOCAT continue to consider and determine applications for assistance under the VOCA Act, upon the commencement of the scheme, new applications for financial assistance will be made to the scheme, rather than VOCAT. VOCAT will continue to operate until all pending matters are finalised. Victims who received an award from VOCAT will retain the ability to apply to vary this award, which is to be considered by the scheme and victims who withdrew their applications from VOCAT or where their applications previously lapsed will be eligible to apply to the scheme for assistance within the specified time limits.

The Bill allows for the expansion of the scheme in the future by providing that regulations can prescribe categories of victims as exempt from having to report the act of violence to police. Categories of victims that are exempt from the requirement, (such as survivors of sexual offences or victim survivors of family violence), must otherwise provide evidence to the scheme of the injury suffered. The scheme will also ensure it remains flexible to changing needs by allowing further offences to be prescribed in regulations, increasing the maximum amounts of assistance (including special financial assistance) or extending the time allowed for a victim to make a variation application.

This Bill represents the most significant reform to the State's response to victims of crime since the commencement of the VOCA Act in 1997, over twenty years ago now. The scheme established by this Bill is an essential step towards providing victims of crime with the support they deserve.

I commend the Bill to the House.

Mr ONDARCHIE (Northern Metropolitan) (18:06): On behalf of my colleague Mr Davis, I move:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Adjournment

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (18:07): I move:

That the house do now adjourn.

SHEPPARTON BYPASS

Ms LOVELL (Northern Victoria) (18:07): (1912) My adjournment matter is directed to the Minister for Transport Infrastructure, and it concerns the funding commitment from the state government for stage 1 of the Shepparton bypass project. The action that I seek from the minister is that she immediately commits the state government's funding contribution, being around 20 per cent of the cost, to complete stage 1 of the Shepparton bypass, to ensure work on this badly needed project can commence as soon as possible. Members will be aware of my continued advocacy for the Andrews Labor government to commit its share of the funding for stage 1 of the Shepparton bypass. I continue

this advocacy because this is a vital project for the Greater Shepparton community, and it is the number one priority infrastructure project for Greater Shepparton City Council. I also continue to fight for this project in response to Labor's continued ignorance of the Shepparton bypass and their steadfast refusal to support it with the appropriate funding investment.

Stage 1 of the project entails the construction of a 10-kilometre section of road from the Midland Highway in Mooroopna to Wanganui Road in North Shepparton. Stage 1 of the project will remove heavy vehicles, including B-doubles, from the Shepparton and Mooroopna CBDs; improve industry access to domestic and export markets; and provide a second river crossing between Shepparton and Mooroopna.

The only state funding for the project was $10.2 million, which was committed in the 2017–18 state budget to finalise planning for stage 1 of the bypass and upgrade the intersection of the Goulburn Valley Highway, Wanganui Road and Ford Road. More than five years and five state budgets have passed since that time, and not another cent has been committed, nor has any work on the intersection commenced. In fact all that has happened is that the estimated completion time has blown out by more than three years, from quarter 3, 2019–20, to quarter 4, 2022–23.

Considering a funding commitment of $208 million from the federal government was announced as part of the 2018–19 federal budget for the project, the lack of investment by the Andrews Labor government is inexcusable. The minister delayed the completion of the project's business case by two years and then marked it 'cabinet in confidence' upon forwarding it to the federal government, meaning the exact cost of stage 1 is unknown at this time. The Deputy Prime Minister, Barnaby Joyce, recently hinted in a local press interview that the cost of stage 1 could be in the vicinity of a billion dollars, yet the minister has continuously refused to comment on the cost of the project. Last week's state budget was the Treasurer's fifth opportunity to commit funding for stage 1 of the Shepparton bypass project, and still this vital project was ignored. The Greater Shepparton and Goulburn Valley communities deserve so much better. I call on the minister to support the bypass and commit 20 per cent of the funding needed to make it happen.

115 TRAWALLA AVENUE, THOMASTOWN

Dr RATNAM (Northern Metropolitan) (18:10): (1913) My adjournment matter tonight is for the Minister for Planning, and my ask is that he refuse the rezoning of 115 Trawalla Avenue, Thomastown, to industrial zone and keep the land in public ownership. 115 Trawalla Avenue is a section of open land along the eastern side of the Merri Creek in Thomastown. It forms part of the proposed Marram Baba Merri Creek regional parklands, which will connect existing reserves and green space along the Merri Creek from Campbellfield to Beveridge as part of the government's suburban parks program. These parklands provide much-needed open space in our northern suburbs as well as a really important vegetation and ecosystem habitat along the Merri Creek. This green patch acts as a buffer between the waterway and the urban area surrounding it, protecting the health of the creek and acting as a natural drainage corridor.

