Hansard

LEGISLATIVE COUNCIL

60th Parliament

Thursday 30 October 2025

By authority of the Victorian Government Printer

Members of the Legislative Council

60th Parliament

President

Shaun Leane

Deputy President

Wendy Lovell

Leader of the Government in the Legislative Council

Jaclyn Symes

Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

Leader of the Opposition in the Legislative Council

David Davis (from 27 December 2024)
Georgie Crozier (to 27 December 2024)

Deputy Leader of the Opposition in the Legislative Council

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

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

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

Party abbreviations

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

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Thursday 30 October 2025

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

Bills

Voluntary Assisted Dying Amendment Bill 2025

Introduction and first reading

The PRESIDENT (09:33): I have received a message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Voluntary Assisted Dying Act 2017** to improve the experience of voluntary assisted dying, to consequentially amend other Acts and for other purposes.'

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (09:34): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Ingrid STITT: I move, by leave:

> That the bill be read a second time forthwith.

Motion agreed to.

Statement of compatibility

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (09:34): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Voluntary Assisted Dying Amendment Bill 2025 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with, and promotes, the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> This Bill introduces amendments to the *Voluntary Assisted Dying Act 2017* (**VAD Act**) which was introduced in 2017 and came into effect in June 2019. The purpose of the Bill is to improve equity of access to, and the experience of people in Victoria who seek voluntary assisted dying as part of their end-of-life care.
>
> **The importance of the Bill**
>
> The VAD Act establishes a mechanism for adults with decision-making capacity who are suffering from a serious and incurable condition to access voluntary assisted dying. The voluntary assisted dying framework established in the VAD Act seeks to strike the appropriate balance between ensuring that eligible persons have access to high quality end-of-life care, consistent with their preferences, while at the same time requiring robust eligibility criteria to protect against abuse, such as through undue influence or coercion.
>
> Following the commencement of the VAD Act, the framework provided for in the VAD Act – which includes a prescriptive, multi-stage assessment process with numerous safeguards and comprehensive oversight – has received consistent stakeholder feedback, including by way of stakeholder contributions to the 'Five Year Review into the Operation of the Voluntary Assisted Dying Act 2017' (the **5-Year Review**), identifying some processes and safeguards having the unintended effect of impeding access to, and the timeliness of, voluntary assisted dying in Victoria.
>
> In response to this feedback and the evidence set out in the 5-Year Review, this Bill removes a number of access barriers in, and unintended consequences flowing from, the VAD Act. The amendments set out in the

Bill seek to uphold the rights of persons who face death because of an incurable disease, illness or medical condition, to live their lives with freedom and dignity, while at the same time, retaining the necessary safeguards to prevent any potential exploitation or abuse arising in the context of voluntary assisted dying, ensuring confidence in the operation of the VAD Act.

In this context, the Bill makes the following amendments to the VAD Act:

- allowing registered health practitioners to initiate discussions about voluntary assisted dying with patients;
- requiring registered health practitioners who conscientiously object to voluntary assisted dying to provide minimum information about voluntary assisted dying to patients;
- adding an 'ordinarily resident' requirement to satisfy Australian residency requirements;
- providing an exemption to the Victorian residency requirement;
- removing the third assessment requirement for neurodegenerative conditions;
- introducing an exemption process to interpreter accreditation requirements;
- providing that medical practitioners cannot be a family member, beneficiary or otherwise benefit from a voluntary assisted dying applicant's death;
- reducing the timeframe between the first and final request for voluntary assisted dying;
- extending the prognosis requirement from 6 to 12 months;
- simplifying permits to improve applicant choice and prevent delays due to permit change and introducing an 'administering practitioner' role;
- amending the medical practitioner eligibility requirements to reduce years of experience required;
- removing forms from the VAD Act and instead providing in regulations; and
- requiring additional review of the VAD Act.

Human rights

In light of the scope of this Bill, this Statement of Compatibility commences with an outline of the rights generally engaged by the Bill and then discusses the compatibility of relevant provisions of the Bill with those rights.

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

Right to equality and protection from discrimination (section 8)

Section 8(1) of the Charter provides that every person has the right to recognition as a person before the law. Section 8(3) provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. The purpose of this component of the right to equality is to ensure that all laws and policies are applied equally, and do not have a discriminatory effect. 'Discrimination' under the Charter is defined by reference to the definition in the *Equal Opportunity Act 2010* (**EO Act**) on the basis of an attribute in section 6 of that Act. Direct discrimination occurs where a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. Indirect discrimination occurs where a person imposes a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with a protected attribute, but only where that requirement, condition or practice is not reasonable.

Right to life (section 9)

Section 9 of the Charter provides that every person has the right not to be arbitrarily deprived of life. An 'arbitrary' deprivation of life may be described as one that is unreasonable or disproportionate. The right imposes a negative obligation on public authorities to refrain from conduct that causes an arbitrary deprivation of life, and it is possible that it also imposes some positive obligations to take steps to prevent arbitrary deprivation of life such as introducing appropriate safeguards to minimise the risk of loss of life. The right to life is said to be an inherent and 'supreme' right, without which all other human rights would be devoid of meaning. However, despite the fundamental nature of the right, it is not absolute, meaning that it can be limited where justifiable.

Right to protection from torture and cruel, inhuman or degrading treatment (section 10)

Sections 10(a)–(b) of the Charter provide that a person must not be subjected to torture or treated or punished in a cruel, inhuman or degrading way. The right is concerned with the physical and mental integrity of individuals, and their inherent dignity as human beings.

Cruel or inhuman treatment or punishment includes acts which do not constitute torture, but which nevertheless possess a minimum level of severity. Degrading treatment or punishment involves acts of a less severe nature again but which inflict a level of humiliation or debasement of the victim. Whether conduct meets the necessary threshold will depend upon all the circumstances, including the duration and manner of the treatment, its physical or mental effects on the affected person, and that person's age, sex and state of health.

Right to privacy (section 13)

Section 13(a) of the Charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with. The fundamental values which the right to privacy protects include physical and psychological integrity, individual and social identity, and the autonomy and inherent dignity of the person. 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.

Right to freedom of thought, conscience religion and belief (section 14)

Section 14(1) of the Charter provides that every person has the right to freedom of thought, conscience, religion and belief, including the freedom to have or adopt a religion or belief of one's choice, and to demonstrate one's religion or belief individually or as part of a community. The concept of 'belief' extends to non-religious beliefs, as long as they possess a certain level of cogency, seriousness, cohesion and importance. This right is grounded in the principles of personal autonomy and self-determination. It also acknowledges that people may live their lives in accordance with their beliefs and that the State should not arbitrarily interfere with the expression of people's beliefs. While the freedom to hold a belief is considered absolute, the freedom to manifest that belief may be subject to reasonable limitations.

Right to liberty and security of the person (section 21)

Section 21 of the Charter provides that every person has the right to liberty and security, including the right not to be subject to arbitrary arrest or detention. It has been suggested by the Victorian courts that the right to security of the person in section 21(1) may be broader than just physical freedom and is an instance of the human right to personal integrity or inviolability, which in turn is an expression of the bedrock value of human dignity.

Human rights issues

Allowing registered health practitioners to initiate discussions about voluntary assisted dying with eligible patients

Clause 7 of the Bill substitutes current section 8 of the VAD Act with new sections 8 and 8A.

Current section 8 of the VAD Act prohibits registered health practitioners who provide health services or professional care services from initiating discussions with their patient about the availability of voluntary assisted dying. That is, a registered health practitioner can only provide information about voluntary assisted dying if the patient requests such information on their own initiative. The provision was inserted as a safeguard to ensure that patients were not pressured, or felt pressured, by their health practitioner to consider, or undergo, voluntary assisted dying. However, the 5-Year Review, and stakeholder feedback generally, has shown that that the prohibition in current section 8 has had the unintended effect of negatively affecting patients' awareness of the end-of-life options available to them.

It is against this background that new section 8 provides that a registered medical practitioner or a nurse practitioner who provides health services or professional care services to a person may initiate a discussion with that person about voluntary assisted dying if the discussion is in the course of a discussion about end-of-life care, and in doing so, they take reasonable steps to ensure that the person knows about the treatment and palliative care options available to the person and the likely outcome of those treatments.

New section 8A provides that registered health practitioners – who provide health services or professional services to a person and are not a registered medical practitioner or nurse practitioner – may initiate a discussion about voluntary assisted dying with the person if the discussion is in the course of a discussion about end-of-life care, and, in doing so, advises the patient that the most appropriate person with whom to discuss available treatment and palliative care options and voluntary assisted dying, is their medical practitioner.

Right to life (section 9)

The scope of the right to life in section 9 of the Charter is unsettled and may, on a broad reading, impose a positive obligation on the State to take positive steps to prevent arbitrary deprivation of life, such as by implementing safeguards to minimise the risk of loss of life. The removal of the prohibition on registered health practitioners to raise voluntary assisted dying may be seen as the removal of a safeguard previously

legislated to minimise the risk of loss of life. This being so, the voluntary assisted dying framework provided under the VAD Act is carefully and appropriately confined through stringent eligibility criteria (Part 2 of the VAD Act), a multi-stage request and assessment process (Part 3 of the VAD Act) as well as other safeguards that protects against abuse of vulnerable persons in end-of-life care.

Accordingly, to the degree that clause 7 of the Bill engages the right to life, the very limited circumstances in which voluntary assisted dying may be accessed, together with the numerous safeguards embedded in the voluntary assisted dying process, I am of the view that any possible limit on right to life is demonstrably justified in a free and democratic society.

Right to personal autonomy and dignity of the person (sections 13(a) and 21(1))

In Canada, the Supreme Court has held that a prohibition on voluntary assisted dying would contravene the 'right to life, liberty and security of the person'. The Court found that the right relates to a person's autonomy and quality of life and by denying a person the opportunity to determine the manner and timing of their death in response to serious pain and suffering, the person was denied their right to liberty and security. While section 21(1) of the Charter differs from the Canadian provision in that it does not include the word 'life', section 21(1), if directly considered by the Victorian courts, may be found to relate to the autonomy and quality of life of a person, rendering the withholding of an opportunity to determine the manner and timing of one's death in response to serious pain and suffering an infringement on the right to security.

It follows that clause 7 of the Bill, which seeks to ensure that eligible persons are properly informed of their end-of-life options and provided the ability to make well informed choices about the manner and timing of their death, promotes their right to physical and psychological integrity, personal security, mental stability, autonomy and inherent dignity. Accordingly, the rights in section 13(a) and 21(1) of the Charter are, in my view, promoted by clause 7 of the Bill.

Right to protection from inhuman treatment (sections 10(b))

Whether conduct meets the necessary threshold of cruel, inhuman or degrading treatment for the purposes of section 10(b) depends upon all the circumstances, including the duration and manner of the treatment, its physical or mental effects on the affected person, and that person's age and state of health. Ensuring that eligible persons who are suffering without relief from a serious and incurable condition are informed by their medical practitioner or medical team of voluntary assisted dying which would allow them to determine the timing and manner of their death and reduce their suffering at the end of their lives, does, in my view, promote the right in section 10(b).

Requiring health practitioners who conscientiously object to voluntary assisted dying to provide minimum information about voluntary assisted dying to patients

Recognising that some medical practitioners conscientiously object to voluntary assisted dying, section 7 of the VAD Act currently provides registered health practitioners with the right to refuse participating in the voluntary assisted dying process. This includes the right to refuse the provision of information about voluntary assisted dying to a patient. Further, section 13 provides registered medical practitioners to whom a first request for access to voluntary assisted dying is made, the right not only to refuse the request, but also to refrain from providing the patient with information about the process and other medical practitioners able to assist the patient.

Recognising that the right of refusal in sections 7 and 13 of the VAD Act has negatively affected equitable access to voluntary assisted dying, clause 6 of the Bill amends section 7 so as to require all registered health practitioners who conscientiously object to voluntary assisted dying to advise patients that another registered health practitioner or health service provider may be able to assist them in relation to information about, or access to, voluntary assisted dying, and to provide patients with pre-approved information about voluntary assisted dying. Similarly, clause 12 introduces new section 13A to require all registered medical practitioners who refuse a first request for voluntary assisted dying to advise patients that another registered medical practitioner may be able to assist them in relation to the person's first request, and to provide patients with pre-approved information about voluntary assisted dying.

Right to freedom of thought, conscience religion and belief (section 14)

Introducing the requirement that registered health practitioners who conscientiously object to participate in the voluntary assisted dying process or registered medical practitioners who refuse a first request for voluntary assisted dying, must provide to patients who request information about, or access to, voluntary assisted dying, with pre-approved information about the service and advise patients that another registered health practitioner or health service provider may be able to assist the patient, may engage these practitioners' right to freedom of thought, conscience, religion and belief. This right is grounded in the principles of personal autonomy and self-determination and the principle that the State should not arbitrarily interfere with the expression of

people's beliefs. However, while the freedom to hold a belief is considered absolute, the freedom to manifest that belief may be subject to reasonable limitations.

Having regard to the findings in the 5-Year Review discussed above, I consider the requirements imposed on practitioners to be a reasonable limitation on their freedom to manifest their objection to voluntary assisted dying. This is particularly so when having regard to the fact that practitioners who conscientiously object to voluntary assisted dying remain free to refuse to participate in the request and assessment process; apply for a voluntary assisted dying permit; supply, prescribe or administer a voluntary assisted dying substance; be present at the time of administration of a voluntary assisted dying substance, or dispense a prescription for a voluntary assisted dying substance.

Furthermore, when balancing practitioners' and patients' right to freedom of thought, conscience, religion and belief, and the patients' rights to personal autonomy and dignity and protection from inhuman treatment, I consider the limitation on practitioners' freedom to manifest their belief, by way of consciously objecting to voluntary assisted dying, to be minimal and demonstrably justified in a free and democratic society. This is especially so, when considering that health professionals should not allow their own beliefs to interfere with their patients' access to lawful medical treatment.

For these reasons, I am of the opinion that the right to freedom of thought, conscience, religion and belief, if limited by clauses 6 and 12 of the Bill, is reasonably justified.

Adding an 'ordinarily resident' requirement to satisfy Australian residency requirements and providing an exemption to the Victorian residency requirement

Section 9 of the VAD Act contains the eligibility criteria for access to voluntary assisted dying in Victoria. Section 9(1)(b) deals with the residency requirements and subsection 9(1)(b)(i) provides that in order to be eligible to access voluntary assisted dying the person must be a citizen or permanent resident in Australia. The meaning of 'permanent resident' has been interpreted consistently with Commonwealth law as being limited to a holder of a permanent resident visa. This has had the effect of precluding many Australian residents who, while entitled to reside in Australia, are not permanent residents. New section 9(1)(b)(iii), extends the eligibility requirement to persons who at the time of making a first request, have been ordinarily resident in Australia for at least 3 years.

Further to the Australian residency requirement, current subsections 9(1)(b)(ii) and (iii) imposes a Victorian residency requirement by providing that a person must be an ordinarily resident in Victoria and, at the time of making a first request, the person must have been an ordinarily resident in Victoria for at least 12 months. This State residency requirement has had the effect of excluding persons who live in communities outside of Victoria but near the border and who access health, residential aged or palliative care or have family support in Victoria. It also excludes persons who have only recently moved to Victoria. Clause 9 of the Bill inserts new section 9A which provides an exemption to the State residency requirement where the applicant can show that they have a substantial connection to Victoria or there are compassionate grounds that warrants an exemption.

Right to equality and protection from discrimination (section 8)

Section 6(1) of the Charter provides that all persons physically present in Victoria – irrespective of their citizenship or residency status – have the human rights set out in Part 2 of the Charter. Section 8(3) of the Charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

Under the current s 9(1)(b) of the VAD Act, only a person who is ordinarily resident in Victoria and either an Australian citizen or permanent resident may access assisted dying. Although citizenship or permanent residency status is not an attribute protected in section 6 of the EO Act, the attribute 'race' has been defined to include 'nationality or national origin'. Courts have in turn considered that the term 'nationality' can be equivalent to citizenship, leaving it open that a requirement that a person must be an Australian citizen or permanent resident in order to access voluntary assisted dying amounts to discrimination on the ground of race.

Extending the eligibility criteria in current s 9(1)(b) of the VAD Act, so as to include persons who while entitled to reside in Australia, are not citizens or permanent residents, arguably promotes the right to equality and protection from discrimination in s 8 of the Charter. Further, the amendments to the Australian and State residency requirements promotes the rights of persons who suffer from a terminal illness at the end of their lives, and who previously did not fulfill the residency criteria under section 9(1)(b), to personal autonomy and dignity and protection from inhuman treatment under sections 13(a), 21(1) and 10(b) of the Charter.

Removing third assessment requirement for neurodegenerative conditions

A person suffering from a life-limiting illness who wants to access voluntary assisted dying is under the VAD Act required to be assessed for eligibility by two separate medical practitioners, and for neurodegenerative conditions, by three separate medical practitioners.

The 5-Year Review has shown that the requirement for an additional third consultation for those suffering from a neurodegenerative condition unnecessarily lengthens and complicates the voluntary assisted dying process for patients. To remove the third assessment requirement in the VAD Act, clause 15 repeals sections 18(4), 18(5) and 18(6) of the VAD Act.

Right to equality and protection from discrimination (section 8)

A neurodegenerative condition that affects a person's physical or mental functions is a disability which is an attribute protected under section 6 the EO Act. Accordingly, a person must not be discriminated against based on their neurodegenerative condition. The removal of the additional third consultation applicable to persons suffering from a life-limiting neurodegenerative condition promotes their right not to be discriminated against under s 8(2) of the Charter as it removes the additional hurdle presented by the legislation in regard to persons suffering from this condition seeking to access voluntary assisted dying. By repealing sections 18(4), 18(5) and 18(6) of the VAD Act and aligning the voluntary assisted dying process for persons with neurodegenerative conditions with persons with other life-limiting illnesses, the inequitable application of the VAD Act to the subset of applicants suffering from a neurodegenerative condition is removed.

By reducing the burden on, and improving assessment timeliness for, persons suffering from life-limiting neurodegenerative conditions, their right to personal autonomy and dignity in sections 13(a) and 21(1) and their right to protection from inhuman treatment in section 10(b) are also promoted by the Bill.

Introducing an exemption process to interpreter requirements

Section 115(a) provides that an interpreter who assists a person in relation to requesting access to or accessing voluntary assisted dying must be accredited by a prescribed body. Clause 75 of the Bill inserts new section 115A which provides that a person who requires the assistance of an interpreter may apply to the Secretary for an exemption from the requirement of having an accredited interpreter where an interpreter accredited in accordance with section 115(a) is not available and there are exceptional circumstances that warrant the exemption.

Right to equality and protection from discrimination (section 8)

The amendments introduced in the VAD Act seek to improve access to the voluntary assisted dying process for Victorians that are from small language communities where accredited interpreters are either not available or are difficult to access. New section 115A creates an exemption process overseen by the Secretary, where the Secretary is able to grant an exemption if satisfied that no accredited interpreter is available in the particular case and there are exceptional circumstances for granting the exemption.

Although language is not in and of itself an attribute protected in section 6 of the EO Act, the attribute 'race' is often seen to encompass the language spoken by members of the race. Current section 115(a) therefore has the potential of indirectly discriminating against members of small language communities who are unable, or experiencing significant delay in accessing information about, or accessing, the voluntary assisted dying process.

The exemption provision in new section 115A removes the difficulty and inequity currently experienced by members of small language communities who face these circumstances. By facilitating access to voluntary assisted dying for persons in these communities, clause 75 of the Bill promotes the right to equality and protection from discrimination in s 8 of the Charter. It is also likely to promote their right to personal autonomy and dignity in sections 13(a) and 21(1) and their right to protection from inhuman treatment in section 10(b).

Restricting medical practitioners from being a family member, beneficiary or otherwise benefit from a voluntary assisted dying applicant's death

The VAD Act does not currently prevent a coordinating or consulting medical practitioner from being a beneficiary or family member of the person applying to access voluntary assisted dying. Recognising that further safeguards are needed to prevent any actual or perceived conflicts of interest between a medical practitioner and the person requesting access to voluntary assisted dying, clauses 11 and 19 introduces new sections 13(3) and 23(2A) in the VAD Act.

New subsection 13(3) provides that a registered medical practitioner must refuse a person's first request if the practitioner is a family member, beneficiary or otherwise benefits financially or in any other material way from that person's death. New section 23(2A) provides that a registered medical practitioner must refuse the referral for a consulting assessment of a person if the practitioner is a family member, beneficiary or otherwise benefits financially or in any other material way from that person's death. New section 63B provides that a

registered medical practitioner, nurse practitioner or nurse must not accept transfer of administration authorisation under a permit if the practitioner is a family member, beneficiary or otherwise benefits financially or in any other material way from that person's death.

The right to life (section 9)

Clause 11 and 19 inserts in the VAD Act additional safeguards to prevent abuse of vulnerable persons in end-of-life care by family members, beneficiaries or persons who in any other way benefits financially, or in any other material way from that person's death. By inserting this requirement, the Bill removes any risk of a conflict of interest arising in regard to a health professional involved in the voluntary assisted dying process and thereby minimise the risk of loss of life. Accordingly, assuming the right to life in section 9 of the Charter imposes positive obligations on the State, clauses 11 and 19 of the Bill promote that right.

Amendments to various provisions providing safeguards that regulate access to voluntary assisted dying

The framework for voluntary assisted dying set out in the VAD Act seeks to achieve the appropriate balance between ensuring all Victorians have access to high quality end-of-life care, consistent with their preferences, while requiring robust eligibility criteria to protect against the abuse of vulnerable persons at the end of their life. However, to reflect stakeholder feedback and the evidence emerging from the 5-Year Review, this Bill makes a number of amendments to the existing framework so as to improve equity of access, remove unintended consequences and improve the experience of people involved in the voluntary assisted dying process. The amendments to these processes are set out in turn below.

1. Reducing the timeframe between the first and final request for voluntary assisted dying

Clause 28 of the Bill amends section 38(1)(a) of the VAD Act so as to require that a person's final request for voluntary assisted dying be made at least 5 days, rather than 9 days, as required in the current provision, after the day on which the person made their first request. The new provisions further clarify how these days are to be counted.

2. Extending the prognosis requirements from 6 to 12 months

Clause 8(2) of the Bill amends the time prognosis requirement in section 9(1)(d)(iii) of the VAD Act from 6 to 12 months, so as a person diagnosed with a disease, illness or medical condition that is:

- incurable; and
- advanced, progressive and will cause death; and
- expected to cause death within 12 months;
- causing suffering to the person that cannot be relieved in a manner that the person considers tolerable,

may be eligible to access voluntary assisted dying.

3. Simplifying permits to improve applicant choice and prevent delays due to permit change

The Bill amends the VAD Act by replacing the current voluntary assisted dying permit system – consisting of two separate permits: the 'self-administration permits' and the 'practitioner administration permits' – with a one-permit system. This is achieved through clauses 29–68 of the Bill which repeal or amend all provisions in the VAD Act dealing with, or referencing, self-administration permits and practitioner administration permits and inserts new provisions providing the framework for the newly created voluntary assisted dying permit. Some notable clauses are set out below.

Clause 32 inserts new Part 3A and 3B (sections 44A–44F) in the VAD Act, introducing a new 'administration decision'. A person who makes a final request may decide, in consultation with the person's co-ordinating medical practitioner, that the person intends to access voluntary assisted dying by self-administering a voluntary assisted dying substance or having an administering practitioner administer a voluntary assisted dying substance to the person. New Part 3A provides the framework for making and revoking administration decisions. Part 3B sets out the requirements for the appointment of a contact person in relation to self-administration decisions.

Clause 36 inserts new section 47, which provides the process applicable to applications for the new voluntary assisted dying permit. Clause 39 inserts new division 2 of Part 4 (sections 51A–51D) in the VAD Act, which provides for what is authorised under the voluntary assisted dying permit, including the requirements applicable for obtaining, possessing, storing, using and destroying voluntary assisted dying substance. Clauses 43–49 regulates the prescription, dispensing and administration of voluntary assisted dying substance, including the information to be provided to the person administering the substance, by the dispensing pharmacy.

Clause 49 of the Bill inserts new Division 1A of Part 5 (sections 63A–63E) of the VAD Act which regulates instances where the co-ordinating medical practitioner transfers the authorisation to administer the voluntary assisted dying substance to another medical practitioner, a nurse practitioner or a registered nurse with 5 years' experience.

Clause 51 amends section 64(1) which provides for when a person may request their administering practitioner to administer a voluntary assisted dying substance. Clause 52 amends section 65 which sets out the requirements for witnessing a person make a practitioner administration request and for witnessing the administration of a voluntary assisted dying substance. Clauses 53 and 54 make amendments to the provisions of the VAD Act setting out the processes applicable after the administration of the voluntary assisted dying substance to a person has occurred.

4. Introducing an 'administering practitioner' role

Under the current Act, practitioner administration of voluntary assisted dying substances can only be administered by the coordinating medical practitioner (or the consulting medical practitioner or a third medical practitioner, if the coordinating medical practitioner role is transferred to them). In order to provide more flexibility regarding the administration of a voluntary assisted dying substance, the Bill introduces a new 'administering practitioner' role.

Clause 42 inserts new Division 1AA of Part 5 of the VAD Act which deals with the minimum requirements for administering practitioners, and provides in new section 56A that an administering practitioner must be either a registered medical practitioner who holds specialist registration, a vocationally registered general practitioner, a nurse practitioner or a registered nurse who has held registration as a registered nurse for at least 5 years. The Bill further makes the necessary amendments to authorise the newly introduced administering practitioner role to handle and administer the voluntary assisted dying substance in accordance with the processes and requirements provided for in the VAD Act.

5. Amending medical practitioner eligibility requirements to reduce years of experience required

Current section 10 of the VAD Act sets out the minimum requirements for coordinating medical practitioners and consulting medical practitioners to provide voluntary assisted dying. Clause 10 of the Bill amends section 10 so as to require that co-ordinating medical practitioners and consulting medical practitioners hold specialist registration or are vocationally registered general practitioners. Clause 10 further reduces the number of years co-ordinating medical practitioners and consulting medical practitioners must have practised as a registered medical practitioner from at least 5 years after completing a fellowship with a specialist medical college or vocational registration, to 1 year after completing the fellowship or attaining vocational registration.

The right to life (section 9)

The various amendments to the existing legislative framework (as set out above) may be seen to remove safeguards currently in place in the legislation to minimise the risk of loss of life and thus potentially limit the right to life. However, the amendments made to the voluntary assisted dying framework make the voluntary assisted dying process more efficient and accessible while at the same time maintaining stringent eligibility criteria, multi-stage request and assessment processes as well as oversight mechanisms to ensure the safety of voluntary assisted dying in Victoria.

Although the time prognosis requirement in section 9(1)(d)(iii) of the VAD Act is increased from 6 to 12 months, affecting the eligibility criteria for accessing voluntary assisted dying, the current 6-month limitation period has presented difficulties for medical practitioners in prognostication, negatively affecting the ability of persons who are otherwise eligible, to access voluntary assisted dying. Further, the new 12-month prognosis requirement aligns with the Ministerial Advisory Panel on voluntary assisted dying, which recommended a 12-month limit for all diseases, illnesses and conditions to ensure clarity and consistency with Victorian practice in defining the end of life. On this basis, I do not believe the safeguards built into the stringent eligibility criteria are in any way removed by this amendment.

One amendment that could be perceived to remove an important safeguard embedded in the multi-stage request process is the reduction in the minimum timeframe between the first and final request for voluntary assisted dying. However, the current requirement that a person make their final request at least nine days after the first request has been shown by the 5-Year Review to cause unreasonable delays for persons suffering without relief. By reducing the required time period between the first and final request to five days, the legislation reduces risks of delays while simultaneously safeguarding the authenticity of a person's request to access voluntary assisted dying, ensuring that the request is voluntary, considered and enduring.

The new voluntary assisted dying permit process is intended to improve patient choice and reduce complexity. By allowing the prescription of a voluntary assisted dying substance without the permit having to specify the method of administration (either self-administration or practitioner administration), the person will be able to choose, and change, their administration decision after being granted a permit. Allowing a person to choose

their administration method enhances their autonomy and supports their self-determination. Further, where a person wishes to change the administration method in circumstances where their deterioration is rapid, the requirements under the current framework have augmented what is already a difficult and distressing experience for the person, their family and their supporting health team. The safeguards embedded in the permit process continue to ensure the safety of voluntary assisted dying.

By introducing the 'administering practitioner' role and amending medical practitioner eligibility requirements to reduce the years of experience required to administer voluntary assisted dying substance, the cohort of medical practitioners who may provide voluntary assisted dying services will increase, allowing greater access for those requiring it. The experience and skills of medical practitioners that qualify under the amendment to provide the voluntary assisted dying service should be a safeguard against any abuse.

For the reasons set out above, I am of the view that the changes made to the voluntary assisted dying framework under this Bill do not detract from the strong safeguards against potential abuse embedded in the framework and does not limit the right to life. Further, I am of the view that by simplifying and improving the current permit system and authorising a greater cohort of practitioners the authority to provide voluntary assisted dying services to those who cannot be provided the relief needed to address their suffering at the end of their life, the right to personal autonomy and dignity in sections 13(a) and 21(1) and the right to protection from inhuman treatment in section 10(b) are promoted by the Bill.

Conclusion

I am therefore of the view that the Bill is compatible with the Charter.

Ingrid Stitt MP
Minister for Mental Health
Minister for Ageing
Minister for Multicultural Affairs

Second reading

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (09:35): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

With the passage of the *Voluntary Assisted Dying Act* (the Act) in 2017, Victoria led the nation in offering a safe, compassionate, and dignified end-of-life choice for those suffering from a life-limiting illness. Today, we build on that legacy, incorporating 13 targeted amendments to improve equity of access and experience for Victorians who choose to access VAD, to continue to enhance safety, and to make practical improvements to support effective administration of the scheme.

The Bill is not a departure from the values and principles that underpin VAD; rather, it reaffirms them. It is about compassion. It is about autonomy. It is about recognising that for some people, despite the best palliative care, suffering remains. And it is about ensuring that those people are not left on the margins of our system. It also retains and builds on the important legislative safeguards that were put in place in 2017.

The Bill builds on what VAD is about. It offers choice. Not about *whether* to die, but *how*, *where*, and *with whom*. VAD has allowed people to choose the setting of their final moments: at home, in hospital, or where they felt most at peace. It has given families the chance to say goodbye with grace, to be present, to support, and to honour the wishes of someone they love.

Since VAD was first introduced in 2017, we have been listening and learning. We have heard that Victoria needs to catch up to the rest of Australia. In developing the proposed amendments, we have listened intently and respectfully to people with lived experience, families of people who have accessed VAD, clinicians, advocates, and people and organisations that oppose VAD. We have also studied the implementation of similar legislation in other Australian jurisdictions, including Queensland, Western Australia, Tasmania, and New South Wales. Like these states, we recognise that this is not a choice between life and death; rather, it is an additional end-of-life option for those who are already dying and want to end their suffering.

One of the main purposes of the Bill is to **improve equity of access.**

The Bill addresses barriers that have prevented eligible Victorians, Victorians who are suffering with life-limiting illness from accessing VAD, and do not go any further than laws in any other jurisdiction. The reforms are grounded in compassion, clinical experience, and the evolving national landscape of end-of-life care.

First, the Bill permits registered health practitioners to initiate discussions about VAD within strict safeguards. Medical practitioners and nurse practitioners will be able to raise VAD as an option their patient can consider, provided they also discuss other available options, such as potential treatment and palliative care, and assist the person to access support. Other registered health practitioners, such as nurses and allied health professionals who may be part of a person's treating or care team, can also initiate discussions in the course of broader end-of-life discussions, but they must advise the person that a medical practitioner is the most appropriate person to speak to about VAD and other care options.

This change removes the ethical dilemma faced by clinicians who feel constrained from providing complete information during critical conversations about end-of-life options. It will also improve awareness among communities with lower health literacy, ensuring that no one is denied the opportunity to consider VAD simply because they were unaware of their options. Importantly, there will still be at least 2 doctors and 2 independent witnesses tasked with confirming that the applicant is voluntarily requesting VAD and there is no coercion.

Second, the Bill requires health practitioners who conscientiously object to VAD to provide minimum information to patients. This is intended to be contact information for the Statewide Care Navigator Service and the relevant Department of Health website – no more, no less. This approach does not compel anyone to participate in the VAD process, and we are not introducing any new offences. It simply ensures that patients are not left uninformed at a critical moment in their care. This approach respects and reaffirms the right to conscientious objection, but it also sends a clear message: no Victorian should be left without access to information about their options or obstructed from accessing legal care.

Third, the Bill addresses unintended consequences of existing provisions in the Act by amending citizenship and residency requirements. The amendments expand Australian citizenship and permanent residency requirements to permit access to people who can demonstrate 3+ years' Australian residency, and introduce an exemption process to the Victorian residency requirement on compassionate grounds. These changes remove arbitrary barriers that have caused distress and confusion for patients and clinicians alike.

The Victorian residency requirement in particular is much less relevant than it was back in 2017. It was designed to prevent cross-border access at a time when other Australian jurisdictions lacked VAD legislation. That landscape has changed. Today, this requirement disproportionately affects people living near state borders, those who move to Victoria for aged care or family support, and those with strong ties to the state but insufficient time to meet the residency threshold.

Fourth, the Bill updates the prognosis requirement to a consistent 12 months for all applicants. Under the current Act, VAD applicants must be expected to die within 6 months, or 12 months for people with neurodegenerative conditions. However, determining prognosis is not an exact science, and many practitioners report being conservative in their estimates. As a result, a significant number of applicants have died, deteriorated, or lost decision-making capacity before completing the process. Moreover, it is discriminatory to permit access to applicants at different times based on the type of condition they will die from.

Queensland's experience shows that a 12-month prognosis window reduces urgency, improves equity of access, and offers a more compassionate pathway for patients and families. This amendment will ensure that fewer people with terminal illness are forced to wait until the final weeks of life to seek relief from intolerable suffering.

Finally, the Bill amends medical practitioner eligibility requirements and modernises the terminology used in the Act. Allowing assessing medical practitioners to have one year's experience practising as specialist medical practitioners rather than 5 widens the eligible VAD medical practitioner workforce, particularly in regional Victoria, while continuing to ensure that these practitioners are suitability qualified and experienced to carry out their responsibilities. Medical practitioners practice for many years before obtaining specialist registration, which requires rigorous training and assessment by the relevant medical college. Clinical competence will not be in question.

Together, these amendments will improve equity of access for people who have long lived in our community, contributed to our society, and are now facing life-limiting illness but have been excluded from VAD due to settings no longer in place in most other jurisdictions. These Victorians are already dying and suffering, and our system is not responding as well as it should. The Bill affords them the same dignity and choice afforded to others.

Another main purpose of the Bill is to **improve experience.**

The Bill makes a series of practical amendments to improve the experience of those navigating the VAD process, particularly those facing mobility challenges, language barriers, or rapidly deteriorating health. These changes are designed to reduce unnecessary delays, improve equity, and uphold dignity.

First, the Bill removes the requirement for a third prognosis assessment for people with neurodegenerative conditions. Under the current Act, these applicants must undergo an additional assessment to confirm that their condition will cause death in the next 6 to 12 months. This safeguard was originally intended to provide further assurance where the person has a neurodegenerative condition, given the potential impact on decision-making capacity. However, it disproportionately affects applicants located in regional areas who may struggle to locate a third medical practitioner and those with mobility issues who may struggle to leave the house.

It is important to note that the first and/or second prognosis assessment must be conducted by a medical practitioner with relevant expertise and experience in the person's condition; therefore, specialist assessment will have already occurred. As per standard clinical practice, medical practitioners always have the option to seek a third prognosis or specialist advice if they need to.

Second, the Bill shortens the minimum time between the first and final request to access VAD from 9 days to 5. This will allow but not require the process to occur within a shorter period. This change will improve the experience of a small number of applicants whose suffering is increased by having to wait for this time period to elapse. People who access VAD often spend significant time reflecting on their end-of-life preferences prior to making their first request, and continue to reflect on their choice after being permitted access. And there is never an obligation on applicants to receive or use the VAD substance even after a permit is granted. The process is entirely patient-led.

Third, the Bill facilitates greater applicant choice in how the VAD substance is administered. Currently, self-administration is the default method except in cases where the applicant cannot physically consume or digest the substance. The amendment allows applicants, following consultation with and advice from their coordinating medical practitioner, to decide between self-administration and practitioner-administration. Permits will be amended to no longer specify administration method. If their condition changes, which it often can quite rapidly, they can change their decision without needing to apply for a new permit. This is rightly a process that takes place between a doctor and their patient, and should not require additional hassle and paperwork.

This flexibility recognises that people facing life-limiting illness may have differing physical capabilities, emotional preferences, and support needs. For some people, self-administration may offer a sense of control and privacy. For others, practitioner-administration may provide reassurance, especially if they are concerned about self-administering the substance and want more support for themselves and their family.

To support this change, the Bill introduces a new role: the administering practitioner. This practitioner, who may be a medical practitioner, nurse practitioner, or registered nurse, will administer the VAD substance instead of the coordinating medical practitioner. Nurse practitioners and registered nurses will be required to complete specific training and access specific supports, including guidance resources and existing clinical and professional supervision arrangements.

This approach acknowledges that the clinical skills required to administer the VAD substance fall within the usual scope of practice of other qualified health practitioners. By expanding the range of health practitioners who can provide this service, we are recognising the skills, experience, and compassion of Victoria's nurses and harnessing their expertise to ensure people can exercise their choice, particularly in regional Victoria. This approach also provides support to the many doctors who we know want to assist their patients to access VAD but may not be comfortable or confident administering the VAD substance.

Finally, the Bill introduces an exemption process to the requirement for interpreters to be specifically accredited by the national body. While the current requirement for an accredited interpreter is a vital safeguard, rigid requirements can unintentionally exclude some people. The National Accreditation Authority for Translators and Interpreters has acknowledged that there are no credentialled interpreters available for some small language groups. Although there has not yet been a case of a VAD applicant being unable to progress an application due to a lack of credentialled interpreters, this may happen in future.

Per the amendment, an interpreter must be accredited by a prescribed body or have been granted an exemption to this requirement by the Secretary of the Department of Health under exceptional circumstances. Introducing a limited exemption pathway with appropriate oversight ensures that people are not disadvantaged simply because their language is rare or their location remote. It balances safety with compassion and equity.

Together, these amendments will create a more patient-centred, timely, and equitable experience for those who choose to access VAD. They uphold the principles of dignity and autonomy while responding to the lived realities of applicants and practitioners alike.

Another purpose of the Bill is to **improve safety.**

The Bill introduces a new commonsense safeguard to reinforce the integrity of the VAD framework and ensure continuing public confidence in its operation. While addressed in medical practitioner codes of

conduct, the current Act does not prohibit medical practitioners from being a beneficiary or family member of a VAD applicant. It is proposed that the Act be amended to prohibit medical practitioners, nurse practitioners, and registered nurses from acting as the coordinating or consulting medical practitioner or the administering practitioner if they are the beneficiary or family member of the applicant.

This safeguard provides additional reassurance about coercion, particularly in light of the amendment allowing registered health practitioners to initiate discussions about VAD within broader end-of-life conversations. By making it crystal clear that those who stand to benefit financially or personally from a VAD applicant's death cannot participate in the assessment or administration process, we reinforce the voluntary, considered, and independent nature of the decision.

This amendment is not about casting doubt on the integrity of practitioners. It is about ensuring that the system is transparent, fair, and free from any perception of undue influence.

The final purpose of the Bill is to **improve administration of the scheme.**

The Bill introduces targeted amendments to improve the administrative efficiency of the VAD framework, ensuring that the system remains responsive and aligned with national best practice.

First, the Bill removes prescribed forms from the Act and provides them in regulations instead, to make it much easier to update forms in response to clinical feedback, legal developments, or evolving best practice. Any changes to the forms will remain subject to Parliamentary oversight through the regulations, which will also continue to be published and accessible. This amendment ensures that the administrative tools supporting VAD are as efficient and effective as possible.

Second, the Bill strengthens the oversight of the systems and programs that support VAD by requiring ongoing review of the Act, with the first 3 years after commencement of these amendments and then at intervals of no more than 5 years. The current Act does not provide for continued evaluation. It specified just one review, which was tabled in Parliament earlier this year. Updating the Act to require regular review ensures that safety, quality, and timeliness remain subject to formal scrutiny. This change reflects a commitment to continuous improvement, informed by lived experience and emerging evidence.

Together, these amendments will ensure that the administrative backbone of the VAD framework remains robust, responsive, and accountable.

The Bill is not about indiscriminately or substantially expanding eligibility for VAD. It is about refining a compassionate framework to better serve those it was designed to help. It is about ensuring that no eligible Victorian is denied access due to scheme settings that are no longer fit-for-purpose, geography, or administrative delay. Most importantly, it is about reaffirming our commitment to dignity, autonomy, and the highest quality care at the end of life.

VAD remains a deeply personal choice. The Bill strengthens the safeguards that ensure that choice is informed, voluntary, and enduring. It enhances the experience for applicants and practitioners alike, while preserving the integrity of the system.

We cannot give people their lives back. But we can give them more choice and control over how they die. We can offer them more peace, dignity, and the comfort of knowing they will not suffer needlessly.

I commend the Bill to the house.

Georgie CROZIER (Southern Metropolitan) (09:35): I move:

That the debate be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025

Council's amendments

The PRESIDENT (09:36): I have received a message from the Legislative Assembly in respect of the Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025:

The Legislative Assembly informs the Legislative Council that, in relation to 'A Bill for an Act to amend the **Domestic Animals Act 1994** in relation to the rehoming of dogs and cats and the **Cemeteries and Crematoria Act 2003** in relation to the placement and burial of animal remains and for other purposes' the amendments made by the Council have been agreed to.

Committees

Public Accounts and Estimates Committee

Membership

The PRESIDENT (09:36): I advise the house that I have received letters from Nick McGowan and Richard Welch resigning from the Public Accounts and Estimates Committee effective as of 29 October 2025.

Petitions

Voluntary assisted dying

Evan MULHOLLAND (Northern Metropolitan) presented a petition bearing 2903 signatures:

> The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the proposed amendments to the Voluntary Assisted Dying Act 2017. These changes would weaken protections for conscientious objectors and vulnerable patients.
>
> The Petitioners therefore request that the Legislative Council oppose the proposed amendments to the Voluntary Assisted Dying Act 2017, when they come before the House.

Papers

Victoria Law Foundation

Report 2024–25

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (09:37): I move, by leave:

> That the Victoria Law Foundation report 2024–25 be tabled.

Motion agreed to.

Victorian Law Reform Commission

Report 2024–25

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (09:38): I move, by leave:

> That the Victorian Law Reform Commission report 2024–25 be tabled and published.

Motion agreed to.

Ordered to be published.

Victorian Veterans Council

Report 2024–25

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (09:38): I move, by leave:

> That the Victorian Veterans Council report 2024–25 be tabled.

Motion agreed to.

Papers

Tabled by Clerk:

> Adult, Community and Further Education Board – Report, 2024–25*.
>
> Adult Parole Board of Victoria – Report, 2024–25.
>
> Agriculture Victoria Services Pty Limited – Report, 2024–25*.

Albury Wodonga Health – Report, 2024–25*.

Alexandra District Health – Report, 2024–25*.

Alfred Health – Report, 2024–25*.

Alpine Health – Report, 2024–25*.

Ambulance Victoria – Report, 2024–25*.

AMES Australia – Report, 2024–25*.

Architects Registration Board of Victoria – Minister's report of receipt of the 2024–25 Report*.

Austin Health – Report, 2024–25*.

Australian Centre for the Moving Image (ACMI) – Report, 2024–25*.

Australian Criminal Intelligence Commission – Chair of the Board of the Australian Criminal Intelligence Commission – Report, 2023–24.

Bairnsdale Regional Health Service – Report, 2024–25*.

Ballarat General Cemeteries Trust – Report, 2024–25*.

Barwon Health – Report, 2024–25*.

Barwon Region Water Corporation – Report, 2024–25*.

Bass Coast Health – Report, 2024–25*.

Beaufort and Skipton Health Service – Report, 2024–25*.

Beechworth Health Service – Report, 2024–25*.

Benalla Health – Report, 2024–25*.

Bendigo Health – Report, 2024–25*.

Boort District Health – Report, 2024–25*.

Breakthrough Victoria Pty Ltd – Report, 2024–25*.

Calvary Health Care Bethlehem Limited – Report, 2024–25*.

Casterton Memorial Hospital – Report, 2024–25*.

Cenitex – Report, 2024–25.

Central Gippsland Health Service – Report, 2024–25*.

Central Gippsland Region Water Corporation – Report, 2024–25*.

Central Highlands Region Water Corporation – Report, 2024–25*.

Central Highlands Rural Health – Report, 2024–25*.

Cladding Safety Victoria – Report, 2024–25*.

Cohuna District Hospital – Report, 2024–25*.

Colac Area Health – Report, 2024–25*.

Coliban Region Water Corporation – Report, 2024–25*.

Commissioner for Environmental Sustainability – Minister's report of receipt of the 2024–25 Report*.

Community Visitors – Report, 2024–25 *(Ordered to be published)*.

Confiscation Act 1997 –

Asset Confiscation Operations – Report, 2024–25.

Report, 2024–25, under section 139A of the Act, by Victoria Police.

Consumer Affairs Victoria – Report, 2024–25 *(Ordered to be published)*.

Corangamite Catchment Management Authority – Report, 2024–25*.

Coroners Court of Victoria – Report, 2024–25.

Coronial Council of Victoria – Report, 2024–25*.

Corryong Health – Report, 2024–25*.

Crimes (Assumed Identities) Act 2004 – Reports, 2024–25, under section 31, by –

Australian Criminal Intelligence Commission.

Independent Broad-based Anti-corruption Commission.

Criminal Organisations Control Act 2012 – Report, 2024–25, under section 133 by Victoria Police.

Dairy Food Safety Victoria – Report, 2024–25*.

Development Victoria – Report, 2024–25*.

Dhelkaya Health – Report, 2024–25*.

Docklands Studios Melbourne Pty Ltd – Report, 2024–25*.

East Gippsland Catchment Management Authority – Report, 2024–25*.

East Gippsland Region Water Corporation – Report, 2024–25*.

East Grampians Health Service – Report, 2024–25*.

East Wimmera Health Service – Report, 2024–25*.

Eastern Health – Report, 2024–25*.

Eastlink Project Act 2004 – Order in Council to decrease the project area and extended project area, under section 7(6) of the Act *(Gazette S560, 14 October 2025).*

Echuca Regional Health – Report, 2024–25*.

Education Department – Report, 2024–25*.

Emergency Services Superannuation Scheme (ESSSuper) – Report, 2024–25*.

Energy, Environment and Climate Action Department (DECCA) – Report, 2024–25*.

Energy Safe Victoria (ESV) – Report, 2024–25*.

Essential Services Commission (ESC) – Report, 2024–25*.

Evidence (Miscellaneous Provisions) Act 1958 – Reports, 2024–25, under section 42BI, by –

Australian Criminal Intelligence Commission.

Victoria Police.

Families, Fairness and Housing Department (DFFH) – Report, 2024–25*.

Film Victoria (VicScreen) – Report, 2024–25*.

Firefighters Registration Board – Report, 2024–25.

Game Management Authority (GMA) – Report, 2024–25.

Geelong Cemeteries Trust – Report, 2024–25*.

Geelong Performing Arts Centre Trust – Report, 2024–25*.

Gippsland and Southern Rural Water Corporation – Report, 2024–25*.

Gippsland Southern Health Service – Report, 2024–25*.

Glenelg Hopkins Catchment Management Authority – Report, 2024–25*.

Goulburn Broken Catchment Management Authority – Report, 2024–25*.

Goulburn Valley Health – Report, 2024–25*.

Goulburn Valley Region Water Corporation – Report, 2024–25*.

Goulburn-Murray Rural Water Corporation – Report, 2024–25*.

Government Services Department (DGS) – Report, 2024–25*.

Grampians Health – Report, 2024–25*.

Grampians Wimmera Mallee Water Corporation (GWMWater) – Report, 2024–25*.

Great Ocean Road Coast and Parks Authority –

Report, 2023–24*.

Report, 2024–25*.

Great Ocean Road Health – Report, 2024–25*.

Greater Metropolitan Cemeteries Trust – Report, 2024–25*.

Greyhound Racing Victoria (GRV) – Report, 2024–25*.

Health Department – Report, 2024–25*.