115 Trawalla Avenue on the creek frontage is currently owned by Melbourne Water and zoned for public use. However, Melbourne Water has requested that the land be rezoned from public use zone to industrial zone, arguing that the land is now surplus to requirements. Rezoning the land will allow it to be sold to its industrial neighbour, the Bertocchi Group. Bertocchi has already partly encroached onto the public land, building a warehouse and a car park over the Melbourne Water land. The move to rezone will effectively sanction this illegal encroachment on the creek frontage land by paving the way for the land to be handed over to Bertocchi.

Rezoning the land will also have a serious impact on the health of the Merri Creek. The Victorian planning provisions state that a vegetated zone buffer should be retained for 30 metres on each side of the creek to minimise erosion and pollution run-off and maintain natural drainage corridors. Selling the land would reduce the corridor from 22 metres near the southern end to 19 metres and from 32 metres at the northern end to just 15 metres. The likelihood that the strip of land can be retained

and rehabilitated as a vegetated buffer will all but vanish. The Friends of Merri Creek and other locals are rightly concerned at the potential loss of this land and have pointed out that the rezoning and sale of 115 Trawalla Avenue is contrary to both state planning policy and the planned creation of the Marram Baba Merri Creek regional parklands.

Authorising the rezoning and subsequent sale of the land sets a dangerous precedent that the government is willing to facilitate the sale of precious environmentally significant land along our waterways rather than fighting to retain it in order to protect the creek and the surrounding environment. What should be happening instead is that the plans should be negotiated on how this land can be used to increase the creek buffer, similar to what occurred at Spry Street in Coburg a few years ago. There was a similar proposal, but the council worked alongside the community and fought to stave off greater encroachment into the creek buffer, eventually purchasing the land themselves and returning it to environmental use.

We have just completed a landmark inquiry into biodiversity loss in this state. I would have thought that the government would be looking for every opportunity to halt further ecosystem decline, and here is an opportunity to do just that. I ask the minister to refuse to rezone 115 Trawalla Avenue to industrial zone and keep the land in public use.

KALKALLO COMMUNITY SAFETY

Mr ONDARCHIE (Northern Metropolitan) (18:13): (1914) My adjournment matter this evening is for the Minister for Police. Kalkallo residents are concerned about dangerous hooning and illegal dumping of commercial and building rubbish in their new suburb. I want to thank those Kalkallo residents who replied to my recent community survey. Kalkallo is such a diverse and wonderful community, with many Victorians building new homes. They are excited about their new area, but they want a safer and cleaner suburb in which to raise their families. There is hardly any police coverage in the Kalkallo area. To protect my residents the action I seek is for the government to provide extra police patrols to better deter hooning on Toyon Road and Dwyer Street, the illegal dumping of rubbish along Yucca Road and Pine Grove—to protect the Merri Creek near Bells Avenue—and antisocial behaviour near the wetlands on Bells Avenue. Kalkallos really care for their community; so should Dan's government.

CHILD PROTECTION

Mr QUILTY (Northern Victoria) (18:14): (1915) My adjournment debate tonight is for the Minister for Child Protection and Family Services. I have been contacted by a concerned couple who have court-directed full custody of their young grandchild. Their ordeal to this point has been costly, both mentally and financially. During the ordeal they have had firsthand experience of a child protection system that has no real interest or incentive in working for the safety of children. Their grandchild has been regularly exposed to physical violence and drug use when in his mother's care. Interestingly, child protection's reports and actions have encouraged reunification, regardless of his risks of harm. Just last Christmas he was exposed to his mother being assaulted by her current partner. It should come as no surprise that this young child is regressing, but child protection's response is to close the case because he is voluntarily in the care of his grandparents. On this point child protection has done very little, as his grandparents voluntarily took care of their grandchild after his mother abandoned him.

Almost four years on and after multiple incidents occurring when he has been in his mother's care they still cannot access kinship care payments. It is as if they have been punished for being proactive and voluntarily protecting their grandchild. His grandparents are technically classified as informal kinship carers, which makes them ineligible for support from government and non-government agencies. It begs the question: how many voluntary kinship carers are ineligible for support due to stepping in to take care of vulnerable children?

They are stepping in to take care of children who could otherwise become another domestic violence statistic on our news. Why are we punishing these people who are stepping in to do child protection's job when they will not do it? As kinship carers are appointed by the Department of Families, Fairness and Housing, I am sure child protection's eagerness to close cases regardless of risk has ensured that many kinship carers are left in the informal boat. Minister, why must extended family networks watch on and wait for children to be traumatised and abused before they can get an acceptable response from child protection?

The action I am seeking from the minister is that he investigates and reports on the number of children who are currently in voluntary kinship care arrangements in the state of Victoria; identifies from those how many carers have requested financial support by the kinship carers payment; identifies how many of those have been successful in receiving the payment, and of those who have been unsuccessful and have not received support; identifies the length of time at-risk children have been in their care; and provides an estimate of the financial cost being placed on voluntary kinship carers.

It is good that family members step in to help children at risk, and if they can afford to care for them themselves, that is fine. But many family members struggle under the financial burden. Kinship carers should not have a financial incentive to leave children at harm until the government gets around to intervening.

PATTERSON RIVER LAUNCHING RAMP

Mr RICH-PHILLIPS (South Eastern Metropolitan) (18:16): (1916) I wish to raise a matter for the attention of the Minister for Fishing and Boating in the other place, and it relates to the state of the Patterson River launching ramp, which is the busiest launching ramp on the bay, the busiest one in my electorate and one that is in an advanced state of decline due to the neglect of this government.

I have received correspondence from councillors at the City of Kingston regarding the way in which that boat ramp has decayed, the facilities have decayed, and the fact that the government has provided no funding for its maintenance. In fact correspondence to the council from Department of Environment, Land, Water and Planning states that:

> With no funds at the moment between PV—

Parks Victoria—

> or DELWP, if things fail then they'll get closed off to the public.

That is not the way to run a public boat ramp. That is not consistent with the commitment this government made going into the 2018 election. When commitments were made around reducing ramp fees, it was not to be at the cost of simply closing ramps because the government could not be bothered providing any funding for them.

The state of the ramp at Patterson Lakes is dire. There are issues with foundations, issues with cracking and slipping for pedestrians because of surface problems, walkway lights malfunctioning et cetera—a very long list of failures as a consequence of the inability for maintenance to be done because no funding has been provided. In fact in other correspondence DELWP has indicated to the council:

> DELWP has no budget whatsoever for Patto—

the Patterson River boat ramp. This is simply unacceptable. This is the busiest ramp on the bay. It is the busiest ramp in my electorate. The government made a lot of commitments around supporting recreational boating going into the 2018 election, and I call on the Minister for Fishing and Boating to ensure that budget funding is allocated for the Patterson River boat ramp so that the essential maintenance can be completed and the ramp can be fully reopened.

CAIRNLEA DEVELOPMENT

Dr CUMMING (Western Metropolitan) (18:18): (1917) My adjournment matter is for the Minister for Planning in the other place, and the action that I seek is for the minister to ensure that the concerns of the Brimbank council and local residents are taken into account and to ensure their safety during any development at the Cairnlea site. Residents and Brimbank council have expressed concerns over the development of the 41-hectare site on Ballarat Road for a new residential development. Local residents hold serious concerns over the rehabilitation of the site, which used to be the Albion Explosives Factory.

The minister was given planning control over the site on the request of Development Victoria, removing the council as the responsible planning authority. Council is concerned, as this may create a burden for the council and the community in the future if issues are not addressed correctly. They have also raised concerns about the density of the proposed development, the lack of trees at the site, the lack of adequate public transport and the management of contaminated soil and the contamination of the site as a whole. A number of the proposed community facilities have not been fully funded, there are no open spaces and the roads do not meet the council's standards.

This is yet another example of this government pushing aside local council and local government in order to push through substandard developments. It is nothing more than a desperate attempt to make money and to try and disguise it by actually telling us that it is making it into affordable and social housing. Let us be honest: this is substandard housing and a substandard development, just the same as they are doing in Braybrook, overdeveloping an area that has hardly any public transport and again pushing our local councils aside in the process. People in the west deserve better than this. They deserve to have the same infrastructure, the same green spaces and the same access to public transport as anywhere else in Melbourne. It is not good enough to have a substandard development here in the west. We deserve all the bells and whistles. We deserve all of the amenity.