Health Purchasing Victoria (HealthShare) – Report, 2024–25*.

Heathcote Health – Report, 2024–25*.

Hesse Rural Health Service – Report, 2024–25*.

Heywood Rural Health – Report, 2024–25*.

Independent Broad-based Anti-corruption Commission – Report to the Attorney-General, 1 January to 31 December 2023, under section 464ZP of the Crimes Act 1958.

Infrastructure Victoria – Report, 2024–25*.

Inglewood and Districts Health Service – Report, 2024–25*.

Jobs, Skills, Industry and Regions Department (DJSIR) – Report, 2024–25*.

Justice and Community Safety Department (DJCS) – Report, 2024–25*.

Kardinia Parks Stadium Trust – Report, 2024–25*.

Kerang District Health – Report, 2024–25*.

Kooweerup Regional Health Service – Report, 2024–25*.

Kyabram District Health Service – Report, 2024–25*.

Labour Hire Licensing Authority – Report, 2024–25*.

Latrobe Regional Health – Report, 2024–25*.

Legal Profession Uniform Law Application Act 2014 – Practitioner Remuneration Order 2026.

Legal Services Council and Commissioner for Uniform Legal Services Regulation – Report, 2024–25.

Library Board of Victoria – Report, 2024–25*.

Lower Murray Urban and Rural Water Corporation – Report, 2024–25*.

Mallee Catchment Management Authority – Report, 2024–25*.

Mallee Track Health and Community Service – Report, 2024–25*.

Mansfield District Hospital – Report, 2024–25*.

Maryborough District Health Service – Report, 2024–25*.

Melbourne and Olympic Parks Trust – Report, 2024–25*.

Melbourne Arts Precinct Corporation – Report, 2024–25*.

Melbourne Health (The Royal Melbourne Hospital) – Report, 2024–25*.

Melbourne Market Authority – Report, 2024–25*.

Melbourne Port Lessor Pty Ltd – Report, 2024–25*.

Melbourne Recital Centre – Report, 2024–25*.

Melbourne Water Corporation – Report, 2024–25*.

Mercy Hospitals Victoria Ltd – Report, 2024–25*.

Mildura Base Public Hospital – Report, 2024–25*.

Mildura Cemeteries Trust – Minister's report of receipt of the 2024–25 Report.

Mine Land Rehabilitation Authority – Report, 2024–25.

Monash Health – Report, 2024–25*.

Moyne Health Services – Report, 2024–25*.

Museums Board of Victoria – Report, 2024–25*.

National Gallery of Victoria (NGV) – Report, 2024–25*.

National Heavy Vehicle Regulator – Report, 2024–25.

National Parks Act 1975 – Report, 2024–25 on the working of the Act.

National Parks Advisory Council – Report, 2024–25.

NCN Health – Report, 2024–25*.

North Central Catchment Management Authority – Report, 2024–25*.

North East Catchment Management Authority – Report, 2024–25*.

North East Link State Tolling Corporation – Report, 2024–25*.

North East Water – Report, 2024–25*.

Northeast Health Wangaratta – Report, 2024–25*.

Northern Health – Report, 2024–25*.

Office of the National Rail Safety Regulator – Report, 2024–25*.

Ombudsman – Report, 2024–25.

Omeo District Health – Report, 2024–25*.

Oral Health Victoria – Report, 2024–25*.

Orbost Regional Health – Report, 2024–25*.

Parks Victoria – Report, 2024–25*.

Peninsula Health – Report, 2024–25*.

Peter MacCallum Cancer Institute – Report, 2024–25*.

Phillip Island Nature Parks – Report, 2024–25*.

Phytogene Pty Ltd – Minister's report of receipt of the 2024–25 Report*.

Police Registration and Services Board – Report, 2024–25.

Port of Hastings Corporation – Report, 2024–25*.

Portable Long Service Benefits Authority – Report, 2024–25*.

Portland District Health – Report, 2024–25*.

Ports Victoria – Report, 2024–25*.

Post Sentence Authority – Report, 2024–25.

Premier and Cabinet Department (DPC) – Report, 2024–25*.

PrimeSafe – Report, 2024–25*.

Public Interest Monitor –

Report, 2024–25.

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Public Record Office Victoria (PROV) – Report, 2024–25.

Queen Victoria Women's Centre Trust – Minister's report of receipt of the 2024–25 Report.

Remembrance Parks Central Victoria – Report, 2024–25*.

Respect Victoria – Report, 2024–25.

Robinvale District Health Services (RDHS) – Report, 2024–25*.

Rochester and Elmore District Health Service – Report, 2024–25*.

Rolling Stock Holdings (Victoria) Pty Limited – Report, 2024–25*.

Rolling Stock (Victoria-VL) Pty Limited – Report, 2024–25*.

Rolling Stock (VL-1) Pty Limited – Report, 2024–25*.

Rolling Stock (VL-2) Pty Limited – Report, 2024–25*.

Rolling Stock (VL-3) Pty Limited – Report, 2024–25*.

Royal Botanic Gardens Board – Report, 2024–25*.

Rural Northwest Health – Report, 2024–25*.

Safe Transport Victoria – Report, 2024–25*.

SEC Victoria Pty Ltd – SEC Infrastructure Pty Ltd – SEC Energy Pty Ltd – Report, 2024–25.

Seymour Health – Report, 2024–25*.

Shrine of Remembrance Trustees – Report, 2024–25*.

SmartSense Agtech Pty Ltd – Minister's report of receipt of the 2024–25 Report*.

South East Water Corporation – Report, 2024–25*.

South Gippsland Hospital – Report, 2024–25*.

South Gippsland Region Water Corporation – Report, 2024–25*.

Southern Metropolitan Cemeteries Trust – Report, 2024–25*.

St Vincent's Hospital (Melbourne) Limited – Report, 2024–25*.

State Electricity Commission of Victoria – Minister's report of receipt of the 2023–24 Report.

State Sport Centres Trust – Report, 2024–25*.

State Trustees Limited – Report, 2024–25*.

Suburban Rail Loop Authority (SRL) – Report, 2024–25*.

Surveillance Devices Act 1999 – Reports, 2024–25, under section 30L of the Act, by –

Australian Criminal Intelligence Commission.

Department of Energy, Environment and Climate Action.

Independent Broad-based Anti-corruption Commission.

Victoria Police.

Surveyor-General – Report, 2024–25 on the administration of the Survey Co-ordination Act 1958.

Sustainability Victoria – Report, 2024–25*.

Swan Hill District Health – Report, 2024–25*.

Tallangatta Health Service – Report, 2024–25*.

Terang and Mortlake Health Service – Report, 2024–25*.

The Queen Elizabeth Centre (QEC) – Report, 2024–25*.

The Royal Children's Hospital (RCH) – Report, 2024–25*.

The Royal Victorian Eye and Ear Hospital – Report, 2024–25*.

The Royal Women's Hospital – Report, 2024–25*.

Timboon and District Health Service – Report, 2024–25*.

Transport Accident Commission (TAC) – Report, 2024–25*.

Transport and Planning Department (DTP) – Report, 2024–25*.

Treasury and Finance Department (DTF) – Report, 2024–25*.

Treasury Corporation of Victoria – Report, 2024–25*.

Treaty Authority – Report, 2024–25.

Tweddle Child and Family Health Service – Report, 2024–25*.

V/Line Corporation – Report, 2024–25*.

Veterinary Practitioners Registration Board of Victoria – Minister's report of receipt of the 2024–25 Report*.

Victims of Crime Commissioner – Review of the Operation of the *Victims' Charter Act 2006* and its benefits for victims, September 2025.

Victims of Crime Financial Assistance Scheme – Report, 2024–25, under section 67 of the Victims of Crime (Financial Assistance Scheme) Act 2022.

Victoria Police – Report, 2024–25*.

Victorian Academy of Teaching and Leadership – Report, 2024–25*.

Victorian Arts Centre Trust – Report, 2024–25*.

Victorian Building Authority – Report, 2024–25*.

Victorian Civil and Administrative Tribunal (VCAT) – Report, 2024–25.

Victorian Convention and Event Trust – Report, 2024–25*.

Victorian Curriculum and Assessment Authority – Report, 2024–25*.

Victorian Electoral Commission – Report to Parliament on the 2025 Prahran District and Werribee District by-elections, October 2025.

Victorian Environmental Assessment Council – Report, 2024–25.

Victorian Environmental Water Holder – Report, 2024–25*.

Victorian Funds Management Corporation – Report, 2024–25*.

Victorian Gambling and Casino Control Commission – Report, 2024–25*.

Victorian Government Purchasing Board (VGPB) – Report, 2024–25.

Victorian Health Promotion Foundation (VicHealth) – Report, 2024–25*.

Victorian Institute of Forensic Mental Health (Forensicare) – Report, 2024–25*.

Victorian Institute of Sport Trust – Report, 2024–25*.

Victorian Institute of Teaching – Report, 2024–25*.

Victorian Law Reform Commission – Minister's report of receipt of the 2024–25 Report.

Victorian Legal Services Board and Legal Services Commissioner – Report, 2024–25* *(Ordered to be published)*.

Victorian Managed Insurance Authority (VMIA) – Report, 2024–25*.

Victorian Marine and Coastal Council – Report, 2024–25.

Victorian Multicultural Commission – Report, 2024–25.

Victorian Pharmacy Authority – Minister's report of receipt of the 2024–25 Report.

Victorian Plantations Corporation – Report, 2024–25*.

Victorian Public Sector Commission – Report, 2024–25*.

Victorian Racing Integrity Board – Report, 2024–25.

Victorian Rail Track (VicTrack) – Report, 2024–25*.

Victorian Registration and Qualifications Authority – Report, 2024–25*.

Victorian Small Business Commission – Report, 2024–25 *(Ordered to be published)*.

Victorian Strawberry Industry Development Committee – Minister's report of receipt of the 2024–25 Report*.

Victorian Veterans Council – Minister's report of receipt of the 2024–25 Report.

Victorian WorkCover Authority (WorkSafe Victoria) – Report, 2024–25*.

VITS LanguageLoop – Report, 2024–25*.

Wannon Region Water Corporation – Report, 2024–25*.

West Gippsland Catchment Management Authority – Report, 2024–25*.

West Gippsland Healthcare Group – Report, 2024–25*.

West Wimmera Health Service (WWHS) – Report, 2024–25*.

Western District Health Service – Report, 2024–25*.

Western Health – Report, 2024–25*.

Westernport Region Water Corporation – Report, 2024–25*.

Wimmera Catchment Management Authority – Report, 2024–25*.

Witness Protection Act 1991 – Report, 2024–25, under section 20R of the Act, by Victoria Police.

Workplace Incidents Consultative Committee – Report, 2024–25*, under section 126B of the Occupational Health and Safety Act 2004.

Workplace Injury Commission (Accident Compensation Conciliation Service) – Report, 2024–25*.

Yarra Valley Water Corporation – Report, 2024–25*.

Yarrawonga Health – Report, 2024–25*.

Yea and District Memorial Hospital – Report, 2024–25*.

Youth Parole Board – Report, 2024–25.

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

Committees

Select Committee on the 2026 Commonwealth Games Bid

Inquiry into the 2026 Commonwealth Games Bid

The Clerk: I have received the following paper for presentation to the house pursuant to standing orders: government response to the report of the Select Committee on the 2026 Commonwealth Games Bid.

Petitions

Responses

The Clerk: I have received the following paper for presentation to the house pursuant to standing orders: response from the Minister for Planning to petition titled 'Renaming of Berwick Springs Lake'.

Business of the house

Notices

Notices of motion given.

Committees

Public Accounts and Estimates Committee

Membership

David DAVIS (Southern Metropolitan) (09:51): I move, by leave:

That Bev McArthur be a member of the Public Accounts and Estimates Committee.

Motion agreed to.

Members statements

Western Victoria libraries

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (09:52): Our libraries are so much more than quiet reading spaces; they are vibrant community hubs that support lifelong learning, creativity and belonging. Across Western Victoria our local libraries continue to evolve, providing not just books but access to the latest technologies, resources and creative programs that open doors for people of all ages. At Biyal-a library in Armstrong Creek this innovation is on full display. It has just opened Djilaga, a creative space featuring state-of-the-art cutting machines, a 3D printer and a thermoformer for shaping plastic designs. It is a fantastic resource for young people to explore, invent and experiment with new technologies right there in our community. Libraries are offering more ways than ever for people to connect and create, from hosting social groups and clubs to offering hands-on workshops. These programs spark imagination in children, build confidence and technical skills in young adults and bring people of all ages together. The Belmont Library offers services that help locals digitise analog film and prints, preserving precious memories for future generations. I want to thank our local library staff and volunteers for their dedication to ensuring these spaces remain inclusive, innovative and welcoming for everyone across Western Victoria. They continue to prove that libraries are not just about the stories we read but about the stories we create together.

Community safety

Gaelle BROAD (Northern Victoria) (09:54): The latest data from the Crime Statistics Agency Victoria shows alarming increases in crime across Northern Victoria. In the past year alone total offences have risen by 10 per cent in Greater Bendigo, 24 per cent in Greater Shepparton, 15 per cent in Loddon, 24 per cent in Macedon Ranges, 19 per cent in Moorabool and a staggering 34 per cent in

Strathbogie. Similar increases are being seen in Mitchell, up 12 per cent; Mount Alexander, up 24 per cent; Whittlesea, up 23 per cent; and the Yarra Ranges, up 16 per cent. These figures are a direct reflection of weakened bail laws, cuts of $50 million from the Victoria Police budget, reductions in crime prevention programs, the closure of local police stations and a shortage of more than 2000 police across the state. Victoria is in a crime crisis, and people want the government to take action. Nearly half of all reported crimes in Victoria remain unsolved. The Liberals and Nationals have already outlined our plan to restore community safety through the 'break bail, face jail' initiative to strengthen bail laws, Jack's law to tackle knife crime and a $100 million safer communities plan to support prevention and rehabilitation programs like Restart and Youthstart. The next state election is in November 2026, and Victorians will have the chance to choose a government that puts community safety first.

Youth crime prevention

Aiv PUGLIELLI (North-Eastern Metropolitan) (09:55): There are professionals who intervene to stop children from committing crimes or from reoffending. Their early intervention approach is backed by evidence. These professionals have reported that when they met with the Labor government behind closed doors, all agreed on the 'importance and utility of early intervention programs to reduce crime'. They all know it works. Yet when the time came for our government to open their wallets, early intervention programs did not get a look-in. Take Les Twentyman Foundation's early intervention program, which works with teens with low-level offences, helping them re-engage with school or a job, with eight out of 10 not reoffending. This vital service had its funding cut by Labor, yet simultaneously the government spent hundreds of millions of dollars on more prison beds. We see Cohealth, which runs community health services for vulnerable people, including young people at risk, announcing the closure of their Collingwood site, as well as GP and counselling services at two others, and their calls for an emergency funding package have been ignored by Labor. The very next week the government instead announced another $145 million for even more prison beds for children. These programs reduce the amount of young people who offend. We should all be in support of stopping crime before it occurs. If you care about crime prevention and if you care about these services, fund them.

Orbost Regional Health

Tom McINTOSH (Eastern Victoria) (09:56): It was great to be with the Minister for Ageing in Orbost last week, where we got to visit the new aged care facility at Orbost Regional Health as it has reached structural completion. The $45 million investment is going to see 38 new modern single bedrooms with ensuites. There are a couple of hundred jobs in the construction process. It is a really big, beautiful building; it is state of the art and fit for purpose. It is going to be brilliant for the workforce as they care for locals who age in place in their community, with friends and family nearby, with a beautiful view over the newly consolidated primary and secondary college.

Snowy River rail bridge, Orbost

Tom McINTOSH (Eastern Victoria) (09:57): I also got to drop in to the Snowy River historic timber trestle bridge on the completion of stage 1, which is fantastic, whether it be for the town, people going on the rail trail all the way up to Bairnsdale or passersby on the main road up into New South Wales. It truly is a beautiful bridge, and stage 2 is one that we will push on to.

Eastern Victoria walking trails

Tom McINTOSH (Eastern Victoria) (09:57): It was great to be out with the Premier and the Minister for Environment to announce $30 million to look after the bush for tracks and trails, with more rangers making sure there are boots on the ground dealing with weeds and pests. As part of that we are delighted to announce money for Orbost so we can work with the community on a healthy forest pilot. As I have worked with that community in recent years, I look forward to working with them on this project as well.

Western Region Centre Against Sexual Assault

Moira DEEMING (Western Metropolitan) (09:58): Over the last few months I have had multiple meetings with the amazing women who are working at the Western Region Centre Against Sexual Assault, a not-for-profit sexual assault counselling service operating out in the western suburbs. I met Annette and Anna and was absolutely moved by the way that they care for the people that they serve and the amazing service that they provide. One of the things that was sad to hear was that the Australian Institute of Health and Welfare says that only 27 per cent of victim-survivors of sexual violence seek help from a service like that. I just wanted to say that when I was a young university student, I accessed Northern CASA. People may not know this, but victim-survivors of sexual assault often suffer depression and PTSD, are more likely to do drugs and end up in prostitution and find it very difficult to trust and build bonding relationships with their spouse or their children. I can honestly say that due to the wonderful care that I received at Northern CASA none of those fates ended up happening to me. I can only commend this government for the funding that they give to organisations like this, and I ask that they increase funding due to the great demand.

World Menopause Month

Rachel PAYNE (South-Eastern Metropolitan) (09:59): This month was World Menopause Month, and I took the opportunity to hold a forum in my electorate on women's health and cannabis. What is known as the 'gender cannabis gap' is closing, and we know that where cannabis has been made easily accessible, especially for women, women are using it. The main reasons women cite for cannabis use are menopause, period pain, sleep and anxiety. The women's health forum, hosted at the Frankston Arts Centre, was well attended, and the audience was made up of mainly older women who were interested in hearing from those with lived experience and experts on how women are finding relief from a myriad of women's health issues. Joining me on the panel was Lisa Nguyen, a pharmacist and owner of Astrid Dispensary, and Tegan Scates, advocate and educator from Bloomly. I thank them for sharing their experiences and knowledge. Those with lived experience say they use cannabis either because other medications have failed them or because they prefer it to less addictive and stronger medications. Barriers still exist, and this includes stigma. It lingers from our outdated and regressive cannabis laws. We had one speaker lined up for the forum, who was using cannabis for chemo treatment, who pulled out due to worries that her boss would potentially sack her. When you have a 60-year-old woman who is battling cancer who cannot talk about cannabis but could talk about oxy or fentanyl, we know that we have something seriously wrong with our legal system. The truth is women have been using cannabis for thousands of years across all cultures. Forums like this are part of the process of getting back to the point where we can be honest about that.

Aetolian College

Evan MULHOLLAND (Northern Metropolitan) (10:01): I have done a number of things recently. I went to nine multicultural events last weekend, and it was great to join Bishop Evmenios at Aetolian College Transfiguration of Our Lord at the Reservoir campus for Oxi Day, a festival with our wonderful Greek Orthodox community in the northern suburbs.

Aitken Grove Medical & Aesthetics Centre

Evan MULHOLLAND (Northern Metropolitan) (10:01): On the weekend I joined Dr Muhammad Usman and Dr Rana Usman at the opening of the Aitken Grove medical centre in Mickleham. This fantastic new centre will provide health care to the growing Mickleham community, and I thank them for their invitation.

Australian Calabrese Cultural Association

Evan MULHOLLAND (Northern Metropolitan) (10:02): It was also a special privilege to attend and speak at the Australian Calabrese Cultural Association Awards last week. Congratulations to Sav Rocca, the winner of Calabrese of the Year. As the grandson of Calabrian migrants, I know the contribution this community has made to our state and our country.

MUSIAD Melbourne

Evan MULHOLLAND (Northern Metropolitan) (10:02): I thank the team at MUSIAD Melbourne for inviting me to attend their barbecue last Saturday in South Melbourne.

Diwali

Evan MULHOLLAND (Northern Metropolitan) (10:02): I also ventured out to Wyndham, where I went to the Wyndham Diwali. I thank the organiser Raja Reddy and the committee for that invitation.

Syria

Evan MULHOLLAND (Northern Metropolitan) (10:02): I also hosted on the weekend federal shadow minister for multicultural affairs Senator Paul Scarr for a round table of community leaders from the Syrian, Christian, Assyrian, Alawite, Druze and other communities affected by the terrible persecution of religious minorities in Syria. We discussed how the Liberal Party continues to advocate on behalf of them for justice, security, safety, refuge and peace.

Trevor 'Snowy' Simpson

David LIMBRICK (South-Eastern Metropolitan) (10:03): On Tuesday we farewelled a man who was a battler, a thinker, a doer and a true believer in making Victoria a better place. Trevor 'Snowy' Simpson was passionate and determined, and occasionally he was gloriously stubborn. Snowy was a true libertarian. He believed fiercely in the power of individual responsibility, in freedom and in holding those in power to account. He did not just talk about it, he lived it. Whether it was in the heat of an election campaign on the phone debating strategy or handing out flyers in the pouring rain, Snowy gave everything he had to the causes he cared about. Snowy believed in preparation, in persistence and in principle. His favourite saying was 'prior preparation prevents piss poor performance', which captured him perfectly. He cared deeply. Behind his sharp wit and strong opinions was a man with a big heart, a loyal friend and someone who never stopped fighting for what was right. Sue, his partner in crime, was Snowy's strength and his soft place to land. You balanced his fire with patience. And to my dear friend Chrysten, I know you are heartbroken and struggling to see how you can do your next campaign without him. Victoria is a better place for having had Trevor 'Snowy' Simpson in it, and those of us that knew him are better for having done so. Rest easy, mate. We will carry your fight forward.

Meningococcal B vaccination

Georgie CROZIER (Southern Metropolitan) (10:04): Victorians are paying almost $20 million a day in interest repayments on the Allan Labor government's debt. That debt is not only growing but spiralling out of control, and forecast interest repayments in 2029, in just a few years time, will be $29 million per day, or $1.2 million an hour. That is a huge amount of money that Victorian households, families and businesses will have to pay. Not the government – it is not their money. It is the taxpayers money. At the same time, you would not think this, because the government is just throwing money around with gay abandon, wasting it and mismanaging so many issues. As a result, initiatives that the government can assist with are not getting any attention – initiatives such as putting the meningococcal vaccine on the immunisation list to protect young Victorians like Levi, who at the age of 16 died of meningococcal disease. Anyone who heard his mother's heartbreaking interview with the ABC's Raf Epstein last week could only be moved by her pleas. I have raised this issue on a number of occasions in this place to ask the government to look at providing meningococcal B to young Victorians, but the response is always just a benign one. As we have all seen in recent days with their support of community health services, this Labor government continues to claim they care but are shutting down the services that are there to support and care for the most vulnerable of Victorians. The government is looking for any cost savings they can because they have recklessly and continually mismanaged Victoria's – *(Time expired)*

Kingston City Council

Ann-Marie HERMANS (South-Eastern Metropolitan) (10:06): I want to take this opportunity to voice my deep concern over the appointment of a second municipal monitor to Kingston City Council, which is an extraordinary and heavy-handed move by this Labor government. The Minister for Local Government has now installed two monitors to oversee Kingston council until the end of the year. Why does one council need double supervision and double monitoring to be overseen by this government? The decision to install monitors came just weeks after Kingston council stood with its community in opposing large-scale developments at the Rossdale and Kingswood golf courses, projects the government has either supported or approved. This timing is not coincidental. It appears that whenever a council refuses to toe the Labor Party line, the minister steps in with so-called monitors to keep them in check. Communities like Kingston deserve councils free from political interference, councils that can make planning decisions without fear of government retribution.

Berwick District Woodworkers Club

Ann-Marie HERMANS (South-Eastern Metropolitan) (10:07): Congratulations to the Berwick District Woodworkers Club gala day on Sunday, which I was absolutely thrilled to attend. Congratulations to the Berwick Primary School students and their teacher for the wonderful musical and singing entertainment. This day is wonderful because it provides an opportunity for the public and the community to celebrate the wonderful, sturdy, practical toys that are lovingly made throughout the year by the dedicated wood club members in the south-east. This year the local women's patchwork guild created and donated several gorgeous soft toys to go inside some of these beautiful woodwork pieces, like the cots and cradles, and it – *(Time expired)*

Business of the house

Notices of motion

Lee TARLAMIS (South-Eastern Metropolitan) (10:07): I move:

> That the consideration of notices of motion, government business, 278 to 1114, be postponed until later this day.

Motion agreed to.

Bills

Statewide Treaty Bill 2025

Committed.

Committee

Clause 1 (10:09)

Melina BATH: Minister, I am sure that this will be a long debate of questions and answers. I begin my questions in relation to the comments that you made at the end of the second-reading debate:

> The name of Gellung Warl has been approved by the Gunaikurnai Land and Waters Aboriginal Corporation after consultation. The community members mentioned by those opposite –

meaning us –

> are not native title holders for Gunaikurnai.

I put on record that I have received many pieces of information and letters from three specific people. One is Linda Mullet, one is Pauline Mullet and one is Cheryl Drayton. For the record, they are all Kurnai elders, and Cheryl Drayton has written to me specifically saying that they have been determined by the Federal Court of Australia as legitimate native title holders under the Native Title Act of 1993. In the Commonwealth, this federal determination establishes the Kurnai people's enduring rights and connection to lands and waters. Minister, have you had any advice since your

comments the other day, two days ago, and would you like to reflect or provide some commentary on your comments?

Lizzie BLANDTHORN: I stand by my statement on Tuesday. The native title holders for Gunaikurnai country are all people descended from the ancestors recognised in the Federal Court judgement of 2010. These people identify as Gunai or Kurnai and established the Gunaikurnai Land and Waters Aboriginal Corporation to represent them and hold their native title on trust for them. GLAWAC is inclusive of all native title holders, including the community members which the opposition referred to, and is their decision-making body. The point being made by the community members that the opposition quote, which is that only Kurnai are native title holders, is incorrect. The court has held that an inclusive group of Gunai and Kurnai people are traditional owners for that country. The exclusive Kurnai native title case was dismissed by the court. This group is not the authority on things like naming Gellung Warl, GLAWAC is, and they approved the name.

Melina BATH: Minister, can you clarify the process by which the name Gellung Warl was approved and which traditional owners and organisations were formally consulted? I will leave that question as the starter.

Lizzie BLANDTHORN: The First Peoples' Assembly of Victoria coordinated a rigorous and culturally appropriate consensus process for all of the language terms used in the Statewide Treaty Bill 2025 and treaty, including the use of Gellung Warl. This included consideration by assembly members, the Yurpa Committee, the assembly's elders standing group and the cultural elements working group, and liaison with the Victorian Aboriginal Corporation for Languages and cultural knowledge holders. The use of Gellung Warl was formally endorsed by the board of the Gunaikurnai Land and Waters Aboriginal Corporation. GLAWAC are the registered Aboriginal party, as I just outlined, that represents the Gunaikurnai people, the traditional owners of their country as determined by the Victorian Aboriginal Heritage Council under the Aboriginal Heritage Act 2006 and the prescribed body corporate for the Gunaikurnai as the native title holder as determined by the Federal Court in 2010 and confirmed by the Federal Court in 2018.

Melina BATH: Why were the Kurnai elders, that are native title holders, not considered or not reviewed or not asked in this process about the name Gellung Warl?

Lizzie BLANDTHORN: As I just outlined and I can repeat for the house, the use of Gellung Warl was formally endorsed by the board of the Gunaikurnai Land and Waters Aboriginal Corporation, and GLAWAC are the registered Aboriginal party that represents Gunaikurnai people, the traditional owners of their country as determined by the Victorian Aboriginal Heritage Council under the Aboriginal Heritage Act 2006 and the prescribed body corporate for the Gunaikurnai as the native title holder as determined by the Federal Court in 2010 and confirmed by the Federal Court in 2018. In my earlier point I also spoke to the extensive consultation around the use of the name.

Melina BATH: But my question stands: in the process, why didn't the government, who wrote this piece of legislation, consult with Kurnai elders? I put it in the context that these Kurnai elders are a native title holder. Why were they not consulted?

Lizzie BLANDTHORN: You can keep repeating the same question, but as I have already outlined twice now, they were: they are members of the GLAWAC and were included in that process. The name was a matter for the assembly as the democratic body.

Melina BATH: Minister, the bill was written by the government, and the government has a responsibility to consult broadly on its determination to write this piece of legislation. Can you provide a list of all entities, corporations and native title holder groups that the government consulted with in determining the name?

Lizzie BLANDTHORN: As I outlined, the First Peoples' Assembly of Victoria coordinated a rigorous and culturally appropriate consent process for all of the language terms used in the Statewide

Treaty Bill, as is appropriate, including the use of 'Gellung Warl', and this included consideration by assembly members, the Yurpa Committee, the assembly's elders standing group, cultural elements working group, and liaison with the Victorian Aboriginal Corporation for Languages and cultural knowledge holders.

Melina BATH: Minister, how does your department verify the legitimacy of traditional owner groups as compared to native title holders when disagreements like this arise within the community?

Lizzie BLANDTHORN: I would just like the member to rephrase her question, or clarify her question, is probably a better point, as to what her question is in relation to the bill.

Melina BATH: Can the minister confirm whether a legal review was conducted to assess whether any provisions of the treaty bill are inconsistent with the Native Title Act 1993, and if so, what advice have you received and can you explain that advice?

Lizzie BLANDTHORN: As the representing minister, I obviously do not directly receive that advice. Let me just clarify for a moment.

As I have previously indicated in my earlier answers and referred to, obviously native title is determined by court under Commonwealth law. But also, if you look at clause 5, it specifies that the bill must be interpreted in a way that does not prejudice or reduce rights or expectations of traditional owners or First Peoples under existing laws or native title rights and interests under the Native Title Act 1993 of the Commonwealth. Clause 5(3) states that no provision in the bill 'is intended to affect native title rights and interests otherwise than in accordance with the Native Title Act 1993 of the Commonwealth'.

Melina BATH: Noting your response, Minister, the Kurnai elders, who have native title claim, are stating publicly and to the government, to the Governor-General and to members of Parliament that they feel aggrieved and that they actually feel that this is a breach of clause 5 of the treaty bill. Can you explain how you can have a clause in this bill that is then inconsistent with the status of this particular set of native title holders?

Lizzie BLANDTHORN: Thank you, Ms Bath, again for the same question. But as I have already outlined to you repeatedly, I think, in the 5 to 10 minutes that we have been going, Gunaikurnai Land and Waters Aboriginal Corporation is the representative organisation. They hold native title on trust and are an authoritative body. They are the appropriate body to consider things like the naming of 'Gellung Warl' and GLAWAC have approved that name.

Melina BATH: Minister, what mechanisms are in place to ensure that only native title holders are recognised under the Native Title Act and are authorised to speak for their rights in treaty negotiations, not just directors of prescribed body corporates – PBCs?

Lizzie BLANDTHORN: As I outlined in I think the first question, it has been determined that GLAWAC is the appropriate authority to make the authorisation in relation to the naming of Gellung Warl. You can continue to ask the same question in different ways over and over again, Ms Bath, but we will be here for a very long time if that is how you intend to operate this morning.

Melina BATH: My question did not mention any entity. It actually said, 'What mechanisms are in place that only native title holders are recognised under the Native Title Act and authorised to speak on their rights in treaty negotiations, not just prescribed body corporates?' That was my question. This is a broad question that can be considered across the state, and you have not answered it, Minister.

Lizzie BLANDTHORN: This line of questioning is really trying to question the Commonwealth native title process. The Advancing the Treaty Process with Aboriginal Victorians Act 2018 says we must uphold the Native Title Act. Clause 5 is clear about how this does and does not interface with native title rights or expectations of traditional owners, and I will leave it at that.

Melina BATH: Minister, given the traditional owner corporations are legally constituted to represent only their registered members, how does the bill prevent these entities from purporting to speak for native title holders who are not members?

Lizzie BLANDTHORN: As I have indicated, the court has determined that GLAWAC is the appropriate body for these decisions and recognition to be made, and if the members that you are referring to take issue, they need to raise that up through the appropriate process and with GLAWAC.

Melina BATH: Minister, again, I have not mentioned anybody; I am actually seeking the understanding of the treaty process and the treaty bill. What criteria are used to verify individuals appointed to represent native title holders in the treaty process that are culturally legitimate and descend from the relevant apical ancestors?

Lizzie BLANDTHORN: The Native Title Act appoints the prescribed body corporate to hold native title on trust as representative of all native title holders. In the issue which you raised with me yesterday and again today and indeed through the media in relation to those people, that remains GLAWAC, and it is obviously others for others. But the Native Title Act appoints a prescribed body corporate to hold native title on trust as representative of the native title holders.

Melina BATH: What legal recourse is available to native title holders who believe their rights have been undermined by decisions or rules made under the treaty framework?

Lizzie BLANDTHORN: The Federal Court.

Melina BATH: In relation to the treaty bill, does the government have the position that the Traditional Owner Settlement Act 2010 adequately accounts for complex internal community dynamics around cultural authority and how the Traditional Owner Settlement Act will intersect with the Statewide Treaty?

Lizzie BLANDTHORN: Yes.

Bev McARTHUR: Minister, the first sentence of the preamble states:

> The State of Victoria acknowledges the unique status of First Peoples and their unceded connection to Country, history, cultures and enduring strength.

Please define the term 'unceded' by reference to case law or statute.

Lizzie BLANDTHORN: The way I will respond to that question is to say that Mabo recognised that terra nullius is null and void, and there is a long understanding that tens of thousands of years of Aboriginal culture and history and population was here first.

Bev McARTHUR: Then, Minister, please explain the legal ramifications of acknowledging that there is any unceded territory in Victoria.

Lizzie BLANDTHORN: The solicitor-general has provided advice on the content of the bill, the Racial Discrimination Act 1975 in relation to the bill, and the treaty, and that advice has informed the drafting of the legislation.

Bev McARTHUR: Are you prepared to provide that advice to the chamber?

Lizzie BLANDTHORN: Obviously, as the representing minister this is not my advice – I am just clarifying – but the advice is subject to legal privilege, as you would expect.

Bev McARTHUR: Well, if we are basing this treaty bill on an aspect of government that says the land is unceded and you have got advice on that matter from the solicitor-general but you are not prepared to give it to this Parliament, which has to make the decision on voting on this bill, let alone the public of Victoria, then you are denying the opportunity of anybody to have full and frank information about how you have come to this decision-making process. Why can't you be transparent? If you have nothing to hide, provide the information.

Lizzie BLANDTHORN: The advice is privileged.

Bev McARTHUR: That says it all. Minister, if sovereignty has never been ceded, does that make the state government illegitimate?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Is the Parliament sovereign over Gellung Warl?

Lizzie BLANDTHORN: The sovereignty of the Parliament is not in question, Mrs McArthur, as we discussed yesterday.

Bev McARTHUR: Minister, in part 1, clause 2, the bill describes ongoing Statewide Treaty making as involving the transfer of decision-making, rule-making and advisory and other powers and functions from the state government to Gellung Warl. Is there any end point to this treaty-making process?

Lizzie BLANDTHORN: As I outlined in my summing-up remarks yesterday, or potentially the day before, we know, as do all families, that when families have the opportunity to make self-determined decisions for themselves and their children, outcomes are better.

Bev McARTHUR: So Gellung Warl is therefore sovereign over the Parliament? Does it eventually supersede the role of Parliament?

Lizzie BLANDTHORN: I reject the premise of your question, Mrs McArthur. The answer is no.

Bev McARTHUR: In part 2, clause 12, 'Functions and powers of Gellung Warl', it says:

> Gellung Warl has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

What does it actually mean when the bill says Gellung Warl would have the power to do all things that are necessary or convenient to be done? All things that are necessary or convenient to be done – what does that mean?

Lizzie BLANDTHORN: The bill is giving effect to Aboriginal people being able to self-determine what is in their and their families' best interests.

Bev McARTHUR: Is the government prepared to say now what the limits of Gellung Warl's powers will be?

Lizzie BLANDTHORN: Gellung Warl will have the opportunity, as we have said, to reflect on decisions and programs and systems and how they can best serve Aboriginal people and Aboriginal families and work with government on how we can deliver on those self-determined outcomes so that children and families of Aboriginal people get better outcomes.

Bev McARTHUR: So there are no limits, Minister?

Lizzie BLANDTHORN: They are prescribed by legislation.

Bev McARTHUR: Clause 12 outlines that Gellung Warl has the ability to make grants. Given that Gellung Warl is not subject to the directional control of the minister, what kind of oversight would those grants be subject to?

Lizzie BLANDTHORN: Ultimately, Gellung Warl will be subject to the same oversight and accountability measures as is all of government, and that includes things such as the Ombudsman, the Independent Broad-based Anti-corruption Commission and so forth. The usual existing oversight powers will remain for those entities.

Bev McARTHUR: Does that include the Public Accounts and Estimates Committee (PAEC)?

Lizzie BLANDTHORN: They will be subject to the Financial Management Act 1994.

Bev McARTHUR: In clause 13, 'Gellung Warl not subject to direction or control', the bill says:

> Gellung Warl is not subject to the direction or control of the Minister in respect of the performance of its functions and the exercise of its powers.

So if the minister cannot control Gellung Warl, who can?

Lizzie BLANDTHORN: In a day-to-day functional sense, the minister still administers the act.

Bev McARTHUR: So can you assure us that this makes them accountable for their actions by the minister?

Lizzie BLANDTHORN: Gellung Warl is subject to the Financial Management Act. There is existing oversight. In the day-to-day function the minister administers the act and under clause 7 Gellung Warl is accountable to Parliament.

Bev McARTHUR: Does this not just make this another arm of government on top of all the other layers of government here in Victoria?

Lizzie BLANDTHORN: No.

Bev McARTHUR: The bill states repeatedly that:

> … Gellung Warl is generative and will continue to evolve as it takes on further powers, functions and responsibilities in relation to First Peoples through the ongoing Statewide Treaty-making process.

As part of this ongoing treaty-making process, will you rule out the possibility of reparation payments being made?

Lizzie BLANDTHORN: All legislation, all entities created as part of legislation in this state continually evolve. We see that in our day-to-day operations in this place, and that will continue to remain the case in relation to the evolution of Gellung Warl.

Bev McARTHUR: With great respect, Minister, you have not answered the question. Will you rule out the possibility of reparation payments being made?

Lizzie BLANDTHORN: The negotiation topics are clearly listed in the *Treaty Negotiation Framework*, and that is a public document.

Bev McARTHUR: I will take that as a no. Will you rule out having seats reserved in Parliament for those who claim to be Aboriginal?

Lizzie BLANDTHORN: Again, Mrs McArthur, the negotiation topics are clearly listed in the negotiation framework for treaty, and that is a public document.

Bev McARTHUR: The bill states:

> Each year, the Minister, in consultation with the First Peoples' Assembly and with the Presiding Officers, must determine a sitting day or sitting days on which the First Peoples' Assembly is to present an annual address to a joint sitting of the Legislative Council and Legislative Assembly.

It suggests there could be more than one sitting day. Is there any limit to the number of days?

Lizzie BLANDTHORN: That will be determined by the Presiding Officers.

Bev McARTHUR: So it could be on top of the existing sitting calendar, or will this reduce the number of sitting days to pass legislation?

Lizzie BLANDTHORN: That will be determined by the Presiding Officers.

Bev McARTHUR: Will the Parliament be offering any other special sitting days to any other multicultural or representative group in Victoria?

Lizzie BLANDTHORN: Again, Mrs McArthur, these are matters for the Parliament and the Presiding Officers in particular.

Bev McARTHUR: So, Minister, you cannot rule that out?

Lizzie BLANDTHORN: I would not want to speak for the President or the Speaker.

Bev McARTHUR: In the preamble on pages 3 to 4, it states:

> The State recognises the importance of this Statewide Treaty and future Treaties proceeding in a manner that is consistent with the principles articulated in the United Nations Declaration on the Rights of Indigenous Peoples …

Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that:

> Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Is the intention of the bill to facilitate the creation of future Indigenous-only political, legal, economic, social and cultural institutions?

Lizzie BLANDTHORN: The purpose of the bill is to establish treaty and to provide Aboriginal people with the opportunity to make decisions that affect them in a self-determined way.

Bev McARTHUR: Section 3 states that the First Peoples' Assembly may make substantive rules. The objects of part 4 include:

> to empower the First Peoples' Assembly to make substantive rules … including to make rules that affect First Peoples;

Is it not the case that this bill will lead to different laws applying to different Victorians, depending entirely on their race?

Lizzie BLANDTHORN: The bill is only relevant to First Peoples, and its confirmation of Aboriginality is only prescribed in the bill. Let me see.

The assembly of Gellung Warl will have the power to make internal rules which relate to internal affairs and the operation of Gellung Warl and substantive rules about issues that directly affect First Peoples. Substantive rules only apply to First Peoples and First Peoples' organisations. There is currently only one substantive rule-making power set out in the bill, relating to how First Peoples' organisations issue certificates in relation to confirmation of Aboriginality, as I spoke to before.

Bev McARTHUR: Section 144 establishes automatic appropriations from the Consolidated Fund. Is it not the case that this removes Parliament's fundamental power to control public spending through the annual budget process?

Lizzie BLANDTHORN: No.

Bev McARTHUR: What is the government's justification for excluding the First Peoples' Assembly from the financial scrutiny that applies equally to every other publicly funded body?

Lizzie BLANDTHORN: As you said, Gellung Warl will be funded by special appropriation. The bill includes a special appropriation with yearly caps to fund the operation of Gellung Warl and all its entities, and the amount to be appropriated includes costs and expenses incurred in establishing Gellung Warl, operational funding, fixed-term capital expenditure and so forth. Gellung Warl may only spend this funding to fulfil its statutory functions and obligations, and it will obviously be subject to the Financial Management Act and ultimately is accountable to all of the other oversight bodies that we referred to in your earlier line of questioning.

Melina BATH: I just want to read something that I have from a Kurnai elder, and it starts:

> Dear Ms Bath,
>
> Pursuant to Standing Order 9.59 of the Legislative Council, we submit this written request on behalf of the Kurnai Elders and members of the Kurnai Aboriginal Corporation, whose rights, standing, and reputation have been adversely affected by statements …
>
> We respectfully assert the following:
>
> 1. Federal Determination of Native Title
>
> The Federal Court of Australia has determined the Kurnai people as the legitimate Native Title holders under the Native Title Act … This determination recognises our enduring rights, identity, and unbroken connection to Country – including land, waters, and heritage.

Ms Drayton goes on to say:

> We draw the attention of the House to a critical legal inconsistency between:
>
> - The Traditional Owner Settlement Act 2010 (Vic); and
> - The 2010 Gunaikurnai Indigenous Land Use Agreement (ILUA) registered under the Native Title Act …
>
> While the Settlement Act states that Native Title is not extinguished by the transfer of freehold … to GLaWAC, the 2010 ILUA contradictorily provides that Native Title will be extinguished upon … transfer.
>
> This contradiction goes to the validity of both instruments. As the Native Title Act is a Commonwealth law, section 109 of the Australian Constitution makes it clear that Federal law prevails over any inconsistent State provision.
>
> The Kurnai people never consented to the Settlement process under the State Act. We therefore retain our Federal Native Title rights and interests as determined by the Court. Any exercise of authority … under the Settlement framework must be preceded by free, prior, and informed consent of Kurnai common law holders, in accordance with Article 19 of the United Nations Declaration on the Rights of Indigenous People … and section 203BC of the Native Title Act …
>
> We have not, and will not, provide that consent. This inconsistency, and any administrative decisions flowing from it, should urgently be investigated on both legal and procedural grounds to ensure the supremacy of Federal law and the protection of the Kurnai people's rights.

Ms Drayton continues:

> **Truth Telling and Accountability**
>
> The ongoing Truth Telling process in Victoria must be grounded in lawful recognition of the true Traditional Owners. It cannot proceed as a political exercise that excludes the voices of those directly affected.
>
> Truth Telling must reflect the lived experiences of dispossession, removal, and exclusion, and not be confined to corporations or agencies operating under State Frameworks without consent. Until the Kurnai people's lawful and cultural authority is respected, any process claiming to tell the truth remains incomplete and misleading.
>
> We call for parliamentary and ministerial accountability in this respect, including transparent review of policies, agreements, and representations made under the guise of reconciliation or treaty preparation.

Finally:

> **Harm and Request for Apology**
>
> The Minister's statements have caused significant harm to the dignity, cultural authority, and reputation of Kurnai Elders and people. This harm extends across Gippsland and beyond, damaging trust, reconciliation efforts, and the spirit of self-determination.
>
> Accordingly, we seek:
>
> - A formal statement of correction to the Legislative Council; and
> - A public apology to the Kurnai Elders and people for the harm and misrepresentation caused.
>
> We thank you for receiving this submission under Standing Order 9.59 and for your continued advocacy for fairness, accountability, and truth within the Victorian Parliament.

This was submitted on behalf of the Kurnai elders and the Kurnai Aboriginal Corporation. Minister, that was a long and detailed letter, but I wanted to put it on record. In the spirit of reconciliation and on behalf of the Kurnai elders, I ask you to take note of their consideration and that letter.

Lizzie BLANDTHORN: At the outset I would echo my support for the President's advice yesterday as to the usual process through which to raise such grievances, and it is not the committee stage of a bill. In responding to your contribution just then – and as I said earlier, I stand by my statement on Tuesday – the native title holders for Gunaikurnai country are all people descended from ancestors recognised in the Federal Court judgement of 2010. Those people identify as Gunai or Kurnai and established the Gunaikurnai Land and Waters Aboriginal Corporation to represent them and hold their native title on trust for them. GLAWAC is inclusive of all native title holders, including the community members that the opposition refers to, and is their decision-making body. The point that the community members the opposition quote make, which is that only Kurnai are native title holders, is incorrect. The court has held that an inclusive group of Gunai and Kurnai people are the traditional owners of that country. The exclusive Kurnai native title case was dismissed by the court. This group is not the authority on things like naming Gellung Warl; GLAWAC is, and they approved the name. I can also quote the official statement of GLAWAC:

> The Gunaikurnai Land and Waters Aboriginal Corporation confirms that it considered and approved a request to use Gunaikurnai language in naming the First Peoples' Treaty representative body, Gellung Warl.
>
> The decision was made through GLaWAC's recognised cultural and governance processes, guided by the advice of Elders, endorsed through formal decision-making structures and validated by the Victorian Aboriginal Corporation for Languages … All such decisions are undertaken with care, respect and oversight, to ensure that cultural integrity is upheld.
>
> As the Registered Aboriginal Party and Traditional Owner Corporation for Gunaikurnai Country, GLaWAC represents a collective voice, while respecting that individuals may hold different perspectives. These matters are governed by clear cultural protocols, and GLaWAC remains committed to its role as the cultural authority for Gunaikurnai people and Country.

I can also, Ms Bath, to assist you, refer you to where the Federal Court has held that Gunaikurnai elders are represented by GLAWAC, and I can also read from the relevant court judgment:

> … the Court heard lengthy arguments in relation to the correctness of the composition of the GunaiKurnai claim group when the Kurnai unsuccessfully sought a separate native title determination in Rose on behalf of the Kurnai Clans v State of Victoria [2010] FCA 460 ('Rose'). Ms Mullett, the applicant for joinder in this proceeding, had been the lead advocate for recognition of the Kurnai as a group separate from the Gunai in Rose. After the 2010 consent determination, the GunaiKurnai claim group combined the names 'Gunai' and 'Kurnai' in an effort to remove perceptions of difference. In the case at hand, Mortimer J found no reason to depart from the basis of North J's decision in Rose that the Kurnai formed part of a larger Gunai/Kurnai society.

Melina BATH: Minister, thank you for your response, but I just want to put on record that in your response you may have inadvertently misled the house, because in your response you claimed that I purport that only the Kurnai elders have responsibility or right to make this or are the only group, and I do not. I just wish them to be recognised. I am not delegitimising one group over another, I am attempting to ask the government to recognise legitimacy of opinion and right. I just put that on record, Minister. I am not attempting to do what you have said, and I just want you to recognise that.

Lizzie BLANDTHORN: I do not intend to put words in your mouth. I am simply pointing out that GLAWAC is the relevant authority to represent the Gunai and the Kurnai people. Those people who identify as Gunai or Kurnai have the Gunaikurnai Land and Waters Aboriginal Corporation to represent them and hold their native title on trust for them.

Melina BATH: I will move on from that point at the moment. Minister, you stated before that the minister administers the act, and the act has both enabling and proscriptive legislation. If we look at this in the context of Victorians and Victorians wanting to understand Gellung Warl, can the minister explain how Victorians can hold Gellung Warl to account when it is not subject to ministerial

responsibility or Parliament estimates scrutiny? How are Victorians going to have a level of oversight of Gellung Warl?

Lizzie BLANDTHORN: Gellung Warl is a representative body. It will make self-determined decisions. It is obviously still subject to the Financial Management Act. The relevant minister has responsibility for the administration act. The usual oversight bodies – Victorian Auditor-General's Office (VAGO), IBAC, the Ombudsman – all still have oversight responsibilities in relation to this. There is oversight. There is accountability. There is obviously the electoral process. There are community accountability obligations. That is the integrity system. There are statutory reporting and management requirements. Gellung Warl is subject to all the same types of oversight as Victorian public bodies and other comparable entities, like local councils. In particular Gellung Warl is subject to democratic oversight of its performance of functions and fulfilment of cultural responsibilities through its own elections and the Victorian integrity system, as I outlined; and the statutory obligations under the Statewide Treaty Bill 2025 and the Statewide Treaty implementation requirements. As with any other public entity, there are obviously all of the other oversight and anti-corruption mechanisms that apply, and so it will be subject to significant oversight and accountability.

Melina BATH: Why does the Statewide Treaty Bill not require Gellung Warl to table its annual report in Parliament before public scrutiny, as is the standard practice for other statutory bodies funded by taxpayers?

Lizzie BLANDTHORN: It does, Ms Bath.

Melina BATH: Can you explain clause 150, on annual reporting obligations?

Lizzie BLANDTHORN: Ms Bath, it appears that clause 150 is fairly self-explanatory and goes to the answer I just previously gave you. Is there anything in particular that you wanted explained from within clause 150 that concerns you?

Melina BATH: No, I will move on. What obligations exist for the government to respond to representations within a timeframe or with a public explanation? What is the government's requirement to respond to representations?

Lizzie BLANDTHORN: Sorry, I am not sure I understand your question. Could you rephrase that, please, and explain what you mean.

Melina BATH: In relation to clauses 76 to around clause 90, and representations to government, what obligations exist for the government to respond to representations within a timeframe?

Lizzie BLANDTHORN: These clauses are really about a new relationship between government and First Peoples. There is not a legally binding obligation, if that is what you are attempting to extract.

Melina BATH: You have just said that it is a relationship. I just want to understand. What obligations are there? Are there no obligations for the government to respond to representations in a timeframe?

Lizzie BLANDTHORN: Perhaps it will allay your fears if I say there are no coercive powers. This is about consultation and ensuring that both within Gellung Warl and across government decisions are made in a way that is consultative, that the relationship is reframed as a partnership and that Aboriginal people have the right to self-determination in decisions about them and their families. And as we all know, families all across Victoria do better when they have self-determination in their own lives.

Bev McARTHUR: Minister, you have said that this treaty – well, the whole process – is subject to IBAC and other oversight bodies. But part 21 of the bill itself would undermine investigations from these bodies, because part 21 of the bill requires integrity bodies like the IBAC, the Ombudsman and the Auditor-General to develop cultural safety guidelines and procedures in consultation with the First Peoples' Assembly. If IBAC was investigating the First Peoples' Assembly, would cultural safety

requirements undermine the independence of the investigation? Wouldn't this mean IBAC has to coordinate its investigation activities with the institution it is investigating?

Lizzie BLANDTHORN: The bill amends the Independent Broad-based Anti-corruption Commission Act 2011 as well, to make clear that the Gellung Warl is subject to oversight by IBAC, and the amendments ensure the IBAC act is applied in relation to Gellung Warl in a way that aligns with its independent character and is fit for its unique cultural responsibilities and governance practices.

Bev McARTHUR: But that defies logic, Minister. If they have to comply and develop cultural safety guidelines and procedures in consultation with the First Peoples' Assembly but they are obliged to investigate them within those cultural safety guidelines, it is a contradiction. How could they possibly do that?

Lizzie BLANDTHORN: The amendments include various replacements of the role of the minister administering the bill, currently the Minister for Treaty and First Peoples, in receiving certain information about Gellung Warl from IBAC, with the chairpersons of the assembly of Gellung Warl to ensure that IBAC is providing information to a person with powers to remedy and respond to issues. If the IBAC is going to provide a report to Parliament in relation to it, it must provide an advance copy of that report to the Treaty Authority. This is a preliminary step in the ability for the Treaty Authority to dissolve the First Peoples' Assembly, which it can only do after receipt of a report from IBAC or the Ombudsman. The IBAC must, in consultation with the assembly of Gellung Warl, establish written guidelines and procedures to promote and safeguard cultural safety in how it carries out powers and functions in relation to Gellung Warl. These guidelines and procedures will support the organisational development and practice of cultural safety and cultural competency, including when it is providing oversight of Gellung Warl. But the key point here is the amendments do not impact the independence of IBAC. The amendments apply the existing scheme of the IBAC act to Gellung Warl. The requirement to make guidelines and procedures in relation to cultural safety are non-binding, such that there is no impact on the discretion of the IBAC as to how it exercises its function. For the avoidance of doubt, which again might allay your fears, Mrs McArthur, the amendments include an express provision that nothing in the section requiring the guidelines and procedures to be made impact the independence of IBAC.

Bev McARTHUR: So if a citizen made a complaint to the Ombudsman about Gellung Warl, the Ombudsman would have to adhere to these cultural safety procedures, obviously. What are the parameters around these cultural safety procedures, and would this compromise the independence of the investigation?

Lizzie BLANDTHORN: Again, Mrs McArthur, they are non-binding, but if it helps you understand the bill a little better, the bill amends the Ombudsman Act 1973 to make clear that Gellung Warl is subject to oversight by the Ombudsman. The amendments also ensure the Ombudsman Act is applied in relation to Gellung Warl in a way that aligns with its independent character and is fit for its unique cultural responsibilities and governance practices. Gellung Warl will be subject to the Ombudsman Act as a public body and will therefore be required to engage with the Ombudsman in the same manner as other public authorities. Additionally, an assembly of Gellung Warl members will also be able to make a complaint to the Ombudsman about an administrative action taken by or in authority when acting on behalf of an aggrieved person. This also mirrors the ability for a member of Parliament to make a complaint on behalf of an aggrieved person. The amendments do not impact the independence of the Ombudsman; the amendments apply the existing scheme of the Ombudsman Act 1973 to Gellung Warl.

Bev McARTHUR: You are not convincing. Why is the act described as giving effect to a treaty when it is an ordinary statute passed by one Parliament?

Lizzie BLANDTHORN: It is an important part of the treaty process here in Victoria.

Joe McCRACKEN: I am going to go back to clause 1. Clause 1(a)(v) empowers Gellung Warl to hold the state government to account. What legal mechanisms underpin this accountability, and what remedies exist if the government refuses engagement?

Lizzie BLANDTHORN: As I said earlier, Mr McCracken – I am sorry I have been facing this direction, so I am not sure if you were in the house to hear – this is about a new relationship between Aboriginal people and government, and it is an opportunity to recast that relationship in a way in which it is more of a partnership and a way in which Aboriginal people can self-determine decisions that impact them and their families.

Joe McCRACKEN: My question, just to make it clear is: what legal mechanisms underpin this accountability, and what remedies exist if the government – a future government – refuses engagement?

Lizzie BLANDTHORN: Obviously the role is to provide greater accountability for the state's actions and impacts on First People in order to help address the disadvantage experienced by First Peoples, as we have discussed. It will also support, as I have said, the enduring transformation of government and of the public service towards a state without institutional racism, discrimination or unconscious bias. It will recommend self-determined and practical solutions. If I turn to the interaction provisions with government, there will be various ways in which information can be requested and various ways in which government and Gellung Warl are held to account.

Joe McCRACKEN: My question was what remedy exists if the government refuses engagement?

Lizzie BLANDTHORN: As I said earlier, it is non-binding and there are no coercive powers. This is about redefining the relationship in a spirit of removing institutional racism and in a spirit of accepting self-determination as the best way forward. There is a degree of commitment to that process through this legislation, and obviously within Gellung Warl itself, to ensure that works, but ultimately there are no coercive powers.

Joe McCRACKEN: Does the phrase 'provide for ongoing truth-telling and healing' in clause 1(a)(iii) import a continuing statutory obligation on the Crown, or is it symbolic?

Lizzie BLANDTHORN: I would have thought that everybody in this place is committed to ongoing truth-telling and that it is, for all of us, something that is more than symbolic.

Ann-Marie HERMANS: On the issue of truth-telling and self-determination, Minister, and based on the response that you have given to my colleague Ms Bath, it appears from what we are putting together here in treaty that only some voices are going to be recognised by this particular assembly and that only some voices are going to be listened to by the government – not others who are born and are descended from Aboriginal people and are not self-proclaiming to be Aboriginal or those who are meeting up and becoming friends with Aboriginal people and being given the opportunity to call themselves Aboriginal – and that those who are genuinely of Aboriginal descent, many of those voices, will be totally dismissed, misheard or not heard at all through this treaty process. Can you explain further how this is going to be more inclusive of all people of Aboriginal descent who are from Victorian communities and countries so that we do not have a situation where we will only listen to the ones for which the government has actually said, 'We recognise this group, we recognise that group and we recognise this group over here'? Many others who are genuinely descended from and are Aboriginal people and who know what their ancestry is and their community are not being heard. Can you please tell me how we are going to overcome that through this process of treaty that the government is putting together at the moment?

Lizzie BLANDTHORN: Clause 120 of the bill says that ongoing truth-telling is to be inclusive of all Victorians.

Ann-Marie HERMANS: So given that, why was it that there was the response of a complete dismissal of an Aboriginal person that had written in about their concerns and about their feelings and

their priorities from the Gunaikurnai community. It was just 'Well, we don't recognise them because they're not from this particular authority.' Why was that response given?

Lizzie BLANDTHORN: If we want to go back there again, we can, but I stand by my statements on Tuesday and I stand by what I have already read into the *Hansard* from GLAWAC as the body which approved the name and is the appropriate authority to approve the name. I will let you consider *Hansard* if you would like to ask that question again, Mrs Hermans.

Joe McCRACKEN: I am going to move on to clause 2(1)(b). Does that envisage further treaties as subordinate instruments or as future acts of Parliament?

Lizzie BLANDTHORN: Further treaties can be negotiated. If they require further laws, then that will be a consideration for the Parliament.

Joe McCRACKEN: Sorry, just to make it crystal clear: they will be future acts of Parliament, not subordinate instruments. Is that a correct understanding?

Lizzie BLANDTHORN: Not necessarily, Mr McCracken. Treaties can be negotiated and legislation remains a matter for the Parliament.

Joe McCRACKEN: Clause 2(1)(c) purports to advance the inherent rights of self-determination of First Peoples. How does that align with section 8 of the Charter of Human Rights and Responsibilities Act 2006, which already applies equally to all persons?

Lizzie BLANDTHORN: While several charter rights are relevant to the bill, as outlined in the statement of compatibility, the bill is unlikely to limit any of those rights. Where potentially arguable limits were identified, the statement of compatibility concludes that those limits would be reasonably justified under section 7(2) of the charter.

Joe McCRACKEN: Clause 2(2)(a) references the First Peoples' Assembly of Victoria Limited ACN 636 189 412. Does this create a statutory succession from a private company limited by guarantee to a statutory authority?

Lizzie BLANDTHORN: It is obviously the evolution of the assembly into Gellung Warl, based on the successes of the previous few years.

Joe McCRACKEN: So just to be absolutely clear, that is a yes?

Lizzie BLANDTHORN: As I said, Mr McCracken, it is the evolution of the assembly into Gellung Warl, based on the successes over the past few years.

Joe McCRACKEN: Clause 2(2)(f) refers to:

> … ongoing transfer of decision-making, rule-making, advisory and other powers …

Which existing statutory powers are contemplated for transfer and under what mechanisms: regulation, negotiation or legislation?

Lizzie BLANDTHORN: The assembly of Gellung Warl must make decisions by at least a majority and will have to follow internal decision-making processes and policies which are required to cover specific matters modelled off state policies to ensure the integrity of the appointment process. The assembly will be empowered to make all appointments of members to the Victorian Aboriginal Heritage Council, for example, and an appointment of the designated First Peoples member to the heritage council.

Joe McCRACKEN: Sorry, Minister, that is not exactly what I was asking. Under the transfer of power – rule-making, advisory and other powers – which existing statutory powers are contemplated to transfer and under what mechanism: regulation, negotiation or legislative amendment?

Lizzie BLANDTHORN: You are hypothesising about future decisions to be made. We are unclear as to what your question is, Mr McCracken.

Joe McCRACKEN: I am happy to clarify. Which existing statutory powers are listed for transfer whether by regulation, legislation or negotiation?

Lizzie BLANDTHORN: To be clear, the only ones at the current point in time are the ones that I just outlined. Future ones will be subject to negotiation and legislation.

Joe McCRACKEN: I do not think I am going to get a clear answer on that one. Does clause 2 establish any obligation on the state, or are the objects merely interpretive guidelines under section 35(a) of the Interpretation of Legislation Act 1984? It is clause 2 I am talking about in particular.

Lizzie BLANDTHORN: In our understanding of your question, Mr McCracken, I would refer you to my previous answers, and perhaps you would like to find a different way to phrase your question if there is something different that you are looking for.

Bev McARTHUR: Minister, the preamble of this bill expressly links Victoria's treaty process to the United Nations Declaration on the Rights of Indigenous Peoples. I went there before, but can the minister clarify the legal effect of that reference? Does it mean that principles within the United Nations declaration, such as restitution of traditional lands, compensation or self-determination, will have binding force in Victorian law?

Lizzie BLANDTHORN: The establishment of Gellung Warl is obviously consistent with UNDRIP's right to self-determination. Gellung Warl will enable First Peoples in Victoria to have a say over matters specifically impacting them, and the establishment of Gellung Warl as an ongoing democratic representative and deliberative body with decision-making powers will enable First Peoples communities to design and deliver practical solutions for their own communities.

Bev McARTHUR: Minister, with great respect, you have not answered the question. Does it mean that restitution of traditional lands, compensation or self-determination will have binding force over Victorian law?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Now I want to go to Nginma Ngainga Wara, the accountability mechanism. Part 9, division 4, clause 103 outlines that this body may conduct an inquiry into institutional racism, discrimination, unconscious bias or a lack of cultural safety. Can you define 'unconscious bias' in this context?

Lizzie BLANDTHORN: This intention relates to the Closing the Gap definitions, and I would refer you there, Mrs McArthur.

Bev McARTHUR: The definition of 'unconscious bias', please.

Lizzie BLANDTHORN: Mrs McArthur, as I have said, we are seeking here to establish a body which has self-determination at its core, which has the opportunity to break down systems that include institutional racism and to use these mechanisms to close the gap, and I would refer you to the definitions associated with Closing the Gap.

Bev McARTHUR: Can you give me an example of what unconscious bias might include? What would it look like?

Lizzie BLANDTHORN: Mrs McArthur, this is not an opportunity for me to hypothesise or to make my own reflections, but an opportunity to ask questions that relate directly to the bill. I would ask you to provide me with that, and I would be more than happy to assist you.

Bev McARTHUR: We do need to know what you believe this means. What form would these inquiries take? Would they be open to the public, for example? Would the findings be released to the public?

Lizzie BLANDTHORN: I also apologise if I do not get this pronunciation correct, but the Nginma Ngainga Wara, the accountability body, can conduct inquiries into structural or systemic matters where those matters relate to, firstly, the government's performance to achieve the outcomes it has committed to in relation to First Peoples; secondly, institutional racism, unconscious bias or a lack of cultural safety; or thirdly, the implementation of the Yoorrook Justice Commission's recommendations. Nginma Ngainga Wara, the accountability body, will produce a report on each of its inquiries, which will be provided to the assembly of Gellung Warl. Inquiries, indeed, are an important way that Nginma Ngainga Wara will be able to request information that it needs to ensure its recommendations and proposed solutions are practical and that they are workable.

Nginma Ngainga Wara can hold only one inquiry a year into a particular portfolio area. Further inquiries into the same portfolio area must be agreed to by the relevant minister. Nginma Ngainga Wara is required to comply with all standard principles of natural justice in preparing its reports and recommendations. The assembly will choose if and how it wants to engage with the government on the reports and whether to publish the report. Lastly, in making recommendations, the bill requires that Nginma Ngainga Wara consider budgetary impacts and available resourcing, and that the recommendations are practical and capable of implementation by the Victorian government. This process is intended to be genuinely facilitative and to lead to proposed solutions that can practically improve government and have a positive impact on First Peoples.

Bev McARTHUR: Thank you, Minister, but you have not told us whether they will be made public, whether the findings will be released to the public. Clause 106 says that Nginma Ngainga Wara can conduct an inquiry 'as it thinks fit'. That is pretty extraordinary, isn't it? Does that not just give them the ability to run the inquiry in any way they see fit? What protections does the public have that this will not be some form of kangaroo court?

Lizzie BLANDTHORN: While the Victorian government is committed to engaging with Nginma Ngainga Wara in good faith to achieve better outcomes for First People, Nginma Ngainga Wara's ability to request information is not compulsive. It cannot compel the provision of any information. Furthermore, the recommendations and proposed solutions will not create any specific obligation for the Victorian government. As with many other accountability mechanisms, they will be recommendations only, not legally binding orders or requirements and so there are no limitations on forcing government.

Bev McARTHUR: Minister, just to confirm, the inquiries will not be made in public, and the recommendations of the inquiry will not be released to the public. Can you confirm that this is not a public activity in any way, shape or form? It is an internal activity brought about by this organisation but without accountability to the public or this Parliament.

Lizzie BLANDTHORN: It is not exclusively an internal matter. Nginma Ngainga Wara may refer matters to another body if it considers that the other body is better placed to deal with the relevant matter, for example, and the bodies that it can refer things to are listed at schedule 4 in the bill. They include the Auditor-General, IBAC, the Environment Protection Authority Victoria and the Ombudsman, for example. It has to engage First Peoples, report annually on activities and report annually on activities in its annual report.

Melina BATH: Minister, in relation to that, you said it can hold one investigation into a portfolio per year. How many portfolios exist in the executive government in state Parliament?

Lizzie BLANDTHORN: I have not individually counted them up. Let me just check.

There are obviously at least 22 ministers. One of us will count up the number of portfolios and provide them to you. But I would say also in response to your question that, as I said, Nginma Ngainga Wara obviously has the constraints of its financial resources and time and other resources with which to conduct inquiries as well. But if your question is how many individual portfolios are in government, we will provide you with that information. I suggest it is probably publicly available.

Melina BATH: I think my count was about 45, but I stand to be corrected by government officials. Is there a cap on inquiries into other statutory bodies or government services? Is there any limitation – and if so, what – for the inquiry arm to inquire into government bodies, organisations or services?

Lizzie BLANDTHORN: If you are referring to inquiries conducted by Nginma Ngainga Wara, then my previous answer would remain relevant in terms of their own capacity limitations, resources and so forth. If you are referring to inquiries that they might ask of others, again, those inquiries would have to meet those relevant thresholds, but I am not sure if I have correctly anticipated your question.

Melina BATH: I respect the answer that the minister has provided, but indeed there is nothing in this Statewide Treaty Bill that limits I will just say the inquiry arm, the investigative arm, in investigating other statutory bodies and other government services. That is correct, isn't it? There is no limitation on this body investigating other statutory bodies or government services in their intent.

Lizzie BLANDTHORN: As I said earlier, Ms Bath, Nginma Ngainga Wara can conduct inquiries into structural, systemic matters where those matters relate to the government's performance to achieve the outcomes it has committed to in relation to First Peoples, institutional racism, unconscious bias, a lack of cultural safety or the implementation of the Yoorrook Justice Commission's recommendations. Nginma Ngainga Wara will produce a report on each of its inquiries, and that will be provided to the assembly of Gellung Warl. It is important to note that inquiries are an important way for Nginma Ngainga Wara to request the information that it needs to ensure its recommendations and proposed solutions are practical and workable, and as I said, it can only hold one per year into a particular portfolio. It is required to comply with all standard principles of natural justice and so forth.

Melina BATH: There could be – and I am just picking literally at random – an investigation based on those criteria into the CFA or the SES or Parks Victoria. The list is long and extensive. You have said that the bill states that the inquiry arm will report back to Gellung Warl as a whole, but can those entities, like the CFA, for example, see that report? Are they able to make a counterclaim for additional information or a response? If there are, say, adverse findings, is there a reciprocal mechanism in this bill for that other entity to respond to the contents of the report if it is not seen by that entity?

Lizzie BLANDTHORN: This is the accountability mechanism that is needed under the national agreement to close the gap. It is limited by its functions, and procedural fairness is included in the bill.

Melina BATH: We can get on to funding in a little bit, but in terms of the inquiry arm, if this arm for that budget for that year has met and, say, is about to exceed its budget, there is nothing stopping that arm from going to the Treasurer and the Premier or the minister and seeking further funds. There is no cap technically on requesting further funds in order to complete an inquiry that it sees fit.

Lizzie BLANDTHORN: As I indicated in an earlier answer, the accountability body will obviously be constrained by its resources and it can make requests, as all parts of government can, for further appropriations. That goes through its own individual process, which may or may not be successful.

Ann-Marie HERMANS: I would just like to pick up from where Ms Bath was speaking. In part 8, clause 89(3), it says:

> The authority or State-funded service provider must respond in writing to the First Peoples' Assembly within 60 days after receiving any submission or questions, unless a longer period is agreed to by the First Peoples' Assembly.

What would happen if a longer period is not agreed to, and if the service provider failed to comply with the request within the 60 days?

Lizzie BLANDTHORN: There are no coercive powers.

Joe McCRACKEN: I am going to focus my questions on clause 4 here, the definitions. Clause 4 defines 'agency' and 'authority' with reference to the Public Administration Act 2004 but excludes excluded bodies. What is the rationale for excluding integrity agencies such as IBAC and the Auditor-General, given they have an oversight role?

Lizzie BLANDTHORN: The oversight roles of the integrity agencies continue to apply to Gellung Warl.

Joe McCRACKEN: That was not my question, Minister. I said in clause 4, which are the definitions, you have defined 'agency' and 'authority'. What was the rationale for excluding integrity agencies such as IBAC or the Auditor-General, given they have such a significant oversight role?

Lizzie BLANDTHORN: The only thing that they are excluded from, Mr McCracken, are the inquiries that are Nginma Ngainga Wara on the basis of protecting the integrity of those inquiries.

Joe McCRACKEN: The definition of 'First Peoples' there includes both traditional owners and Aboriginal and Torres Strait Islanders living in Victoria. Does that definition extend rights to non–traditional owners domiciled in the state, and how are residents verified for the electoral purposes?

Lizzie BLANDTHORN: Sorry, Mr McCracken, could you repeat your question?

Joe McCRACKEN: It says the definition of 'First Peoples' includes both traditional owners and Aboriginal and Torres Strait Islanders living in Victoria. Does this definition extend rights to non–traditional owners domiciled in the state, and how is residence verified for electoral purposes?

Lizzie BLANDTHORN: My advice is First Peoples who are non-Victorian traditional owners are eligible to vote in elections for general seat members if they have been residing in Victoria for at least three of the last five years. The assembly is answerable to all First Peoples in Victoria through its democratic nature, community governance and answerability framework and its cultural obligations and responsibility. The establishment of Gellung Warl and the assembly in particular provides a formal mechanism through which First Peoples in Victoria will be able to exercise their right to self-determination and provides a means by which First Peoples can raise and address issues relevant to Victorian First Peoples within the state. First Peoples living in Victoria can obviously vote in that process. While there are restrictions on the membership of the assembly, these matters reflect outcomes negotiated with the First Peoples' Assembly, being the representative and deliberative body with authority to negotiate on behalf of First Peoples with the state. The assembly is nevertheless answerable to First Peoples through its democratic nature, as I said.

Joe McCRACKEN: The last one I questioned there I do not think I got a response to. How is residence verified for electoral purposes?

Lizzie BLANDTHORN: Address, as usual – electoral rolls.

Joe McCRACKEN: The term 'state government' is defined to exclude the judiciary and the Parliament. Does that imply that Gellung Warl may not make representations to Parliament under part 7 except by invitation?

Lizzie BLANDTHORN: They are excluded so that they maintain their independence, Mr McCracken. But as we discussed, I think before you were in the chamber, they can be invited to by the Presiding Officers.

Joe McCRACKEN: Clause 4 defines 'substantive rule' and 'internal rule'. Are such rules legislative instruments under the Subordinate Legislation Act 1994, and if so, will they be subject to disallowance by either house under section 23 of the act?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Does the inclusion of 'Treaty Authority' within the definitions cross-reference correctly to section 6 of the Treaty Authority and Other Treaty Elements Act 2022, or does it risk interpretive inconsistency if that act is later amended?

Lizzie BLANDTHORN: As it stands, Mr McCracken, if one piece of legislation was amended that had an impact on another, then that would be considered obviously in the drafting and consideration of future legislation.

Ann-Marie HERMANS: I have just got some questions about the First Peoples' Assembly and its function. I realise that comes in later in part 3, clause 18(1). But I wondered, in terms of curriculum, what will be involved with truth-telling in the Victorian curriculum? Is it going to involve criticisms of our constitutional monarchy, our flag or our Westminster Parliament?

Lizzie BLANDTHORN: Sorry, what is the question, Mrs Hermans?

Ann-Marie HERMANS: What will be involved with truth-telling in the Victorian curriculum? Is it going to involve criticisms of our constitutional monarchy, our flag or our Westminster Parliament?

Lizzie BLANDTHORN: For the benefit of the house, Mrs Hermans, truth-telling is telling the truth about the history of Australia.

Ann-Marie HERMANS: Obviously in terms of truth, we have two truths about the actual name of some things and how people feel about that. Truth has different perspectives, so truth-telling does not mean telling one perspective at the expense of not giving all the information and all perspectives. I do not feel that the answer is actually very substantial or helpful. What assurances will the minister be giving that the geographical places will not be renamed without full public consultation in line with the guidelines of the Geographical Place Names Act 1998?

Lizzie BLANDTHORN: I will pick up your comment first before I answer your question, but to reinforce: there is always one truth. There might be different feelings and interpretations and perspectives on that, but truth-telling involves the telling of the truth. In relation to your specific question, the assembly of Gellung Warl will become a naming authority only for specified geographic features located on state-controlled land, and these features are limited to waterways, waterfalls and national and state parks. It will be able to put forward proposals for new names for those features. As the naming authority, the assembly of Gellung Warl must operate within the state's existing systems for place naming and must be compliant with the existing legislation and frameworks for naming proposals it puts forward. This will require the assembly of Gellung Warl to undertake community engagement as part of any naming proposal it puts forward or considers. Like all naming authorities, the assembly of Gellung Warl cannot unilaterally make decisions on place-naming proposals, which must be registered by the Registrar of Geographic Names. In Victoria we have statutory requirements for naming roads, features and localities, which are commonly referred to as the naming rules, and the naming rules uphold the guidelines in the Geographic Place Names Act 1998. All institutions which are able to prepare naming proposals under the relevant legislation must submit names to the Registrar of Geographic Names and follow a clear process, including community consultation, regarding any changes proposed.

Ann-Marie HERMANS: But that does not give us the assurance that there will be a full public consultation in line with those guidelines. I am aware that a lack of consultation has taken place in areas where I live, and it has caused tremendous anxiety. I will say that even the Aboriginal consultation was definitely limited, and I would like to think it was not coerced. What will be involved

with cultural competency training for public service staff? What would be the consequences for a staff member who refuses to participate in this training?

Lizzie BLANDTHORN: The assembly of Gellung Warl, Mrs Hermans, can make non-binding guidelines and standards in carrying out its statutory functions, including two express matters in the bill: promoting and safeguarding cultural safety and the sharing and trading of First Peoples' existing water entitlements. The substantive question that you raised fits into, obviously, the former.

Ann-Marie HERMANS: If a staff member, though, felt that some of the competency training that was being provided was not something that they felt that they could participate in, what would be the consequences for a staff member who refused to participate in this training? Would that be considered to be a form of measurement or detection of unconscious bias? Because we still do not have a way of measuring or detecting unconscious bias in the information that you have given us.

Lizzie BLANDTHORN: As I said, Mrs Hermans, Gellung Warl can make guidelines. These guidelines will be non-binding and optional.

Ann-Marie HERMANS: In terms of the unconscious bias and where that may take us, how are we going to have terms that are reasonable in terms of the way that that will be dealt with? If we are going to allow the assembly to determine unconscious bias, will we be given a definition of what that is going to look like so that people are aware that this is how this will be detected?

Lizzie BLANDTHORN: As I said, the assembly will make non-binding guidelines and standards in carrying out its statutory functions, including on two express matters, one of which is cultural safety. The guidelines will be non-binding and optional, and they will obviously be shared with those to whom the guidelines apply.

Melina BATH: I just want to retrace some steps in relation to some of the questions that Mr McCracken was asking in relation to First Peoples that can come from other states. As long as they have lived in the state of Victoria for three out of five years, they can be eligible to come on the Gellung Warl First Peoples' Assembly, or Gellung Warl electoral roll – so that is in the bill. The other part that is in the bill is that if you are 16 years old, you can vote. That is different to the Victorian Electoral Commission and the Australian Electoral Commission, in that you need to be 18 years old in order to vote. Can the government explain this differential, and what safeguards are provided for those younger people who are not registered as adults yet, who are not yet 18, so that there will be both cultural safety and safety from influence afforded to them?

Lizzie BLANDTHORN: The electoral rules mirror the current assembly electoral rules, which allow First Peoples who are 16 or older to vote, as the assembly seek to include both youth and elder voices in their current structure. The electoral rules have been designed to preserve as much of the current assembly structures as possible, building on the successes of the previous years and limiting impact on current membership. If the bill were to raise the voting age to 18, this would obviously negatively impact and disenfranchise a section of the assembly voting population and undermine the successes of the previous years. Gellung Warl electoral rules established by this bill do not have, obviously, any effect on either state or Commonwealth electoral rules or regulations.

Melina BATH: Minister, if we combine the fact that you can be in the state for three out of five years – we will say the last three years – and that you have to be 16 years old, is it such that the bill enables somebody who moved into the state of Victoria when they were 13 years old from Far North Queensland and is now 16 is eligible to vote for First Peoples' Assembly elections, where there are millions of dollars worth of taxpayer funds every year that would be considered and internally distributed as the Gellung Warl sees fit?

Lizzie BLANDTHORN: Ms Bath, 16-year-olds who meet the other requirements to be eligible to enrol to vote will obviously enrol to vote. This is obviously in line with the successes of the assembly

in recent years, which include 16-year-olds being able to vote. To turn around and now say that 16-year-olds would not be allowed to vote would cause them to be disenfranchised.

Melina BATH: But the status at play exists that somebody can have been 13 years old, move into this state from a different state – from Far North Queensland, far Western Australia or wherever – and then turn 16 and be eligible to vote. That is the reality of this bill. The other point that you raised in your contribution just then is that if the bill did not contain that set and people had to be 18 years old in order to vote, it would diminish the pool of people who are in the current pool of electors. What I want to understand is how many are in the pool already, and how many people can vote in the elections for the First Peoples' Assembly?

Lizzie BLANDTHORN: The assembly's 2024 annual report stated that more than 8000 Aboriginal community members are enrolled to vote with the assembly. The Victorian government does not track the number of Aboriginal Victorians that vote in state elections, for example. The assembly's electoral roll is an independent electoral roll which the state does not administer. However, the assembly's 2024 annual report stated that there were more than 8000, as I said.

Melina BATH: I appreciate that response. Does the government know how many of that 8000 voted in the 2023 elections?

Lizzie BLANDTHORN: The assembly's electoral roll is an independent electoral roll which the state does not have access to.

Melina BATH: So there is no oversight, whether from the government point of view or from a minister for First Peoples point of view, to see how many of those 8000 people on the electoral roll – the internal electoral roll, separate to the Victorian Electoral Commission – voted for the First Peoples' Assembly?

Lizzie BLANDTHORN: The assembly has a strong and growing voter turnout, as we understand. Since its first election in 2019, the assembly has more than tripled its roll, and the 2023 election saw a 200 per cent increase in votes cast, with more than 7000 people participating.

Melina BATH: You have just said a 200 per cent increase. What was that in real terms, in numbers, and what was the original percentage in in numbers, Minister – if you have got those numbers for us?

Lizzie BLANDTHORN: I am a social services minister because I cannot do the numbers that quickly in my head. I need a calculator, Ms Bath. But, as I said, since its first election in 2019 it has more than tripled its roll. There was a 200 per cent increase. The state does not hold the electoral roll, and the assembly does not publish exact voter turnout figures in their annual report. But I am sure we can provide a breakdown by making that calculation for you.

Business interrupted pursuant to standing orders.

Members

Minister for the Suburban Rail Loop

Absence

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:00): For the purposes of question time today, questions directed to Minister Shing's substantive portfolios or her representative portfolios can be directed to me.

Questions without notice and ministers statements

Community health services

Georgie CROZIER (Southern Metropolitan) (12:01): (1101) My question is to the Treasurer. Treasurer, will the government be providing a Treasurer's advance to Cohealth in Collingwood and

the Better Health Network based in Bentleigh and Clarinda to cover the outrageous Andrews–Allan Labor governments' cuts to key health services?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:01): I thank Ms Crozier for her question. Ms Crozier, in relation to the matter involving the provision of health services in the state, obviously this is better directed to the Minister for Health, and I think she is on the record yesterday as explaining –

Georgie Crozier: On a point of order, President, the cuts to health services in last year's budget were propped up by a Treasurer's advance last August, so I do think this is a relevant question that the Treasurer needs to answer.

The PRESIDENT: Ms Crozier, members have a right to ask questions of certain ministers, and ministers have the right to respond that that particular question does not fall inside their portfolio.

Jaclyn SYMES: Again, we have a situation where most things that the government is responsible for and ministers are responsible for have financial impacts. That does not make it the Treasurer's responsibility in relation to policy answers. Ms Crozier, I understand the concerns in relation to Cohealth in particular; I know that was a topic of conversation in this chamber today. Any requests for funding in relation to that matter or any other matter will come through the normal processes, but your question is not appropriately directed to Treasurer. You should direct a question in relation to the Minister for Health.

David Davis: A Treasurer's advance is entirely legitimate.

Jaclyn SYMES: I could give a Treasurer's advance for anything, according to you guys.

Members interjecting.

Jaclyn SYMES: 'I would like a new school in my electorate. Are you going to provide a Treasurer's advance?' It is a misuse of the Parliament to say that just because it could be –

Georgie Crozier: On a point of order, President, the government's Treasurer provided a Treasurer's advance to health services following the government's cut to health services last year. It is exactly the same issue, and therefore it is relevant. I would ask you to ask the Treasurer to acknowledge that and provide an answer that the house deserves to hear: will the Treasurer be providing a Treasurer's advance?

The PRESIDENT: Something unfortunate is that in recent times, in the time I have been here, which is maybe not that recent, there was a Treasurer in the other house who gave a very similar outline of their responsibility to the President at the time – the President previous to me – and the President actually made a ruling that the Treasurer's answer at the time would be taken as a correct position to take.

Jaclyn SYMES: Ms Crozier, I am finding it quite frustrating, because I would like to answer questions when they are appropriately put. The issue we have here is that there is a responsible minister, the Minister for Health, with a clear interaction with the federal government in relation to Medicare and primary provision of health care. So you are basically jumping ahead and saying, 'Is a future solution going to involve the Treasurer?' It might.

Georgie CROZIER (Southern Metropolitan) (12:05): Treasurer, has Treasury assessed the impact of the cuts and consequent closures to community health services and the diversion of patients to higher cost emergency departments?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:05): Ms Crozier, I do want to be kind, but as someone who is a shadow minister and actually wants to be the Minister for Health, you would understand that the Minister for Health answers that question, not the Treasurer.

David Davis: On a point of order, President, the question was: has Treasury assessed it? Now, they either have or they have not.

Jaclyn Symes interjected.

David Davis: Well, we have asked that. That is the question. Has Treasury assessed it, or has it culpably failed to assess it?

Members interjecting.

The PRESIDENT: Order! I do not uphold the point of order, and I think I put the position before.

Regional development

Melina BATH (Eastern Victoria) (12:06): (1102) My question is for the Minister for Regional Development. Minister, the Regional Development Victoria annual report tabled this week revealed that grants to support jobs and community infrastructure fell by $15 million, or 11 per cent, on the previous year, yet employee expenses rose $4 million, or 17 per cent. Why have you cut regional development funding, penalising country Victoria?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:07): Ms Bath, the investment in regional Victoria under this government is topping $47 billion, and in terms of the regional development portfolio, this is all about creating jobs. It is why we have one of the lowest unemployment rates across Australia. In regional Victoria we are leading the states with the lowest unemployment rate of 3.6 per cent. We exceeded, in the annual report you will see, all of our BP3 targets, and we continue to work with businesses across the state to grow regional jobs and opportunities.

When it comes to investment in regional Victoria, what I hear about and what we spend a lot of time on when we are out and about is indeed opening new schools, pointing to potholes that we are fixing. In relation to health care –

Members interjecting.

Jaclyn SYMES: $1 billion! Ask Ms Lovell. She sees all of the roadworks and repairs on her way back to Shepparton, because they are constantly, always there.

We are a government that is right behind regional Victoria. It is the heart of Victoria in relation to being the best place to live, the best place to work, the best place to invest, and we will continue to back them every step of the way.

Melina BATH (Eastern Victoria) (12:08): Minister, you did not go within a bull's roar of answering this question as to why you have cut regional development funds for country Victoria. Four years ago Regional Development Victoria had a total grants pool of $370 million. Last financial year it was just $118 million. Why has the government cut support to regional Victoria by nearly 70 per cent?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:09): Unfortunately, Ms Bath, our investment in regional Victoria spans a whole-of-government approach. So in relation to Regional Development Victoria, I would point to the programs. I attribute the Tiny Towns Fund to Minister Tierney. It is a funding bucket that is incredibly popular, a $20 million fund. So many successful programs are going around. The Regional Worker Accommodation Fund, Ms Bath, is delivering amazing opportunities for people to live and work in and attract employees to regional Victoria. That is a $370 million investment. There are so many exciting opportunities ahead in relation to the regions, and we will continue to back them with funding, not just from the regional development portfolio but right across every minister's portfolios, because we will back regional Victoria every day.

Melina BATH (Eastern Victoria) (12:10): I move:

That the minister's response be taken into consideration on the next day of meeting.

Motion agreed to.

The PRESIDENT: Yesterday's question time was pretty rubbish. I thought about it myself, and I take a lot of responsibility for that. It is just the noise level and people being shouted down from all sides. I do not particularly want to name names, but Mr McIntosh and Mr Davis, you are very loud people. It is not helping the chamber.

While I have got your attention, I did not recognise him straightaway because of his beautiful long locks, but we have a former member of this chamber Mr Rod Barton in the gallery.

Ministers statements: Gambling Harm Awareness Week

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (12:11): This week is Gambling Harm Awareness Week, a time to reflect on how gambling affects families, friendships and communities across our state. For many Victorians, community clubs, pubs and RSLs are important places to come together, celebrate, connect and support local causes. They are a vital part of our social and hospitality fabric, but venues must also operate safely and responsibly, because while gambling is a popular recreational activity, it can cause real harm when things go too far.

The Allan Labor government is proud to continue to lead the nation in reducing gambling harm. We have introduced landmark reforms, including reduced load-up limits, slower spin rates and mandatory 4 am to 10 am closures, and we are now trialling account-based play. These changes put the power back in the hands of patrons, helping them stay in control and making gambling environments safer for everyone. But that is not all. We are also ensuring integrity and care across the system. Through the Victorian Gambling and Casino Control Commission we have strengthened oversight, cracked down on high-risk operators and increased awareness of gambling risks. Through the new gambling harm prevention and response model, ably led by Minister Stitt, I might add, we have connected people to health, financial counselling and community support services.

This year's Gambling Harm Awareness Week theme 'Set before you bet' reminds us that harm prevention begins with small, practical choices: setting spending limits, knowing the risks and, when needed, seeking support early. No government has done more to protect Victorians from gambling harm. We will keep delivering evidence-based reforms that build a safer, fairer and more responsible system for all.

Drug harm reduction

Rachel PAYNE (South-Eastern Metropolitan) (12:13): (1103) My question is for the Minister for Mental Health, Minister Stitt. In 2022 it was announced that the then Andrews government would be setting up an expert panel to consider a trial under which people caught with small quantities of drugs would be automatically issued a notice by police referring them to education or treatment. A working group of police, health professionals, addiction specialists and youth workers was going to be tasked with advising the government on options for the infringement trial, so my question is: what happened to this working group and the planned trial?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:13): I thank Ms Payne for her question. At the outset I want to reiterate our government's commitment to preventing and reducing drug-related harm in the Victorian community. We as a government, since coming into office in 2014, have invested more than $3 billion in drug and alcohol treatment, support and harm minimisation initiatives, sitting alongside some substantial legislative reform and achievements over the past 10 years. I do want to acknowledge the work of the Legalise Cannabis MPs in this place. They have been working hard to provide research and information not just to the chamber but to the government and to the broader community.

The particular working group that you raise, Ms Payne, is not strictly a matter for me in my capacity as Minister for Mental Health. If my memory serves me correctly, that was a matter that the former Attorney announced in the last term of government. But what I can say is that our government do support alternative pathways for low-level offending where possible, and these measures obviously help to improve outcomes for not only that individual but the wider community. It is certainly in line with the government response to the recent inquiry into Legalise Cannabis Victoria's Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill, and we will continue to consider options to improve drug diversion programs in relation to low-level drug use and possession, as per the formal government response to that inquiry. In addition to that, we will continue to monitor and consider the emerging evidence, including the important areas of harm minimisation and the flow-on effects I suppose for particularly vulnerable cohorts.

Rachel PAYNE (South-Eastern Metropolitan) (12:16): I thank the minister for her response there. You did touch on this in your response, but with the government's recent rejection of the recommendations to decriminalise cannabis, the community is left asking what the government plans to do instead to address the harms of criminalising cannabis. Will the minister advise whether the government would consider bringing back the infringement trial?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:16): I think you are right, Ms Payne: I did go to this in broad terms in my answer to your substantive question, and I think that the government response to the recent upper house inquiry should give you comfort that we will continue to look closely at ways in which we can support people and look at whether low-level offending, wherever possible, can be diverted away from the justice system or the impacts of incarceration. We have made that clear in our government response, and we will continue to look at ways in which that can occur.

Alcohol and other drug services

Georgie CROZIER (Southern Metropolitan) (12:17): (1104) My question is to the Minister for Mental Health. Minister, the youth-specific AOD treatment waitlist has 415 young people waiting for treatment, which is an additional 100 young people from just two years ago. What advice have you received of how the lack of access to AOD treatment for young people is impacting on Victoria's youth crime crisis?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:17): I thank Ms Crozier for her question. I think it is always important to be cautious about not conflating the issues of AOD and addiction and the challenges that come with that with crime. I think that you as a former health employee would know that that can have a negative impact and increase the amount of stigma that is being experienced, particularly by young people who may be struggling with addiction. But I am very happy to talk about this in terms of my strong commitment and focus on how we can continue to reduce drug harm, particularly for our young people. We have, since 2014, more than doubled our investment to expand drug treatment supports and harm minimisation services for those who need them the most in the community. We do know and we acknowledge that there have been some escalated harms and the demand for services has grown. That is why we have introduced a number of important reforms, including pill testing and our $95 million statewide action plan to reduce drug harm. This included a Victorian-first trial of hydromorphone, which came up in question time yesterday; expanded pharmacotherapy around the state; and enhanced access to naloxone. We are in the process of delivering a state-of-the-art, enhanced community health hub in the heart of the CBD. When it comes to rehab beds, Ms Crozier, we will continue to invest in these important services. We have doubled the number of beds across the state since we came into government. We have 502 rehab beds. The majority of these increases have been in rural and regional Victoria. We have delivered brand new facilities in Corio, in Wangaratta and in Traralgon, which are dedicated youth beds collectively providing care and support to an additional 900 Victorians every year.

Jaclyn Symes interjected.

Ingrid STITT: Two – I will take that interjection from the Treasurer. How many did they add in their four years in government? How many rehab beds? Two.

We are also delivering a 32-bed rehab facility in Mildura for the Mallee region, which is another important addition to rehab beds. In addition to that, we are delivering emergency department AOD hubs, which is about making sure people who present in drug crisis have the support that they need. Importantly, we are talking to the sector about how we can continue to strengthen the supports we provide through the development of an AOD strategy that I will be very pleased to release very soon.

Georgie CROZIER (Southern Metropolitan) (12:21): Clearly, given there are growing numbers of young people waiting on this waitlist, you are failing these young Victorians. The blowout of AOD treatment has occurred under your watch. Why?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:21): I just think that sometimes it is more about the theatre of asking the question than actually listening to the answer.

Georgie Crozier: On a point of order, President, the minister refused to answer the substantive. These are additional young Victorians on the waitlist. These questions are important. Throwing around numbers is clearly not working. I am asking why the minister has failed, and I would ask you to draw her attention back to my question rather than attacking the opposition.

The PRESIDENT: I think you are debating your point of order. The minister got 11 seconds into her answer.

Ingrid STITT: If I could be so bold as to provide some advice to Ms Crozier, perhaps she might want to review the *Hansard,* then she might actually get more familiar with the work that we are doing in this space. What I would say is that making sure that young people get the AOD and mental health supports they need is an absolute priority for me as minister and for our government.

Ministers statements: mental health services

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:22): I rise to update the house on how the Allan Labor government is ensuring every Victorian, no matter what their background, can access the mental health supports that they need and deserve. Victoria is a state enriched by people of many cultures, faiths and abilities, yet too many face barriers when it comes to seeking mental health support. Earlier this month I was proud to launch the diverse communities mental health and wellbeing framework and blueprint for action. Developed in genuine partnership with community members, organisations and service providers, it embodies shared leadership, deep engagement and a collective vision for lasting change. The framework sets a 10-year vision for a mental health system where diversity, equity and inclusion are embedded at every level. It recognises that people's experiences are shaped by their culture, disability, sexuality and other factors. It aligns with other key government strategies, including Victoria's anti-racism strategy, the *Victorian African Communities Action Plan*, *Pride in Our Future: Victoria's LGBTIQA+ Strategy*, the Inclusive Victoria state disability plan and the government's response to the Victorian multicultural review. The first blueprint for action provides a three-year plan to boost system responsiveness and strengthen organisations' capability across the sector. It was supported by investment, including $4.8 million for Switchboard, Rainbow Door, multicultural and multifaith mental health supports and the training of Auslan and Deaf interpreters. Every Victorian deserves a mental health system that sees them, supports them and stands with them. Unlike those opposite, this government does not just talk about the change, we actually get on and deliver it.

Emergency Services and Volunteers Fund

Bev McARTHUR (Western Victoria) (12:24): (1105) My question is to the Treasurer. During the last sitting week, you lectured me about telling the truth when it comes to the emergency services tax. Treasurer, were you telling the truth when you claimed that you responded to all those letters from councils and/or mayors and addressed all of the questions in them?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:25): Mrs McArthur, all correspondence that comes into the office is responded to.

Bev McARTHUR (Western Victoria) (12:25): Minister, that is not the truth. All the correspondence has not been responded to. I have got the evidence here. Mayor Stephen Jolly confirmed that, despite your version of events, he has had no response to the joint letter from the 30 mayors and councillors sent on 15 September 2025. Further, on 4 July 2025 the cabinet office responded to a letter to the Premier about the emergency services tax dated 26 May 2025 –

Members interjecting.

Bev McARTHUR: Let us go to this one, Minister. On 4 July 2025, the cabinet office responded to a letter to the Premier about the emergency services tax dated 26 May 2025 from nine mayors. The cabinet office directed it to you, and they have received no response. So, Treasurer, do you want to correct the record on that? No?

The PRESIDENT: Mrs McArthur, you ran out of time, but I let you ask the question, and then you asked further questions. You can only ask one.

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:26): Mrs McArthur, you have asked for responses to a range of correspondence. The first one you asked about was in relation to a response to correspondence from several mayors, which you said I have not been responded to. I have got the signed copy here. I would be happy to table it for you. I am advised that it has been sent. I am happy to share the response with you, if you like. They might need to double-check that they have not received it, because my advice is that it has been sent. It certainly has been signed by me, and I have got a copy that you are welcome to. I can only repeat my initial response: every piece of correspondence that comes into the office is responded to.