ROYAL CHILDREN'S HOSPITAL

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (18:21): (1918) My matter for the adjournment tonight is for the attention of the Minister for Health and possibly for referral to the health complaints commissioner. It is a complex story, and there is obviously a very difficult circumstance here with illness. It relates to correspondence I have received from Christina Tutone, who is a resident in my electorate who lives in South Yarra. She has a son, Andrew. He went on a school trip with Trinity Grammar in July 2019 to Beijing. A healthy boy of 14 years old, academically above average, he became gravely sick on the trip to China with an outbreak of flu virus which spread amongst boys and teachers. He ended up in the Beijing United Family Hospital for three weeks in the ICU. The treatment was working, with improvements, and then Andrew was flown back via medevac to Australia and to the care of the Royal Children's Hospital neurology team. The Royal Children's stopped the treatment that the Chinese doctors had been using, but they failed to engage with the parents fully. There were no medical tests or assessments undertaken by the Royal Children's, nor medical intervention. Andrew's condition significantly worsened, with dire consequences impacting Andrew's neurological and psychological health, and he was left with ongoing seizures.

This is a very difficult and complex case diagnostically, I have no doubt. A 14-year-old boy becomes sick, with doctors treating him in China; he comes back here, and the experience here is not satisfactory, let me say. The evacuation plan had been worked out. He was given a diagnosis here of functional neurological disorder, stated as a conversion disorder, and he was told it was all in his head. The hospital refused to undertake any comprehensive medical examinations. They continued the nasal swabs. Letters and calls were made to Dr Monique Ryan, the director of neurology, for her to meet with the parents, but they were dismissed. No engagement took place. During this entire period Andrew was continuing to have severe head pain, which had continued since he first became unwell.

Now there is a difficult family situation, with the parents divorced. I am not doubting any of the complexity of this, but ultimately it seems that there is a question about the Royal Children's Hospital's

approach. It appears to have destroyed the family arrangement, and the refusal to acknowledge any of the input from the Chinese doctors appears unfortunate too. As a direct result of the RCH and the director of neurology Dr Monique Ryan's refusal to carry out due diligence, the mother believes Andrew has suffered brain trauma, resulting in his life being devastated. A previously strong family unit has been destroyed, and I ask that the health minister investigate this matter to see what, if any, misbehaviour or errors have occurred and refer it to the health complaints commissioner as required.

WESTERN METROPOLITAN REGION GREEN WEDGE PLANNING

Mr FINN (Western Metropolitan) (18:24): (1919) I wish to raise a matter on the adjournment this evening for the Minister for Energy, Environment and Climate Change. I have spoken in this house at least a couple of times before on my support for the greening of Melbourne's west. With new subdivisions appearing almost daily and new suburbs popping up all over the place, there is an urgent need for more trees to be planted, particularly when you consider the Andrews government has been on a cutting-down-trees spree on Sunbury Road. We need those replaced before we can get any further. That is in a green wedge, by the way. I never thought I would see a Labor government chopping down trees in a green wedge, but anyway, that is the way this government rolls. The trees I suggest would be good for the aesthetics, they would be good for air quality and, you never know, they might be even good for the environment—even for the climate. If that is what it takes, if I have to say that to get these trees, I am prepared to go that far.

The west needs more trees urgently. And I am not just talking about a few trees, I am talking about tens of thousands of trees as soon as possible. Visiting a local nursery lately I spoke to the owner, and he pointed out to me that many of the trees that are being planted in the west now are actually being supplied from the other side of Melbourne. That to me seems to be quite absurd when local nurseries could provide those trees, and of course they would not have to travel. It would be environmentally friendly to have them provided by local nurseries. What I am wanting is trees for the west from the west. I do not think it is asking too much. What I am asking the minister to do is to provide some leadership on this particular matter and to work with councils, to work with developers and to work with those voluntary groups in the community that are also keen to ensure that more trees are planted in Melbourne's west. A canopy of green would be absolutely magnificent in the west. As I have said before, the leafy green suburbs should not be just in the eastern suburbs but very, very soon should be in Melbourne's west as well. So I ask the minister to do that. I think it is very, very important, and it will go a long way towards making Melbourne's west a more livable place for us all.

RESPONSES

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (18:27): There were eight adjournment matters this evening, and responses will be sought from the relevant ministers in accordance with the standing orders for members.

The PRESIDENT: On that basis, have a good weekend. The house stands adjourned.

House adjourned 6.28 pm until Tuesday, 24 May.