Guru Nanak Lake

David LIMBRICK (South-Eastern Metropolitan) (12:27): (1106) My question is for the Minister for Multicultural Affairs. We recently debated a petition related to the renaming of Berwick Springs lake. Process and community consultation were key concerns. I have since visited Berwick Springs and have been sent more information, including documents obtained under a freedom-of-information request. What these documents highlight is that several different agencies and institutions – including Melbourne Water, Geographic Names Victoria, Casey council and the Department of Transport and Planning – all highlighted the importance of community consultation. This includes one email that stated:

> GNV's preference was for wider community consultation, but the option was not taken.

Another email from the Department of Transport and Planning stated:

> Of note, many of the features have unofficial names and it is a problem waiting to happen.

It seems that these warnings were ignored. Minister, were you aware of these recommendations for broad community consultation before you requested a ministerial direction from the planning minister?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:28): Thank you for the question, Mr Limbrick. At the outset I want to say how proud we are as a government of our Sikh community, and we were proud to name the lake in honour of Guru Nanak. The Victorian Sikh community has given and continues to give so much to our community, and this of course was an election commitment that was made to the Sikh community in 2018 to name a landmark in honour of Guru Nanak Dev Ji in recognition of our Sikh community. If I can just give you a brief summary of these issues, the site at Berwick Springs was identified as a suitable landmark due to its positioning within the City of Casey, which is home to a very large Sikh community population. In progressing this commitment, I at all times took the advice of my department. I understand that there have been some views expressed about the consultation process, and we heard that during the recent debate on the petition that was before the chamber a couple of sitting weeks ago. I have also met with some representatives from the Berwick Springs Community Association and with the local member to hear those concerns directly. However, the government stands by the decision that it took. It is important that our place names reflect the true multiculturalism and diversity of our state, and that is exactly what we have done in naming a previously unnamed lake.

David LIMBRICK (South-Eastern Metropolitan) (12:30): Many government MPs, including the minister, brought up Nazis in relation to this debate, and this is highly offensive. When I visited Berwick Springs, I met a Russian immigrant whose grandfather fought with the Red Army against the Nazis and another man that was Jewish. They were highly offended by the implication that they were in any way sympathetic or associated with Nazis. As I stated in my speech on the petition debate, it is the actions of the government that have caused division and disharmony. The recent comments on SBS Punjabi social media highlight that it has also caused division within the Sikh community, with people stating that they were upset with the decision of Sikh leaders to collaborate with the government on this decision, and many were very sympathetic to the residents of Berwick Springs. The actions of the government to bypass any appropriate process, seemingly against the advice of pretty much everyone, have caused significant harm in the Berwick Springs community. Will the minister apologise?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:31): I thank Mr Limbrick for his supplementary question. I would not accept the premise of the question. It is a matter of fact that neo-Nazis turned up. It may be that it was uninvited, but they did turn up to a community rally that Mrs Hermans and the Leader of the Opposition attended.

Ann-Marie Hermans: On a point of order, President, I take offence at having my name in any shape or form associated with Nazis, and I ask that the minister retract her use of my name in that sentence. I will not put up with it any longer.

The PRESIDENT: The minister actually did not align you with those people. She actually said they were uninvited.

Ingrid STITT: What I was about to go on to say was to clarify, directly in response to Mr Limbrick, that at no time did I indicate that there was any implication that members of this community had anything to do with that. I was very clear about that point during the petition debate. Check *Hansard* if you do not believe me. The reality is that this issue has caused division across the community, including for the Sikh community, but that does not take away from the fact that the government is proud to have delivered on the election commitment we gave.

Ministers statements: early childhood education and care

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:33): I rise to update the house on how the Allan Labor government is supporting families, giving Victorian children the best start in life. This week we announced four new kindergartens on school sites to open in 2028. These new kinders will open next to Coburg North Primary School, Mickleham Primary, Wiyal primary and – Ms Bath might be interested – Yarram Primary, creating 534 additional

kinder places for local families. Last week I visited Wiyal primary school in Fraser Rise with the member for Sydenham Natalie Hutchins. The school is opening next year, and the principal Paris Spencer told us that there are 180 students already enrolled. She was very excited about the new kinder and said that local families will be happy to hear that a kinder will be opening in the rapidly growing community. The new school has also been beautifully built, and I am looking forward to seeing the new kinder open in 2028. Across the state our investment in kinder infrastructure on school sites is continuing to make life easier for families, saving them time during the day by removing the double drop-off.

But more importantly, these kinders are helping our littlest learners transition from kinder to school, supporting their learning and their education. Over the last 10 months I have visited numerous kinders on school sites, some already opened and operating and some to be opened next year. One of the clear themes that has come from each visit has been the dedication from school principals and service providers to work together to support our kinder kids as they move into their schooling years. It is this Labor government that continues to deliver for children and families. Every new Victorian primary school opened since 2021 has a kinder on site or next door. Between 2019 and 2025, 80 new or expanded kinders have been delivered on school sites. Just this year alone we have opened 20 kinders on school sites, and next year we will be delivering another 24. We know that there is more to do, and that is why we are continuing to invest in building new kinders where families need them most, right across our state.

Commission for Children and Young People

Evan MULHOLLAND (Northern Metropolitan) (12:35): (1107) My question is to the Minister for Children. Minister, the Commission for Children and Young People annual report tabled yesterday shows last financial year there were, on average, two allegations of reportable conduct a day in the early childcare sector, a massive 32 per cent increase on the previous year's figure. Given this, why has your government failed to deliver on your government response to the so-called rapid review to legislate all four changes to improve child safety by this month?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:36): Thank you, Mr Mulholland, for that question. As I discussed earlier in the week, I am grateful for the opportunity to talk about what we are doing immediately, what we have in progress and what we will do in the future in order to improve child safety, because nothing is more important to families who are taking their children to child care and to kindergarten than knowing that their children are safe. Indeed, as the mother of a young child myself, it is not that long since I was doing that drop-off, so it is something that I personally understand: the trust that you put in that your child is safe when you leave them at child care or kinder.

That is exactly why we commissioned a rapid review into child safety earlier in the year. It is exactly why we said we would respond to all 22 recommendations. It is exactly why we have taken through the national process reforms to national law. It is exactly why this week we have introduced a bill to establish an independent early childhood regulator. It is why we continue to work on the reform of the Social Services Regulator, which will include reforms to the reportable conduct scheme. It will include reforms to working with children checks. It will work with the independent regulator to ensure that wherever children are learning, wherever children are playing and wherever children are cared for – whether it is in an education setting, a disability setting or another social service setting – those children are safe. Indeed in a press release associated with the Commission for Children and Young People's annual report, which was obviously tabled yesterday – and I also want to take this opportunity to thank Meena Singh, who has been acting as the principal commissioner for this difficult period of time; it is worth the house understanding the commitment of the CCYP to these reforms also – they say:

> Following the Rapid Child Safety Review, the administration of the Scheme and the Standards are being transferred to the Social Services Regulator. Commissioner Singh welcomed the Government's promise of action to progress reforms aimed at improving safety for children and young people in Victoria.

> 'The transfer is part of the continuing evolution of Victoria's child safety systems that will see a shift from the initial establishment phase where the Commission set up the Scheme and regulated the Standards, to these systems being placed with a new agency that will also be charged with administering the Working with Children Check.
>
> 'The Commission continues to support this transition in every way we can. We share hope that the Government's reforms deliver real benefits for children and young people and that their voices continue to be at the centre of action to prevent and respond to child abuse and harm.

With the reforms that we have in part introduced and which we will continue to introduce over coming weeks, as I explained to the house yesterday or the day prior, the national law reform process is one that has to go through the individual cabinets of every jurisdiction around the country. That process is in train, and I look forward to being able to present to the house shortly the subsequent bills.

Evan MULHOLLAND (Northern Metropolitan) (12:39): That is a broken promise. On the supplementary, Minister, the Commission for Children and Young People has been without a permanent commissioner now since March, and with the acting commissioner stepping down, a deputy secretary from the Department of Families, Fairness and Housing is reported to be acting in the role. Given the commission's position as an independent statutory body to scrutinise this very department, can you explain how this is not a conflict of interest?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:39): Again, I thank Mr Mulholland for his question, and as I said in my opening remarks, I am most grateful to acting commissioner Singh, who has for this very difficult period of time undertaken the role of acting principal commissioner, which was obviously vacated much earlier than the initial statutory appointment of the previous commissioner, who went on to a different role, which meant that necessarily the processes had not yet started before the previous commissioner departed. That process is well underway. We will shortly be announcing a permanent new principal commissioner. Ms Singh, as I said, has acted for us strongly during this period of time, but she was indeed keen to return to her role.

Evan Mulholland: On a point of order, President, on relevance: I have waited quite patiently. I was trying to get the minister to come to the question on how this is not a conflict of interest.

The PRESIDENT: I will call the minister back to the question.

Lizzie BLANDTHORN: It was an entirely different question to the substantive question. It is difficult to give a fulsome answer when you ask a separate question rather than a supplementary question. But what I was seeking to explain is that this is the continuation of an interim arrangement that is very temporary while the finalisation of the permanent new commissioner occurs.

Early childhood education and care

Anasina GRAY-BARBERIO (Northern Metropolitan) (12:41): (1108) My question is also to the Minister for Children. Minister, the Commission for Children and Young People's latest annual report shows a disturbing surge in abuse and misconduct reports in early childhood services. Reports in preschools and kindergartens are up 78 per cent and in long day care they are up 30 per cent, all in the past year. Minister, you have said funding has increased, but the commission's funding rise has not even kept up with inflation. Reports have risen 178 per cent, and that funding covers the commission's entire responsibilities, not just the reportable conduct scheme. The Commission for Children and Young People has said it has been forced to scale back oversight, leaving the heads of organisations to investigate abuse themselves. Minister, is the current funding enough for the commission to properly oversee all 2232 reportable allegations it received between July 2024 and June 2025?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:42): I thank Ms Gray-Barberio for her question. As I spoke to in my initial answer to Mr Mulholland's substantive question, the commission spoke in its annual report to a growing number of reportable conduct scheme matters, and we would argue that growth in the number of reportable

conduct scheme matters shows that people are indeed fulfilling their obligations and reporting matters as they come to light, as they are required to by the scheme. But as we found in our *Rapid Child Safety Review*, there is certainly room for improvement in how the reportable conduct scheme could be established. And we have announced that we are moving the reportable conduct scheme from the Commission for Children and Young People to a more holistic framework within the Social Services Regulator, where we will bring together the reportable conduct scheme, the child safe standards, the working with children check, the regulation of disability services and the regulation of other social services, with very clear functions for the Social Services Regulator to work with the independent early education regulator, the bill for which we have introduced this week – and I look forward to the support of the house, given the commitment and the demonstration of such in these questions.

When it comes to the funding previously for the reportable conduct scheme within the commission and the commission's overall funding, firstly, I would say that the premise of the question should be rejected. The Commission for Children and Young People has a budget of $14.2 million for 2025–26 to undertake its statutory functions. This is an increase from its budget of $6.4 million in 2015–16, and it represents an increase of more than 120 per cent to its budget since 2015–16. Obviously, as those opposite have just spoken to, it is a statutory entity and the way in which the commission uses its funding to meet its priorities is indeed a decision for the commission.

Anasina GRAY-BARBERIO (Northern Metropolitan) (12:44): Minister, I appreciate that the commission determines its budget independently, but leaving the heads of organisations to investigate abuse within their own centres creates the obvious risks that we find ourselves facing right now. It leaves gaps that allow negligent for-profit centres to protect their reputation and put profits before the safety of toddlers and babies at preschool, kinder and day care. The commission found organisations were reluctant to substantiate allegations as 'sexual misconduct', even when the evidence clearly showed it was sexual misconduct. Will the government commit to targeted funding for the reportable conduct scheme, now that you have confirmed it is moving to the Social Services Regulator, so that it has the resources to fully oversee every reportable allegation and finally put children's safety first?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:45): I thank Ms Gray-Barberio for her supplementary question. As I said at the outset in my answer to Mr Mulholland's substantive question, there absolutely is a recognition through our rapid review and through the response to the rapid review, where the government has said we will accept every one of the 22 recommendations: those that are advocating for improvements to national law and national systems, and those which directly relate to Victoria. One of the things we have very publicly said, and I am absolutely committed to and have been committed to across all of my portfolios, is a less complex, more user-friendly regulatory system and complaints mechanism that brings all complaints together and leaves no red flags unchecked. When we talk about the reforms that we are making to the Social Services Regulator, bringing in the reportable conduct scheme, bringing in the child safe standards –

Anasina Gray-Barberio: On a point of order, President, I appreciate the minister's commitment, but my question was: will you commit to targeted funding under the reportable conduct scheme under the new Social Services Regulator?

Lizzie BLANDTHORN: Ms Gray-Barberio's question was very broad in terms of what she saw as needing to be improved in relation to reportable conduct and where that now fits within the Social Services Regulator. What we are saying is that – *(Time expired)*

Ministers statements: water policy

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (12:46): Despite some rainfall, drought continues to hit hard across many parts of Victoria. Informed by the drought taskforce, the Allan Labor government committed $3 million to review, construct and refurbish priority emergency water supply points. Victoria has a network of roughly 300 emergency water supply points managed by local councils and water corporations, providing vital water-carting

sources in dry times. We have worked with the community to identify works we can commence immediately, and I thank the drought taskforce members for their input and their participation.

We have identified an urgent need to fast-track works at 13 sites in the Moyne, Glenelg, Ararat, Mitchell and Baw Baw local government areas. This will ensure that emergency water supply points are fully functional and accessible for summer. Today I am pleased to announce that I will be releasing an initial investment of $500,000 from the fund to acquit these urgent upgrades. We will have more to say on where the rest of the fund will be spent following the Department of Energy, Environment and Climate Action completing its broader review with the community. This further detailed work is critical to confirm if the remainder of the investment is best directed to a single major works package or smaller investments across the state, because access to water is crucial to protect our farming families, our food supply, and the jobs and communities that rely upon it, the Allan Labor government will always support farmers and will always deliver for our regions.

Constituency questions

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:48): (1925) My question is to the Minister for Roads and Road Safety in the other place. Minister, how is the Labor government investing in Eastern Victoria's road network? Our roads are under pressure. Our state is growing, which is a good thing. But with more traffic, more Australians are put on our roads. Our economy is also growing, but that means more trucks on our road and, again, pressure on our roads. We have to continue to futureproof our road network for our growing state so that Victorians and their passengers are safe, so that tourists can get out and enjoy everything that Victoria has to offer, including the incredible attractions in Eastern Victoria, and so that businesses can transport their products across the state to their markets.

Western Metropolitan Region

Trung LUU (Western Metropolitan) (12:49): (1926) My question is for the Minister for Police and relates to the alarming increase in the number of drive-by shootings, particularly in my electorate of Western Metropolitan Region. So I ask: can the minister please update my constituents? What is the Allan government doing to address this increase in firearm-related crime? In recent weeks there have been reports of shots being fired into a home in Werribee, merely missing occupants while they were sleeping, and another incident where several shots were fired into the front windows of a bedroom. Fortunately, those who were at home were not injured. These things are occurring far too frequently. Victorians are scared and my constituents raise this matter with me regularly, demanding more action from the government. I look forward to the minister's response on what specific actions are being taken to mitigate this concerning trend of gun-related violence.

Northern Victoria Region

Georgie PURCELL (Northern Victoria) (12:50): (1927) My question is for the Minister for Environment. Last week the eminent panel for community engagement released its long-awaited report on the future use and management of the Central Highlands state forests, which recommended an expansion of the Yarra Ranges and Baw Baw national parks. This sits alongside the Victorian Environmental Assessment Council investigation of the Central Highlands and the national recovery plan for the Leadbeater's possum, both of which recognise an enlarged national park as a long-term solution to protect its habitat. Despite this, the government's response last week announced minor changes to land management. The Central Highlands includes most of the remaining Leadbeater's possums and are among the most carbon-dense forests in the world. It also supplies most of Melbourne's drinking water and it needs real protection. Can the minister explain, now that he has ignored overwhelming evidence, how he plans to best manage and protect almost 400,000 hectares of forest in my electorate of Northern Victoria?

South-Eastern Metropolitan Region

Michael GALEA (South-Eastern Metropolitan) (12:51): (1928) My question is also for the Minister for Environment in the other place. In doing so I note that the most recent round of Victorian Landcare grants have now come out, and these are very important grants which recognise and support many community organisations for the work that they do in sustaining our state's natural environment. I understand that two such recipient groups were in my electorate, the Upper Beaconsfield Conservation Group and the Cardinia Catchment Landcare group as well, both receiving grants to support their operational costs and insurance and the like. Minister, how is the Allan Labor government ensuring that Landcare and environmental volunteer groups in the South-Eastern Metropolitan Region continue to be supported?

Western Victoria Region

Joe McCRACKEN (Western Victoria) (12:52): (1929) My question is to the Minister for Energy and Resources and Minister for Climate Action, and it concerns the western renewable energy zone at Navarre and particularly the Navarre green power hub, which the government is supporting. My question specifically to the minister is: will she review the establishment of the renewable energy zone and the Navarre green power hub but in particular focus on the actions of wind power companies that are acting unfairly? This is a local project that has torn the community apart. I met with locals last week, and they have been pitted against each other. A lot of them have a lack of information, and the actions of power companies have actually been quite reprehensible in the way they have treated locals. I hope that the minister will take the time to investigate this, because although it might be a small community, it is an incredibly important community. Farming and fibre are incredibly important around there. The minister should intervene and step in before everyone leaves.

Western Victoria Region

Sarah MANSFIELD (Western Victoria) (12:53): (1930) My question is for the Minister for Casino, Gaming and Liquor Regulation. Last week a concerned parent reached out to me after a drink-spiking incident in Geelong. Thankfully, all those involved are safe and well; however, questions have been raised about whether preventative measures such as staff training, sealed drinks and on-the-spot drink testing and deterrents like increased police visibility and strong penalties are doing enough to protect Victorians. Minister, since the government's sexual harassment and assault in licensed live music venues pilot program in 2018, what has been done to ensure Victoria's nightclubs, live music venues and bars are actively preventing drink spiking and protecting their patrons?

Southern Metropolitan Region

David DAVIS (Southern Metropolitan) (12:54): (1931) My matter for constituency questions today is to the Minister for Planning, and it relates to the changes to the Planning and Environment Act 1987 that have been proposed in the Assembly. It is a massive bill and a huge rewrite of the Planning and Environment Act that has not been consulted on broadly in the community. Councils have not been consulted, heritage groups have not been consulted and the Parliament, in a broad sense, has not had input into this. The state government in its own grab for power is pushing ahead with an attempt to remove disallowance and to take over control of all planning matters in the state. It is an arrogant and out-of-control state government and a Stalinist-type approach by this government to local planning. But what I seek from the minister is to step back from this approach, to leave the draft Planning and Environment Act proposals as an exposure draft and to lay it over for three months or four months to allow the community, councils and others to look at it.

The PRESIDENT: And they are councils in the area you represent?

David DAVIS: Indeed. I have had representations particularly from heritage groups and councils in my area in Southern Metro.

The PRESIDENT: You do not need to go on. I am very pleased with that.

Northern Victoria Region

Rikkie-Lee TYRRELL (Northern Victoria) (12:55): (1932) My constituency question today is for the Minister for Roads and Road Safety, and my constituents ask: will the minister ensure major repairs are undertaken on the Dookie-Violet Town Road, Nalinga? I believe I have found the new frontrunner for the worst road in Northern Victoria. The Dookie-Violet Town Road from the Midland Highway to Violet Town is possibly the roughest road I have ever encountered. My constituent Johnno made contact last week to highlight the absolutely abysmal condition of this road. Potholes, crumbling edges and undersurface that could only be compared to driving over corrugated iron – the Dookie-Violet Town Road is unacceptably dangerous. A fortnight ago, a truck fire on the Hume Freeway saw the Dookie-Violet Town Road become a makeshift truck route between Violet Town and Benalla. My constituent reported large semis and B-doubles struggling to pass each other and dodge deep and dangerous potholes and drop-offs on the edge of the road. So my constituents ask: will the minister ensure major repairs are undertaken on the Dookie-Violet Town Road at Nalinga?

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:57): (1933) My question is for the Minister for Transport Infrastructure. Will the minister meet with local business owners to hear their request for extra public car parking and a bicycle depot near the new intersection of Yan Yean Road and Bridge Inn Road? A reference design and artist's impression for the new intersection have been released, which seem to show that after the road realignment, blocks of public land surrounding the old general store will be covered in tall trees. These trees would significantly obscure the view of the Doreen business precinct from both Yan Yean and Bridge Inn roads and may interfere with signage rights for the business park, which traders were assured would be maintained. Retailers are obviously concerned about the negative impact that this will have on their business once drivers are diverted away from the precinct's former entry points. I call on the minister to meet with traders and consider their proposed solutions, which include new public car parking sites as well as a bike depot and a secure storage area to encourage active transport, all of which will help maintain visibility.

Southern Metropolitan Region

Katherine COPSEY (Southern Metropolitan) (12:58): (1934) My question is for the Minister for Roads and Road Safety. A constituent of mine in Camberwell wants action to improve a dangerous intersection at Milverton Street and Oberwyl Road. The constituent has frequently seen people driving up Milverton Street, driving through the stop sign and colliding with cars driving down Oberwyl Road. She has had to deal with the aftermath of dangerous incidents at the intersection many times, telling me that on different occasions she has climbed into damaged cars, comforted drivers and children, rung the ambulance and police, contacted family members, calmed people down and taken people into her home until their loved ones can come to get them. I also note that Hartwell Primary School is directly located at this intersection. Minister, what will you do to improve the safety of this intersection?

Western Victoria Region

Bev McARTHUR (Western Victoria) (12:59): (1935) My question is to Minister Symes. Yesterday I met with Northern Grampians shire, a shire in my electorate, and they presented me with a letter that had come from the Premier's office directed to Minister Symes requesting an answer to their questions relating to the emergency services tax. They have not been responded to, and 'they' would be the mayor of Northern Grampians, mayor of Pyrenees shire, mayor of Yarriambiack, mayor of Horsham, mayor of West Wimmera, mayor of Buloke and mayors of Hindmarsh, Moyne and Colac Otway. I ask the minister to please respond with why she has not responded to the nine mayors who want their questions answered.

South-Eastern Metropolitan Region

Ann-Marie HERMANS (South-Eastern Metropolitan) (13:00): (1936) My question is to the Minister for Health. In the April–June 2025 quarter, according to the Victorian Agency for Health

Information, only 4 per cent of adults presenting with mental health issues at Dandenong Hospital's emergency department were transferred to a mental health bed, indicating significant delays in care. This is apparently the lowest rate in the state and well below the 44 per cent statewide average. Given that the so-called hospital in Cranbourne has not been provided an emergency department and is actually not a hospital at all but a medical centre that has just been given a new name, what steps will you take, Minister, to increase the capacity of mental health services in Dandenong, reduce emergency department wait times and ensure that individuals in crisis receive timely and appropriate care?

Northern Victoria Region

Gaelle BROAD (Northern Victoria) (13:01): (1937) My question is to the Minister for WorkSafe and the TAC. I refer to the case of Mr Andrew Bishop, an experienced emergency services worker and health and safety representative, who was stood down by National Patient Transport after taking a photo of a rolled ambulance in Myrtleford on 29 June 2024. Mr Bishop shared the image to highlight the extreme fatigue faced by paramedics, one of whom had reportedly been working for over 18 hours straight. According to news reports:

> When the image went public it sparked first a bungled response from Ambulance Victoria, followed by a no confidence motion in the CEO and mounting pressure on the government to ease paramedics' workloads.

Victorian Ambulance Union secretary Danny Hill said:

> From our point of view he's done a service both to his colleagues and to the community …

Yet soon after the image was aired, Mr Bishop was told he had been stood down. Minister, I understand that Mr Bishop first raised these matters in April and wrote to your office on 14 August and again on 2 September this year, but he has received no reply. Can you please explain why your office or WorkSafe Victoria have not yet responded to these legitimate safety concerns as required under section 131 of the act, and will you ensure his inquiry is properly investigated so that no worker is punished for speaking up about fatigue and public safety?

Eastern Victoria Region

Renee HEATH (Eastern Victoria) (13:02): (1938) My question is for the Minister for Carers and Volunteers. In the Eastern Victoria Region there are eight neighbourhood houses operating under the state government's neighbourhood house coordination program. On 12 October the minister said:

> … I encourage everyone to find a way to 'Care for a Carer' …

That message rings hollow when the government is failing to save over 200 community houses from closing across the state. These houses provide direct support to carers and those they care for. They reduce isolation, build skills and ease pressure on our healthcare system. The peak body Neighbourhood Houses Victoria says that every dollar invested delivers approximately $21 in community benefit, so if the government met their $11 million funding request, they would save $256 million. How can the minister justify urging Victorians to care for carers while refusing to fund those that make that care possible?

Northern Metropolitan Region

Evan MULHOLLAND (Northern Metropolitan) (13:03): (1939) My constituency question is for the Minister for Environment, and it concerns one of my favourite topics, the Greenvale Reservoir Park. Minister, it has been over a year since your government was dragged kicking and screaming to finally reopen the Greenvale Reservoir Park, or announce it, after over a thousand people signed my petition. It is a much-loved facility which still remains behind a lock and key as we get closer to the summer months and the published completion date of late 2025. I remind the minister that we have heard promises before. In 2017 we saw Ms D'Ambrosio and Ms Spence announce the reopening of the Greenvale Reservoir Park, with over $1 million committed, and then of course last year we saw Ms Shing announce over $3 million for the very same commitment. I ask the minister to provide me and my community with a firm date on when the Greenvale Reservoir Park will be open.

Sitting suspended 1:04 pm until 2:06 pm.

Bills

Statewide Treaty Bill 2025

Committee

Resumed.

Clause 1 further considered (14:06)

Joe McCRACKEN: My questions relate to clause 5. Clause 5(3) reiterates protection of native title rights under the Native Title Act 1993, and that is an act of Commonwealth Parliament, I realise. Why was that replication necessary when section 109 of the constitution confers the Commonwealth primacy anyway?

Lizzie BLANDTHORN: Treaties do not impact the state's existing responsibilities to traditional owners under the Traditional Owner Settlement Act 2010, Aboriginal Heritage Act 2006 and Native Title Act. Further to that, traditional owner groups with rights under these acts may choose to negotiate a traditional owner treaty with the state as part of a broad delegation, but this really just makes that explicit.

Joe McCRACKEN: Does the interpretive requirement in clause 5(1) amount to a statutory non-derogation clause binding courts to construe all subsequent provisions consistently with Commonwealth law?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Could clause 5(2) be used to argue that future actions of Gellung Warl or the state must be tested for compatibility with native title expectations, potentially creating uncertainty in that space?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Okay. Well, I just want to clarify to be 100 per cent sure I understand, because clause 5(2) says:

> The provisions of this Act must be interpreted in a way that does not prejudice native title rights and interests to the extent that those rights and interests are recognised and protected by the Native Title Act 1993 of the Commonwealth.

So, my question was: must the state essentially test against those requirements to make sure that whatever happens in here does not go against the requirements that already exist.

Lizzie BLANDTHORN: It simply needs to consider the relevant native title act.

Joe McCRACKEN: I will move on to clause 6. Clause 6 imposes reciprocal duties of good faith. Are these duties enforceable in a court or a tribunal or are they just political obligations?

Lizzie BLANDTHORN: The good faith obligation, Mr McCracken, means that when the state and Gellung Warl engage with each other they will have to do so in good faith, which generally requires that they act honestly, fairly and reasonably. More precisely, the good faith obligation is an obligation on the state government and the three arms of Gellung Warl to conduct themselves in good faith when engaging with each other in relation to the exercise of powers and functions by the arms of Gellung Warl. The obligation does not apply to the Parliament or the judiciary.

Joe McCRACKEN: My question is: are these duties enforceable in a court or tribunal? That was the crux of the question there.

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Which ones?

Lizzie BLANDTHORN: The good faith obligation in clause 6 will be enforceable in the court, Mr McCracken.

Joe McCRACKEN: What is the standard of proof required to establish bad faith? And who would have a standing to allege bad faith?

Lizzie BLANDTHORN: Good faith, Mr McCracken, generally means that the state government and Gellung Warl must act honestly, fairly and reasonably when engaging with each other, and the obligation aims to support that unique relationship between state government and Gellung Warl. The Statewide Treaty, by setting a standard of behaviour for the parties to support positive relations and minimise adversarial approaches to engagement, is setting that standard for good faith.

Joe McCRACKEN: Minister, my question was more around: what is the standard of proof required to establish that either bad faith exists or there is the lack of existence of good faith?

Lizzie BLANDTHORN: What good faith will require will depend on the circumstances; for example, in relation to a request for information, this would require making genuine reports to engage with the request and identify and provide relevant documents and to seek to respond in a timely manner, taking into account the nature of the request to avoid relying on technicalities or administrative reasons to not provide information. The good faith obligation is not, however, intended to disrupt any lawful basis for not providing information or responding to questions such as legal professional privilege or public interest immunity, for example. The First Peoples' Assembly, Nginma Ngainga Wara and Nyerna Yoorrook Telkuna are also required to engage with the state government in good faith also when exercising powers and performing functions.

Joe McCRACKEN: I still do not have a clear understanding of what the standard of proof is.

Jacinta Ermacora interjected.

Joe McCRACKEN: It is my question, thank you. I would like to know what the standard of proof is to determine whether there has been in fact bad faith or the absence of good faith. How can someone prove that?

Lizzie BLANDTHORN: Just at the outset, it is the right of the representing minister to talk to the relevant advisers in the box, and interjections towards those advisers in the box is not appropriate. There are numerous provisions across various pieces of legislation that require good faith, and the court determines that. In these same instances the court would determine it too.

The DEPUTY PRESIDENT: I do not think Mr McCracken was actually interjecting towards the advisers. He was trying to provide a little bit of assistance to you in what he was actually looking for.

Joe McCRACKEN: I interjected myself anyway. My next question: could a failure of good faith render a decision or negotiation void or subject to judicial review under the Administrative Law Act 1978?

Lizzie BLANDTHORN: They would be matters for the courts, Mr McCracken.

Joe McCRACKEN: How does this clause interact with section 38 of the Charter of Human Rights and Responsibilities Act 2006, which already requires public authorities to act compatibly with human rights?

Lizzie BLANDTHORN: The charter rights will continue to apply, and the same obligations in relation to good faith will continue to apply.

Joe McCRACKEN: I have just got one more on this clause, then we can go to someone else for a bit. Is there a risk that clause 6 creates reciprocal obligations that are asymmetrical – for instance, binding the state but not enforceable against Gellung Warl due to Gellung Warl being independent?

Lizzie BLANDTHORN: It works both ways.

Melina BATH: Minister, one of the key things that I think universally both houses agree on is the need for Closing the Gap targets to be improved nationally – nationally agreed Closing the Gap targets. Indeed we heard many of the members of Parliament from the Labor Party saying 'let us try something different' in their contributions, and I could quote some of them. One of the things that we know is that over the past 11 years the Labor government has been in, the Closing the Gap annual data report clearly states that child protection is going backwards, and that unfortunately, very tragically, Aboriginal children face a 20 times rate of non-Aboriginal children in out-of-home care. In terms of incarceration, it is 14 times. Tragically suicide is three times higher. On the children thriving priority reform, 33.9 per cent of children commencing school were developmentally on track in 2024. As I said, 50.3 per 100 children were in out-of-home care in 2024. The number of adults in the criminal justice system was 2300 per 100,000. And on social wellbeing, 30 out of 100,000 people very tragically took their own life in 2023, which that data is for. Minister, how will this treaty – and in what timeframe – achieve significant Closing the Gap reform in the areas that I have just discussed?

Lizzie BLANDTHORN: Establishing Gellung Warl will make sure that the First Peoples community can design and deliver or inform the government on practical solutions for their communities to help close the gap, so that every Aboriginal Victorian has the same opportunities as anyone else in this state. Gellung Warl's accountability functions will also ensure that we have an independent mechanism to transparently measure and report on how well the government is doing at closing the gap and where we need to improve.

Indeed, governments across Australia agree that the gap between First Peoples and the broader community needs to be closed and have sought to achieve this through the National Agreement on Closing the Gap since 2008. But what is also clear is that this approach on its own has failed to yield meaningful results. The Productivity Commission has said that is due to government's failures to understand the scale of change needed and to embrace shared decision-making with First Peoples and improve accountability, including through treaty.

You spoke to the over-representation of children in out-of-home care. As the minister responsible for children, this is something that I have regularly acknowledged in this chamber and indeed I have apologised for their continued over-representation in a number of different forums, including in evidence I gave at the Yoorrook Justice Commission. But what has been really clear and demonstrable within my own portfolio, and which I spoke to in my own contribution yesterday, is that when we give Aboriginal people the right to make the decisions about their families and their children themselves, we get better outcomes. And in our Aboriginal Children in Aboriginal Care program and through our Protecting Boorais program we are ensuring that there is a greater degree of self-determination reflected in the care of Aboriginal children, particularly in the out-of-home care system, and that is an important part of ensuring that we get better outcomes for those children in particular.

Melina BATH: This is a very big issue – the biggest issue I think that we face in Victoria in terms of outcomes for the Aboriginal community. You mentioned a couple of things. You mentioned practical solutions – by setting up treaty and having the three arms of Gellung Warl, practical solutions will come forth. Minister, after 11 years – although you have not been in that particular portfolio for that time – how and why has the government failed to deliver practical solutions to close the gap? Now it is going to try something different and expect that the burden of that outcome will be on Gellung Warl. Let us look at that. There will be the First Peoples' Assembly – 80 members all up. The bill says that there can be 80 members, but 33 is the number that is touted often. How is that responsibility going to be carried out and how is it going to be clearly shared with not only the whole of the 66,000 Aboriginal and Torres Strait Islander people who are registered in Victoria but the broader community? How are we going to see those improvements from this action?

Lizzie BLANDTHORN: You have almost answered your own question, Ms Bath. Indeed it goes back to colonisation itself. But the reason we have not achieved better outcomes and why there is a

gap for Aboriginal people across our country, including in our state and including in things like you have referred to – in our justice services, in our children's services, in our housing services and so forth – speaks to the fact that there has not been self-determination. All families do better when they make decisions that affect them and their families, and that includes Aboriginal people and Aboriginal families. While there has over time been an evolution of different supports and different ways of working together, what has been clear and what I also spoke to yesterday in my own contribution to the second-reading debate – and if you look at international examples in comparable jurisdictions – is where there is treaty there is greater opportunity for there to be self-determination in how people provide for themselves, their families and their communities. Through treaty, that is what we will be able to do better and what I hope will lead to our seeing a greater closing of the gap.

Melina BATH: This bill mentions a couple of times Closing the Gap. It does not mention the metrics by which the outcomes and the improvements will be judged, as far as I know, so I will just put that point. Can the minister actually describe how these metrics will be judged? How will we know that it is improving? And by 'we' I mean the Victorian population.

Lizzie BLANDTHORN: Sorry, Ms Bath, could you please repeat your question?

Melina BATH: How will the Victorian population, including all the very important people who Closing the Gap is supposed to serve, know? What metrics will the treaty be judged against? How will we know that it is working?

Lizzie BLANDTHORN: Obviously in relation to Closing the Gap specifically there are particular measurements that go to a number of the areas to which you have spoken – in principle, those outcomes themselves. But I think in a number of different ways we will be able to account for the improvements. It is a very general question that you are asking, and there will be different measures for different circumstances and different types of issues that are being measured. But ultimately those Closing the Gap targets are what we seek to achieve.

Melina BATH: What performance audits or independent reviews will ensure taxpayer funds generally will see an improvement in, for example, those key metrics: health, housing, education, incarceration? How is the government going to assess this? What performance audits and independent reviews will occur against the treaty framework?

Lizzie BLANDTHORN: The Statewide Treaty is to be reviewed every five years, Ms Bath, by an independent panel. Under the bill the funding arrangements must be reviewed every four years unless the state and Gellung Warl agree to alternative timing. Like Victorian government departments and public bodies, Gellung Warl must also report annually at the end of each financial year, including a report of operations and financial statements for the financial year under part 7 of the Financial Management Act 1994. There are very clear and measurable indicators of progress in relation to First Peoples policy. The bill and treaty will work alongside the National Agreement on Closing the Gap to provide stronger accountability for the targets and indicators that all Australian jurisdictions are working towards under Closing the Gap. Nginma Ngainga Wara's accountability functions will ensure that we have an independent mechanism to transparently measure and report on how well the government is doing against these nationally agreed targets and indicators. Adding additional indicators into this legislation would simply create unnecessary confusion and complexity. This, along with other accountability features in the bill, such as the engagement hearing and representation and advice functions, will also go towards addressing the current gap identified by the Productivity Commission's report on Closing the Gap in the state's ability to track and identify how it is meeting outcomes for First Peoples.

Melina BATH: In legislating this treaty bill, there is consolidated funding and there is capital funding, and it equates to, give or take, $207 million. That funding goes towards running the organisation – the statutory body and the infrastructure of that statutory body. Can I confirm that none

of this funding that is legislated in perpetuity and increasing after the forward estimates goes toward Closing the Gap targets?

Lizzie BLANDTHORN: Gellung Warl will be funded by a special appropriation. The bill includes a special appropriation with yearly caps to fund the operation of Gellung Warl and all its entities. The amount to be appropriated includes the costs and expenses incurred in establishing Gellung Warl of $3 million in 2025–26; operational funding for Gellung Warl of $23.805 million in 2026–27, $71 million in 2027–28, $72 million in 2028–29 and ongoing, with ongoing amounts to be indexed annually at 2.5 per cent; and fixed-term capital expenditure of $20.9 million in 2026–27, $15.4 million in 2027–28 and $0.4 million in 2028–29. The lower amounts of funding in the first few years of operation reflect the staggered approach to the establishment of Gellung Warl and transition from the current First Peoples' Assembly. If Gellung Warl does not spend all funding within a given year on its functions and operations, it can direct any surplus funds to the self-determination fund or use them for investment purposes to support Aboriginal economic prosperity and sustainability. Gellung Warl will be able to receive additional funding outside of the special appropriation from other sources, such as philanthropic funding. Additional annual appropriation for other purposes will need to be provided in accordance with the bill through the Minister for Treaty and First Peoples and the Treasurer. Program or grant funding from other Victorian ministers and departments will need to be provided via funding arrangements outside the special appropriation. Gellung Warl may only spend funding to fulfil its statutory functions and obligations.

Melina BATH: That is good. You concur with everything that is in the bill that I have read, and I appreciate that. My point is that, first of all, what you have said about accountability for Closing the Gap targets is that to make measured improvements in those outcomes, Gellung Warl will have an independent review or panel every five years to review its own funding. I am trying to understand where and how by instigating the Statewide Treaty there will be measured outcomes and improvements for the lives of the people who are statistics in the Closing the Gap annual report. We have baseline outcomes today, but how are we going to see that these are improved by this monumental change and overarching statutory body? How are we going to see that?

Lizzie BLANDTHORN: The Statewide Treaty Bill 2025, Ms Bath, is designed to meet the best practice standards for achieving practical outcomes and justice for First Peoples to help close the gap. It is intended to streamline and increase both the effectiveness and efficiency of public services for First Peoples that are currently delivered by government, and it will obviously work over time and ultimately result in cost savings. Gellung Warl will support Victoria to close the gap between First Peoples and other Victorians. Treaty is not simply about funding. It is about providing for an Aboriginal voice in decision-making and working with government and having the functions and necessary influence to ensure that their self-determination is reflected in all of aspects that go to improving those Closing the Gap indicators and outcomes.

Melina BATH: I am not for one moment suggesting that it is all about funding, but I am suggesting that there need to be tracked and traceable outcomes. What we know from this bill is that all that funding is going to be cauterised for the organisation, the statutory body, and any requests for programs or initiatives and therefore associated funding must still go to the individual departments. Is that not correct? So if there needs to be an improvement in out-of-home care and there is a particular program that the Gellung Warl have decided is going to be useful, it has got to go to that department and seek that funding. Is that correct?

Lizzie BLANDTHORN: As we have spoken to a number of times in this place, and as you have said that you recognise, it is not simply about funding. It is about a new relationship with government that reflects self-determination and an Aboriginal voice in decision-making. You keep invoking my own portfolio, but if I speak to the Aboriginal Children in Aboriginal Care program or indeed the Community Protecting Boorais program, which I was very pleased to receive the support of this house for and which in his former life Dr Bach was a great advocate of, they are a very demonstrable way of showing that if we allow Aboriginal people to make decisions about Aboriginal children, we get better

outcomes. So if you were to take back that legislation, which I was pleased to receive the support of this Parliament across both sides of the house for, and it was done in consultation with First Peoples, there would have been a formal process for that to have been done through consultation with Gellung Warl, and it would have also assisted us in getting a piece of legislation that really reflected the importance of self-determination in Aboriginal care for Aboriginal children. There are many ways in which the Parliament, ministries and Gellung Warl will work together to ensure that programs and systems better reflect the importance of self-determination.

Melina BATH: The independent Aboriginal-led review in June 2025 said that the Closing the Gap framework was sound – the overarching framework – but it lacked transformative work by governments in balancing responsibilities and resources and that funding reform was needed as part of the three key priorities. Minister, this government has been in for 11 years. It is creating a new statutory body and now all will be solved. Is that what you are saying? Is that the outcome? Because I fail to understand how, if we have still got the same players here in terms of the government, a new statutory body – it is just the same departments – is going to be transformative, as required by the independent review.

Lizzie BLANDTHORN: Again, Ms Bath, you are in part answering your own questions, but treaty is in and of itself transformative work. The Productivity Commission itself has said that it has the capacity to create those transformative relationships, which will actually have a real impact on outcomes. Gellung Warl we know will strengthen the voice of First Peoples, and it will allow us to do things differently, as the Productivity Commission has said that we should, to ensure that not just the last 11 years, not just the last 50 years, but since colonisation that we do do things differently – that we have a treaty with our First Peoples that allows for and formally provides for that self-determination in decision-making.

Melina BATH: What binding obligations will treaty impose on departments to fix these chronic issues with Closing the Gap?

Lizzie BLANDTHORN: This will relate to the guidelines that Gellung Warl can provide to departments Ms Bath, but the duty to develop written guidelines is distinctly Victorian. It is designed to enable tailored approaches to consultation to be worked out between departments as well as Victoria Police and the assembly. This is different to the overarching broad and open-ended duties to consult in other comparable treaty jurisdictions such as New Zealand and Canada, where courts are often involved in determining what type of consultation is required.

Melina BATH: Victoria has one of the lowest Aboriginal health assessment uptakes in Australia. What binding obligations will the treaty impose to fix this issue?

Lizzie BLANDTHORN: I refer you to my previous answer, Ms Bath.

Melina BATH: Will the treaty delegate child protection authority to Aboriginal community controlled organisations (ACCOs)?

Lizzie BLANDTHORN: Again, I refer you to my previous answer, Ms Bath, but I also refer you to my earlier comments, which spoke exactly to the legislation that we passed in this Parliament some time ago now – certainly when Dr Bach was here and that those opposite indeed voted for – which was for Indigenous organisations, ACCOs, to be authorised to undertake both case management but also investigative functions under the child protection legislation.

Melina BATH: Will the treaty require annual and regionally based reporting outcomes?

Lizzie BLANDTHORN: Gellung Warl, as was asked about earlier, will provide an annual report.

Melina BATH: But will that reflect localised data, or will it be homogenous across the state?

Lizzie BLANDTHORN: Ms Bath, as well as Gellung Warl providing its annual report, the usual reporting as per the national agreement and also existing Victorian frameworks will continue to apply.

Melina BATH: How can both Aboriginal Victorians and Victorians as a whole hold the state government accountable under treaty? How will this work when to date your government still fails to publish regional-level progress on Closing the Gap?

Lizzie BLANDTHORN: I refer you to my earlier answer, Ms Bath.

Bev McARTHUR: Minister, in an earlier answer you stated the reference in the bill's preamble to the United Nations Declaration on the Rights of Indigenous Peoples would have no impact on Victorian law; clause 18, however, says:

> The First Peoples' Assembly is to work collaboratively with Traditional Owner groups in Victoria to meet cultural obligations and responsibilities and realise self-determination for First Peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

Clause 18 will be the law if this bill passes today, so this bill is specifically mandating that the assembly work in accordance with UNDRIP. How can you sustain the idea that satisfying the principles of the declaration will not now be an aspiration of Victorian law?

Lizzie BLANDTHORN: It does not create any new obligations on the state in relation to UNDRIP.

Bev McARTHUR: Minister, article 28, clause 1, states:

> Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used …

Clause 2 states:

> Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

This bill mandates that the assembly work towards self-determination in accordance with these principles. How can you claim this will play no part in Victorian law?

Lizzie BLANDTHORN: Mrs McArthur, you are conflating 'working in accordance with principles' and 'new obligations under the law', and my previous answers stand.

Ann-Marie HERMANS: In schedule 2, clause 2 mentions the minimum number of general seats being at least 10 and that assembly members cannot exceed 80, and this is all about self-determination, with the Aboriginal voices, you said, being part of the decision-making process in the hopes that we will be having some good outcomes in closing the gap. But we find in the bill in section 53(2)(c) that you do talk about merit-based selection, so it is a two-pronged question: who is going to determine who is merit based, and why is it that you have put into your schedule 2, clause 2, that it must have a gender quota for vacancies in general member seats? Given on this side of the house we do not do quotas, and there are many capable Aboriginal women in here that are concerned and engaged, if it is based on merit then why do we need to put in a gender quota, given that gender is a social construct?

Lizzie BLANDTHORN: There are two parts to your question. In relation to the question around statutory appointments, the statutory appointments need to be merit based, and the composition of Gellung Warl reflects the will of the assembly in making sure that there is equal representation.

Ann-Marie HERMANS: Just to clarify, whilst it is self-determining, it is not going to be self-regulated, because regulations in terms of gender quota will be imposed, and merit based – you still have not told me who is determining that merit and what that is based on.

Lizzie BLANDTHORN: In relation to the statutory appointments, Mrs Hermans, that will obviously be different based on each and every appointment. In relation to the democratically elected membership of the assembly, it is the view of the assembly – the self-determined view of the assembly – that they would like to see equal representation in those democratically elected positions, and that is what will occur.

Georgie CROZIER: Australia's international obligations as a signatory to the International Covenant on Economic, Social and Cultural Rights include a commitment to uphold the right to health in article 12 as one of the core rights protected by the ICESCR. Under article 2:

> Parties to the … Covenant undertake to guarantee that the rights enunciated in the … Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

On the federal Attorney-General's department website it goes on to state:

> Australia is a party to 7 core international human rights treaties:

The right to health is contained in article 12, as I have just highlighted to you. In addition to that, the Medical Board of Australia code of practice 3.4 'Decisions about access to medical care' includes:

> Your decisions about patients' access to medical care must be free from bias and discrimination. Good medical practice involves:

3.4.3 states:

> Upholding your duty to your patient and not discriminating against your patient on grounds such as race, religion, sex, gender identity, sexual orientation, disability or other grounds, as described in antidiscrimination legislation.

3.4.4 states:

> Giving priority to investigating and treating patients on the basis of clinical need and the effectiveness of the proposed investigations or treatment.

Also, the AMA has adopted the World Medical Association's Declaration of Geneva as a contemporary companion to the 2500-year-old Hippocratic oath for doctors to declare their commitment to their profession, their patients and humanity, and in that pledge, it includes:

> I WILL NOT PERMIT considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation, social standing or any other factor to intervene between my duty and my patient …

There is quite a bit in that, but it is very, very important, and I hope you were listening to what I was saying, because on the Department of Health's website, the government's own website, St Vincent's has been nominated as a finalist for the Victorian public health care awards for the minimum category 3 triage for First Nations patients in the ED. It says:

> First Nations patients are now seen more promptly than non-Indigenous patients …

Given that, how does the government reconcile differential treatment of Victorians based on race that this treaty will enshrine with our international obligations under those covenants and declarations and the AMA pledges that I have just read to you?

Lizzie BLANDTHORN: Just for the benefit of the house, I am struggling to understand your question as it relates to the bill.

Georgie CROZIER: This bill is going to enshrine treaty. I will explain it. In the Statewide Treaty, Minister, it talks about the path to this Statewide Treaty, and in it, it references health, and I will come to that. But this is really important because what you are saying in the treaty and the delivery of health care and what is happening is going against those very principles. So I am asking you: how does the government reconcile these actions, given it goes against all of those international covenants that Australia has signed up to, that are well known within medical circles and go with the medical code of ethics and practice?

Lizzie BLANDTHORN: I am still struggling to understand the connection between your question and the bill. I could equally list off a range of other international covenants that talk about the inalienable rights of each and every person and what is necessary to achieve human dignity and equality of people, and that some people need more assistance than others in order to achieve true

equality. So we could all stand here and quote a number of international covenants and decisions, from the rights of the child to all of the ones you have just quoted. But I am still struggling to see the direct link between your question and the bill.

Georgie CROZIER: I am happy to explain it again. The bill we are debating today enables the Statewide Treaty. It is 'Negotiated – pending assent' – that is what this says. It is a 31-page document that will be enshrined. The treaty – the bill we are actually talking about – is this document. Is that right?

Lizzie BLANDTHORN: Yes, we are talking about the treaty bill, Ms Crozier.

Georgie CROZIER: Correct – the bill will enshrine and enact this treaty, which this document is based on. In this document, it talks about health. I am going to the very principles around the delivery of health and what is happening in Victoria when there are actions being undertaken that contravene international law that Australia has signed up to. These are actions that contravene medical ethics and codes of practice that are well documented and supported and are pledged to by doctors through the Australian Medical Association declaration; the Hippocratic oath, which is 2500 years old; and the World Medical Association's Declaration of Geneva, which has modernised that Hippocratic oath. I have read them all in. I will list them again, if you would like. They are very specific. The Medical Board of Australia code of practice says:

> Upholding your duty to your patient and not discriminating against your patient on grounds such as race, religion, sex, gender identity, sexual orientation, disability or other grounds as described in antidiscrimination legislation.

And in section 3.4.4:

> Giving priority to investigating and treating patients on the basis of clinical need and the effectiveness of the proposed investigations or treatment.

What is happening is that Indigenous Victorians are getting priority. It is there on the government's website. St Vincent's Hospital is going to be nominated for an award. It says that First Nations patients are now seen more promptly than non-Indigenous patients. That goes against the international covenant, the Medical Board of Australia code of practice and the AMA declaration, which I also read out, and I am happy to do it again. But these are the same issues. I am asking you: how does the government reconcile the treatment of Victorians based on what this treaty says around health care? Under 'The path to this statewide treaty' it says:

> Treaty must live beyond the page. It must be felt in classrooms and courtrooms, in hospitals and homes …

So my question is: how does the government reconcile the different treatment – based on treaty – with our international obligations and those code of conducts, such as what is laid out in the medical board code of practice?

Sheena Watt interjected.

Lizzie BLANDTHORN: I appreciate the clarification. I will take up the interjection of Ms Watt here, who said, 'Give them an award.' As a granddaughter and a daughter of nurses at St Vincent's – and indeed my mother is currently one of the executive members of the old nurses' organisation at St Vincent's, and they currently invest most of their fundraising efforts in raising funds to support the training of Indigenous nurses. But as you have spoken to, they are getting a –

Georgie CROZIER: That is not the question.

Lizzie BLANDTHORN: Deputy President, I listened at length to Ms Crozier's explanation. I would like to be heard to respond to it.

As you have spoken to, this is work that has been ongoing over a period of time – my advice is, since April last year – so this is work that has been happening for nearly two years, and they are receiving an award for it. We are debating treaty today. This is not an outcome from treaty. This is an outcome where organisations in our community are recognising the need for greater self-determination and

greater support and services to help Aboriginal people close the gap. To link, as you are, the program that is currently, I would say commendably, operating at St Vincent's Hospital – and has been for nearly two years – to the bill we are debating today is disingenuous, divisive and designed to cause harm in the community. What we are talking about today is treaty, and the only link I can possibly find between the bill before us today and this policy is that the bill will require consultation in relation to the appointments of those people who will be on health boards, as I spoke to yesterday in my speech.

Georgie CROZIER: Minister, in today's Department of Health annual report –

Lizzie BLANDTHORN: Today's. Yes, before treaty.

Georgie CROZIER: Tabled today:

> All Aboriginal people in Victoria have the right to a health system that is free from racism and discrimination …

Lizzie BLANDTHORN: Yes. You disagree?

Georgie CROZIER: No. It goes to my point in the previous question that I asked you, and then you went on and said that we were being divisive. You do not understand what you are saying, Minister, because you did not listen properly. This annual report today goes on and says:

> … statements of priorities are aligned to government policy and priorities in this area, and they reflect the importance of delivering a health system grounded in respect and safety …

Their strategies included:

> mandatory cultural safety training for health services …

which you sort of alluded to. And:

> streamlining guidelines and reporting for Aboriginal cultural safety fixed grants

There is a whole range of other things. But this department report says today:

> All Aboriginal people … have the right to a health system that is free from racism and discrimination …

And I am saying to you that there is discrimination in treatment being undertaken in Victoria's hospitals today based on the colour of people's skin and their race. Is that not discrimination and racism? To go back to my original question: how does the government reconcile the differential treatment of Victorians based on what the annual report today says about one group of people and how it is actually operating in our health system today with a whole range of other Victorians? Is it not the same thing?

Lizzie BLANDTHORN: I would simply answer that question with the key point being that the bill is compatible with the right to equality in the Charter of Human Rights and Responsibilities Act, as outlined in the statement of compatibility, and the bill works to ensure substantive equality between First Peoples and other Victorians such that First Peoples have equal enjoyment of human rights and fundamental freedoms. The bill does not take anything away from anyone, Ms Crozier.

Georgie CROZIER: Minister, I go again to clause 1.2 of the Statewide Treaty document. Have you got that in front of you?

Lizzie BLANDTHORN: We have all the necessary documents.

Georgie CROZIER: Okay. It states:

> **The path to this Statewide Treaty**
>
> …
>
> Treaty must live beyond the page. It must be felt in classrooms and courtrooms, in hospitals …

Minister, how will clause 1.2 operate in hospitals?

Lizzie BLANDTHORN: If we take the St Vincent's example that you referred to previously, it is not specifically relevant to treaty as such other than to say that the research all showed that First Nations patients were more likely to remain engaged with care if seen within an appropriate amount of time. A St Vincent's spokesperson stated:

> First Nations patients were, on average, waiting longer to be seen compared to non-Indigenous patients …

What we are seeking to do here is ensure that there is the necessary relationship between Gellung Warl, the government and associated institutions and whatnot to ensure that Aboriginal people have access to the services that they need in an equal way. I know it is a foreign concept to those on the other side of the house, but there are a number of other international conventions that we can invoke that speak to the right to equality being influenced by some people needing more support and assistance at times, based on previous disadvantage or circumstance, that provides them with the assistance that they need to equally access services.

Georgie CROZIER: Does the government agree with equality of access to health care?

Lizzie BLANDTHORN: Yes.

Georgie CROZIER: Then why are some groups being prioritised over others?

Lizzie BLANDTHORN: As I just said in my previous answer, and I understand it is a concept foreign to those on the other side of the house, Ms Crozier has invoked a number of international conventions and treaties, and I urge her not to quote from them selectively. You will find across all of them a commitment that recognises that some people need more assistance at certain times, from children to those with disabilities to those who are First Peoples of their particular nations. But if the allegation is that Indigenous peoples, that First Peoples, would somehow be unfairly benefiting from treaty in the context of how people can equally access services in the community, that is not the case. It is disingenuous to suggest it.

The Statewide Treaty will not unfairly benefit Victorian First Peoples, and we already know from Closing the Gap and other initiatives that First Peoples experience significant inequality in Victoria. The Yoorrook Justice Commission heard how government policies and practices have created this inequality, which continues in Victoria today, and hence I commend the work of organisations such as St Vincent's Hospital. But we have heard how government policies and practices have created this inequality, which continues today, and the Statewide Treaty is designed to help rectify this, improving the opportunities available to First People and ensuring equality across Victoria. If we can achieve equality across Victoria, Ms Crozier, that can only benefit all Victorians equally.

Georgie CROZIER: Minister, again I say that nobody wants Indigenous Victorians to not be able to access health care. We all want the gap closed. We have all acknowledged that and will continue to do so. I know there are snide comments coming from other members of the house, but this is an important aspect because what is happening in Victoria is breaching international declarations that Australia has signed on to that have been part of our medical system and that code of practice, which is incredibly important for medical practitioners to abide by.

Sonja Terpstra interjected.

Georgie CROZIER: Well, it does, because I am going to it.

The DEPUTY PRESIDENT: Ms Terpstra, Ms Crozier has the call, please.

Georgie CROZIER: I know that there are a lot of people in here that want this bill to pass expeditiously. We have a right on this side of the house to ask questions about how this bill will impact on Victorians and what will happen.

Sheena Watt interjected.

Georgie CROZIER: Ms Watt, if you want to take the minister's place, why don't you sit next to her and start assisting her rather than commenting from over –

The DEPUTY PRESIDENT: Ms Crozier, through the Chair, please.

Sonja Terpstra: On a point of order, Deputy President, I would ask that Ms Crozier direct her comments through the Chair.

The DEPUTY PRESIDENT: I had already asked her that.

Georgie CROZIER: Chair, I would also ask that members also direct any comments through you. Or, if they want to assist the minister, maybe they can sit up at the table.

The Statewide Treaty, Minister, at clause 3 talks about Aboriginal lore and Aboriginal law. So where there is a difference in the longstanding clinical practice, which I have explained in my previous questions to you, and if there are any impacts from Aboriginal lore, which one will prevail? Will it be Aboriginal lore, or will it be those long-abiding practices?

Lizzie BLANDTHORN: Through the establishment of the guidelines that Gellung Warl will provide, what we do hope to achieve is culturally safe, culturally appropriate care – I am keeping my remarks here in relation to the health system. But I would think that the guidelines that are being produced would have at their core culturally appropriate and safe care and treatment for Aboriginal people in our health system. I cannot see how they would be inconsistent, but what is inconsistent is the way in which you are selectively quoting from some United Nations conventions and international instruments and not others. They are meant to be taken in their entirety. In order to achieve equality across all of our systems, those which Australia is a signatory to should be taken in a cohesive way.

Georgie CROZIER: Well, I am glad we have got this on the record, Minister. I am glad for what you have just said, because I actually think that this is going to have huge ramifications for Victoria, for Victoria's health system and for Victorian patients, Indigenous and non-Indigenous. So I am very pleased with what you have got on the record, because I think that you have not understood what I have been asking, and I think that is highly unfortunate. You have not taken the time to understand the severity of what is actually going to occur.

If I can just go to the *Aboriginal Health and Wellbeing Partnership Agreement 2023–2033*, which is a government document that talks about, for Aboriginal people, the concept of health being that it encompasses the physical, social, emotional and cultural wellbeing of individual families, wider kinship groups and the entire communities. Is that the same for all Victorians?

Lizzie BLANDTHORN: Again, I would ask Ms Crozier to keep her questions to the bill, but I am more than happy to answer it in saying yes.

Georgie CROZIER: I agree with you. The reason I am asking these questions is because again I go to the Statewide Treaty. In schedule C of the Statewide Treaty, 'Minimum content for guidelines', it says:

> (a) Section 88(1) of the Statewide Treaty Act requires that each Secretary must develop, in consultation with the First Peoples' Assembly of Victoria, written guidelines for:
>
> i) any matters specified in the Statewide Treaty; and
>
> ii) the manner of consultation with the First Peoples' Assembly of Victoria during the development of any legislative proposal, statutory rule (not including a court rule) or policy that is specifically directed to First Peoples.

Minister, how will these guidelines interplay with the various entities in health, such as VicHealth or any other health service in Victoria?

Lizzie BLANDTHORN: As I outlined earlier, Ms Crozier, the guidelines are non-binding, but I believe in everyone's shared commitment to true equality, recognising that the very rights that you

spoke to before, which belong to everyone and which everyone feels, since colonisation have in various ways and to various extents been denied to Aboriginal people. What we provide here is a framework and an opportunity to allow for justice to be restored and to ensure that with those rights that you spoke to before, which I agreed with you belong to everyone, we do the work necessary to ensure that Aboriginal people are afforded them in the same way that everyone else should be.

Georgie CROZIER: Minister, in that same document:

> ACCHOs are Aboriginal led, community-controlled health services that provide a suite of primary care, allied health, mental health, alcohol and other drug, housing, disability and aged care services, and many other wrap-around supports for Aboriginal people.

That document also says:

> … significant investment is required to bring about change, both in perception and reality.

But the government has ignored the needs of Aboriginal community controlled health organisations (ACCHOs), where community health buildings are literally falling down. In fact about 82 per cent of the sector's 200 buildings will need replacement, so why has the government failed to address those basic needs in this important health area to provide care, support and health advice to Indigenous Victorians? These facilities are not even fit for purpose. In fact they have been said to be dangerous and not safe, so how can you espouse that you are doing one thing when you have ignored the very facilities and resources that are required to deliver appropriate care to Indigenous Victorians?

Lizzie BLANDTHORN: Again I would seek the guidance of the Chair. It is going to be a very long night if the questions are not contained to the clauses of the bill. Nonetheless, as I have explained already in this chamber – and I appreciate that you did not come in this morning, Ms Crozier – Gellung Warl will strengthen self-determination of ACCHOs through the infrastructure fund, which is being transferred from government. But it will also strengthen the opportunity for Gellung Warl to work with the various other government agencies responsible for the delivery of services and through the provision of guidelines which will be consulted on to ensure that it is an all-encompassing response that has self-determination at its heart.

Georgie CROZIER: For years you have ignored what has been required and for years we have had this crumbling infrastructure that is now unsafe, and you are trying to say that it will all be okay. It is just laughable given that you espouse one thing yet the facts are there with non-investment and actually just a disregard for it. How can programs and care be properly delivered when you have ignored those community health needs, where we want to keep people out of the acute system, Indigenous and non-Indigenous? I mean, it is just extraordinary. Anyway, I am moving on from that.

Lizzie BLANDTHORN: Was that a question? Do I get to respond to that?

Georgie CROZIER: No, it is not, it is just a statement. It was a response to your question.

The DEPUTY PRESIDENT: Do you want to respond? The minister has a right to respond.

Lizzie BLANDTHORN: As we all know, this is an opportunity for questions and answers rather than an opportunity for everyone to just give speeches from their chair. But as I said, the transfer of the Aboriginal community infrastructure program to Gellung Warl is consistent with the objectives that we are all committed to, I would hope. It advances the Victorian government's commitment of enabling self-determination as outlined in the *Victorian Aboriginal Affairs Framework* and it clearly demonstrates the practical outcomes of Statewide Treaty. To somehow suggest that that is negative is indeed disingenuous. It will ensure that the infrastructure fund will be established and operated by Gellung Warl, and that will allow for, as I said earlier, increased self-determination within those funds.

The DEPUTY PRESIDENT: I just need to correct the minister's statement at the beginning of that. It is possible for people to make just a statement in committee; they do not necessarily have to ask a question.

Georgie CROZIER: Deputy President, thank you for that clarification; that is right. In this document that I referred to, which goes to the heart of this legislation and the treaty, it talks about a self-determined health system:

> … Aboriginal people are authorised and empowered to own, direct and make strategic decisions. A self-determined health system is one where legislative, governance, reporting and other structures and mechanisms have embedded Aboriginal voice, and which reflects Aboriginal values and culture.
>
> …
>
> - Aboriginal voice determines the healthcare received by Aboriginal people in Victoria.

Minister, could you just enlighten or just explain that a little bit more in terms of how that is going to be delivered through the different layers of our health system: primary care, community care, acute care, emergency care and aged care?

Lizzie BLANDTHORN: The document to which you specifically refer, Ms Crozier, is not directly relevant to the bill. But what I would say is that in the development of guidelines by Gellung Warl in consultation with departments, with secretaries, with government organisation – those guidelines that are then developed being non-binding, there will be an opportunity to work together but for Aboriginal voice to be a fundamental part of the delivery of health care.

Georgie CROZIER: Well, that is hardly an explanation. You did not even address the very parts of our health system that all Victorians, including Indigenous Victorians, need to understand. You did not even address it, Minister. Minister, can you guarantee that the introduction of this massive layer of complexity to prioritise Indigenous patients, such as we have seen happen in St Vincent's, will not compromise or leave any other Victorians worse off?

Lizzie BLANDTHORN: I am sure St Vincent's, along with every other hospital, will continue to ensure that people are triaged and assessed according to risk and that there is equality in the delivery of health care.

Georgie CROZIER: That is the point. Triage is about risk and assessment – assessing a patient's safety and getting an emergency response. It takes in their medical history and their physical condition as they walk through that emergency door. You cannot assess somebody on the colour of their skin. You have got to see that person in their entirety and their medical condition in its entirety. That is the point; that is the reason for triage. You never judge anyone on the colour of their skin – never.

Lizzie Blandthorn interjected.

Georgie CROZIER: Well, that is the medical code; that is exactly what it says. You do not put those biases in. You have got to assess somebody, and St Vincent's is prioritising being an Indigenous Victorian rather than any other Victorian or any other Victorian from another marginalised group. So is this happening in other hospitals?

Lizzie BLANDTHORN: As I spoke to earlier, Ms Crozier –

Sarah Mansfield: On a point of order, Deputy President, on relevance to the bill, I am not quite sure how that last question was relevant to the bill that is before us.

Georgie Crozier: On the point of order, Deputy President, it is relevant because of the minister's previous answer, Dr Mansfield, around risk. Obviously, being an Indigenous Victorian is only part of that risk. It is not the entire picture.

The DEPUTY PRESIDENT: We do have a very broad discussion on clause 1. I will allow the question this time, but we do need to stick more to the bill.

Georgie Crozier: My apologies. That was the point of me asking it – because of the minister's response. As I said, that is only part of the risk profile when a patient is being triaged, and that is the

failure of the minister to understand that. That is why I asked the question. Can the government guarantee that other Victorians will not be worse off with this policy in place?

Lizzie BLANDTHORN: As I said to you before – and if we take in particular the St Vincent's example – a St Vincent's spokesperson said research from the hospital's emergency department found that First Nations patients were on average waiting longer to be seen compared to non-Indigenous patients. The research also showed First Nations patients were more likely to remain engaged with care if seen within their first hour of ED presentation. They said:

> ED wait times for First Nations and non-Indigenous Australians are now comparable thanks to the introduction of this policy.

So the introduction of this policy has actually resulted in more equitable outcomes for all people – not just First Peoples but all people – at St Vincent's Hospital. And I would hope that similar policies are in place across our health system, across various other ways, so we can ensure that sometimes more – I know it is a concept extremely foreign to those on the other side of the house, but as I indicated, you need to stop selectively quoting from certain international covenants and look at all of them, in particular the right to equality, which recognises that some people need more support and assistance to achieve equality than others.

The DEPUTY PRESIDENT: I just caution both Ms Crozier and the minister that it is going to be a long day and we need to take the level down just a notch, please.

Georgie CROZIER: I would just like to get confirmation from the minister. She said that it will be applied across the health system, the policy that is in St Vincent's – that is what she said.

Lizzie BLANDTHORN: I am sorry, Ms Crozier, I did not hear your question.

Georgie CROZIER: I just want clarification, because you said that it would be applied across the health system – the policy that is being applied at St Vincent's.

Lizzie BLANDTHORN: What I said, Ms Crozier – and I would appreciate it if you did not put words in my mouth – is that I would hope that across our systems we have recognition, as provided for in various international conventions, including the United Nations declaration of human rights, that some people need greater assistance and support than others to achieve equitable outcomes. Indeed that is what is happening at St Vincent's. And as someone who is committed to the fundamental provision of human rights across the board in order to get equitable outcomes, we need to see policies which ensure and recognise that some people need more assistance than others to achieve that.

Georgie CROZIER: I will check *Hansard*. That came following what you said, I think. But nevertheless I will take it as though you are saying that there is the possibility – and I do not want to put words into your mouth, Minister; I am just trying to get some clarity around this because it is important. It has concerned a number of people, given their obligations and understanding of their roles within the health system around those codes that I spoke of. And yes, there are many Victorians who are disadvantaged and who fall into a group that could equally have poor health outcomes similar to Indigenous Victorians. That is my point. How does a health system reconcile that – when we are literally taking one group out and prioritising them over others, when there are many other members of the Victorian community that fall into various, unfortunately, disadvantaged types of scenarios?

Lizzie BLANDTHORN: Sorry, Ms Crozier, could you repeat the question, please.

Georgie CROZIER: How will the government be able to manage other disadvantaged groups given that the Indigenous population is being selected out and prioritised over others?

Lizzie BLANDTHORN: As I said earlier, what we are doing here is a treaty bill which is designed to ensure that Gellung Warl and the associated entities have the opportunity to ensure that there is self-determination in the delivery of systems, services and supports. What we are not doing is setting up a system which your allegation – which I think is extremely divisive and disingenuous – suggests that

somehow other people will lose from. If we provide for self-determination where Aboriginal families and Aboriginal children get better outcomes, then that is better for all families, that is better for all children and that is better for all of our community. That is not to say that other groups do not also have reasons why their disadvantage might also mean that they need extra support and services. We are not taking away from anyone. No-one loses anything here, Ms Crozier. What we are doing is ensuring that there is self-determination and that in so doing we have systems, services and institutions that are better equipped and better able to provide those equitable outcomes.

Georgie CROZIER: This is my last question, because I think there remains an enormous amount of concern from many people who work within the health sector around what has happened. As Professor John Wilson said this morning, in an attempt to eliminate inequalities, it can actually lead to unintended consequences, and that is what I think this policy will find. I will leave it there, Minister, but I might come back later. I have got some more questions to follow up on.

Lizzie BLANDTHORN: I would simply reiterate my point that this bill does not take anything away from anybody, and to suggest that it does is extremely disingenuous. What we are seeking to do here is establish treaty, which is designed to ensure a new way, a new relationship with government that allows for self-determination and an Aboriginal voice in a system and across institutions that, since colonisation, has not had equitable distribution of those services.

Joe McCRACKEN: My question is on clause 7. Would the First Peoples' Assembly be subject to parliamentary privilege when addressing the house, or any of the houses, either under clause 64, when they do their annual speech, or under clause 70, by invitation, or does this clause reserve that privilege only for members of Parliament?

Lizzie BLANDTHORN: There is no change to the existing parliamentary privilege rules, but we will seek some advice and provide you a more fulsome answer.

Joe McCRACKEN: I would appreciate that, Minister. Thank you for taking that up. I will move on to clause 8, then. This is the part where it says 'Powers are not coercive'. Clause 8(1) declares that powers of Gellung Warl and its components are not coercive. Would this prevent the issuing of binding directions of enforcement against departments or agencies?

Lizzie BLANDTHORN: No, nothing is binding.

Joe McCRACKEN: Sorry, I missed that.

Lizzie BLANDTHORN: Nothing is binding. Sorry – I took it as a double negative. The answer to your question is: yes, nothing is binding.

Joe McCRACKEN: What practical mechanisms ensure compliance with recommendations or requests made by Gellung Warl if they are non-binding?

Lizzie BLANDTHORN: The recommendations that are non-binding are still intended to be informative, and as you outlined in your earlier question, they are non-coercive and they are non-binding. But in the spirit of the legislation and what we are seeking to achieve and through the consultation that it would inevitably be part of development of the guidelines in the first place, one would envisage that they would be something that people can work with. But as I said at the outset, they are non-binding, they are non-coercive.

Joe McCRACKEN: I will just do this last one before I let someone else have a go, because I have got another whole section of ones to go on. If a minister or agency refuses to comply with a non-coercive request, nevertheless they could be characterised as being in breach of the good faith obligations, which are under clause 6. Is that true?

Lizzie BLANDTHORN: The good faith obligation obviously still exists.

Joe McCRACKEN: That is exactly my point, though. If a minister or an agency refuses to comply with a non-coercive request, they would be characterised as being in breach of acting in good faith.

Lizzie BLANDTHORN: More precisely, Mr McCracken – I cannot recall now if it was you or someone else that I responded to in these terms earlier – the good faith obligation is an obligation on the state government and the three arms of Gellung Warl, on the other hand, to conduct themselves, obviously, in good faith when engaging with each other in relation to the exercise of powers and functions by the arm of Gellung Warl. The obligation does not apply, as I said previously, to the Parliament or the judiciary. We all, I think, understand that good faith generally means that the state government and Gellung Warl must act honestly, fairly and reasonably when engaging with each other, and the obligation aims to support that unique relationship between the state government and Gellung Warl that is created under the Statewide Treaty by setting a standard of behaviour for the parties to support positive relations and minimise adversarial approaches to engagement. I do not think that is beyond the remit of what anyone here would be seeking to achieve – enacting those good faith obligations.

Joe McCRACKEN: I completely understand the intent behind what you are saying, Minister, but the practical reality is that this government or a future government or indeed any minister of those governments may not, for whatever reason, comply with a non-coercive request and could therefore be seen to be in breach of good faith. That is at least possible.

Lizzie BLANDTHORN: Again, as we talked about previously, none of Gellung Warl's powers are coercive and it cannot impose penalties for noncompliance. The state is, however, subject to several requirements, including the overarching obligation to act in good faith – not that I think we are suggesting anyone would be seeking to act in bad faith – when engaging with the assembly, Nginma Ngainga Wara or Nyerna Yoorrook Telkuna, which is a legally binding obligation. If the state did not act in good faith, the court may be able to compel the state to do so. That is no different to good faith obligations across other pieces of legislation and in other settings across whole of government.

Joe McCRACKEN: I am actually going to carry on and move on to clause 9. Clause 9(2)(a) provides that Gellung Warl is to deliver improved and enduring outcomes for First Peoples. Are there any statutory performance indicators that help determine what this means?

Lizzie BLANDTHORN: Again, this is a question we have already had today. We could talk about those indicators that go to the operational issues with Gellung Warl, and they are subject to all of the usual oversight mechanisms. If we are talking about outcomes measures in relation to outcomes for Aboriginal people, we are talking in particular about the indicators that show we are closing the gap.

Bev McARTHUR: Minister, the part 21 Freedom of Information Act 1982 amendments create a new section 32B, which provides that a document is an exempt document if it is a document of Gellung Warl that, if disclosed, would disclose culturally sensitive or culturally secret information. Culturally sensitive or culturally secret information is defined as:

> (a) information that the individual or group providing it to Gellung Warl advises is culturally sensitive or culturally secret information; or
>
> (b) if that advice was not given, information that is determined to be culturally sensitive or culturally secret information in accordance with the internal rules …

Minister, is it not the case that there are no checks and balances to determine what is culturally sensitive or culturally secret information?

Lizzie BLANDTHORN: Gellung Warl is subject to the freedom-of-information regime and act just like other public bodies. The bill creates a limited exemption for culturally sensitive and secret information, which is a much more limited exemption than that afforded to cabinet information, for example. The review processes in the FOI act apply to decisions made to withhold culturally sensitive and secret information. Decisions to withhold information under this exemption can be appealed and reviewed by the Victorian information commissioner and the Victorian Civil and Administrative

Tribunal. The bill also requires additional independent review to ensure accountability and that information needs to be correctly classified as culturally sensitive or secret information. Despite this exemption, integrity and law enforcement bodies are always able to access culturally sensitive or secret information when they need to.

Bev McARTHUR: Are Victorians able to access what is culturally sensitive and culturally secret information for the purposes that they may well be involved in a situation with Gellung Warl?

Lizzie BLANDTHORN: Culturally sensitive or culturally secret information is information provided to Gellung Warl that a First Person or traditional owner group identifies as sensitive or secret for cultural reasons. It cannot be published or externally shared, except where required by law, and must be managed and protected in accordance with rules to be made by the assembly of Gellung Warl. Culturally sensitive or secret information is information that a First Person or traditional owner group says is sensitive or secret for cultural reasons; it could include, for example, information about sacred sites, secret men's or women's business, sensitive family matters relating to the composition of a traditional owner group, culture, ceremonial practices that are First People only or many other types of information. The bill prevents this information being released publicly except where required by an integrity body or for law enforcement and requires the assembly of Gellung Warl to make rules about how this information is protected within Gellung Warl. This includes that the person or traditional owner group about whom the information relates or who is the source of the information should have control over how that information is treated in line with principles of Indigenous data sovereignty.

Bev McARTHUR: Minister, why is Gellung Warl established as a body corporate with perpetual succession? Is this not, in substance, a permanent parallel government?

Lizzie BLANDTHORN: No.

Bev McARTHUR: What mechanism exists for dissolution if the body fails to deliver outcomes?

Lizzie BLANDTHORN: There are different procedures for dissolution depending on who is dissolving the assembly; in each case, however, dissolution only takes effect on publication of the relevant notice of dissolution in the *Government Gazette*. If the First Peoples' Assembly passes a resolution to dissolve itself, the chairperson will notify the Minister for Treaty and First Peoples of the dissolution and reasons for it, and a notice will be published on its website. In the case of dissolution by petition the petition must be provided to a member of the First Peoples' Assembly, who must then notify the Minister for Treaty and First Peoples. In both cases the minister will publish a notice in the *Government Gazette* to give effect to the dissolution. If the Treaty Authority dissolves the First Peoples' Assembly it will notify the First Peoples' Assembly and then also publish a notice in the *Government Gazette.*

Bev McARTHUR: What about if the government needs to dissolve the First Peoples' Assembly?

Lizzie BLANDTHORN: The assembly can be dissolved by itself, as I said, in accordance with any of the rules; by petition; or by the Treaty Authority, where it considers that serious or systemic corruption or maladministration has occurred after receiving a report from the IBAC or the Victorian Ombudsman. Part 16 of the Statewide Treaty Bill 2025 sets out who can dissolve the First Peoples' Assembly and the grounds on which they can do that. As I said, the First Peoples' Assembly can dissolve itself by passing a resolution to do so. First Peoples constituents of Gellung Warl can dissolve the First Peoples' Assembly by submitting a petition, which I spoke to, and the Treaty Authority can dissolve the First Peoples' Assembly if, based on a report from the Independent Broad-based Anti-corruption Commission or Victorian Ombudsman, it forms a view that serious or systemic corruption and maladministration has occurred.

Bev McARTHUR: So this Parliament could not dissolve the Gellung Warl?

Lizzie BLANDTHORN: Yes, it could, Mrs McArthur.

Bev McARTHUR: Under what circumstances?

Lizzie BLANDTHORN: That would be at the will of the Parliament.

Bev McARTHUR: The phrase in clause 18 'matters that affect First Peoples' is undefined. Can the minister confirm whether this could extend to planning, policing or taxation policy?

Lizzie BLANDTHORN: As determined by the state and the assembly.

Bev McARTHUR: So how will it be determined by the state?

Lizzie BLANDTHORN: By agreement between the parties, Mrs McArthur, and of course that can evolve over time.

Bev McARTHUR: By agreement between the parties – which parties?

Lizzie BLANDTHORN: Gellung Warl and the state.

Bev McARTHUR: What about if Gellung Warl did not agree with the state about dissolution? How could the state dissolve Gellung Warl, or can't they?

Lizzie BLANDTHORN: Are you referring simply to dissolution matters? It would be by agreement between the parties, or – as in those other circumstances that I have previously referred to – I would refer you to my earlier answers.

Bev McARTHUR: Would it require an act of Parliament, or would it be a simple majority here or would it be a two-thirds majority? This Parliament having instituted this body, how would we dissolve this body if not by agreement?

Lizzie BLANDTHORN: Mrs McArthur, I would refer you back to my earlier answers that speak to how Gellung Warl could be dissolved if that was what was deemed to be the necessary outcome.

Bev McARTHUR: In clause 13, why is a publicly funded entity explicitly exempt from ministerial oversight? That is in clause 13.

Lizzie BLANDTHORN: The minister retains the responsibility for the act, and so it is not.

Bev McARTHUR: If you say the minister has responsibility and oversight over it but it is exempt in this clause, how do you conflate the two?

Lizzie BLANDTHORN: The minister retains the responsibility for the act. The minister cannot, though, intervene with day-to-day operations, which is no different to other statutory entities, Mrs McArthur. If we take the Commission for Children and Young People, which I received questions about earlier today, I retain the ministerial oversight for the act, but it is an independent statutory authority that makes its own decisions.

Melina BATH: Just on that, Minister, I know that the Treaty Authority, in response to verified findings or allegations of corruption or maladministration by the Ombudsman or an IBAC investigation – they can identify these to the Treaty Authority, and then the Treaty Authority has to make that determination. The information that is provided by IBAC or the Ombudsman – what level of visibility is that? Is that provided just to the Treaty Authority? Is it provided to the minister? Is it provided to the Parliament? Is it a public document? Could you explain that?

Lizzie BLANDTHORN: The usual processes in relation to IBAC apply, Ms Bath.

Melina BATH: I have not got them in the back of my head, so could you just define what they are in round terms in answer to my question. At what level is it? Is it internal only? Is it to the minister? Is it to the Parliament? Is it to the public?

Lizzie BLANDTHORN: I also do not have the relevant legislation here, Ms Bath, but it is publicly available as per the IBAC legislation.

Melina BATH: I would like to move to some investigation around being eligible for election to the First Peoples' Assembly. I am interested to understand what the government and what the Minister for Treaty and First Peoples did when assessing the criteria for election, because the criteria for election to become a First Peoples' Assembly member is different to that for other bodies.

Lizzie BLANDTHORN: Before I answer that question, I have just received some advice in relation to Mr McCracken's question on parliamentary privilege. For the record, parliamentary privilege applies to anyone, including individuals, who speaks in Parliament, and that would be the case here. I am sorry, Ms Bath, could you repeat your question?

Melina BATH: The Minister for Treaty and First Peoples made an assessment in this bill to change the threshold to become eligible for election. It is different, for example, to becoming an MP, and the criteria is different, for example, to becoming a councillor in local government. So I want to understand how that decision was made.

Lizzie BLANDTHORN: To be eligible to be an elected member of the assembly of Gellung Warl you must be on the electoral roll, a traditional owner in Victoria and a resident of Victoria or within 60 kilometres of the border of Victoria. Whether or not you are a traditional owner is guided by the definitions in the bill. It includes all traditional owner groups with formal recognition under other legislation, as well as those who are otherwise stipulated to be traditional owner groups in line with the assembly of Gellung Warl's internal rules. It is based on the current election rules of the assembly, and this was created through the Victorian Treaty Advancement Commission.

Melina BATH: I appreciate that. That was not my question. I will give you an example. To become a local government councillor, under the Local Government Act 1989 individuals can be disqualified based on the severity of past offences, specifically convictions punishable by two or more years imprisonment. State members of Parliament are disqualified from becoming a member of Parliament if they are convicted or under sentence for an offence punishable by up to one or more years. But there is a different qualification for members to become a member of the First Peoples' Assembly. Could I understand where that has come from?

Lizzie BLANDTHORN: Ms Bath, as we have said, there are limitations on who can be elected to the assembly. The point that you are seeking clarification on is that a person who has previously been convicted of an indictable offence and is not currently held in prison or subject to a parole order with a condition restricting travel in Victoria can be elected to the First Peoples' Assembly. This requirement is comparable to that for other elected positions. It is typical for there to be some limits on people who have been convicted of certain offences from seeking election to public office, which vary depending on the position. For example, for election as a local councillor, as you have referred to, a person must not have been convicted of an offence when they were 18 or over that is punishable by at least two years imprisonment within the preceding eight years. For a member of Parliament, the person must not have been convicted or found guilty of an indictable offence when they were 18 or over that is punishable by imprisonment for life or for a term of five years or more.

The qualification requirement for the assembly of Gellung Warl has been carefully designed, having regard to the over-representation of First Peoples in the criminal justice system and the history of exclusion of First Peoples from state political representation. First Peoples are, for the record, imprisoned at around 15 times the rate of all people in Victoria. In the Yoorrook Justice Commission report, the Yoorrook Justice Commission found that a significant driver of overpolicing and over-representation is systemic racism and discrimination. This is also consistent with the findings from the Royal Commission into Aboriginal Deaths in Custody. It is imperative that treaty does not perpetuate the impacts of systemic racism in the justice system by preventing persons that may have been caught by that system in the past from participating in treaty once they have been released into the community again, including, if that person chooses, by seeking election to represent their communities as a member of the assembly. This is even more important having regard to the history of unequal treatment and exclusion of First Peoples from political representation and political life of the state. This has been

extensively documented by the Yoorrook Justice Commission, including to acknowledge the role of prior legislators in contributing to this through law making.

It is imperative that the Parliament of today does not repeat the mistakes of the past and does not unduly limit the ability of First Peoples to politically represent themselves, particularly given the recognised systemic injustice in the criminal justice system experienced by First Peoples. The eligibility requirement works to ensure First Peoples can enjoy the right to participate in political life and strikes an appropriate balance between maintaining access to that right and ensuring standards of candidates are in line with community expectation.

Melina BATH: It is good to have that on the record. My final question in this is just for clarity. I am not saying that anyone is or will – I am not making any allegations. I am just seeking to understand the clauses in the bill. The clauses in the bill that relate to eligibility mean that individuals who have been convicted of serious offences – for example, fraud, deception, property offences or potentially violent crimes, as the government has delivered this bill to this house – are eligible if they do not fall into the other categories of not being currently imprisoned or mentally impaired or subject to parole conditions that restrict travel. They are enabled to become members of the First Peoples' Assembly.

Lizzie BLANDTHORN: I refer you to my earlier answers.

Melina BATH: Could you clarify for me in terms of the verification of Aboriginality, can the government explain the three-part test? Aboriginality is descent, self-identification and community recognition. Is that correct? Or will Gellung Warl – the First Peoples' Assembly – define its own criteria? Could we tease that out a little bit so that there is clarity?

Lizzie BLANDTHORN: It does not in any way change the tests that have been set by law previously. It does not change the test.

Melina BATH: I thought in the bill briefing there was some discussion about that community recognition. I felt that the bill was trying to clarify that more. So is the onus for that community recognition now put on the First Peoples' Assembly? Has it changed from the last few years? Can you just provide that context for me?

Lizzie BLANDTHORN: Nothing has changed the previous tests.

Bev McARTHUR: Just further to that line of questioning, Minister, what is the expected voter turnout threshold for legitimacy? How will transparency be ensured if participation remains under 10 per cent in the election of the assembly?

Lizzie BLANDTHORN: This goes to the questions that we addressed earlier today, Mrs McArthur. As we have said, the assembly has a strong and growing voter turnout. Since its first election in 2019, the assembly has more than tripled its role. The 2023 election saw a 200 per cent increase in votes cast, with more than 7000 people participating. The assembly electoral roll is, obviously, held by the assembly, as we spoke about earlier and, as I said, voting continues to increase.

Melina BATH: That was good because I actually did some homework over the lunchbreak just to assess, because you said that 8000 people are on the First Peoples' Assembly electoral roll at the moment – I think that was correct.

Lizzie BLANDTHORN: That is my advice.

Melina BATH: That is your advice. That is fine. Then there was a 200 per cent increase. The 2019 turnout would have been around 2500 voters. If that was the case and there was a 200 per cent increase, then you are up around 7500 voters. At the moment we cannot get an actual figure – I was trying to do that homework. Is that consistent with your advice, Minister?

Lizzie BLANDTHORN: Yes. The annual report says more than 7000.

Melina BATH: The ABS and the census data that I can see says that the Aboriginal and Torres Strait Islander population in Victoria is, and I will say approximately, 66,000. Based on the facts that I can glean from those figures, that 7500 is about 11 per cent of the entire population. That is my understanding, Minister.

Lizzie BLANDTHORN: Those figures that you quote, Ms Bath, would also obviously include people who are under 16 and people who do not meet other eligibility requirements, such as how long they have been in Victoria.

Melina BATH: So then that 66,000 represents every man, woman and child. Does the government have any other figures around that 66,000 about what proportion would then be of voting age, which would be from16 upwards? Does the government have any understanding? I am just trying to get a picture of the make-up of this cohort, our Aboriginal and Torres Strait Islanders.

Lizzie BLANDTHORN: Not at hand, Ms Bath.

Bev McARTHUR: Minister, in part 4 regarding rule-making powers, clauses 30 to 48, what safeguards exist to prevent the assembly from expanding its own powers through internal rules?

Lizzie BLANDTHORN: Internal rules, Mrs McArthur, can only relate to internal affairs.

Bev McARTHUR: Minister, how will Parliament or the courts determine whether a rule, even an internal rule, exceeds its mandate?

Lizzie BLANDTHORN: Internal rules made by the assembly of Gellung Warl must be consistent with state and Commonwealth legislation and statutory rules. In such a case of inconsistency the state or Commonwealth law or statutory rule prevails, Mrs McArthur. The bill only includes the one substantive rule-making power in relation to how First Peoples organisations in Victoria provide certification or evidence that a person is accepted as Aboriginal or Torres Strait Islander, but in relation to internal rules that is how it will apply.

Bev McARTHUR: Why are the rules not subject to ordinary subordinate legislation scrutiny under the Subordinate Legislation Act 1994?

Lizzie BLANDTHORN: The internal rules, Mrs McArthur, relate to the internal affairs and operations of Gellung Warl, such as rules about elections, conflicts of interest, the appointment of chairpersons of the First Peoples' Assembly, the appointment of the CEO and staff recruitment, for example. I would also make the point, Mrs McArthur, that internal rules cannot be inconsistent with any other act or statutory rule, as per clause 34 of the bill.

Bev McARTHUR: Will guidelines issued by the assembly be legally binding if incorporated into state contracts?

Lizzie BLANDTHORN: If people voluntarily choose to enter into a contract or agreement, Mrs McArthur, then the usual contract laws would apply.

Bev McARTHUR: If there were a state contract and the assembly disagreed with that state contract, who would have authority over that contract? Would it be the state or the assembly, who can set their own rules in relation to things?

Lizzie BLANDTHORN: It might help, Mrs McArthur, if you could clarify exactly what sort of contract you are talking about, and between whom?

Bev McARTHUR: Well, if there was a contract between a corporation and the state, could the assembly have any authority over that?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Minister, clause 66 requires a statement of treaty compatibility. Is this not compelled political speech for members of Parliament?

Lizzie BLANDTHORN: No.

Melina BATH: I want to go into the Public Administration Act 2004, clause 10. As I see it, there is an exemption from that part of the act, which would normally enforce employment standards and various levels of hiring and accountability across the sector. I want to understand why the government chose to make exemptions. Explain how those exemptions work and define the difference between what happens normally in a different statutory body and Gellung Warl.

Lizzie BLANDTHORN: It is to maintain the independence of Gellung Warl.

Melina BATH: That was nice and short, Minister. Thank you. It is to maintain the independence of Gellung Warl. From that, then, Gellung Warl is able to set its own salaries and employment terms. Is that correct?

Lizzie BLANDTHORN: This is a usual process, Ms Bath, including for other statutory entities like local councils.

Melina BATH: Do local councils provide the salaries and employment terms either to the Minister for Local Government or in financial reports at the end of the year? If so, is Gellung Warl subject to the same level of transparency and information requirements as, for example, under the Local Government Act 2020?

Lizzie BLANDTHORN: Local councils also have the PAA exemption, Ms Bath, but the Public Administration Act 2004 does obviously, as I have said, not apply to Gellung Warl or persons appointed or employed by Gellung Warl. This ensures that Gellung Warl members and staff are not captured by the general administrative regime that applies to the public sector, to facilitate their independent operation of the tailored governance and democratic accountability framework established by the bill. This reflects the position of Gellung Warl as a distinct category of government in Victoria, as is the case for local government – obviously, as I said, also not subject to the PAA.

Melina BATH: So are those particular rules around employees and salaries transparent in any way? Does the minister get to understand what they look like, or are there internal eyes on this only?

Lizzie BLANDTHORN: As I said, Ms Bath, it is to maintain the independence of Gellung Warl.

Bev McARTHUR: Minister, clauses 83 to 89 compel departments and agencies to respond within 60 days to assembly requests. Has Treasury estimated the administrative cost of compliance?

Lizzie BLANDTHORN: The legislation is before the house now, Mrs McArthur, and those costs will be taken into consideration at a later date.

Bev McARTHUR: Minister, the state is clearly going to incur costs. Surely you would have been able to establish exactly what this legislation is going to cost the state of Victoria. Isn't it essential to know how much this particular clause is going to cost?

Lizzie BLANDTHORN: Mrs McArthur, I am here progressing the treaty bill as the representative of the minister for First Peoples, and those are matters that you would take up with the Treasurer. But I would say that it will streamline engagement with First Peoples organisations. Government already responds to correspondence within existing resourcing, and I do not imagine that this would be terribly different.

Bev McARTHUR: We will suck it and see, I guess is the answer to that. What enforcement mechanism applies if a minister or department disagrees with an assembly recommendation?

Lizzie BLANDTHORN: None.

Bev McARTHUR: Clauses 94 to 107 give inquiry powers across government. How is duplication with IBAC, the Ombudsman or the Auditor-General avoided?

Lizzie BLANDTHORN: We do not envisage duplication. They would be inquiring into different things, Mrs McArthur, and their functions are different.

Bev McARTHUR: I guess we will have to just see. Minister, the preamble of the bill says:

> Future Treaties will continue to advance and restore the inherent rights of First Peoples and honour First Peoples' Ancestors and Elders.

This means that treaties will continue to be made into the future. Wouldn't additional treaties divide Victoria into multiple nations?

Lizzie BLANDTHORN: Mrs McArthur, we are here advancing this Statewide Treaty Bill. The answer to your question on the evolution of treaty, including individual treaties, is no. This is intended not to be divisive but indeed to bring Victorians together in the spirit of recognising self-determination. Sorry, Mrs McArthur, while I turn the pages here. It tells me exactly what I have already told you: it is about bringing people together.

Bev McARTHUR: How many future treaties do you envisage and with whom?

Lizzie BLANDTHORN: Treaty will evolve, Mrs McArthur.

Bev McARTHUR: Again we will have to wait and see. Minister, part 7, clause 66 of the bill outlines the process by which a member of Parliament has to issue a statement of treaty compatibility, to be prepared in respect of that bill. In particular I want to ask about subparagraph (ii) of subclause (3)(d), where the member has to state in their opinion whether the bill is compatible with addressing the unacceptable disadvantage inflicted on First Peoples by the historic wrongs and ongoing injustices of colonisation. In Australia we have an implied right to freedom of political communication recognised by the High Court, but this provision would compel a politician to actually say that colonisation has caused historic wrongs and ongoing injustices. Has the government considered that compelling an MP to do this may violate their right to freedom of political communication?

Lizzie BLANDTHORN: Members of Parliament who propose to introduce a bill to Parliament will indeed prepare a statement of treaty compatibility to be presented before the second-reading speech, and this will require setting out details of consultation, if any, with the assembly of Gellung Warl and an assessment of whether the bill is compatible with certain objects – similar to the obligation to prepare a charter assessment, for example. The statement of treaty compatibility will be required to state whether the assembly of Gellung Warl has been given an opportunity to advise on the bill or has otherwise made representation about the effect of the bill; the nature and timing of the opportunity to advise of representations made; whether in the member's opinion the bill is consistent with any advice given or representations made; and whether in the member's opinion the bill is compatible with advancing the inherent rights and self-determination of First Peoples, addressing the disadvantage inflicted on First Peoples by the historic wrongs and ongoing injustices of colonisation and ensuring the equal enjoyment of human rights and fundamental freedoms by First Peoples. The statement of treaty compatibility will assist members of Parliament to assess the impacts of proposed laws on First Peoples before voting on such laws, and indeed it is the intention of these statements to create better policy and laws.

Bev McARTHUR: Part 10, in regard to – and excuse me if I have got the pronunciation wrong – Nyerna Yoorrook Telkuna, clauses 117 to 129: how will truth-telling findings be verified?

Lizzie BLANDTHORN: Nyerna Yoorrook Telkuna will facilitate truth-telling about historical events. It will collect and hold an archive of truth-telling information. It will conduct research. It will provide education and support the public understanding of the history of our state. It will facilitate truth-telling about historical events, and in doing so it will also facilitate understanding of the ongoing

contemporary impacts of historical events and support and promote healing and reconciliation. It will receive and collect information; hold an archive of truth-telling information which will build on the official public record of the Yoorrook Justice Commission; conduct research; provide education; and support understanding of the history of our state, including in a place-based and local way. It must include the involvement of all Victorians, Aboriginal and non-Aboriginal. I will leave it at that.

Bev McARTHUR: Does the minister accept that publishing one-sided historical interpretations could have reputational or legal consequences for individuals and institutions?

Lizzie BLANDTHORN: As I said, it must include the involvement of all Victorians, Aboriginal and non-Aboriginal, and its focus is on reconciliation.

Bev McARTHUR: How do all Victorians get involved in the truth-telling process?

Lizzie BLANDTHORN: As I indicated in my earlier answer, the role of the truth-telling body will be to conduct research and to provide education. There will be local place-based truth-telling in local communities. There will be the opportunity to contribute to the record that they collect through the receipt of information, holding that information and building on the record that was created by Yoorrook. They will conduct other research. There will be numerous ways in which all Victorians can be involved in the collection and verification of information.

Bev McARTHUR: Why is Gellung Warl granted exemptions from the Freedom of Information Act 1982 – clause 141?

Lizzie BLANDTHORN: I refer you to my earlier answers.

Bev McARTHUR: Does the government accept that cultural secrecy should not equate to cabinet confidentiality?

Lizzie BLANDTHORN: Again, I would refer you to my earlier answers.

Joe McCRACKEN: On clause 10, clause 10(2) establishes the three bodies, as has been spoken about. Are these three separate legal entities or functional divisions of one single statutory corporation?

Lizzie BLANDTHORN: It is one statutory body with three arms.

Joe McCRACKEN: Clause 10(4) states that Gellung Warl does not represent the Crown but is a public authority for the purposes of the Charter of Human Rights and Responsibilities Act 2006. Does this create a hybrid status similar to that of statutory corporations?

Lizzie BLANDTHORN: It is a statutory corporation.

Joe McCRACKEN: What are the implications of Gellung Warl not being a Crown body? For instance, does it lose access to Crown immunity, and can it sue or be sued as an ordinary corporation?

Lizzie BLANDTHORN: It is a separate Aboriginal body, separate from the Crown, and it can be sued.

Joe McCRACKEN: I know there has been a little bit of discussion about clause 10(5), which talks about the disapplication of the Public Administration Act 2004. Does the exemption remove public sector employment standards, whistleblower protections and those sorts of things?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: How will conflicts between the various arms of Gellung Warl be resolved if each claims autonomy under different parts of the act?

Lizzie BLANDTHORN: Through internal rules, and the act limits information flow between them.

Joe McCRACKEN: Sorry, Minister, I missed that.

Lizzie BLANDTHORN: Through the internal rules, and the act limits the information flow between them in order to protect their independence.

Joe McCRACKEN: I will move on to clause 11, which is about the common seal. Clause 11(1)(a) and (b) vest custody of the use of the seal in accordance with the internal rules. Who is responsible for ensuring those rules provide adequate controls to prevent the unauthorised use of that seal?

Lizzie BLANDTHORN: The internal rules, which obviously are also provided to the minister.

Joe McCRACKEN: Clause 11(2) provides that courts may take judicial notice of the common seal. Does this elevate Gellung Warl to the same evidentiary status as a statutory authority? I am guessing yes, but I just want it on the record.

Lizzie BLANDTHORN: Gellung Warl is a statutory authority.

Joe McCRACKEN: Is there any requirement for registration of instruments executed under this clause in the register of statutory bodies maintained by the Department of Government Services?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Why?

Lizzie BLANDTHORN: The independent authority of Gellung Warl.

Joe McCRACKEN: I am going to clause 12, which talks about the functions and powers of Gellung Warl. Clause 12(1) states that:

> The functions of Gellung Warl are the functions conferred on the First Peoples' Assembly, Nginma Ngainga Wara and Nyerna Yoorrook Telkuna …

Does that mean that Gellung Warl has concurrent jurisdiction with its bodies, or are the powers mutually exclusive? Does that make sense? I apologise; I will try and make it as easy as I can. It says in clause 12(1):

> The functions … conferred on the First Peoples' Assembly …

and they have got the names there. The powers that they have, do they cross over or are they mutually exclusive from each other – does that make sense – the three arms?

Lizzie BLANDTHORN: They are distinct. They have distinctive functions. They are obviously all part of the one statutory entity. The internal rules which we referred to earlier will provide limits on how information would flow between them.

Joe McCRACKEN: Clause 12(3)(b) authorises Gellung Warl to engage in commercial activities to raise revenue. Are there limits that exist to ensure that such activities do not conflict with its representative role or create any sort of risk?

Lizzie BLANDTHORN: Gellung Warl is subject to the Financial Management Act. An example of the sort of thing we are talking about is that the assembly currently run Treaty Day Out, for example. They would still be able to conduct such events.

Joe McCRACKEN: How will accountability for financial transactions be ensured given the disapplication of the Public Administration Act 2004 and the autonomy conferred within that clause?

Lizzie BLANDTHORN: They remain subject to the Financial Management Act.

Joe McCRACKEN: Just that one.

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Okay. I will go on to clause –

Lizzie BLANDTHORN: Sorry, Mr McCracken, just to supplement that, obviously there is the usual – as we have gone through a number of times already today – oversight bodies et cetera. There are other levels of oversight, but in terms of the specifics of your question, it is the Financial Management Act.

Joe McCRACKEN: I am going to clause 13. Could the absence of ministerial control limit the government's ability to intervene if Gellung Warl acts unlawfully or beyond its power? I am happy to rephrase it.

Lizzie BLANDTHORN: Yes, good.

Joe McCRACKEN: My question is essentially saying that if, for whatever reason and in whatever circumstance, Gellung Warl acts outside of its bounds, without ministerial oversight, how do you correct that?

Lizzie BLANDTHORN: Gellung Warl can obviously only spend in accordance with the bill and must provide annual reporting of its operations and its financial statements under the Financial Management Act. As I said, it is subject to the other layers of oversight and so forth. I would also refer you back to my earlier answers in relation to the ways in which, if necessary, these things can be held to account, either through oversight bodies or ultimately through dissolution in those provisions. There are a number of ways in which that can happen, but they are subject to the Financial Management Act and the usual oversight activities.

Joe McCRACKEN: I will move on to clause 14. How will matters relating to local government be defined? Would that include matters such as planning schemes, land management or community services, for example? What is the definition of 'matters relating to local government' under clause 14?

Lizzie BLANDTHORN: It would be as defined by the matters that are associated with local government as through the Local Government Act.

Joe McCRACKEN: Well, I know the Local Government Act, and the Local Government Act does not define what it is responsible for. So I ask the question: how is that defined within this current circumstance?

Lizzie BLANDTHORN: The key point here, Mr McCracken, is that Gellung Warl will not be able to exercise its statutory advisory functions and powers in relation to local government. Specifically, Gellung Warl will be able to continue to conduct the usual and general engagement with local councils that currently the assembly conducts. If matters relating to local government are raised through the exercise of Gellung Warl's advisory powers, then those matters in particular would be directed to the relevant minister.

Joe McCRACKEN: I am just a bit worried there, because obviously the Local Government Act, as far as I am aware, does not define what it is responsible for and what it is not responsible for. It is a pretty serious question because this piece of legislation obviously has an interaction with that, as the minister has said. I am asking: how is that defined? How does that work? You could talk about many different aspects of local government, from local roads, to planning, to public land use and all those sorts of things, but unless it is defined, what is the limit?

Lizzie BLANDTHORN: If it was a matter generally understood, to take your examples of local roads or whatnot, then those issues would be raised in conjunction with the relevant minister, essentially attempting to establish the independence of Gellung Warl, the responsibilities of the state, and how it will interact with local government which, to repeat my point from before, will not be able to exercise its statutory advisory functions and powers in relation to local government. Those matters remain the responsibility of local government and then, as duly necessarily, are raised with the relevant minister.

Joe McCRACKEN: In the circumstance where there is joint funding – for example, in local government, libraries are jointly funded. If Gellung Warl says there should be a particular piece of literature in a library, does that fall with a local government authority or does it fall with the state in terms of talking about that particular matter?

Lizzie BLANDTHORN: In that instance Gellung Warl would go to the Minister for Local Government, who would then take the matter up.

Joe McCRACKEN: Could a local council refuse to engage with Gellung Warl on the basis that its statutory functions under the Local Government Act 2020 are independent of state direction?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Does this clause, clause 14, imply that any memorandum of understanding between Gellung Warl and local councils must be endorsed by the Minister for Local Government?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: I will go to clause 15. Clause 15(1) and (2) provide broad indemnities for members, staff and office bearers acting in good faith. Is there any upper limit or statutory cap on the financial exposure of the state arising from such indemnities?

Lizzie BLANDTHORN: They are not immune to legal liability, and the standard provision applies.

Joe McCRACKEN: Would the indemnity cover acts of negligence, defamation or breaches of fiduciary duty, provided they were done in good faith?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Are these indemnities self-funded by Gellung Warl or guaranteed through consolidated revenue to be covered?

Lizzie BLANDTHORN: Gellung Warl would do the indemnity.

Joe McCRACKEN: What audit mechanism exists to ensure claims under those indemnities are properly validated and reported publicly or to the Parliament?

Lizzie BLANDTHORN: Gellung Warl would remain subject to the Victorian Auditor-General's Office.

Joe McCRACKEN: How does this indemnity provision compare to those applicable to public sector boards under section 76 of the Public Administration Act 2004?

Lizzie BLANDTHORN: This is a standard provision, Mr McCracken, that protects members and staff from financial loss incurred in carrying out functions or powers, and it is not an immunity from legal liability.

Joe McCRACKEN: I will move on to clause 16. Clause 16(1) establishes the First Peoples' Assembly as a self-determining, democratically elected, enduring institution. What is the legal meaning of 'self-determining' within the context of Victorian law, and does it imply autonomy beyond that of a statutory authority, which, as you have said, this is.

Lizzie BLANDTHORN: Self-determination is not unique to an Aboriginal affairs framework. It has indeed been determined by the courts previously.

Joe McCRACKEN: The question I asked was really: does it imply autonomy beyond that of a statutory authority? I did not really think I had a clear response to that.

Lizzie BLANDTHORN: No.

Joe McCRACKEN: No. It does not. Okay. I appreciate that. Clause 16(2) states that the assembly is answerable to First Peoples through its democratic nature and cultural obligations. What legal mechanisms exist to enforce accountability through cultural obligations, and who adjudicates compliance with those cultural obligations?

Lizzie BLANDTHORN: The First Peoples' Assembly is responsible for ensuring Gellung Warl remains answerable to First Peoples through its democratic nature, community accountability requirements and cultural obligations and responsibilities. The community governance and answerability framework will set out how the assembly will practically engage with First Peoples by a set of principles, a charter, a vision and a strategic plan, which will need to be followed by the assembly. The approach has been modelled on the Local Government Act 2020.

Joe McCRACKEN: I am not quite clear, Minister. I do apologise if I did not hear it correctly. My question was particularly about what legal mechanisms exist to enforce accountability, particularly the point about cultural obligations which you just mentioned, but particularly who adjudicates compliance with those cultural obligations, whatever they may be.

Lizzie BLANDTHORN: The assembly.

Joe McCRACKEN: I will move on to clause 17. Clause 17 establishes membership through election or appointment in accordance with the electoral rules. Are those electoral rules subordinate legislation under the Subordinate Legislation Act 1994, or are they internally binding instruments only?

Lizzie BLANDTHORN: Internal.

Joe McCRACKEN: What legislative oversights exist to ensure those rules comply with the Victorian electoral standards – for example, universal suffrage, transparency or anti-corruption provisions?

Lizzie BLANDTHORN: I would refer you to my earlier answers, in relation to both the election of the assembly and oversight.

Joe McCRACKEN: How does the mixture of elected general members and reserved members align with the principle of one person, one vote, and does it risk contravening section 85 of the Constitution Act 1975 concerning representative democracy?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: What is the legal status of decisions of the assembly if an election or appointment is later declared invalid under part 6?

Lizzie BLANDTHORN: It would then be void, Mr McCracken, is my advice.

Bev McARTHUR: Will the Yoorrook commission's 100 recommendations still be considered in the future treaties?

Lizzie BLANDTHORN: I am not entirely sure how your question relates directly to the bill, but the Yoorrook Justice Commission made a number of recommendations that remain a priority for government and in particular Gellung Warl.

Bev McARTHUR: Maybe you can continue to answer the question about the Yoorrook commission recommendation 19, which requires churches to hand over land or share land sale profit. Would that be included in future treaties, do you envisage?

Lizzie BLANDTHORN: That would be a matter for the relevant churches, Mrs McArthur.

Bev McARTHUR: But nothing to do with the government?

Lizzie BLANDTHORN: I refer you to my previous answer.

Bev McARTHUR: To what extent will truth-telling impact the Victorian curriculum? Would it be a change in a history subject, for example, or is it a whole-school approach?

Lizzie BLANDTHORN: Mrs McArthur, this treaty does not change the Victorian curriculum, as Aboriginal and Torres Strait Islander cultures and histories are already in the curriculum. One of the Statewide Treaty reforms included in the Statewide Treaty is the use of the Yoorrook Justice Commission's official public record as an optional, not mandated, resource for schools that deliver the Victorian curriculum foundation to year 10. The resources used to teach Yoorrook's official public record will be co-designed between the assembly of Gellung Warl, the Victorian Curriculum and Assessment Authority, the Victorian Aboriginal Education Association Incorporated and the responsible department and will be subject to approval by the responsible minister.

Bev McARTHUR: Clause 144 establishes a standing appropriation. How can Parliament fulfil its constitutional role over public finance when expenditure is automatic and unreviewable?

Lizzie BLANDTHORN: I refer you to my earlier answer.

Bev McARTHUR: Has the department modelled the total 10-year cost?

Lizzie BLANDTHORN: Again, Mrs McArthur, I refer you to my earlier answers. I will always endeavour to supplement that and be as helpful as I can if you bear with me.

Mrs McArthur, the funding provided for in the appropriation is, I am advised, appropriate for the functions, and as I have spoken to previously, Gellung Warl will be responsible under the Financial Management Act and subject to the usual accountability and oversight mechanisms.

Bev McARTHUR: Minister, on clauses 151 to 158, who enforces misconduct provisions if the Treaty Authority itself is not independent of Gellung Warl?

Lizzie BLANDTHORN: It is independent. It is its own statutory agency.

Bev McARTHUR: So are the standards consistent with the Public Administration Act 2004?

Lizzie BLANDTHORN: They will need to be developed, but the intention is: yes.

Bev McARTHUR: Who will be developing them?

Lizzie BLANDTHORN: The internal rules are obviously developed by the assembly and presented to the minister.

Bev McARTHUR: If they are being developed internally, they have not been developed so far, so we do not know what the standards will be.

Lizzie BLANDTHORN: They will be developed.

Bev McARTHUR: Within what timeframe?

Lizzie BLANDTHORN: Mrs McArthur, could you please clarify your question for us?

Bev McARTHUR: We were referring to the standards consistent with the Public Administration Act. You said they were being developed by Gellung Warl. I am just asking: in what timeframe will they be developed?

Lizzie BLANDTHORN: Are you referring to the member standards?

Bev McARTHUR: Yes.

Lizzie BLANDTHORN: Yes. Sorry, that was my fault, my misinterpretation of your question. The advisers in the box were correct. Clause 153 specifies the member standards of conduct and the minimums that are to be included, so that is set out in the legislation. My apologies; I thought you were asking something different.

Bev McARTHUR: Part 14 talks about community answerability. How will community answerability be measured?

Lizzie BLANDTHORN: My advice is evolving as I stand here. The First Peoples' Assembly is responsible for ensuring Gellung Warl remains answerable to First People through its democratic nature, community accountability requirements, as you said, and cultural obligations and responsibilities. The community governance and answerability framework will set out how the assembly will practically engage with First Peoples via a set of principles, a charter, a vision and a strategic plan, which will need to be followed by the assembly. This approach has been modelled on the Local Government Act. The First Peoples' Assembly community answerability obligations are modelled on the requirements of local councils as well as the practices of the current First Peoples' Assembly of Victoria. The current assembly is obviously the Aboriginal representative body under the treaty act. As a democratically elected body of 34 members, the current assembly has been effective in representing the diversity and interests of traditional owners and Aboriginal Victorians in Victoria's treaty process since 2019.

Under part 14 of the bill, as you referred to before, Gellung Warl is required to develop a community governance and answerability framework that remains publicly accountable and answerable to its constituents. This framework, as I said, has been developed in consultation with First Peoples. It must include the larbargirrar gnuurtak tulkuuk, community answerability principles, including that community members must have the opportunity to access accurate, relevant and timely information and a community engagement charter to give effect to the larbargirrar gnuurtak tulkuuk principles and describe types of community engagement that will be undertaken by the First Peoples' Assembly; a ngarrakeetoong martongakeeyt, which will describe the aspiration of the First Peoples' Assembly's constituents as well as Gellung Warl's goals and objectives; and a strategic plan to set out the strategic directions and objectives of Gellung Warl.

Bev McARTHUR: There was a lot in that, Minister. Gellung Warl is answerable to itself, correct, not the outside community?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Minister, can you define 'community answerability'?

Lizzie BLANDTHORN: Again I refer you to my previous answer.

I can add to that, Mrs McArthur, for you. Part 14 provides a framework for how Gellung Warl ensures it is answerable and accountable to community and how it performs its functions and exercises its powers. 'Community' is defined to mean First Peoples and First Peoples organisations, which reflects the broad collective of persons which Gellung Warl represents and acts in relation to. This is an intentionally broader collective than eligible electors, who are persons listed on the Gellung Warl electoral roll. This recognises that First Peoples that do not meet the eligibility requirements, such as age and residency requirements, for inclusion on the Gellung Warl electoral roll or that are eligible but have chosen not to enrol are able to engage with the body that represents them in relation to the state of Victoria and under Statewide Treaty.

Bev McARTHUR: What you are saying is community answerability refers to their own community, not the wider Victorian community.

Lizzie BLANDTHORN: I will refer you to my previous answer, which is yes.

Melina BATH: Minister, just for clarity, when we have the statement of treaty compatibility, that is all bills, both government-based bills and private members bills? I did not hear you mention that.

Lizzie BLANDTHORN: Yes.

Melina BATH: Has the government done any modelling about additional staff required, whether it be for a private member's bill or for a government minister, in creating that statement of treaty

compatibility, of what additional staff resources? Are legal experts or experts in relation to treaty and First Peoples required? How does that look, Minister?

Lizzie BLANDTHORN: As with statements of compatibility prepared in accordance with the Charter of Human Rights and Responsibilities Act, it is estimated that there would be some additional consideration and preparation required to ensure that statements of treaty compatibility are provided to Parliament. However, the experience in relation to the charter is that these requirements are not unduly burdensome and that the process itself supports better policy and lawmaking.

Melina BATH: I understand that and I appreciate that. I am just trying to get an understanding about any additional level of staffing or resources. That did not provide that clarity. I am just trying to understand how many extra people this would require in terms of bureaucrats or staffing.

Lizzie BLANDTHORN: As I said, Ms Bath, it is estimated that the experience in relation to the charter is that these requirements are not unduly burdensome. The process, as we said, supports better policy and lawmaking. It is not intended that that would become so burdensome as to become an imposition in the way that you are insinuating.

Melina BATH: Minister, please do not get me wrong, I am not insinuating anything, I am just trying to understand the ramifications. You, Minister, have had the long privilege of being in government. Having not been on that side, I am yet to understand the processes around the consultation that would occur. How does the government or a private members bill and the First Peoples' Assembly, Gellung Warl, ensure that it is not holding up the flow of bills through the house, noting that every single bill has to have a statement of treaty compatibility? How is that going to look, Minister, in the reality of application?

Lizzie BLANDTHORN: I appreciate that we have been in government for a long time and it is not, as you said yourself, something you have yet experienced. But in relation to the process of applying the charter test to bills, it is business as usual across government. It is not considered burdensome. It is something that is built into the process, and building this into the process is intended to be complementary to that.

Melina BATH: I am not going to labour the point. My last question on this is: is there any reporting on that function of the statement of compatibility normally? Is there any reporting in that? How is it measured now for the current one? Is there any reporting on that?

Lizzie BLANDTHORN: Ms Bath, not that I am aware of. If there is something different that I am not aware of, we can provide that to you. The only other thing I would add is: indeed you and I both, in our first term, were on the Scrutiny of Acts and Regulations Committee (SARC) together and there is nothing to say that it cannot also go through that process.

Melina BATH: That is an interesting one, because the scrutiny of acts and regulations is a very important feature of parliamentary scrutiny. So I could ask: would the statement of compatibility for treaty go through SARC?

Lizzie BLANDTHORN: It would be a matter for SARC.

Joe McCRACKEN: I will go to clause 18, Minister. Clause 18(1)(a) empowers the assembly:

> to represent First Peoples and make decisions in relation to First Peoples …

Does this confer a general representation mandate akin to a parliament, or are decisions confined to internal governance?

Lizzie BLANDTHORN: Gellung Warl can only make decisions on those matters which are contained in the bill, and one example of that is administering the infrastructure grants, but certainly they represent First Peoples to Parliament and to government.

Joe McCRACKEN: Clause 18(1)(c) authorises participation in Statewide Treaty negotiations. Is this function statutory, or is it merely a facilitator sort of way of making a separate treaty at a future point in time?

Lizzie BLANDTHORN: Sorry, I am not sure we understand the question, Mr McCracken. Could you rephrase it?

Joe McCRACKEN: So 18(1)(c) authorises participation in Statewide Treaty negotiations. Is this function statutory? I will ask that question for a start.

Lizzie BLANDTHORN: The statute will ensure that Gellung Warl represents First Peoples in ongoing decision-making.

Joe McCRACKEN: Clause 18(1)(d) allows the assembly to make representations to Parliament, which you alluded to before, Minister. Does this confer a statutory right to an audience of either house? I will just ask that question first: does that confer a statutory right to an audience in either house?

Lizzie BLANDTHORN: As I said earlier, Mr McCracken, that will be up to the Presiding Officers.

Joe McCRACKEN: Clause 18(1)(f) and (g) empower the assembly to make guidelines and standards and appoint a chief executive officer. Are these instruments reviewable under administrative law? Are they subject to internal governance?

Lizzie BLANDTHORN: Rules made by the assembly of Gellung Warl must be consistent with state and Commonwealth legislation and statutory rules. In such a case of inconsistency, the state or Commonwealth law or statutory rule prevails.

Joe McCRACKEN: Clause 18(2) requires collaboration with traditional owner groups. Does this clause create an enforceable duty, or is it an aspirational statement?

Lizzie BLANDTHORN: It is not enforceable, and there are robust complaint processes that can take place.

Joe McCRACKEN: Just to be clear, those particular aspects where it requires collaboration with traditional owner groups – they are not enforceable. Is that a correct understanding?

Lizzie BLANDTHORN: Mr McCracken, on the example that has just been used, in many respects it is neither of those two things. Consider that the principles of self-determination – we will take, for example, place naming – will require Gellung Warl to consult with the relevant traditional owners in relation to place naming. So the question, as you put it, is very difficult to answer because in many respects it is neither of those two things. But when we consider the principles of self-determination and the necessary consultation that flows from that with the people who are making the decisions for themselves, then that will be the process.

Joe McCRACKEN: I can appreciate that, Minister, and thank you, but my question is: what if that does not happen? How is that enforced?

Lizzie BLANDTHORN: Mr McCracken, perhaps it would help if we talk about who could make a complaint, for example, and that might allay your fears. The bill sets out an additional internal complaints mechanism, which is on top of the existing complaint mechanisms available to all people, which apply to bodies like Gellung Warl. The additional internal complaint mechanism sets out that complaints can be made directly to Gellung Warl by any individual of the First Peoples or First Peoples organisation that have an interest in the subject matter of the complaint. This process is additional to existing oversight mechanisms that apply to public bodies, which are accessible by any person. For instance, any person can make a complaint about Gellung Warl or its members to a relevant integrity or oversight body with jurisdiction to hear such complaints or through other standard avenues such as their local member of Parliament or through existing legal mechanisms. The First Peoples' Assembly is required to make rules about how complaints to Gellung Warl are handled. As a minimum,

complaints must be reviewed by someone other than the person who the complaint is about. The Treaty Authority can also assist in the resolution of complaints upon assembly request.

Joe McCRACKEN: Again, I can appreciate that there is a complaints process, and that might be one way of dealing with the matter after the fact of non-consultation occurring, but the one that I am referring to is clause 18(2). I will just read it out for clarity. It says:

> The First Peoples' Assembly is to work collaboratively with Traditional Owner groups in Victoria to meet cultural obligations and responsibilities and realise self-determination for First Peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

My question is: how is that enforced? How do you make sure that the First Peoples' Assembly works collaboratively with traditional owner groups? The reason I ask is because we have already heard earlier that sometimes there can be conflict between those different groups. What is the enforcement mechanism? I understand there is a complaints mechanism – I appreciate that – but how is it enforced?

Lizzie BLANDTHORN: It is an independent body designed around the principles of self-determination. There is a complaints mechanism if people feel aggrieved within that process, which I have just taken you through, and I would refer you to my previous answers.

Joe McCRACKEN: I did not get a response that addressed my particular question. I do not mean any disrespect to you, Minister, but I just really do not have clarity about how that is enforced. I will go on to clause 20, which is about delegations by the First Peoples' Assembly of Victoria. Clause 20(1) permits delegations to committees or the chief executive officer. Are those delegations legislative in nature, and must they be gazetted before they are published?

Lizzie BLANDTHORN: It is a facilitative provision, so no.

Joe McCRACKEN: Clauses 22 and 23 exclude the delegation of key powers such as appointments and rule-making and so forth. How will compliance with those limitations be audited or reviewed?

Lizzie BLANDTHORN: I refer you again, Mr McCracken, to my earlier answers in relation to the Victorian Auditor-General's Office and other integrity agencies as necessary.

Joe McCRACKEN: Clause 20(4) allows delegation to appoint an acting chief executive officer. What safeguards exist to ensure that such appointments are merit based and may not be for any other particular purpose?

Lizzie BLANDTHORN: Clause 26 requires the First Peoples' Assembly to develop, adopt and enforce an executive employment and remuneration policy, which must provide for the executive staff a recruitment and appointment process, including an annual review of executive staff. The executive and employment remuneration policy must provide for the recruitment and appointment process, for example, and for matters to be addressed in the contract, performance and monitoring and annual review of executive staff of Gellung Warl.

Joe McCRACKEN: With the greatest respect, I was referring to clause 20(6), not clause 26.

Lizzie BLANDTHORN: And 26, as I said, was the answer to your question in relation to 20(4).

Joe McCRACKEN: Okay. Clause 20(6) requires monetary limits for delegated expenditure. Will those limits be fixed in the internal rules, or are they subject to external financial management standards?

Lizzie BLANDTHORN: Both.

Joe McCRACKEN: Clause 20(7) mandates a public register of delegations. Will failure to maintain that register invalidate delegated acts?

Lizzie BLANDTHORN: As with my previous answers, there are the internal rules, there is the oversight, there is obviously the oversight of the integrity agencies, and they all apply as is relevant.

Georgie CROZIER: Minister, I have previously raised in the house the issues around the Medical Board of Australia's code of practice, and I have referenced those. I am going to just repeat those because my question goes to the fact that the bill makes repeated reference to UNDRIP, including in the preamble and section 18, where it refers to article 5:

> Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Yet the other international obligations Australia has been a signatory to in terms of the International Covenant on Economic, Social and Cultural Rights – and I will not go through that again – under article 2 refers to rights in the covenant being exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion. Again, the Medical Board of Australia's code of conduct says things around those areas of discrimination as well. So can I ask: which will be the priority for any health institution who want to clarify how they are to operate? Should it be under what is referred to in the bill, or will it be as in the medical code of practice and Australia's international obligations as a signatory, as I have explained, around the discriminatory aspects that medicos and others try to avoid?

Lizzie BLANDTHORN: The guidelines in the bill are not binding.

Georgie CROZIER: The bill obviously has had a lot of preparation, and the Statewide Treaty, at clause 3, talks about Aboriginal lore, law and cultural authority, and I referred to this earlier in my previous questioning. It says:

> The practice and revitalisation of Aboriginal Lore, Law and Cultural Authority has been upheld through Treaty negotiations that have resulted in this Statewide Treaty and will continue through further Statewide Treaties and Traditional Owner Treaties …

multiple. I know that Mrs McArthur has asked about what the expectation is around how many treaties this will entail, and I understand that you were unable to provide an answer to that. Nevertheless I go to what has been tabled in the Parliament today, and that is the Treaty Authority's 2024–25 annual report. Page 3 of the report goes on to say that:

> Our mandate is also to ensure we uphold two systems of law – Aboriginal and Western.

So this emphasis on dual governance was confirmed by this report today. I would like to ask, Minister, what would happen if a non-Indigenous person was accused of a serious crime against an Indigenous person, or vice versa? Which criminal justice system would apply, and how would this be determined?

Lizzie BLANDTHORN: I would refer you to my earlier answer, Ms Crozier. Treaty is about bringing people together – the Victorian government, First Peoples and all Victorians. It is not about separating us or creating new systems. There is an existing criminal justice system that applies. This treaty will benefit us all as a change and as a new beginning, as an opportunity to reset the relationship between First Peoples and the state to create a better future. It is about those practical changes to do things better that we can all indeed get behind and be proud of. But there is an existing criminal justice system, Ms Crozier, and there is no intention to replace that.

Georgie CROZIER: So in terms of what is being said in this Treaty Authority report, the government has no intention to ensure that the mandate that they state to ensure we uphold two systems of law – Aboriginal and Western – will not take place through this treaty process.

Lizzie BLANDTHORN: I refer you to my previous answers, Ms Crozier. If you would like an official definition of 'lore' and 'law', I can take you through that. But I can also simply refer you to my previous answers, because this is ground we have already well traversed today. Matters of Aboriginal lore, law and cultural authority are obviously matters for traditional owner groups to self-determine, and a definition is therefore not specifically in the bill. They do not operate in a homogeneous way across Victorian traditional owner groups and therefore cannot be defined in the

bill. The *Treaty Negotiation Framework* refers to the definitions of 'Aboriginal lore and law' and 'cultural authority' depending on the context and the traditional owners involved, and the process for determining what Aboriginal lore, law and cultural authority is and how it applies in any particular context will be a matter for the internal rules of Gellung Warl. As is recognised by the United Nations Declaration on the Rights of Indigenous Peoples, Aboriginal lore and law do form a legal system, and this includes a body of authority that informs agreement making, decision-making and governance structures, including rules about eldership and who holds cultural authority, for example. There is no intention here to replace. If what you are trying to get at is a replacement of the criminal justice system, that is not what this treaty does, Ms Crozier.

Georgie CROZIER: Thank you, Minister, for that assurance, but it is in the Treaty Authority annual report tabled today. That is very clear. And they go on and talk about the monumental treaty making and talk about the extensive negotiations that they have been undertaking, a whole range of things. Therefore I think it is very relevant for the Victorian public to understand exactly what is going on. I am not sure – if they are saying it is a mandate, if the Treaty Authority mandate is to have two systems of law, how can that be so? Given they have the authority, the self-determination and the body that you are setting up, can that body override what you have just said to me?

Lizzie BLANDTHORN: Ms Crozier, you are being, I fear, deliberately disingenuous here and divisive. But clause 43 specifically says all other acts of Parliament stand and are not replaced. Would you like me to repeat that? Clause 43: all other acts of Parliament stand and are not replaced. The Treaty Authority is the independent body that oversees negotiations, and it also cannot override any other act of Parliament.

Georgie CROZIER: Well, thank you, I needed that answer 5 minutes ago. Minister, can I take you back to UNDRIP not being binding in relation to the preamble of the bill, which explicitly states that future treaties have to be negotiated in accordance with UNDRIP. Can you, Minister, clarify how it is not binding if future treaties will be negotiated in accordance with it?

Lizzie BLANDTHORN: The preamble is an interpretive provision only.

Georgie CROZIER: You just faded away. The preamble is a what?

Lizzie BLANDTHORN: An interpretive provision.

Georgie CROZIER: However, if it is an interpretive provision, who will then make the final decision about how it is to be applied, how that article 5, as I read out previously, may be applied or not applied?

Lizzie BLANDTHORN: When the parties, Ms Crozier, are considering future treaties, they would consider how the UNDRIP principles of self-determination and free and prior and informed consent are already used, and how they will be used in future treaty making.

Bev McARTHUR: Minister, in clause 66 'Statement of Treaty compatibility', the bill says:

> A member of Parliament who proposes to introduce a Bill into the Parliament must cause a statement of Treaty compatibility to be prepared in respect of that Bill.

In particular, they must say:

> (d) whether, in the member's opinion, the Bill is compatible with—
>
> …
>
> (ii) addressing the unacceptable disadvantage inflicted on First Peoples by the historic wrongs and ongoing injustices of colonisation …

Minister, what if, hypothetically, an MP does not agree that there are ongoing injustices of colonisation? Are they still able to table this statement?

Lizzie BLANDTHORN: Yes, is the short answer. They do not have to do a statement. I will leave it there and refer you to my previous answer to the same question.

Bev McARTHUR: So they will not be forced to agree in order to table the statement?

Lizzie BLANDTHORN: They do not have to do a statement.

Bev McARTHUR: Can you explain the use of the phrase 'ongoing injustices of colonisation'?

Lizzie BLANDTHORN: What we are embarking on here is a new relationship between the state and First Peoples, and I will refer you to my previous answers. I think we have well traversed today the impact of colonisation and the ongoing injustices. If I refer to my own portfolio, the continued over-representation of children in the out-of-home care system is a continuing injustice. The Yoorrook Justice Commission stated that the First Peoples have experienced systemic injustices. We are all hopeful that in resetting the relationship and in establishing treaty we will find a new way of a relationship that allows for self-determination and in so doing better outcomes, particularly as measured by the Closing the Gap indicators, for Aboriginal people.

Bev McARTHUR: You are saying that the ongoing injustices of colonisation have caused the issues that you are dealing with in your portfolio area?

Lizzie BLANDTHORN: Many examples have been provided by those here, and were documented in the Yoorrook Justice Commission's report, of institutional racism and systemic and ongoing injustice for Aboriginal people. They have existed since colonisation. They remain real. Indicators such as the over-representation of children in out-of-home care is but one example of that. Over-representation of Aboriginal people in our corrective services is another. The hope in having this bill before Parliament today is that we have a reset of the relationship between government and First People and that we allow for the provision of self-determination. Again if I refer to an example in my own portfolio, we know that when Aboriginal families make decisions for their own Aboriginal children, there are better outcomes.

Bev McARTHUR: What you are saying then is your department will still be administering the care of those within your portfolio, but you have had 11 years to fix this problem. How come you have not fixed it by now? How is it that ongoing injustices of colonisation have not been repaired in the 11 years you have had to sort this problem out?

Ryan Batchelor: On a point of order, Deputy President, this is not an opportunity for question time about the minister's portfolio. It is about questions relevant to the scope of the bill, and I think Mrs McArthur's question falls outside of that.

Georgie Crozier: On the point of order, Deputy President, the minister referenced her portfolio, and she made that as an example, so I think Mrs McArthur is well in her rights to be asking the question as she has.

Lizzie BLANDTHORN: I am happy to answer.

The DEPUTY PRESIDENT: The minister has indicated that she is happy to answer. If the minister is happy to answer, I will allow her to answer.

Lizzie BLANDTHORN: I will answer Mrs McArthur by providing her with the exact same answer I did many hours ago. It may not have been Mrs McArthur directly, but it was certainly from those opposite. As I said in my speech yesterday, there have been, since colonisation, ongoing examples of injustices, systemic injustices, for Aboriginal people. But one of the things that we have learned over time, and Aboriginal people have always known and have always sought to tell us, is that when Aboriginal people make self-determined decisions, there are better outcomes. As I referred to in this place earlier, I was very pleased when Dr Bach was here and supported our legislation which enabled us to have Aboriginal children in Aboriginal care with both investigative and case management authority given to Aboriginal people for Aboriginal children, because we know that when

Aboriginal families are cared for by their own families, we have better outcomes. That has been part of the journey towards treaty, and what we hope in establishing Gellung Warl and a self-determined authority that can provide this advice in a much more systemic way are the sorts of outcomes that we are seeing with things like –

Members interjecting.

The DEPUTY PRESIDENT: Can we just have some quiet? The Minister seems to be competing with some other conversations, and it is becoming confusing.

Lizzie BLANDTHORN: The short answer is: we know that when Aboriginal people make decisions for themselves, when they are self-determined decisions, we get better outcomes, and that is what we are seeking to do here.

Bev McARTHUR: We can only assume you have not consulted with Aboriginal communities in administering your department care and responsibility over this period of time. But I will go to another point. Can you tell us –

Lizzie BLANDTHORN: On a point of order, Deputy President, I provide an answer, I get a statement and then I get an unrelated question, so I do not get the opportunity to rebut the statements that are put. If there are going to be statements that I need to respond to, then I would like the opportunity to respond to them before a subsequent question is raised.

The DEPUTY PRESIDENT: If you would like to respond, that is fine.

Lizzie BLANDTHORN: I can assure the house that – and again, if Dr Bach was here, he would also assure the house, because we worked on this together – when we established the legislation and the framework to provide for the care of Aboriginal children, for example, there was broad consultation with Aboriginal community controlled organisations about what was the best way in which to provide, in that instance, child protective services to Aboriginal people. I can talk about the Aboriginal Children's Forum or the Aboriginal Justice Forum if we want to talk about consultation. What we are saying here is that treaty is a way forward for a self-determined authority that can, through a democratically elected, representative body, provide a formal way in which Aboriginal people can contribute on each and every piece if they have that advice to provide to government.

Bev McARTHUR: On a point of order, Deputy President, the minister has gone over this before.

The DEPUTY PRESIDENT: That is not a point of order, Mrs McArthur. We will move on.

Bev McARTHUR: All right. Well, we will leave it there, and we will accept that the government have failed over a long period of time to deliver outcomes that they are now going to deliver with a new bureaucracy.

The DEPUTY PRESIDENT: Mrs McArthur, if we can just have a question without a statement in between, it might assist the committee, please.

Bev McARTHUR: Minister, can you just tell us how cultural heritage assessments and cultural heritage management plans will intersect with this new authority?

Lizzie BLANDTHORN: They will not.

Bev McARTHUR: So we will have cultural heritage assessments acting separately and we will have cultural heritage management plans which impact the community and especially local government – all very costly procedures. They will be operating, plus we will have this body intercepting in every department that we are dealing with. Is that how we will operate?

Lizzie BLANDTHORN: I refer you to my previous answer.

Melina BATH: Minister, on the Aboriginal heritage council – it is a very important council. It advises ministers on heritage issues, naturally – registers and permits and plans and sites and archaeology – and it promotes best practice of heritage management and cultural awareness. It consists of 11 traditional owners, and this bill removes the right of the minister to make determinations as to who those 11 traditional owners are and puts it in place with Gellung Warl. This is a shift of power, and I am interested in understanding how the new process will work to ensure that there is good representation across the state – that there is independence, that there is oversight and that there is confidence in that governance of the new bodies elected by Gellung Warl.

Lizzie BLANDTHORN: Gellung Warl, Ms Bath, is representative of the Aboriginal community, so they are best placed to determine the representatives.

Melina BATH: At the moment they have got 8000 voting members in that space. There are traditional owners; there are reconciliation action plans. There are some clans and members of our Aboriginal community that do not have either native title or a RAP status. How is the Gellung Warl going to ensure that there is fair assessment of those bodies and those people who are not sitting under RAPs or native title holders?

Lizzie BLANDTHORN: As I have said a number of times today, the First Peoples' Assembly of Victoria is the independent, democratically elected body representing First Peoples in the treaty process. The assembly has been obviously operating since 2019. It has had two statewide elections. Its members were elected to represent the diversity of traditional owners and Aboriginal Victorians when working with the Victorian government to establish the elements necessary to support treaty negotiations and in the Statewide Treaty negotiations under the *Treaty Negotiation Framework*. The current assembly was elected to represent the diversity of those traditional owners and Aboriginal Victorians in Statewide Treaty negotiations under the *Treaty Negotiation Framework*. I will leave it there.

Melina BATH: In relation to the different regions, Minister, what frameworks will be put around to ensure that the larger entities will not have the larger share of the pie? I mean this in terms of whether it is either being selected on the Aboriginal council, for example, but not specifically, or in terms of funding allocation. Is it that Gellung Warl will be responsible for taking over the funding of ACCOs? How will there be a mechanism, and what level of transparency is there that there is fair representation – I mean, that there is equity in assessment and equity in funding for those smaller areas and smaller clans, as I said before?

Lizzie BLANDTHORN: I refer you to my previous answer on community answerability.

Melina BATH: Minister, earlier on today we were talking about a very important subject, which is Closing the Gap and the importance of closing the gap that has not been closed – and indeed some sectors and important targets are going backwards. You mentioned that there is going to be an independent panel, and at the end of five years the independent panel will assess Closing the Gap to see how it is all going. I want to understand the make-up of that independent panel. Can you inform us who will be on that independent panel? How will it be selected? That is my first question.

Lizzie BLANDTHORN: The state and Gellung Warl, as the parties, will determine who makes up the independent panel.

Melina BATH: So as it stands, there is absolutely no criteria as yet decided? That is to come in the future. Is that correct?

Lizzie BLANDTHORN: The parties will determine it.

Melina BATH: And once that is determined over the next period of time, will there be any transparency about how that is determined? Who is on it? Any reporting mechanisms? Is that going to be in any way transparent?

Lizzie BLANDTHORN: That will also be determined by the parties.

Melina BATH: Also to be determined, I am assuming, are the criteria for the terms of reference and whether or not Gellung Warl will be able to write its own terms of reference. One of the most crucial parts – the whole crux of this bill – is about Closing the Gap targets and measuring outcomes and making the lives of people better on all of those criteria. There is a new independent panel that is going to be established. What visibility at all will this Parliament and the Victorian population have in terms of that independent organisation or independent review panel?

Lizzie BLANDTHORN: I refer you to my previous answers.

Bev McARTHUR: I am referring to part 21, on the amendment of other acts, specifically clauses 232 to 237, dealing with amendments to the Aboriginal Heritage Act 2006. By transferring appointment and removal powers for members of the Victorian Aboriginal Heritage Council from the minister to the First Peoples' Assembly, this bill gives the assembly effective influence over registered Aboriginal parties, the same bodies that determine cultural heritage management plans for planning and development proposals. What safeguards exist to ensure the cultural heritage management plan decisions remain impartial and are not politicised or influenced by the assembly's broader treaty agenda?

Lizzie BLANDTHORN: It is the same answer. It only impacts the appointments.

Bev McARTHUR: Under these amendments can the assembly remove or replace Victorian Aboriginal Heritage Council members at will? Will there be any conflict-of-interest provisions to prevent assembly-aligned RAPs from adjudicating cultural heritage management plans on their own projects or developments? If not, how will fairness be maintained for councils, landholders and developers?

Lizzie BLANDTHORN: As we have said a number of times, the assembly is a democratically elected body. The bill amends the Aboriginal Heritage Act 2006 to provide for the assembly of Gellung Warl to appoint and remove members of the Aboriginal Heritage Council under the act. These appointments are simply currently made by the Minister for Treaty and First Peoples, who will no longer make these appointments following the amendment. The bill also requires the First Peoples' Assembly to have internal policies and process for how it makes those appointments, including requirements for probity checks, merit-based selection and others. The First Peoples' Assembly will also be required to have regard to relevant state policies and procedures in making appointments and its community engagement charter. Gellung Warl will not be able to interfere with the heritage council's operations. It is about the appointments, not the administration of the act.

Georgie CROZIER: If I could just go back to my line of questioning, because I was wanting to continue, section 18 also mentions UNDRIP, so it is not just in the preamble, as you previously have told me. Can you clarify whether or not UNDRIP will be binding?

Lizzie BLANDTHORN: No, it will not be.

Georgie CROZIER: You also said before that the bill will not set up a separate legal system. So how does an Indigenous person self-determine in the Western legal system?

Lizzie BLANDTHORN: You are confusing multiple concepts here. There is clearly the established legal system. Someone will tell me if I am incorrect, but I believe clause 43 sets it within the bounds of existing laws and says that there will be no change to other laws. An example of this – as I have been provided with in advice – is Mabo, which operates within the bounds of existing laws.

Georgie CROZIER: In the Treaty Authority annual report that was tabled today, which I have referenced previously, it says:

> Our mandate is also to ensure we uphold two systems of law – Aboriginal and Western.

It goes on to say:

> Over the past year, we have been overseeing negotiations between the State and the First Peoples' Assembly of Victoria, which on 9 September 2025 resulted in a negotiated Statewide Treaty that will initiate a process to deliver broad, long-term reform.

In those negotiations with the state, was it made clear that there would not be two systems of law, as is referenced here, and stated that the authority is going to mandate two systems of law?

Lizzie BLANDTHORN: There are not going to be two systems of law.

Georgie CROZIER: That was not my question, Minister. I am wondering if you would just answer the question in terms of the negotiations, and if it was made clear, as this is not clear in the Treaty Authority report, where they clearly stipulate what their mandate is, and then they go on to talk about the negotiations. Was it discussed and ruled out at that time by the state?

Lizzie BLANDTHORN: This bill is a negotiated outcome of the treaty negotiations.

Georgie CROZIER: Minister, you are avoiding the question. It is very simple: did the state, in those negotiations, tell the authority that there would not be two systems of law, that what you have told the chamber is what will happen, because the Treaty Authority says that is their mandate? I want to know if the state, through those negotiations, told the authority that that was not to be the case.

Lizzie BLANDTHORN: What is being referred to is about how Gellung Warl operates. Only the Parliament can make laws of the state, Ms Crozier, and I refer you to my previous answers. There is no intention that there be two systems of law. The bill itself is the negotiated outcome of treaty negotiations, and the independent authority is exactly that.

Joe McCRACKEN: I will go to clause 21, and just to be clear, that particular aspect is about qualification to be a member of the First Peoples' Assembly. Clause 21(3) permits nomination while on leave from disqualifying offices. What oversight exists to ensure compliance with that? For example, if someone is a local government councillor and they resign or they go on leave or whatever, they can nominate to be a member of the assembly. What arrangements around that go towards enforcement and compliance? That is essentially what I am asking.

Lizzie BLANDTHORN: The same oversight bodies and the internal electoral rules.

Joe McCRACKEN: How will disputes about qualification be resolved? Is it internally, is it via the Treaty Authority or through another, perhaps judicial, process?

Lizzie BLANDTHORN: These are also under the same internal rules, but ultimately complaints could be made to VCAT.

Joe McCRACKEN: I will go to clause 22, which is about the term of office of members of the First Peoples' Assembly of Victoria. Clause 22(1) leaves the term to be specified in the electoral rules. Is there any statutory upper limit to prevent any indefinite tenure?

Lizzie BLANDTHORN: Four years.

Joe McCRACKEN: Sorry, is that a statutory limit?

Lizzie BLANDTHORN: That is my advice.

Joe McCRACKEN: Clause 22(2) states the office becomes vacant at expiry. Does failure to hold a timely election create a hiatus in the assembly's lawful constitution?

Lizzie BLANDTHORN: Elections need to be conducted in accordance with the electoral rules.

Joe McCRACKEN: Is there provision for continuity of service, effectively holding over until a successor is appointed, as in section 10 of the Public Administration Act 2004?

Lizzie BLANDTHORN: Mr McCracken, it would be determined by the electoral rules, and there are also as a safeguard the dissolution powers that I referred to earlier.

Joe McCRACKEN: I will move on to clause 23, which talks about the suspension of a member of the First Peoples' Assembly of Victoria. Clause 23(1) allows suspension in accordance with the internal rules. Does natural justice – procedural fairness – apply to such suspensions, and when those decisions are made, who is the decision-maker?

Lizzie BLANDTHORN: Principles of natural justice would apply, Mr McCracken. Ultimately it could be taken to the Treaty Authority and ultimately through core mechanisms.

Joe McCRACKEN: Are there rights of appeal of a decision contained within the authority if the authority is the decision-maker – is that correct?

Lizzie BLANDTHORN: As I just outlined, Mr McCracken, ultimately matters such as you refer to could be taken to the Treaty Authority and could be taken through a court process.

Joe McCRACKEN: Clause 23(2) prohibits the member from performing any functions during suspension. Does this include attending meetings as an observer, or does it only talk about voting rights?

Lizzie BLANDTHORN: It would depend on the established internal rules.

Joe McCRACKEN: In clause 24, which talks about the removal from office, clause 24(1) and (2) authorises removal under the internal rules. Must those rules specify the grounds, whether it is misconduct or incapability, or may removal occur for any particular reason?

Lizzie BLANDTHORN: The bill clearly sets out the key reasons why an assembly member could be suspended, including matters such as misconduct or not performing their role, in line with similar provisions in the Local Government Act. The First Peoples' Assembly may make rules with additional grounds for suspension or removal. A member can be suspended where an allegation of misconduct or serious misconduct has been made, which will enable the allegation to be investigated. A member may be removed if they have been absent, for example, for four consecutive months without approval, or if they no longer meet qualification requirements – for example, if they have been declared bankrupt – if they are unable to perform their duties or if they have been found to have engaged in serious misconduct.

Joe McCRACKEN: Does removal under this clause, clause 24, extinguish entitlements such as remuneration, leave, pensions and other sorts of benefits that might be acquired in the normal course of that work?

Lizzie BLANDTHORN: That would also be a matter for the internal rules.

Joe McCRACKEN: Clause 25 requires the assembly to employ a CEO in accordance with the executive employment and remuneration policy. Is the CEO's appointment terminable at will or subject to any statutory protections?

Lizzie BLANDTHORN: The existing employment law would apply, Mr McCracken, for example, the Fair Work Act 2009.

Joe McCRACKEN: Does the CEO hold office under contract or statute?

Lizzie BLANDTHORN: It would be a normal employment contract.

Joe McCRACKEN: Will the CEO be considered a public officer under the Public Administration Act 2004 for integrity and reporting purposes?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Clause 26(1) and (2) mandates development of a remuneration policy. Is this policy subject to approval by the minister, Treasury or any other internal body?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Who does approve the policy then?

Lizzie BLANDTHORN: The assembly.

Joe McCRACKEN: Clause 26(3) requires adoption within six months. What occurs if the assembly fails to comply? Is there some sort of default mechanism that is automatically set in place?

Lizzie BLANDTHORN: The whole act is obviously subject to the same oversight bodies, Mr McCracken. I refer you to my earlier answers in regard to oversight.

Joe McCRACKEN: Are salary bands expected to align with those of the Victorian public service, or may the assembly set independent executive pay scales that are outside those bounds?

Lizzie BLANDTHORN: To be determined by the assembly, Mr McCracken.

Joe McCRACKEN: Will the policy and remuneration data be publicly disclosed in annual reports, or is that separate?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Clause 27(a) and (b) make the CEO responsible for day-to-day operations of all three arms of Gellung Warl. How is operational authority delineated when those arms have independent statutory mandates?

Lizzie BLANDTHORN: As I have already outlined for the house, it is one statutory authority, one CEO, three arms, and there are obviously provisions which relate to managing conflict of interest, information sharing and information protection within that.

Joe McCRACKEN: No, I understand that, but the point I was trying to make is that you have got one CEO responsible for three different arms. How are those responsibilities delineated, because sometimes there is conflict between those arms?

Lizzie BLANDTHORN: I refer you to my previous answer.

Joe McCRACKEN: Clause 27(c) refers to other functions specified in this act or internal rules. Could internal rules expand the CEO's authority beyond what Parliament might intend?

Lizzie BLANDTHORN: No.

Joe McCRACKEN: Is there any statutory requirement for the CEO to act independently or under direction of the assembly's chairperson?

Lizzie BLANDTHORN: The bill sets out the authority of the assembly, the authority of the CEO and how they relate with each other.

Joe McCRACKEN: The question I asked was: is there a statutory requirement for the CEO to act independently or under direction of the assembly chairperson?

Lizzie BLANDTHORN: It is neither of those, Mr McCracken. I refer you to my previous answer.

Joe McCRACKEN: Clause 28, which is about staff and contractors, authorises employment engagement 'as required'. Are these employees subject to the Victorian public sector employment conditions such as superannuation, code of conduct – all those sorts of things?

Lizzie BLANDTHORN: I refer you to my previous answer.

Joe McCRACKEN: Will contractors be bound by the same confidentiality and conflict of interest provisions as staff members?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Does this power extend to engagement of political consultants or lobbyists using public funds?

Lizzie BLANDTHORN: It is only relevant to the functions of Gellung Warl.

Joe McCRACKEN: What if they engage a lobbyist or a political consultant using public funds? Is that still subject or not?

Lizzie BLANDTHORN: This act does not in any way, Mr McCracken, change anything in relation to laws around government lobbyists or lobbyists generally, if that is what you are referring to.

Joe McCRACKEN: Clause 29(1) permits delegation to staff by instrument. Must such delegations be in writing and retained for audit purposes?

Lizzie BLANDTHORN: Yes.

Joe McCRACKEN: Clause 29(2) restricts delegation to staff associated with particular arms of Gellung Warl. How will compliance with these limits be verified?

Lizzie BLANDTHORN: I refer you to my previous answers in relation to oversight.

Joe McCRACKEN: Can delegated power include financial authorisations and contracting authority, and if so, who monitors expenditure thresholds?

Lizzie BLANDTHORN: Again, I refer you to my earlier answers in relation to financial accountability.

Joe McCRACKEN: Could an unlawful delegation under this clause give rise to personal liability for the CEO?

Lizzie BLANDTHORN: Yes.

Bev McARTHUR: Minister, just in response to a previous answer to me, I refer back to clause 66, which clearly says the MP must table the statement of treaty compatibility. Can you clarify, Minister, what you meant by saying the statement is optional?

Lizzie BLANDTHORN: Mrs McArthur, I was referring to clause 68, 'No effect on Victorian law'. This provision provides certainty about the effect of noncompliance with representation procedures to ensure parliamentary sovereignty is maintained. You can also see clause 7, which makes it clear that the bill does not limit the powers, privileges and immunities of the Parliament or each house of Parliament and their members and committees, including any joint committees of both houses, and clause 75, which provides that nothing in the bill impacts Parliament's ability to conduct its business. Gellung Warl has no power of veto in relation to Parliament.

Sitting suspended 6:29 pm until 7:31 pm.

David DAVIS: I have a few questions. I have listened to a large part of the proceedings today. Members have asked I think very pertinent questions. Mr McCracken asked some questions about referendums at one point, but I want to go back and understand why the state government as a preliminary did not believe it was necessary to consult the Victorian people regarding these proposals?

Lizzie BLANDTHORN: Treaty has been more than a decade in the making. It is something that has been part of this government's commitment across two state elections. There has been broad consultation across the community over many years, beginning, as I outlined in my second-reading contribution yesterday, with Minister Hutchins meeting literally around kitchen tables and opportunities for discussion in many forums right across our state through to being part of our commitment across more than a decade of public consultation and at least two elections. It has been well traversed with the community, in particular with First Peoples but with the whole of the Victorian

community, and it is something this government has been on the record as being proud to support for a very long time.

David DAVIS: I think we will just have to agree to disagree about this, but I just note on the record that I do not believe most Victorians understand this treaty. I do not believe most Victorians understand the details of it. They do not understand the ramifications of it. After the Voice referendum, where just under 55 per cent voted against the Voice, I would have thought the government would have reconsidered at that point that it was important to have a proper process of consultation, given the decisive position adopted by the Victorian community. Did the government reconsider at that time?

Lizzie BLANDTHORN: I cannot speak to the national process around the referendum. That was an entirely different process. It is outside of the scope of this bill, and I do not intend to entertain the question.

David DAVIS: You arrogantly refuse to answer that, but the fact is you were aware of the referendum result and the government chose to proceed nonetheless. I do think that it is a major problem that there was not sufficient consultation for most Victorians to have a deep understanding of this, and I do not believe they do. I will leave that as a comment.

The DEPUTY PRESIDENT: Sorry, Mr Davis, the minister has a right to respond to the comment.

Lizzie BLANDTHORN: As I said, the referendum was a national process. It was entirely outside of the remit of the bill that we have before us today. The bill that we have before us today has been widely consulted on. This government has gone to at least two elections with a commitment to treaty and has been re-elected overwhelmingly, as I think your side can feel on those benches. I would caution you on such outlandish statements. This is a representative democracy. It is a representative government, a government that took treaty to two elections, and that is why we are here today. It has absolutely nothing to do with what you refer to, which is outside the scope of this bill.

David DAVIS: With respect, we will just have to agree to disagree on that. There are a number of points I want to make. Ms Crozier talked at length in conversation with you about the United Nations agreements that are mentioned in this, and you indicated that they are not binding, is that correct? Is my understanding of that correct?

Lizzie BLANDTHORN: I refer to my earlier answers.

David DAVIS: So it is not binding?

Lizzie BLANDTHORN: I refer to my earlier answers.

David DAVIS: It is not binding.

Lizzie BLANDTHORN: I have answered your question, Mr Davis.

David DAVIS: A non-answer is an answer too. I want to ask you also about the interplay with Commonwealth legislation. Has the government considered whether the Racial Discrimination Act 1975, which is 50 years old – maybe even today, or around this time – is consistent with this bill?

Lizzie BLANDTHORN: Yes.

David DAVIS: Section 31 has a substantive rule-making power in it. It has certainly been put to me by a number of lawyers that it is not consistent and that there may well be areas of significant inconsistencies depending on the rules that are made. Is that your understanding?

Lizzie BLANDTHORN: The government's advice is that it is consistent.

David DAVIS: Did the government seek formal legal advice on this matter?

Lizzie BLANDTHORN: The government has solicitor-general advice, and our view is that it is consistent.

David DAVIS: Will you make that advice available to the committee and the community?

Lizzie BLANDTHORN: I refer to my answers earlier today.

David DAVIS: Will you make it available to the community with respect to section 31 of the bill?

Lizzie BLANDTHORN: Again I refer to my answers of earlier today.

David DAVIS: Did you accept any legal advice from an external source other than the solicitor-general's office?

Lizzie BLANDTHORN: We have the treaty council, which is led by the solicitor-general.

David DAVIS: Was there any further KC advice or similar received externally?

Lizzie BLANDTHORN: I refer to my previous answers.

David DAVIS: Did the government expend any money on external consultants on legal advice about consistency with the Commonwealth act?

Lizzie BLANDTHORN: Yes.

David DAVIS: How much?

Lizzie BLANDTHORN: The Department of Premier and Cabinet (DPC) annual report would record such matters.

David DAVIS: Who was that from?

Lizzie BLANDTHORN: As I said earlier, Mr Davis, the treaty council, which is led by a number of different barristers.

David DAVIS: So there is no external consultancy advice. Is that what you are saying?

Lizzie BLANDTHORN: I will refer you to my previous answers.

David DAVIS: Again, how much was expended?

Lizzie BLANDTHORN: I again refer you to my previous answers.

David DAVIS: What was your previous answer as to how much is expended?

Lizzie BLANDTHORN: You can check *Hansard*, Mr Davis, but I informed you that it would be reported in the DPC annual reporting.

David DAVIS: I am asking you now. How much?

Lizzie BLANDTHORN: I do not have that available to me right now, Mr Davis. It will be reported in the usual way.

David DAVIS: I understand you said it was available in the annual report, but I would have thought you would have that available for a discussion of this nature. I want to talk about the important principles of parliamentary sovereignty and the control over public expenditure. This bill changes that longstanding arrangement that has been part of our system certainly since the establishment of this jurisdiction but long before. Why did the government decide to lock in allocations and increases into the future? Why was that done?

Lizzie BLANDTHORN: Mr Davis, again I will refer you to my earlier answers about the appropriations and obviously the ongoing appropriation, and of course we want to ensure that there is financial certainty for Gellung Warl.

David DAVIS: So it is just simply about financial certainty, is it?

Lizzie BLANDTHORN: Yes, Mr Davis, it is about financial certainty. But you can rest assured it is also reviewed every four years.

David DAVIS: But actually that is not the case in this bill, is it? It actually goes on beyond the four years.

Lizzie BLANDTHORN: Ongoing funding has been provided for, but as I have informed you, there will be regular reviews of that.

David DAVIS: I put to you that there are many institutions that would like funding security of this type into the future, whereas the tradition in our system is that each year budget bids are put in and the arrangements are put forward in a way where they are subject to change in the next financial year. I am still not understanding why this institution would receive different treatment than a major hospital, for example – the Alfred, St Vincent's – or a university. Why is this being differentiated from other important institutions that we would fund?

Lizzie BLANDTHORN: Mr Davis, a number of statutory authorities and entities across government receive ongoing funding. Of course it is regularly reviewed by virtue of –

David Davis interjected.

Lizzie BLANDTHORN: Mr Davis, if I can answer the question without interruption, that would be appreciated, please. Ongoing funding is provided for here, and it is provided for in many other institutions across government. There is no special treatment here, if that is what you are trying to insinuate. It is ongoing funding open to regular review, in the same way that it is for other institutions as well.

David DAVIS: With respect, Minister, that is not true. This is different from other funding. It is locked in legislation, and there is an escalation clause in there. It will be $2.7 billion – just shy of – over four years, or over 10 years in expenditure if it goes forward in the way it is put without any additional funding. It is actually not the same as other institutions that are funded through the state budget. I think you are wrong on that, and I think you should confess that you are wrong.

Lizzie BLANDTHORN: Mr Davis, you are putting words in my mouth. I did not say that the terms of this funding were the same as that of every other agency. But what I did say was that there are many agencies across government that do receive ongoing funding and that in –

David Davis interjected.

Lizzie BLANDTHORN: Deputy President, it is very difficult to answer Mr Davis's questions for him.

The DEPUTY PRESIDENT: Mr Davis, if you can let the minister answer, please.

Lizzie BLANDTHORN: There are many agencies across government that receive ongoing funding subject to regular review, and that is what is happening here.

David DAVIS: With respect, Minister, it is not the same, and we may just have to agree to –

Lizzie BLANDTHORN: I did not say it was exactly the same.

David DAVIS: Well, you did imply that it is exactly the same, and it is not. It is very different. The truth of the matter is other institutions can have their funding altered each and every year, whereas this institution appears to be immune from that and a special arrangement has been struck. You can respond to that, or we will just move on in the sense we have a different view.

Lizzie BLANDTHORN: I will refer you to my earlier answers, Mr Davis.

David DAVIS: In terms of performance accountability, will there be budget output measures for this organisation in the normal way that are put into budget paper 3 (BP3), traditionally, but now the performance budget paper?

Lizzie BLANDTHORN: Given that the bill is yet to pass, Mr Davis, a decision on the BP3 reporting has not yet been made.

David DAVIS: So are you able to give a commitment that the expenditure of public money will be reported in a way that has clear output measures and that they are put into the standard budget so that they can be seen by all Victorians, they can be questioned in the Public Accounts and Estimates Committee, they can be questioned in this chamber – or will this be a special arrangement where there are no budget output measures?

Lizzie BLANDTHORN: I refer you to my earlier answers in regard to financial accountability, Mr Davis.

David DAVIS: The minister is unable to give an assurance that there will be budget output measures. Is that correct?

Lizzie BLANDTHORN: As I said, Mr Davis, I appreciate you have come into the chamber late in this conversation today, but I refer you to the extensive answers I have already provided the house in relation to financial management. I will add to that that the minister can be questioned at PAEC, obviously, and further to that, I refer you to the previous answers I have already given in relation to financial accountability.

David DAVIS: But the minister is not responsible here in this case directly, and that is made clear in the legislation. That is correct, isn't it?

Lizzie BLANDTHORN: I refer you to my earlier answers.

David DAVIS: I can see we are going to have a few moments here. I want to talk about the independence and oversight of the integrity bodies. I am deeply concerned about aspects of this bill and how they will interact with the integrity bodies. How do you ensure that bodies like IBAC – and I will pick that as an example, but this could apply to the Auditor-General, the FOI commissioner, the Ombudsman and so forth, but let us just stick with the example of IBAC. IBAC will be required to strike certain arrangements about certain cultural matters with this new set of bodies that has been established, and it will not be required to report in precisely the normal way. That is correct, isn't it?

Lizzie BLANDTHORN: That is incorrect, Mr Davis, and again, I refer you to my earlier answer.

David DAVIS: How will we guard against the use of cultural safety negotiations as a lever against IBAC?

Lizzie BLANDTHORN: Again, Mr Davis, I have already taken the house at length through the provisions that apply in relation to the integrity agencies, and I refer you to earlier answers that I have provided on each of those in relation to FOI, in relation to the Ombudsman, in relation to IBAC. In particular the cultural safety guidelines are not binding on IBAC, but I certainly do not intend to keep repeating every answer I have already provided the house over extensive hours today. I will continue to refer you to my earlier answer if you have not been here to participate in those discussions.

David DAVIS: I heard most of the debate earlier. This question, I do not believe, was specifically asked about how the cultural safety guidelines can be used as a lever or a bludgeon against the Independent Broad-based Anti-corruption Commission. How will we guard against the misuse of those cultural safety provisions?

Lizzie BLANDTHORN: I said it earlier today, Mr Davis. I said it again now. The cultural safety guidelines are not binding on IBAC.

David DAVIS: With respect, that does not answer the question. They can still be misused and used as a lever to beat IBAC around the ears. I just want to understand how you are intending to protect IBAC from that.

Lizzie BLANDTHORN: Again, Mr Davis, I said it earlier today; I have said it again now, but the bill does not in any way impact on the independence of IBAC.

David DAVIS: With respect, Minister, that is not true, because the cultural safety arrangements do actually change the balance of power between this organisation and IBAC, unlike other organisations. The use of those cultural safety mechanisms and discussions could be misused, if I can put it directly, by people who wish to protect themselves from investigation. What mechanisms are there to stop that occurring?

Lizzie BLANDTHORN: Again, Mr Davis, the cultural safety guidelines are non-binding on IBAC and the bill says that it does not impact the independence of IBAC. I refer you to my earlier evidence.

David DAVIS: With respect, your earlier evidence did not deal with this exact aspect of the misuse of the cultural safety powers as a lever against IBAC. Let me put a scenario to you that you have one or two corrupt individuals – we have them all around our society and we have some at the CFMEU and elsewhere at the moment – at these new bodies that are being established. They could use these cultural safety powers as leverage against IBAC. What would stop a corrupt official doing that?

Lizzie BLANDTHORN: Mr Davis, I will say it one more time and then I will continue to refer you to my earlier evidence. The bill says that it does not impact on the independence of IBAC.

David DAVIS: The bill may well say that, but that is not how the real world works. In fact the cultural safety mechanisms can be used as leverage to bully IBAC or another independent agency.

Lizzie BLANDTHORN: Clause 263 inserts a new section 15A into the Independent Broad-based Anti-corruption Commission Act to require the IBAC to establish cultural safety guidelines and procedures for how the IBAC exercises its powers and platform functions in relation to Gellung Warl and Gellung Warl public offices. The guidelines must be established in consultation with the First Peoples' Assembly, and the Treaty Authority may provide advice if requested by the IBAC. The purpose of the guidelines and procedures is to support the organisational development and practice of cultural safety and cultural competency so that IBAC is equipped to provide oversight in relation to Gellung Warl that is appropriate to its character as the First Peoples-led statutory corporation with unique cultural responsibilities and governance practices.

David DAVIS: I have read that, too, Minister, but none of that assures me. It in fact leads me to the opposite conclusion, that in fact IBAC must and is going to have to consult on that. I do not think that is surprising, but actually it does provide leverage back in the other direction for these new bodies. You may want to disagree with that, but I think that is the truth of the matter and I will put on record that I am very concerned about how this will operate with our independent agencies. I do not want to see a body that is able to strike back at an independent agency.

Lizzie BLANDTHORN: The cultural safety guidelines are not binding on IBAC, and the bill explicitly says that it does not impact on the independence of IBAC.

David DAVIS: It says that, but we will not go over this ground any further. On the exercise of public power without democratic accountability, I am concerned that this body will have a very significant suite of powers and it is not democratically accountable to the Victorian community – it is to a small subset of the Victorian community, and it obviously deals with its electoral base and its voting mechanisms and so forth, but this is a fundamental break with our Westminster principle that all executive power has got to be exercised under ministerial responsibility to Parliament. This body has powers that will not be amenable to control by Parliament. Is that correct?

Lizzie BLANDTHORN: Gellung Warl does not change the tenets of the Westminster system in Victoria, and it operates within that existing framework. Parliament remains sovereign over Gellung Warl and its enabling legislation, and standard accountability and oversight frameworks apply to Gellung Warl to ensure it operates within existing norms of good government and democratic principles. Gellung Warl is ultimately subordinate and accountable to Parliament. Indeed, Mr Davis, RMIT professor of law Kate Galloway AM recently described the bill and the architecture of Gellung Warl as:

> … constitutionally respectful, offering a model for how Indigenous institutions can be embedded within a Westminster framework without disrupting its foundational principles.

Kate Galloway AM further noted that:

> Its role is advisory, consultative, and educative, consistent with the principles of responsible government and parliamentary sovereignty.

David DAVIS: With respect, I am not being negative about that obviously eminent person, but I do not think they understand how the Westminster system works, and it is very clear indeed that the minister will not have the accountability that they have as the usual position in the Westminster system. But I will just, again, leave that for the moment. If you want to say more, please do.

Lizzie BLANDTHORN: Yes, I do, thank you, Mr Davis. If you are going to make a statement, I am going to respond. As I said, it will be accountable to all Victorians as the minister administers the act, and Parliament can also change the act at any time as well.

David DAVIS: We will again have to agree to disagree. Under clause 52 the use of voluntary standards allows cultural safety guidelines to become legally enforceable through contractual arrangements, and this was discussed earlier at several points in the discussion. Clause 50 permits guidelines to be issued without defined criteria. This potentially creates a system where businesses and organisations face compliance requirements that lack objective standards. It is true that organisations do not have to sign up to these points, but once they do sign up, it is correct that they are legally enforceable. My understanding is correct on that, I think.

Lizzie BLANDTHORN: As you indicated, Mr Davis, this was discussed earlier, but what you have just put now is not correct. I refer you to my earlier answers.

David DAVIS: In which way is it not correct?

Lizzie BLANDTHORN: I refer you to my earlier answers.

David DAVIS: I thought I had carefully phrased it in a way that was slightly different to the earlier points, but if you do not want to answer, that is okay too. I want to talk about the legal certainty and the rule of law issues. There is what I would call the subjective standards without objective criteria issue. The bill repeatedly relies on subjective standards – 'good faith' in clause 6, 'unreasonable' throughout various provisions, 'culturally sensitive information' in clause 4 – without providing clear, precise definitions, if you will. Clause 99 allows for consideration of such other matters, if any, as they think fit, while internal rules can define what constitutes culturally sensitive information. Again, I know some of this was discussed earlier, but I just want to be very clear that those phrases and words are not defined in the bill, and in that sense they may well be subjective.

Lizzie BLANDTHORN: They are common terms in legislation that are interpreted by the courts on a regular basis, and the legislation itself is not meant to be overly prescriptive. But these are common terms regularly used across a range of pieces of legislation in a range of areas, and the courts are well equipped to interpret them as appropriate.

David DAVIS: I do not want to labour this, but there are a couple of points I do want to make. I am very concerned, Minister, about the ability of the new bodies to call up departments, agencies and ministers. Would you explain what criteria they would do that on?

Lizzie BLANDTHORN: As I have said a number of times, these are non-binding, not coercive powers. But of course, in being able to fulfil its functions, Gellung Warl can engage in a number of ways at times with government, government departments and ministers in order to fulfil its functions. Are you referring specifically to the annual reporting or just generally?

David DAVIS: A particular agency, whatever – it could be the Department of Education. The bodies collectively or singularly can seek engagement, but if the agency rejects that, what steps can they take?

Lizzie BLANDTHORN: As I have said, they are non-binding, non-coercive powers.

David DAVIS: So there will be no capacity to compel any person to attend under any circumstances?

Lizzie BLANDTHORN: I refer you to my earlier evidence, Mr Davis.

David DAVIS: So that is a yes or a no? I do not recall that being asked in that way.

Lizzie BLANDTHORN: These are good faith principles, and there can be no compulsion. They are non-coercive and non-binding, and I have answered it in a number of ways in response to a number of questions so far today.

David DAVIS: It is not the way when I read it that I see it. I am heartened to hear that nobody can be compelled to attend. Documents – can these bodies demand documents be provided? Can they strongarm – if I am going to use a word – an agency to provide documents?

Lizzie BLANDTHORN: As per my earlier evidence, Mr Davis, there is no compulsion, but the state would act in and would be expected to act in accordance with the principles of good faith.

David DAVIS: And what would prevent these new bodies acting with bad faith and actually entering the political fray in a party-political way? What would stop them doing that?

Lizzie BLANDTHORN: They also have to act in good faith, Mr Davis.

David DAVIS: So could they endorse one political party for an election?

Lizzie BLANDTHORN: Mr Davis, it is a very provocative question. What we are talking about here are commonly understood principles of good faith that will apply to all of the parties, including the responsibility to act reasonably and in accordance with those principles.

David DAVIS: I think by your non-answer we have established that they could act in a highly party-political way. They could endorse one candidate or one party for an election. That would be one point. Will political parties be empowered to run candidates for these elections?

A member interjected.

David DAVIS: No, it is relevant. It is a huge power – and resources. It is deeply relevant.

Lizzie BLANDTHORN: It would not be in good faith, Mr Davis.

David DAVIS: Why is that? Why could the body not pass a resolution to say, 'We will support X party, and every Indigenous person should vote against Y party'?

Lizzie BLANDTHORN: Mr Davis, I refer you to my earlier answers in relation to principles of good faith as they would be commonly interpreted by the courts.

David DAVIS: They may well regard it as good faith to say, 'We think this party is better and that party is not as good.' Why would that be bad faith?

Lizzie BLANDTHORN: I refer you to my earlier answers.

David DAVIS: I do not believe you answered that directly previously, I am sorry; at least I did not hear it. I will go back and check. In terms of the ability to engage with a particular agency – I am a

former health minister; let me give you an example. The health department has agreements with the Commonwealth. Would these bodies be empowered to look at the arrangements that have been signed with the Commonwealth? Yes, is the answer.

Lizzie BLANDTHORN: Firstly, Mr Davis, I would appreciate it if you did not interpret the advisers box yourself, because the advisers and I were talking briefly about an unrelated matter as well. It is not appropriate for you to take an interaction at the advisers box and turn it into what you perceive to be the answer.

The answer to your question is that Gellung Warl can provide advice to the state of Victoria and its entities and so forth. It cannot provide it to another jurisdiction. In relation to a bilateral agreement, it could provide the state with advice, but it would be simply that – and it cannot obviously impact an agreement between the state of Victoria and the Commonwealth or other jurisdictions.

David DAVIS: So the answer is yes, it can actually look at a bilateral agreement between the state and the Commonwealth or indeed another jurisdiction. There is nothing to stop that. I predict firmly that it will – and quickly – get into this, because there is obviously significant money involved, and the agencies, the new bodies, will quickly begin to look at a number of these points. You may disagree, but that is my humble view. It is a completely clear way for them. It could be a joint agreement between the Commonwealth and Victoria – funding for education, funding for health, funding for transport. They could look at the Suburban Rail Loop, for example, couldn't they?

Lizzie BLANDTHORN: As I indicated, Gellung Warl could provide advice to the state and provide that contribution. Indeed ACCOs already do do that in a number of ways. For example, aged care is funded by the Commonwealth and they advocate to Victorian ministers to get outcomes in order to close the gap. Across my portfolios there would be numerous ways in which First Peoples make contributions to those processes as well, including through education ministers, who now are directly represented at the table, or indeed tomorrow at our community services ministers meeting, where we have a shared decision-making part to that meeting. So there are numerous ways in which First People already provide contributions into state and federal processes, but at the same time what this act will provide for is the capacity for Gellung Warl to provide direct advice to the state government on matters that affect them.

David DAVIS: So the truth is that yes was the answer. Those matters can be investigated. There can be a document sought, there can be hearings held and there can be a whole series of steps taken by these new agencies. The same is true of councils, isn't it, Minister? The activities of councils are squarely in the gun on this too. There are agreements between councils and state governments on funding for any manner of programs and capital items too, and the bodies could well start to take a special interest in those agreements between state government and councils. Is that correct?

Lizzie BLANDTHORN: As I have said a number of times, Gellung Warl can provide advice on any matters that affect them to the state government.

David DAVIS: I think the answer is yes, but we do not want to quite say yes. I ask about another point: could Gellung Warl strike a deal with particular councils to add additional levies and arrangements to the rates?

Lizzie BLANDTHORN: Gellung Warl will not be able to exercise statutory advisory functions and powers in relation to local government. Gellung Warl will be able to continue to conduct the usual and general engagement with local councils as the assembly currently conducts those matters as they relate to them. Indeed if matters relating to local government are raised through the exercise of Gellung Warl's advisory powers, which I have spoken to, then they also may be directed to the relevant minister, which I have also spoken to earlier today.

David DAVIS: So the answer again is, yes, they can impact on a number of those council matters. But let us ask specifically about that. Could the organisation strike an arrangement with a local council for a special levy to be imposed on rates notices?

Lizzie BLANDTHORN: As I have said, Gellung Warl will not be able to exercise its statutory advisory functions and powers in relation to local government. Gellung Warl will be able to continue to conduct the usual and general engagement with local councils that the assembly currently conducts.

David DAVIS: Will the body be in a position to seek to advise groups like councils on reparations?

Lizzie BLANDTHORN: I refer you to my earlier answers, Mr Davis, and I would simply remind you and the house that this is about a new relationship between the state government and First Peoples through the democratically elected Gellung Warl.

David DAVIS: With respect, what you have not done is to say that is not possible. So I think we can interpret it as possible that they could advise a local council that it would be a good thing to strike a special rate for a reparation purpose. It might be a northern suburban council. There might be an interest in taking some steps in that direction, and this body could well play a role in seeing a special rate struck. That is correct, isn't it?

Lizzie BLANDTHORN: Please do not put words in my mouth, Mr Davis. You asked the question; I have answered it, and I have also referred you to earlier evidence I have given today. It is not therefore your role to come here and say what the bill does and does not do. This is quite disingenuous. The purpose of the bill is to improve outcomes, to help close the gap. I again refer you to the earlier evidence that already answers these questions that you are putting from earlier today. I appreciate you were not here, but perhaps you would like to consider *Hansard*.

David DAVIS: I am just going to put on record that the minister will not rule out this body playing a significant role in encouraging a council to put on a special rate which could be used for the purpose of a reparation. That is a fact.

The DEPUTY PRESIDENT: Minister, did you want to respond?

Lizzie BLANDTHORN: Only to suggest that Mr Davis is putting words in my mouth. I would ask that Mr Davis not do that, and I would suggest that if Mr Davis were going to come in here at the very end of the day and repeat all of the questions that have been considered earlier in the day, that he might have had the courtesy to read *Hansard* first.

David DAVIS: I did not hear that question earlier, and I certainly do not believe exactly that question was asked. Some earlier points certainly informed my thoughts on this, but those were specific questions. It could be a particular council. I think it is very instructive that the minister will not rule that matter out.

Richard WELCH: I would like to ask some questions about the infrastructure fund. Is it governed by a written mandate?

Lizzie BLANDTHORN: In relation to the infrastructure program and it being transferred to Gellung Warl, it is the view of the government that Gellung Warl is best placed to hold and disperse funding for First Peoples programs, as it will hold the relevant expertise. This will enable efficiencies to be gained through greater self-determining control and oversight of government First Peoples programs and services. Transfer of the Aboriginal community infrastructure program to Gellung Warl advances the government's commitment to enabling self-determination as outlined in the *Victorian Aboriginal Affairs Framework* and clearly demonstrates the practical outcomes of Statewide Treaty to both First Peoples and the broader Victorian community. ACIP will be superseded by the First Peoples' Infrastructure Fund established and operated by Gellung Warl.

Richard WELCH: So there is no written mandate?

Lizzie BLANDTHORN: If you are able to clarify what you mean by that, that would be appreciated.

Richard WELCH: To clarify: even with the greatest experts in the world running it at the highest professional levels, no fund of this nature operates without a written mandate – which sets out what you can invest in, what you cannot invest in, the instruments that you can apply. That is called the mandate.

Lizzie BLANDTHORN: I have been advised the assembly does have such relevant experience, as acquired through running things such as the Self-Determination Fund, for example, and the necessary parameters will be put in place to provide for that.

Richard WELCH: So at this point we are allocating over $2 billion to a scheme that has no mandate – that is, a mandate to be determined?

Lizzie BLANDTHORN: The current guidelines will be used and adopted by Gellung Warl.

Richard WELCH: So the mandate will be set by the First Peoples' Assembly?

Lizzie BLANDTHORN: I refer you to my earlier answer, Mr Welch.

Richard WELCH: I have not asked that question before.

Lizzie BLANDTHORN: Yes.

Richard WELCH: Who can amend the mandate?

Lizzie BLANDTHORN: The assembly, in accordance with the act, Mr Welch.

Richard WELCH: So is there anything within the act that actually puts any constraint on what that mandate allows?

Lizzie BLANDTHORN: We cannot be that prescriptive in the act, Mr Welch, but it will occur.

Richard WELCH: That is extraordinarily concerning. That is unprecedented. I am blown away, frankly. I am at a loss for words. Who operates the fund? And to clarify on that, would there be an investment committee? What will be the governance structure?

Lizzie BLANDTHORN: It will be in the treaty that the parties agree that Gellung Warl will establish and operate a new First Peoples' Infrastructure Fund from 1 July 2026 onwards. Gellung Warl will operate the infrastructure fund to support Aboriginal community controlled organisations, as defined under the National Agreement on Closing the Gap, with maintenance, minor building works, capital works, infrastructure upgrades and related project planning. The infrastructure fund will be administered in accordance with guidelines developed by the First Peoples' Assembly of Victoria in line with its larbargirrar gnuurtak tulkuuk – community answerability principles – and best practice financial management principles. The infrastructure fund will supersede the state's Aboriginal community infrastructure program, ACIP. From 1 July 2026 the state will no longer offer new grants under the ACIP. Access to funding from the infrastructure fund will not impact the eligibility of ACCOs and other First Peoples' organisations to seek funding under other Victorian government infrastructure grant programs.

Richard WELCH: I saw there was a thread of governance in there. If it is operating under best practice, there will be certain architecture put around it for people, committees et cetera. Who will pay for those people? Does that come from the from the existing budget or is that funded externally?

Lizzie BLANDTHORN: From the appropriation, Mr Welch.

Richard WELCH: Can the infrastructure fund enter into commercial contracts?

Lizzie BLANDTHORN: Mr Welch, could you please provide some clarity in terms of what types of commercial contracts you might be suggesting?

Richard WELCH: Any whatsoever.

Lizzie BLANDTHORN: In relation to an ACCO, funding would be provided under an agreement, obviously a contract.

Richard WELCH: Given that it is entering into commercial contracts and presumably projects as well, can the infrastructure organisation enter into any exercise of lending, leveraging or collateral arrangements?

Lizzie BLANDTHORN: They provide grants, Mr Welch. They do not lend money.

Richard WELCH: They provide grants. Would the fund be eligible to receive additional funding from sources other than the allocation?

Lizzie BLANDTHORN: Yes.

Richard WELCH: Actually that is all I have got on that, because Mr Davis has asked a couple of those, so I will not repeat. Can I ask whether the various bodies under the treaty umbrella will have communication and PR roles in their departments?

Lizzie BLANDTHORN: That would be a matter for those parts of the organisation to determine.

Richard WELCH: Can any of the organisations under the treaty umbrella receive further funding from non-government sources?

Lizzie BLANDTHORN: Gellung Warl can receive philanthropic funding.

Bev McARTHUR: Minister, will this body be subject to normal council rates?

Lizzie BLANDTHORN: There is nothing in the bill that exempts that, Mrs McArthur.

Bev McARTHUR: Would the body be exempt from payroll tax, land tax or any other taxes that apply to any individuals or businesses?

Lizzie BLANDTHORN: It will be exempt from payroll tax.

Bev McARTHUR: Minister, any other taxes – land tax, windfall gains tax?

Lizzie BLANDTHORN: As is the case for other statutory entities which can also be exempt, it will be exempt from land tax and payroll tax.

Bev McARTHUR: Clause 77 allows for what are called representation meetings, meaning the First Peoples' Assembly can require up to two meetings a year with cabinet to make representations to the cabinet about matters affecting First Peoples. Which other organisations in Victoria have the power to require two meetings a year with cabinet to discuss their grievances?

Lizzie BLANDTHORN: That is outside of the scope of this bill, Mrs McArthur.

Bev McARTHUR: Minister, this is discriminating against other people, isn't it? If one organisation can demand meetings of cabinet but nobody else in Victoria can, isn't that discriminatory?

Lizzie BLANDTHORN: This is a bill that is about resetting the relationship between First Peoples and the state of Victoria. It is about ensuring that Aboriginal voices have an opportunity for self-determination through Gellung Warl and the capacity to then provide that advice through to government, and cabinet is an important part of providing that advice to government.

Bev McARTHUR: Why is the Chief Commissioner of Police being singled out for special attention in this bill? Who else gets to demand legislated meetings with the police commissioner?

Lizzie BLANDTHORN: Again, Mrs McArthur, I will refer you to my previous answers around the fact that this is about resetting the relationship between the state of Victoria and First Peoples. This will be a democratically elected body with the responsibility for self-determination and providing advice on how institutions, systems and programs can work for Aboriginal people in the way that best suits them to the whole of government, which obviously includes the Chief Commissioner of Police. He is not special; it also includes secretaries as heads of departments, and he is the head of the police.

Bev McARTHUR: Minister, is the police commissioner compelled to attend these meetings?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Under clause 79, these meetings get cabinet confidentiality – why the secrecy?

Lizzie BLANDTHORN: If it is a cabinet meeting, it receives cabinet confidentiality.

Bev McARTHUR: But this is between the group and other individuals or the police commissioner. Why is there such secrecy attached to the meetings? Can they not be reported? Can we apply for the information under FOI?

Lizzie BLANDTHORN: As I said, and perhaps to expand if it is not clear, it is because they are meetings of cabinet, and it is only meetings of cabinet that receive cabinet confidentiality.

Bev McARTHUR: Minister, if a meeting is held between the group and the police commissioner, this section also specifically provides an exemption from freedom-of-information laws – why the lack of transparency in that instance?

Lizzie BLANDTHORN: We have discussed freedom of information extensively earlier today, and I will refer you to my earlier answers.

Bev McARTHUR: In part 9 clause 107 says the body can request a minister or an agency head or an agency give them any information or any document they believe is relevant to their inquiry. What happens if they refuse?

Lizzie BLANDTHORN: As I have said, there are no coercive powers.

Bev McARTHUR: What are the boundaries here, though? Can they demand protected or cabinet documents? What about budget-related documents? Can they ask for those?

Lizzie BLANDTHORN: As I indicated, there are no coercive powers or compulsion powers.

Bev McARTHUR: Section 108 says they may request the attendance of a minister or an agency head for an interview to answer questions for an inquiry. Is a minister compelled to attend the inquiry?

Lizzie BLANDTHORN: You answered your own question – you said they can request – and the answer to your question is no.

Bev McARTHUR: Clause 182 allows the Treaty Authority to dissolve the assembly. Why is this power not vested in Parliament?

Lizzie BLANDTHORN: We have been through already today the powers in relation to dissolution. I would refer you to my earlier answers.

Bev McARTHUR: Last question: why does the bill repeal substantial sections of the Advancing the Treaty Process with Aboriginal Victorians Act 2018 and the Treaty Authority and Other Treaty Elements Act 2022 instead of amending them incrementally?

Lizzie BLANDTHORN: Those acts were the beginning of treaty. It is to ensure that the settings are current.

Bev McARTHUR: Do these amendments transfer assets or liabilities from previous bodies to Gellung Warl without audit or valuation?

Lizzie BLANDTHORN: No.

Clause agreed to; clauses 2 to 299 agreed to; schedules 1 to 4 agreed to; preamble agreed to.

Reported to house without amendment.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (20:40): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (20:40): I move:

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

Council divided on motion:

Ayes (21): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (16): Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Rikkie-Lee Tyrrell, Richard Welch

Motion agreed to.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Interjections from gallery.

The PRESIDENT: Order! I am not going to stop this. If anyone wants to leave before I call the next item of business, please do.

Georgie Crozier: On a point of order, President, the chamber has just witnessed a display that I think has diminished the standing orders of this place. The opposition has a right to ask questions in committee, and that is exactly what we have done.

Jaclyn Symes interjected.

Georgie Crozier: I beg your pardon? I raise this point of order because there are standards in this place that need to be upheld for a whole range of reasons, and I think you have disregarded those. I make the point that it is incredibly disappointing.

The PRESIDENT: I take on board your criticism. I think that there are occasions where it does not matter what I do or what I say, I would not be able to control certain situations. I do not think there was –

Members interjecting.

The PRESIDENT: Order! As I said, I think there are certain situations sometimes where it would not matter who was sitting here; I do not think there would be any difference on those occasions. But

as I have said, I am always open to any sort of criticism from the chamber. There are vehicles for people if they are unhappy with the way I am presiding. In the next sitting week, I invite anyone to use them. I have said a number of times in this chamber that I might not reach the greatness of some of the previous Presidents, but I will do my best.

Consumer Legislation Amendment Bill 2025

Introduction and first reading

The PRESIDENT (20:53): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Residential Tenancies Act 1997**, the **Australian Consumer Law and Fair Trading Act 2012**, the **Estate Agents Act 1980**, the **Owners Corporations Act 2006**, the **Conveyancers Act 2006** and for other purposes.'

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:53): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Gayle TIERNEY: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:53): 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 **Consumer Legislation Amendment Bill 2025** (the Bill).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview**
>
> The purpose of the Bill is to acquit the Victorian Government's public commitment to:
>
> - implement fuel price caps as part of Phase 2 of the Fair Fuel Plan
> - establish the Portable Rental Bond Scheme (Scheme) announced as part of the Government's Housing Statement released in September 2023
> - give effect to further rental reforms, including reforms announced on 30 October and 19 November 2024, to better protect Victorian renters and improve compliance with rental minimum standards
> - make minor amendments to Housing Statement reforms relating to CPD requirements for property professionals.
>
> The Bill amends laws across the Consumer Affairs portfolio, including amendments to:
>
> - the **Residential Tenancies Act 1997** (RT Act) to:
> - introduce the Scheme to reduce the financial burden for people by mitigating against the 'double bond' issue which occurs when renters must pay a bond to secure a new rental property before the bond from their previous tenancy is returned
> - introduce evidentiary requirements when claiming bond money on a rental property

- prohibit rental providers or their agents from charging the cost of background fees to renters
- extend gas and electrical safety requirements and checks to all rental properties
- introduce a requirement for gas pre-draughtproofing checks prior to draughtproofing work commencing
- strengthen evidentiary requirements in relation to compliance with prescribed minimum standards.

- the **Australian Consumer Law and Fair Trading Act 2012 (ACLFT Act)** to introduce a 24-hour fuel price cap and fuel price watch mechanism, including mandatory reporting of fuel prices
- the **Estate Agents Act 1980**, the **Owners Corporations Act 2006**, and the **Conveyancers Act 2006** to refine continuing professional development (CPD) requirements for property professionals so that:
  - the Business Licensing Authority can set mandatory CPD activities
  - regulations can be made to prescribe matters concerning CPD providers, including approving or prohibiting CPD providers from providing approved CPD activities
- make other minor and technical amendments.

Human Rights Issues

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

- Recognition and equality before the law (section 8)
- Freedom of movement (section 12)
- Privacy and reputation (section 13)
- Freedom of expression (section 15)
- Property rights (section 20)
- Right to a fair hearing (section 24)
- Rights in criminal proceedings (section 25)

Recognition and equality before the law (section 8)

Section 8 of the Charter provides that every person has the right to enjoy their human rights without discrimination, is equal before the law, is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. This section also clarifies that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination.

Discrimination under the Charter means discrimination within the meaning of the *Equal Opportunity Act 2010* on the basis of an attribute set out 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.

Criteria and eligibility for financial hardship and payment plans

Clause 5 of the Bill engages and promotes the right to recognition and equality before the law by inserting section 423D into the RT Act to provide the power for the Secretary to issue guidelines in relation to hardship criteria and eligibility requirements for access to payment plans for the recovery of debt owed to the State where a transfer of bond from one residential rental agreement to another has occurred. Further, clause 5 of the Bill inserts section 423S into the RT Act to allow the Secretary, upon written application by a renter, to offer a payment plan to a renter who owes a payment of bond debt to the state and meets the eligibility criteria developed in the transfer of bond guidelines issued under the Bill. This clause has been developed to implement a clear process around the hardship criteria ensuring that people undergoing hardship are not discriminated further by repaying any bond moneys owed to the state through an agreed payment plan and to ensure any payment collected is not exacerbating a person's hardship by requiring immediate repayment.

The introduction of a payment plan system ensures that people suffering financial hardship are not affected disproportionately, or disproportionately punished, by owing a debt to the state. The Bill does not impose specific eligibility criteria for payment plans; the Bill creates a head of power for the Secretary to issue guidelines. By developing guidelines for eligibility to enter into a payment plan, it can be ensured that debts

owed to the state are managed effectively and that people experiencing financial hardship are protected from any actions that may arise as a result of being unable to immediately repay debts owed to the State.

Accordingly, I consider that these clauses under the Bill are compatible with the right to recognition and equality before the law under section 8 of the Charter.

Freedom of movement (section 12)

Section 12 of the Charter provides that every person within Victoria has the right to move freely within Victoria, to enter and leave it, and has the freedom to choose where to live. This right extends to accessing public spaces, such as the ability of individuals to move through, remain in, enter or depart from public spaces, including freedom from physical barriers and procedural impediments.

The right extends, generally, to freedom to move throughout the State without impediment or restrictions (both physical and procedural) and a right to access public places and services. This right is, however, not an absolute right under the Charter and may be subject to such reasonable limitations as are demonstrably justified in a free and democratic society, including the property rights of others.

Clause 5 of the Bill engages and promotes the right to freedom of movement by inserting section 423F into the RT Act to allow renters to apply to the Secretary to have a rental bond held by the Residential Tenancies Bond Authority (the Authority) against a terminating rental agreement to be held against a subsequent rental agreement. An application is required to be accompanied by a prescribed fee and any outstanding amount of bond the renter would owe following transfer of the bond on the terminating rental agreement to the subsequent rental agreement. Clause 5 of the Bill also inserts section 423G(1) into the RT Act to allow the Secretary to direct the Authority to transfer bond money where the Secretary is satisfied that the application meets the requirements both of inserted section 423F and the eligibility criteria in inserted section 423G(2) of the RT Act.

The Bill reduces the financial burden of renters having bond money held against multiple rental properties while a renter moves from one rental property to another. The Scheme ensures that a renter who is in the process of moving from one rental property to another does not face the financial restriction that the requirement to make bond payments for two properties at the same time creates in the process of moving from one rental property to another. The Bill further promotes the right to freedom of movement by providing the Secretary with the power to direct payment of bond claims made against the renter in respect of the first rental agreement where the bond has transferred to a subsequent rental agreement and establish a debt against the renter for any amounts owed.

Accordingly, I consider that this clause under the Bill is compatible with the right to freedom of movement under section 12 of the Charter.

Privacy and reputation (section 13)

Section 13 of the Charter provides that a person has the right not to have their privacy, family, or home unlawfully and 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.

Power for Secretary to request information when a renter makes a request to transfer bond
Clause 5 of the Bill may limit the right to privacy by inserting new section 423F in the RT Act, which provides the Secretary the power to require a renter to provide any further information as the Secretary thinks fit when a renter makes an application to transfer their bond. The purpose of this clause is to allow the Secretary to seek additional relevant information that is reasonably required for the Secretary to consider in determining an application to request a transfer of a renter's bond. This information may include personal information.

To the extent that this clause may limit the right to privacy and reputation by providing the Secretary with information gathering powers that include collecting personal information, I am of the view that the clause is precise and appropriately prescribed, it is not arbitrary and is in accordance with law. The Bill only creates information gathering powers for the Secretary where they may need additional information, for example details of the second rental agreement as part of their consideration of their decision to transfer a renter's bond. It is reasonable for the Secretary to request information that relates to the eligibility criteria under section 423G(2) from the renter that is used for the purposes of determining an application to transfer bond.

Power for Secretary to request information for claims for rental bond monies
Clause 9 of the Bill engages the right to privacy by inserting section 411(1A) into the RT Act to provide that where a residential tenant provider seeks to make a claim for rental bond, that person or their agent must provide bond claim evidence to a renter to support a claim at least 3 days before the claim is made. Clause 8

of the Bill inserts the definition of 'bond claim evidence' into section 3(1) of the RT Act to include an invoice; a receipt; a quote; a photograph; or any other prescribed evidence. The purpose of this clause of the Bill is to ensure that landlords seeking payment of bond money have sufficient up-front evidence in making any claim to a tenant's bond money.

To the extent that clause 9 of the Bill engages the right to privacy by requiring the provision of information that may be of a personal or private nature, I consider that any interference with the right to privacy and reputation will be neither unlawful nor arbitrary. These amendments are reasonable as the information to be disclosed to a renter is restricted to an invoice, receipt, quote, photograph or evidence prescribed in regulations and the purpose of the documentary evidence is to substantiate and justify the bond claim amount. The use of this information is limited to supporting a bond claim or an application to the Tribunal under clause 10 of the Bill. The Bill engages powers, the scope of which are clearly defined and exercisable in circumstances set out in the Residential Tenancies Act 1997, and are required to substantiate the relevant claim, or to enable the Authority to discharge their statutory duties in relation to the bond lodgement. For these reasons, I am of the opinion that these provisions are compatible with the right in section 13 of the Charter.

Person's second rental provider must provide bond lodgement form to Authority
Clause 5 of the Bill limits the right to privacy by inserting section 423K into the RT Act to require that once signed, a person's second rental provider must provide a bond lodgement form to the Authority. The purpose of transferring the bond lodgement form is to ensure that the Authority can commence the transfer of bond money held by it in respect to a renter from being held in the previous place of residence to the renter's updated place of residence.

To the extent that clause 5 of the Bill engages the right to privacy by requiring the transfer of information that may be of a personal or private nature, I consider that any interference with the right to privacy and reputation will be neither unlawful nor arbitrary. The amendment is reasonable to ensure that the smooth transfer of bond moneys is undertaken in an accurate and timely manner by the Authority and ensures that the transfer of a person's bond money is undertaken without requiring any action on the part of the person that may restrict the implementation of the Scheme.

Fuel retailers to provide information to the Director
Clause 23 of the Bill engages the right to privacy by inserting new section 106B into the ACLFT Act to require that a fuel retailer provide particular information to the Director, including the name, position title, email address and telephone number of the primary contact person for each of the fuel retailer's service stations. A fuel retailer for the purposes of Part 5.3 of the Act may be a natural person. Clause 23 of the Bill also introduces section 106D into the ACLFT Act to require that a fuel retailer notify the Director of any update in information required under section 106B of that Act.

To the extent that clause 23 of the Bill engages the right to privacy by requiring the disclosure of information that may be of a private nature, I consider that any engagement with the right to privacy and reputation will be neither unlawful nor arbitrary. The Bill engages powers the scope of which are clearly defined and exercisable in circumstances set out in the ACLFT Act. Additionally, the information required to be disclosed is required for operational and compliance and enforcement purposes, and therefore not arbitrary.

Disclosure of information is required as, in practice, once the Director receives the information from a fuel retailer, the Director will then 'onboard' the fuel retailer onto the system, so that the fuel retailers can report on fuel prices. Information such as contact details for retailers is needed to enable them to be contacted in the case of an alleged breach or for other purposes concerning the administration of the scheme.

Information sharing
Clause 23 of the Bill engages the right to privacy by inserting section 106L into the ACLFT Act to provide that the Director may collect, use, disclose or publish any information to the extent necessary for the Director to perform a function or exercise a power under Part 5.3 of the ACLFT Act, subject to anything to the contrary in that or any other Act. Clause 24 of the Bill engages the right to privacy by inserting section 109(la) into the *ACLFT Act* to provide the Director with a new function under the ACLFT Act to collect and publish information relating to the prices at which fuel is offered for sale to retail customers, in which the Director may perform in collecting information under section 106L of the ACLFT Act. Clause 23 and 24 have been developed to allow for information about fuel prices to be made available through the Service Victoria application.

To the extent that clauses 23 and 24 of the Bill engages the right to privacy, I consider that any interference with the right to privacy and reputation will be neither unlawful nor arbitrary, noting that section 106L is subject to anything to the contrary in *ACLFT Act* or any other Act, including, but not limited to, the *Privacy and Data Protection Act 2014*, and is appropriately circumscribed to the functions to be carried out by the Director under Part 5.3. Further, section 109(la) is limited to the collection and publishing of information

relating to the prices at which fuel is offered for sale to retail customers. The purpose of sections 106L and 109(la) is to facilitate the sharing of real time, non-personal fuel price information with the public via a Service Victoria Application and Website and the sharing of datasets consisting of non-personal information, following a 24-hour delay, with non-government third parties, such as other fuel Application providers or research organisations.

Prescribed minimum standards for rental properties and rooming houses
Clause 15 of the Bill engages the right to privacy by inserting section 65C(1) into the RT Act to create specific requirements for rental providers to keep records and produce those records at the notice of the Director that demonstrate compliance with prescribed minimum rental standards under section 65A of the RT Act or, if relevant, why an exemption from compliance applies. Clause 15 of the Bill also inserts section 65C(2) into the RT Act, which provides the Director with the power to publish a notice of the types of records that would be sufficient to demonstrate compliance with section 65A of the RT Act or, if relevant, why compliance is unreasonable. Clause 15 of the Bill inserts section 65D(1) into the RT Act to create specific requirements for rental providers or the provider's agent who offer premises to let to keep records and produce those records at the notice of the Director that demonstrate compliance with section 65B. Section 65B provides that a residential provider or their agent must not advertise or offer let a rental premise unless they reasonably believe the rental premises comply with rental minimum standards. Clause 15 of the Bill also inserts section 65D(2) into the RT Act, which provides the Director with the power to publish a notice of the types of records that would be sufficient to demonstrate compliance with section 65B of the RT Act This clause has been developed to address the difficulty in enforcing the prescribed minimal rental standards under section 65A of the RT Act, which currently does not require a rental provider to maintain records that their rental premises meets the prescribed standards of the RT Act.

Further, clause 19 of the Bill engages the right to privacy by inserting section 142BAA into the RT Act to require a rooming house operator who provides a room in a rooming house to a rooming house residence or provides a residence of a rooming house a facility or service or provides a rooming house resident with access to a common area to keep records that are sufficient to demonstrate compliance with rooming house standards under section 142B of the RT Act and produce relevant records at the request of the Director. The clause inserts section 142BAA(4) into the RT Act to allow the Director to publish notices of the types of records that are sufficient compliance with section 143B of the RT Act. This clause has been developed to address the difficulty in enforcing compliance with rooming house standards under section 142B of the RT Act, which currently does not require a rental provider to maintain records that their rental premises meets the prescribed standards.

To the extent that clauses 15 and 19 of the Bill engages the right to privacy by requiring the maintenance of records to demonstrate compliance with prescribed minimum rental standards, it is my view that the confidentiality and information sharing clauses in the Bill are appropriately circumscribed so as not to authorise any arbitrary interferences with privacy. Clause 15 of the Bill addresses enforcement issues with the prescribed minimum rental standards and increases the scope of Consumer Affairs Victoria to undertake enforcement activities where rental providers do not meet the standards. These amendments are reasonable as the obligation to keep compliance records is limited to the purposes of demonstrating compliance with rental minimum standards and compliance with minimum rooming house standards. I consider it is reasonable for the information to be retained to support enforcement of safety and compliance with minimum standards.

Accordingly, I consider that these clauses under the Bill are compatible with the right to privacy and reputation under section 13 of the Charter.

Freedom of expression (section 15)

Section 15(2) of the Charter provides that every person has the right to freedom of expression. This includes the freedom to seek, receive and impart information and ideas of all kinds; whether orally, in writing, in print or by way of art or other medium chosen by that person. The right to freedom of expression is generally considered to include the right to not impart information. Section 15(3) of the Charter provides that special duties and responsibilities are attached to the right to freedom of expression and that the right may be subject to lawful restrictions reasonably necessary to respect the rights of other persons and for the protection of national security, public order, public health or public morality.

Fuel retailers to provide information to the Director
Clause 23 of the Bill inserts new sections 106B, 106F, 106I and 106J into the ACLFT Act, which compels fuel retailers to provide certain information, namely registration information required to onboard a fuel retailer into the scheme, information regarding the maximum fuel price for the following day, information about the actual fuel price at point of sale, and information regarding fuel types that have become temporarily unavailable. Although fuel retailers are most likely bodies corporate or other bodies carrying on a business, it

is possible for them to be natural persons. Section 106L provides the Director with the power to, among other things, collect any information to the extent necessary for the Director to perform a function or exercise a power under Part 5.3 of the ACLFT Act. Similarly, section 109(la), in clause 24 of the Bill, provides the Director with a new function that allows the Director to collect information relating to the prices at which fuel is offered for sale to retail customers. However, to the extent that the Bill may be considered to engage individuals' rights to freedom of expression, I consider that any limitation of this right is balanced by the requirement to protect the rights of the public, specifically those in the market for fuel.

These amendments are required to ensure that consumers can make fully informed decisions to purchase fuel, with transparency of costs. Therefore, to the extent that freedom of expression is engaged by provisions in the Bill that require fuel retailers to provide information to the director, these provisions fall within the exception in section 15(3) of the Charter, as reasonably necessary to respect the rights of another person.

Property rights (section 20)

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

Fees in relation to bonds
Clause 5 may limit the right to property by inserting new section 423E into the RT Act to permit the Authority to recover from a renter any bank fees incurred by the Authority in relation to the transfer of the renter's bond or the repayment of an amount of bond under new sections 423P or 423Q (which concern disputed bond claims). The right to property may be limited as renters participating in the Scheme will be charged debt and credit card transaction fees by the Authority in order to transfer of their bond or repayment of a bond amount. However, to the extent that the right to property is limited, I am of the view that the clause is precise and appropriately prescribed, is not arbitrary and is in accordance with the law. The bank fees recouped from the renter is to recover the costs of administering the transaction to support the renter in transferring or repaying their bond. It is reasonable to recoup bank fees from a renter incurred by the Authority in carrying out the directions from the Secretary in relation to the administration of the Scheme.

Clause 5 also inserts new section 423F, which may limit the right to property by requiring a renter to pay a prescribed fee to apply to transfer the bond under the new scheme inserted by Division 1 of Part 2 of the Bill. Prescribing a fee to access the transfer of bond monies that the renter is entitled to limits the renter's access to their bond money if they seek access to the scheme. However, if a renter seeks to avoid this fee, they can still seek to claim their rental bonds under section 411 of the RT Act, and not avail themselves for the scheme. To the extent that the right to property is limited, I am of the opinion that the clause is precise and appropriately prescribed, is not arbitrary and is in accordance with the law. The prescribed fee requested from renters is at cost recovery of administering the transfer of a bond which benefits renters. The prescribed fee is returned to the renter where the Secretary refuses the renter's request to transfer their bond or the second rental agreement is invalid or terminated.

Limitations on fuel retailers concerning the sale of fuel
Clause 23 may limit the right to property by inserting new Part 5.3 – Fuel retailers into the ACLFT Act, which regulates fuel retailers in how they sell and advertise the price of fuel. The right to property may be limited by prohibiting fuel retailers who do not become 'confirmed fuel retailers' from selling fuel, and limiting 'confirmed fuel retailers' from selling fuel for more than their reported maximum price. This may limit fuel retailers' control over their property by limiting their ability to set the terms for sale of the goods. To the extent that clause 23 may deprive fuel retailers who are not 'confirmed fuel retailers' of full use of their property, I consider that the deprivation is in accordance with law as the framework to ensure compliance is accessible to the public and precisely set out. Additionally, the limitations on rights are balanced as fuel retailers are able to set their own maximum price, the restriction on their ability to increase price is lifted every 24-hours (that is, they have discretion to increase prices once every 24-hours), and they retain full control of price decreases. The requirements are non-arbitrary and lawful as they are necessary to implement the Fair Fuel scheme, which will benefit consumers through enhanced price transparency and certainty, and I consider this a reasonable limitation that can be justified in a democratic society.

Extending gas and electrical safety checks to all rental properties
Clause 17 of the Bill may limit the right to property by inserting sections 68A(1A) and 68A(1B) into the RT Act to extend current requirements in the RT Act for residential rental providers to undertake gas and electrical safety checks to apply to all rental properties, ensuring that gas and electrical safety checks are undertaken without exception. The Bill requires residential rental providers to undertake gas and electricity safety checks on the rented premises every 2 years and arrange a safety check to be undertaken as soon as practicable if a

check has not been undertaken in the previous 2 years. These amendments may impose a limitation on property rights as a renter will be required to allow a licensed electrician or licensed gasfitter onto their rental property from time to time to undertake safety checks.

To the extent that Clause 17 of the Bill may limit property rights by requiring a renter to allow access to their place of residence for licensed electricians or licensed gasfitters, I am of the view that the clause is precise and appropriately prescribed, is not arbitrary and is in accordance with the law. The Bill imposes obligations on the residential rental provider to ensure gas and electrical safety checks are undertaken on rental properties at particular points in time by a licensed electrician or licensed gasfitter, as a critical safety measure to ensure the safety of renters in their place of residence. The Bill, therefore, is drafted to ensure that the requirement to organise gas and electrical safety checks is not an open- ended requirement on residential rental providers that may create uncertainty for renters about when checks are required to be undertaken at their place of residence. I consider any limitation to be reasonable and justifiable to ensure that rental properties are safe and comply with minimum standards.

For these reasons I am of the opinion that these provisions are compatible with the right in section 20 of the Charter, and to the extent that they may constitute a deprivation of property, any such deprivation will be in accordance with law and therefore compatible with the right to property.

Fair hearing (section 24)

Section 24(1) of the Charter provides that a person charged with a criminal offence or, who is a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The term 'civil proceeding' in section 24(1) has been interpreted as encompassing proceedings that are determinative of private rights and interests in a broad sense, including some administrative proceedings. It is well recognised that judicial determination of a person's civil rights and liabilities is a crucial element of the fair hearing right. This right will be engaged where a person is prevented from having their civil rights or liabilities in a proceeding considered by a court. However, this right does not prevent the State from amending the substantive law to alter the content of those civil rights.

The Bill engages the right to a fair hearing by operating effectively to allow judicial review of decisions made by the Secretary in administering the transfer of bond scheme in Division 1 of Part 2 of the Bill to be made to the Supreme Court and it is not intended for a person to have the right to review a decision of the Secretary through the Victorian Civil and Administrative Tribunal (VCAT). This is intended to ensure that any potential or perceived conflicts of interest with VCAT hearing matters on review of decisions of the secretary while having decision making powers under the RT Act are avoided and that the general public can be confident that judicial reviews will be undertaken by the judiciary fairly and impartially.

Clause 22 of the Bill may limit the right to a fair hearing by substituting sections of the RT Act in relation to application times for a person to seek an order under the Act. Clause 22 of the Bill substitutes section 46(2) of the RT Act to require a renter to, upon receiving a report from the Director, apply to VCAT for an order declaring the rent or proposed rent excessive within 30 days of receiving the report. Clause 22 of the Bill also substitutes section 103(2) of the RT Act to require a renter to, upon receiving a report from the Director under section 102 of the Act, apply to VCAT for an order declaring the proposed rent excessive within 30 days of receiving the report. Further, Clause 22 of the Bill also substitutes section 154(2) of the RT Act to require a renter to, upon receiving a report from the Director under section 153 of the Act, apply to VCAT for an order declaring the proposed rent or hiking charge excessive within 30 days of receiving the report.

To the extent that the Bill may limit the right to a fair hearing by restricting application period for renters seeking a relevant order, the limitation is reasonable and justifiable. The timeframe is consistent with 30-day timeframe to make application to the Director of Consumer Affairs Victoria. The Bill makes technical drafting amendments to current requirements under the RT Act, ensuring that the Bill does not create new application requirements for renters.

Accordingly, I consider that this clause under the Bill is compatible with the right to a fair hearing under section 24 of the Charter.

Rights in criminal proceedings (section 25)

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. The High Court has described this right as incorporating the fundamental requirement that 'the prosecution in a criminal case has the burden of proving guilt', that is, that a conviction can follow only where every element of an offence has been proved by the prosecution beyond reasonable doubt.

Fuel retailers to provide 'reasonable excuse' for failing to report on matters concerning fuel prices
Clause 23 of the Bill engages rights in criminal proceedings by inserting section 106F into the ACLFT Act creating an offence stating that a confirmed fuel retailer must not, without reasonable excuse, fail to provide a maximum fuel price to the Director. Further, clause 23 of the Bill inserts sections 106I and 106J into the ACLFT Act creating offences that state that a confirmed fuel retailer must not, without reasonable excuse, fail to notify the Director of an increase or decrease of the normal selling price of fuel or the temporary unavailability of any fuel the retailer offers for sale.

The introduction of offences in clause 23 of the Bill that provide for the defence of reasonable excuse creates an evidentiary burden only on an accused to raise the argument of, and provide evidence for, a reasonable excuse for non-compliance as a defence to the aforementioned offences in clause 23 of the Bill, which the prosecution will then be required to rebut. Additionally, the offences are narrowly tailored to specific conduct, with clear examples of what may constitute reasonable excuse set out in a way that is structured, accessible to the public, and formulated precisely. It is my view that the amendments are reasonable and proportionate. Accordingly, I consider that this clause under the Bill is compatible with rights in criminal proceedings under section 25 of the Charter.

I consider that the Bill is compatible with the Charter because it does not limit any rights under the Charter.

The Hon Harriet Shing MP
Minister for the Suburban Rail Loop
Minister for Housing and Building
Minister for Development Victoria and Precincts

Second reading

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:54): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

This government believes in a fair go for all Victorians. At the heart of that commitment is tackling the rising cost of living and ensuring the markets that serve Victorians are fair, transparent and work for them. This bill delivers on this commitment by introducing significant and practical reforms on two of the biggest fronts in the battle against cost of living pressures: the price for fuel and the cost of housing.

Amendments to the Australian Consumer Law and Fair Trading Act 2012

The Victorian Government is committed to addressing cost of living pressures and helping consumers stretch their money further, especially on essential commodities like fuel. That is why, earlier this year, the Victorian Government announced the Fair Fuel Plan.

Phase 1 helps consumers' money go further through up-to-date price transparency for fuel. The Victorian Government implemented Phase 1 of the Fair Fuel Plan and launched the Servo Saver feature through Service Victoria in October 2025. All fuel retailers in Victoria are required to report their fuel prices, so that Victorians can access comprehensive, accurate and timely fuel price information. Through this feature, the Victorian Government is backing Victorian motorists to give them more power at the bowser by giving them the confidence they are getting the best deal when they fill up. The introduction of this reform aligns Victoria with other states and territories who have had similar schemes in place for many years.

The Bill I am introducing today builds on this reform and takes Victoria one step further.

Phase 2 of Fair fuel Plan will increase certainty by introducing 24-hour price caps

The *Australian Consumer Law and Fair Trading Act 2012* establishes a framework of fundamental rights and protections for consumers to ensure they are treated fairly in the marketplace. The Consumer Legislation Amendment Bill 2025 will help achieve this by amending that Act to require fuel retailers to report their maximum fuel price in advance, protecting consumers against unexpected price increases. Currently, Victorian motorists only find out that the price of petrol is going up when they pull into a service station and see that it's 10, 20 or 30 cents more a litre than it was when they drove past earlier that day.

This Bill addresses this issue in 2 ways.

First, retailers are required to report, a day in advance, what their maximum fuel price will be. Retailers will have to report the maximum before 2pm, and that price will be published to the public at 4 pm. This means that Victorians will not just see the price of petrol now, but the maximum fuel price for the following day as well. It means that they can decide whether it will be cheaper to fill up when they go to do the groceries that

night or if they stop to fill up on their way into work the next morning. The Bill will make sure that the maximum price gets locked in for 24 hours and it will be an offence to sell fuel above that price.

Second, retailers will only be permitted to lower their fuel prices throughout the day. This means that once a day's maximum fuel price comes into force at 6 am, the price of fuel cannot go up for 24 hours. While the price cannot go up, there will be no limitations on a retailer's ability to lower their prices throughout the day – we do not want to lock in higher prices.

This means that Victorian motorists cannot be stung by surprise fuel price rises.

This Bill builds on the first phase of the Fair Fuel Plan that requires retailers to report price changes throughout the day. To ensure retailers are appropriately incentivised to report the information consumers need to make informed purchasing choices. It will be an offence to fail to report price changes within 30 minutes. It will also be an offence for fuel retailers to fail to report if a type of fuel they sell has become temporarily unavailable. This will help prevent situations where consumers drive to a particular fuel station based on a reported price, only to find when they get there that the fuel has sold out.

Overall, the changes implemented in this Bill will help Victorians save money by allowing them to find the cheapest fuel in their area and giving them advance notice of any price increases. It helps level the playing field between Victorians and the fuel industry by equipping motorists with the information they need to make choices that could save them hundreds of dollars a year.

Amendments to the Residential Tenancies Act 1997

This Bill introduces a landmark reform for Victorian renters by delivering a Portable Rental Bond Scheme (Scheme). This reform is a key cost of living initiative in the government's 2023 Housing Statement, which will create a fairer, more accessible, and more modern rental market.

The introduction of the Scheme will ease one of the most significant financial hurdles renters often face when moving between rental properties due to the need to pay a new bond before their old one has been returned. For too long, the 'double bond dilemma' has placed unnecessary and stressful financial burdens on renters.

This Bill provides a clear, sensible, and practical solution to this issue through the establishment of the Scheme, which will be open to all eligible Victorian renters.

The Scheme will ease financial burdens for Victorian renters moving between rental properties

The Bill amends the *Residential Tenancies Act 1997* (RT Act) to establish a voluntary Scheme. The key objective of the Bill is to establish the Scheme that will allow eligible renters to transfer an existing bond lodged with the Residential Tenancies Bond Authority (Authority) to another rental property, removing the cash flow crunch that so many Victorians experience. The establishment of the Scheme by the Bill will deliver immediate and significant benefits to the more than 1.5 million renters in Victoria who will be able to secure a new rental home with confidence and less financial stress.

The Bill provides for the Scheme to be administered by the Secretary, Department of Government Services (Secretary), with the Victorian Government acting as a guarantor for transferred bonds and claims made against a bond. The Secretary will oversee eligibility requirements, direct the Authority to transfer bonds, and manage the Scheme's financial aspects.

A renter can apply to transfer their bond once they have secured a new rental agreement and paid the first months' rent. To participate in the Scheme, renters will need to meet eligibility criteria, pay a small prescribed administrative fee, and pay any shortfall if the new bond is higher than their existing one.

For the second rental provider, the process remains familiar. They will be notified of the bond transfer and will lodge a bond lodgement form with the Authority, just as they do now.

Managing claims and protecting rental providers through a streamlined process

A critical feature of this Scheme is that rental providers are not disadvantaged. When a bond is transferred, the first rental provider's right to claim against that bond is protected, with the Victoria Government acting as guarantor.

If the first rental provider makes a claim – whether it is agreed to by the renter or determined by VCAT – the Secretary will direct the Authority to pay the valid claim amount. This process ensures that rental providers are paid promptly, and their financial interests are secure.

Debt recovery and hardship support highlights a compassionate approach

If the Authority pays a bond claim on behalf of a renter, the renter will owe that amount as debt to the State. The Bill provides the Secretary with the necessary powers to manage and recover these debts, which will be owed to the State.

The Secretary will notify the renter in witting of the amount owed, which must be repaid within a period of 8 weeks, where no other arrangement has been entered into.

To provide renters with the time and flexibility they need to pay any debts owed, the Bill also provides multiple repayment pathways, including entering into a payment plan, referral of unpaid debt to a debt collection agency, or offsetting the amount from the renter's bond at the end of their next tenancy.

Crucially, the Bill is designed with a strong safety net, with existing bond-related protections for renters who are victim-survivors of family violence continuing to operate under the Scheme. The Bill also provides the Secretary with powers to develop guidelines for hardship and offer payment plans, or in appropriate circumstances, write off a debt. The government understands that people's circumstances can change, and this framework ensures a compassionate and fair approach to bond debt recovery.

Finally, to ensure the scheme operates as intended, the Bill includes a requirement for the Minister for Consumer Affairs to review its operation within 3 years of its commencement and table a report in the Parliament. This guarantees transparency and accountability for the Scheme and ensures that it is operating as intended.

Additional rental reforms will further strengthen protections for Victorian renters

The RT Act already makes allowances for fair wear and tear in rental properties, but we know there is an emerging practice of some rental providers or their agents misrepresenting or exaggerating bond claims to keep more money in their pockets. The Bill introduces reforms that will require rental providers or their agents to provide supporting evidence to a renter before they can make any claims on the bond. Supporting evidence includes invoices, receipts, quotes or any other prescribed evidence and must be provided to a renter 3 days before a bond claim is made.

To further discourage exaggerated bond claims the Bill introduces an offence with penalties for a rental provider or their agent to make an application to VCAT without supporting documentary evidence, or where the supporting documentary evidence conflicts with a statement in a condition report.

These amendments seek to reset power imbalances between renters and rental providers and will enable renters to better challenge unfair bond claims.

The Bill also addresses an emerging and unfair practice that places yet another financial hurdle in front of Victorian renters. There is anecdotal evidence and media reporting that indicates some agents are upselling background checks to rental applicants who may feel compelled to pay up to $30 for checks to make their rental application appear more competitive. To address this issue, the Bill amends the RT Act to prohibit rental providers or their agents from charging prospective renters a background check fee as part of the rental application process.

In addition, the Victorian Government continues to build on our 2021 rental reforms, which introduced rental minimum standards to improve the safety, amenity and energy efficiency of rental properties.

To further protect renters, the Bill will deliver on the commitment made by the government to require gas and electrical safety checks every 2 years by qualified tradespersons for all rental properties. This is a significant reform that will ensure that critical safety checks apply to all rental agreements regardless of when an agreement was entered into or whether gas and electrical safety check activities are explicitly set out in an agreement.

The Bill also introduces reforms to mitigate risks to renter living in rental properties with gas appliances that may arise from undertaking activities under the new draughtproofing rental minimum standard. To protect the safety and wellbeing of renters, all rental providers will need to conduct a gas check within 6 months before they undertake draughtproofing work, to ensure there is adequate ventilation for gas appliances to operate safely.

The Bill will also strengthen renter protections by providing the Director of Consumer Affairs Victoria (Director), as the regulator for the Victorian rental and rooming house sectors, with the necessary tools to ensure rental providers and rooming house operators comply with prescribed minimum standards.

The Bill does this by providing powers to the Director to publish notices of the types of records that are sufficient for rental providers and rooming house operators to demonstrate compliance with rental minimum standards. In doing so, the Bill ensures investigators from Consumer Affairs Victoria can rely on documentary evidence to quickly and easily identify compliance with minimum standards, and if necessary, take enforcement action for non-compliance.

Amendments to a range of consumer property Acts will ensure effective operation of continuing professional development (CPD) reforms for property professionals

The Victorian Government recognises that poor conduct by property industry professionals can cause financial, health and social harms to Victorian renters and consumers. Renters are particularly vulnerable to

the impacts of poor conduct. In the Housing Statement, the government committed to introducing mandatory CPD and licensing for property industry professionals to raise competency and professional standards in the property industry to improve outcomes for Victorian renters and consumers.

The *Consumer and Planning Legislation Amendment (Housing Statement Reform) Act 2025* (Housing Statement Reform Act) delivers this Housing Statement initiative, which will come into effect in phases following commencement of the Act on 25 November 2025.

The Bill includes amendments to provide the Business Licensing Authority (BLA) with flexibility and powers to regularly update mandatory CPD to ensure that property professionals take ongoing training in topics that reflect current concerns and issues in their industry.

The Bill will also enable better controls over the quality of CPD training providers by enabling regulations to be made authorising the BLA to approve or prohibit CPD providers that do not meet required performance standards from delivering CPD activities.

These reforms are designed to improve the standard of education and CPD training provided to property professionals. Together, these reforms will give renters and property purchasers' peace of mind that property professionals are well-educated and have the necessary competency and professionalism to provide them with services they expect and deserve.

I commend the Bill to the house.

Gayle TIERNEY: I advise the house that some amendments to the Consumer Legislation Amendment Bill 2025 were passed in the Legislative Assembly. The introduction print of the bill inadvertently omitted a single word from paragraph (b) of the proposed new section 419A(1A). The house amendment inserts the word 'not' into paragraph (b), so it will read:

the bond claim evidence does not conflict with a statement in a condition report.

This amendment acquits the recommendations of the Scrutiny of Acts and Regulations Committee report and will give effect to the policy intent behind clause 11 of the bill by correcting this minor proofreading omission in the introduction print. I commend the amendment to the house.

David Davis: On a point of order, President, with all the hubbub in the chamber I could not actually hear clearly what these amendments are about.

Gayle TIERNEY: It is a minor omission in the proof.

David Davis: There was an error?

Gayle TIERNEY: It is a very minor one where the amendment inserts the word 'not' into paragraph (b) of the proposed new subsection 419A(1A).

David DAVIS (Southern Metropolitan) (20:56): I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Transport Legislation Amendment Bill 2025

Introduction and first reading

The PRESIDENT (20:57): I have received the following message from the Legislative Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Bus Safety Act 2009**, the **Commercial Passenger Vehicle Industry Act 2017** and the **Transport (Compliance and Miscellaneous) Act 1983** and for other purposes.'

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:57): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Gayle TIERNEY: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:57): 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 Transport Legislation Amendment Bill 2025.

In my opinion, the Transport Legislation Amendment Bill 2025 (the **Bill**), as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The purposes of the Bill are threefold.

The first is to amend the *Bus Safety Act 2009* (**Bus Safety Act**) to repeal the offence of failing to sign a certificate of accreditation on receipt.

The second is to amend the *Commercial Passenger Vehicle Industry Act 2017* (**CPVI Act**) to require booking service providers and drivers of commercial passenger vehicles who are, or have previously been, associated with a booking service provider to notify the regulator of certain information; to expand the public care objective; to repeal the offence of failing to sign a certificate of accreditation on receipt; to further provide for the circumstances in which the regulator may cancel a driver's accreditation; to further provide for the regulator to publish certain information in relation to enforcement action the regulator has taken; and to impose penalties on drivers of commercial passenger vehicles who display false and misleading signage in relation to their association with a booking service provider. The Bill also further provides for the recording, access, use and disclosure of data recorded in commercial passenger vehicles.

The third is to amend the *Transport (Compliance and Miscellaneous) Act 1983* (**TCM Act**) to facilitate new methods of obtaining or proving entitlement to use a public transport service; to apply evidentiary provisions to those new methods of obtaining or proving an entitlement to use a public transport service; and to provide for the prescribing of a computer system for the processing of concession entitlements.

The Bill makes other minor and technical amendments.

Human rights issues

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

- The right to recognition and equality before the law, under section 8 of the Charter;
- Freedom of movement, under section 12 of the Charter;
- The right to privacy and reputation, under section 13 of the Charter;
- Freedom of expression, under section 15 of the Charter;
- Property rights, under section 20 of the Charter;
- The right to a fair hearing, under section 24 of the Charter;
- The presumption of innocence, as protected under section 25(1) of the Charter;

For the reasons outlined below, in my opinion, the Bill is compatible with each of these rights.

Amendments to the CPVI Act

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

Right to privacy (s. 13)

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have their reputation unlawfully attacked.

The right includes the right of a person to have control over their personal information, and the freedom to participate in society without organisations collecting and sharing that personal information. Where

information is collected, the right extends to providing a person with control over their information, including maintaining their right to determine 'when, how, and to what extent' to use or disclose that information.

The Charter Act's informational privacy obligation is generally interpreted consistently with the obligations contained in the *Privacy and Data Protection Act 2014*.

The Bill introduces new provisions governing the collection, possession, disclosure and use of data obtained from security cameras and audio recording devices installed in commercial passenger vehicles. These measures engage the right to privacy as they involve the handling of personal and sensitive information of both drivers and passengers.

Clause 16 substitutes a new section 270 and 271 of the CPVI Act which make the following changes:

- Removal of the prohibition on the audio recording of any passenger of a commercial passenger vehicle, and grant of permission for use of recordings on security cameras or any audio recording devices that have been approved by the regulator and subject to the same legislative parameters as exist for image and data recordings;
- Streamlining of the process for obtaining authorisation to download, use and disclose data from approved security cameras in commercial passenger vehicles. The intention of the reform is that only "authorised persons" are permitted to download security camera data from a security camera or audio recording from an audio recording device installed in a commercial passenger vehicle and that the data or audio is only able to be used and disclosed for the purposes specified in the Act or prescribed in regulations.
- Repeal of references to written agreements with the regulator. In practice, no agreements in accordance with section 271 of the CPVI Act have been made to date.
- Provision that that these authorised persons can download, use and disclose security camera images, audio or other data if it is for an "authorised purpose". It is proposed that an "authorised purpose" will be a combination of listed purposes and purposes prescribed in regulations.
- Requiring that all persons authorised to download, use or disclose security camera data must put safeguards in place to protect that data from unauthorised use or disclosure, specifically complying with standards to manage and protect security camera data which will be determined by the regulator.

Not all of the information required to be provided to the regulator under these provisions will be of a private nature, nor be information concerning a natural person – as opposed to information concerning a corporation to which the Charter does not apply. However, to the extent that the requirements under the Bill may result in an interference with a person's privacy, any such interference will be lawful and not arbitrary. The provisions that require or permit the collection of information are clearly set out in the Bill and the CPVI Act already, and are directly related to the regulator's regulatory and enforcement functions. Further, participants in a regulated industry have a reduced expectation of privacy.

Any interference with privacy under the Bill is lawful and not arbitrary. The measures pursue the legitimate purpose of protecting public safety, ensuring accountability within the commercial passenger vehicle industry, and preventing the misuse of private information. The Bill establishes strict limits on who may access such data and the purposes for which access is permitted, and introduces minimum standards for protection of data, thereby providing appropriate safeguards.

For these reasons, I am satisfied the Bill does not limit the right to privacy.

Property rights (s. 20)

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right is not limited where there is a law which authorises deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

Clause 11 of the Bill introduces a new "two strikes and you're out" scheme for commercial passenger vehicle drivers who will lose their accreditation if found guilty of a specified offence on two separate occasions within a time span of 10 years.

Statutory rights, such as those arising from accreditation or any "licence" to participate in a regulated industry, are inherently subject to change and, for this reason, are less likely to be found to be proprietary rights. In these circumstances, I am of the opinion that the new provision for cancelling driver's accreditation will not amount to a deprivation of property. Even if it did, it is clear that such a deprivation would be in accordance with law.

Accordingly, I am satisfied that any deprivation of property pursuant to these powers will be in accordance with law and, consequently, will not limit the right in section 20 of the Charter.

Freedom of Expression (s. 15)

Section 20 of the Charter establishes a number of rights relating to the freedom of expression. These include the right to hold an opinion without interference, and the right to seek, receive and impart information and ideas of all kinds whether within or outside of Victoria, and whether orally, in writing, in print, by way of art of in another medium.

Clause 15 of the Bill inserts a new offence of false and misleading signage on vehicles not associated with a booking service provider. A driver of a motor vehicle must not provide a commercial passenger vehicle service in a vehicle that displays signage associated with a booking service provider if the driver is not an associated driver for that booking service provider.

The prohibition on the use of false and misleading signage by drivers not associated with a booking service provider may be considered a restriction on expression. However, the restriction is narrow, proportionate, and directed at preventing consumer deception and ensuring public confidence in the commercial passenger vehicle industry. The restriction does not prevent drivers from expressing personal views or engaging in lawful advertising and is therefore a proportionate and reasonable limitation.

For these reasons, I am satisfied that the Bill is compatible with section 15 of the Charter.

Right to Equality (s. 8)

Section 8(2) of the Charter provides that every person has the right to enjoy their human rights without discrimination. Discrimination includes both direct and indirect discrimination on the basis of a protected attribute, such as disability.

The Bill amends the public care objective under the CPV Act to require that commercial passenger vehicle services be provided without discrimination or sexual harassment. This amendment positively advances the right to equality by reinforcing protections for passengers and drivers against harmful conduct. It supports broader anti-discrimination objectives under the **Equal Opportunity Act 2010** and does not limit Charter rights.

For these reasons, I am satisfied that the Bill advances the aim of section 8 of the Charter.

Freedom of Movement (s. 12)

Section 12 of the Charter provides, amongst other things, that a person has a right to move freely within Victoria. The right to move freely includes freedom from procedural barriers in public spaces, as well as reporting obligations in relation to moving. It also includes the right to access facilities which are necessary for the enjoyment of freedom of movement, and a right to access services used by members of the public.

The Bill provides for the suspension or cancellation of driver accreditation and booking service provider registration in certain circumstances, including mandatory cancellation for repeated serious offences. While these measures may affect an individual's capacity to work within the commercial passenger vehicle industry and thereby impact freedom of movement in an indirect sense, the limitations are reasonable and proportionate. They serve the important objective of ensuring the safety of passengers and the integrity of the industry and apply only in cases where conduct is inconsistent with regulatory standards or public expectations.

Fair Hearing (s. 24)

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The Charter right to a fair hearing is not limited to judicial proceedings and can include administrative proceedings. The fair hearing right encompasses the concept of procedural fairness, which includes the requirement that a party have a reasonable opportunity to put their case under conditions which do not place that party at a substantial disadvantage relative to their opponent.

The Bill maintains avenues for review of regulatory decisions, including through applications to the Victorian Civil and Administrative Tribunal. These provisions ensure that individuals affected by suspension, cancellation or disciplinary action have access to an independent and impartial tribunal, consistent with the right to a fair hearing.

Justification for Limitations

To the extent that the Bill imposes limitations on rights, those limitations are demonstrably justified under section 7(2) of the Charter. The nature of the rights affected is limited, the scope of the limitations is narrow, and the purpose of the limitations – being public safety, consumer protection, equality of service, and integrity

of industry regulation – is of significant importance. The limitations are proportionate, rationally connected to their objectives, and are the least restrictive means reasonably available.

Amendments to the TCM Act

To support the analysis of why I consider that the amendments made by the Bill to the TCM Act are compatible with the Charter Act, it is helpful to briefly describe the difference between the current and new regulatory schemes for public transport ticketing and how they operate and apply the commentary to the human rights analysis below.

This is because the amendments are primarily made to enable the regulatory framework in that Act to apply to new forms of token and of obtaining an entitlement to travel. The Act is supported by regulations and Conditions determined under section 220D(1) of that Act.

The Bill also enables regulations to be made to prescribe a computer system or the requirements for the processing of concession entitlements.

Introduction of new forms of obtaining or proving an entitlement to use a public transport service

The amendments to the TCM Act facilitate the introduction of new forms of obtaining or proving an entitlement to use a public transport service, including the use of debit and credit card smartcards, and digital debit and credit cards stored in a digital payment application (app or digital wallet).

Clause 21 of the Bill inserts a definition of *ticket* into section 2(1) of the TCM Act. The amendment to the TCM Act provides that *ticket* means an entitlement to use a public transport service, which is a service provided by a bus company or a passenger transport company to transport members of the public, and includes any ancillary matters such as allowing entry to any place used in relation to the provision of such a service. This new definition will replace the current definition of *ticket* in the Transport (Compliance and Miscellaneous) (Ticketing) Regulations 2017 (the Ticketing Regulations).

Clause 22(d) of the Bill inserts definitions of *token* and *State token* into section 208 of the TCM Act. A token is a thing that may lawfully be used for the purpose of obtaining, or proving the existence of, a ticket. A token may be a State token, or may be prescribed, or approved by Ministerial notice published in the Government Gazette, to be a token.

A ticket is obtained from the use of a token which, if used in accordance with the Conditions made under section 220D of the TCM Act, will ensure that a person travels, or enters a compulsory ticket area, with a valid ticket. The Ticketing Regulations provide for offences, defences and related matters to support the regulatory scheme for public transport ticketing.

A State token is a token issued by or on behalf of the Head, Transport for Victoria (**Head, tfv**), the body corporate established under the *Transport Integration Act 2010*. Myki Smartcards, Mobile myki (which are digital myki) and V/Line paper tickets are each examples of State tokens. Myki Smartcards and Mobile myki operate in a closed electronic system where there is only one merchant (the Head, tfv).

Debit or credit card Smartcards, and digital debit or credit card digital cards, are tokens but are not State tokens. For example, when a debit or credit card that is a smartcard is used to purchase an entitlement to travel, the smartcard is the token for the purposes of the Act and the Ticketing Regulations, and the entitlement is the ticket.

The legislative framework which defines tokens and State tokens is important because it enables certain provisions under the Act and the Ticketing Regulations to be appropriately constrained. For example, the provisions which empower an authorised officer to require a token to be surrendered are limited to State tokens.

Prescribing a computer system for the processing of concession entitlements

Clause 27(d) of the Bill inserts new section 221AA(1)(ca) into the TCM Act, which enables regulations prescribing a computer system and the related processes for the purpose of collecting, managing, processing, summarising, storing and transmitting information relating to concession entitlements for public transport services to be made.

The Bill enables regulations to be made prescribing the process or requirements in relation to the validation of concession entitlements as improvements are made to Victoria's public transport system.

Right to Equality (s. 8)

The Bill would facilitate ease of travel and access to Victoria's public transport system by opening up new payment methods of obtaining a ticket (that is, an entitlement to travel and concessions].

In my opinion, for those reasons, the Bill promotes the right to equality.

Freedom of Movement (s. 12)

The provisions in the Bill promote freedom of movement by bringing a range of benefits to users of Victoria's public transport network, including a wider choice of means with which to obtain an entitlement to travel, saving time and effort, and providing greater flexibility.

Freedom of Expression (s. 15)

The right to freedom of expression encompasses a freedom not to express (for example, to say nothing or to not provide information).

Clause 23 of the Bill amends section 220AA(c) of the TCM Act, which contains an offence to give information that is relevant or possibly relevant for the purposes of Division 4 of Part VII of the TCM Act which the person knows, or believes, to be false to any of specified classes of person who are performing a function under that Division. These include a person employed by a passenger transport company or a bus company who has duties in relation to the issue, inspection, scanning or collection of tickets and tokens for, or the operation of, a vehicle operated by the company.

While references to *scanning* and *tokens* are added to this provision, this does not change the effect of the offence but rather updates the description of what such an officer is engaged to do. As such, the amendment does not engage the right to the freedom of expression because the substantive offence is unchanged.

Similarly, section 220A of the TCM Act is amended by clause 24 of the Act so that, instead of providing that a person must not by fraudulent means, by false or misleading representation, or by other dishonesty obtain a ticket or other thing that can be used to prove an entitlement to use a public transport service, the provision instead applies to a *ticket or State token*. The reference to 'other thing that can be used to prove an entitlement to use a public transport service' is omitted, ensuring that the existing offence remains appropriately constrained.

Section 220B of the TCM Act is also amended, by clause 25 of the Bill. Section 220B(1) currently makes it an offence to counterfeit a ticket or other thing that can be used to prove an entitlement to use a public transport service. The amendment made by the Bill changes the offence to provide that a person must not counterfeit a State token. That also limits the application of the offence.

Section 220B(2) is also amended so that a person must not alter, or attempt to alter, a ticket or State token (rather than other thing that can be used to prove an entitlement to use a public transport service). The amendments ensure that the offence again remains appropriately constrained.

Section 220C, which is amended by clause 26 of the Bill, is amended with like effect so that a person must not claim or take the benefit of an exemption to pay for a ticket, or of a concessionary discount of such a payment, to which they are not entitled if they know that they are not entitled to that benefit. The Bill substitutes the phrase 'an entitlement to use a public transport service' with 'a ticket', ensuring that the offence remains appropriately limited in scope.

The amendments in the Bill insert a new regulation making power to prescribe a computer system and processes relating to concession entitlements. Any new regulations prescribing a computer system used for the processing of concession entitlements will likely require a person to provide proof of concession entitlement. However, a person can choose whether or not to submit an application for concession, or to authorise, or not authorise, another person or body (such as a health care provider) to do so.

For the reasons explained above, in my view the amendments do not impermissibly limit the right to the freedom of expression.

Right to privacy (s. 13)

The amendments in the Bill which amend the regulatory framework supporting the public transport ticketing system do not engage, or do not impermissibly limit, the right to privacy.

Physical and digital debit and credit card (contactless payment token) payments are recognised as separate cards in the banking system, even if they are associated with (and funds come out of) the same financial (cheque, savings or credit) account. In each case, card payment transactions are processed securely.

When used to obtain a ticket, each contactless payment token is also recorded electronically as a different token in the Head, tfv's ticketing computer system. A unique identifier matches any subsequent use of that contactless payment token within the relevant travel period. Fares calculated after the use of the token within the relevant travel period are processed and settled through the Head, tfv's ticketing computer system, which is linked to the banking payments system.

Whilst the existing myki computer system stores customer information (e.g., account balances) and has the computing power to process a transaction on a myki Smartcard or Mobile myki, this is not the same if a debit

or credit card is used to obtain a ticket. Personal information associated with the debit or credit card is not transmitted to the Head, tfv's ticketing computer system.

Although the ticketing computer system records tap or tap offs in order to calculate fares, these are connected to a unique identifier attached to the token being tapped on or tapped off. No personal information about a customer who uses a physical or digital debt or credit card is either obtained or recorded.

If a person wishes to ask Head, tfv for an adjustment if they consider that they have been charged the wrong amount of fare, for example by tapping on with more than one token, they must contact the Transport Victoria contact centre. This involves the provision of limited personal information but, if the customer wishes to ask for an adjustment, no less restrictive means of enabling Head, tfv to consider that request are available.

The Bill also enables regulatory amendments to be made to prescribe how concession entitlements will be collected, managed, processed, summarised, stored and transmitted in connection with the ticketing computer system. Any regulations made through this power will need to comply with the Charter.

In each case, a person can choose not to provide this information.

For the reasons explained above, in my opinion the right to privacy is not impermissibly limited.

Property rights (s. 20)

Clause 27 of the Bill amends section 221AA(1)(b) to provide that regulations can be made regulating the use of tokens, including specifying the circumstances in which a token, or anything that is claimed to be a token, is to be surrendered. This gives effect to the intent that a token that is not a State token, or a personal electronic device on which a State token is held, cannot be required to be surrendered. This ensures that the current constraints on apply appropriately to forms of token that are not State tokens. In my opinion, the right is protected by the amendments made by the Bill.

Fair hearing (s. 24) and presumption of innocence (protected under section 25(1)

The provisions engage both the right to a fair hearing under section 24 of the Charter, and the right to be presumed innocent under section 25 of the Charter. Both rights are engaged by evidentiary provisions in the Bill.

The right to a fair hearing is closely linked to the right to be presumed innocent. The section 25 right is engaged and limited by a provision that creates or amends an offence that contains a presumption of fact or law and puts the legal (persuasive) burden on the accused to rebut the presumption.

Clause 30 of the Bill amends evidentiary provisions in the TCM Act by substituting section 230AB and 203AC with new provisions. The provisions update existing provisions relating to the ability to give certificate evidence in relation to certain matters.

The existing provisions relate to the facts with respect to the use of smartcards. *Smartcard* is currently defined to mean a plastic card or other thing that contains an embedded computer microchip capable of receiving, storing, processing and transferring information, and which may lawfully be used for the purpose of obtaining or proving an entitlement to use a public transport service. This encompasses myki Smartcards and Mobile myki the use of handheld readers to copy or transfer information copied or transferred from that smartcard when the smartcard is produced for inspection. Clause 22(c) repeals the definition of *smartcard*.

Substituted sections 230AB and 203AC have essentially the same effect as the existing sections, but apply to tokens instead of smartcards (as currently defined).

For the purposes of substituted section 230AB, a fact relates to a token if it relates to –

(a) the token itself, including its type and identifying numbers (if any); or

(b) the holder of the token; or

(c) the manner of acquisition of the token (if relevant); or

(d) the existence, or possible existence, of an entitlement to use a public transport service; or

(e) the use of the token.

For the purposes of substituted section 230AC, a certificate may be issued by an authorised officer who used a hand held reader to read, scan, transfer, display, copy or store information from a token produced to the authorised officer for inspection certifying as to the information read, scanned, transferred, displayed, copied or stored from the token in relation to all or any of the following matters –

(a) the token number (if any);

(b) the token type;

(c) the name of the token holder (if applicable);

(d) the use of the token;

(e) the entitlement to use a public transport service.

That certificate is admissible in evidence in any proceedings relating to a ticket offence.

The certificate contains presumptive evidence, but is subject to section 230AF of the TCM Act.

Section 230AE of the TCM Act provides that if the informant in proceedings relating to a ticket offence serves on the accused, by the required time, a copy of a certificate referred to in section 230AC, the certificate is conclusive proof of certain matters including the facts and matters stated in the certificate, and that the facts that are the subject of the presumptions are to be taken to have been conclusively proved.

Section 230AF then provides that the accused in any proceedings relating to a ticket offence may give notice in writing to the informant not less than 28 days before the hearing, or any shorter period ordered by the court or agreed to by the informant, that they require the person giving a certificate referred to in section 230AD to be called as a witness; or that they intend to adduce evidence in rebuttal (in which case the notice must specify the evidence in rebuttal of any fact that is the subject of a presumption, or the fact or matter with which issue is taken, and indicate the nature of any expert evidence that the accused intends to have adduced at the hearing, as the case requires).

In that case, the certificate remains admissible as evidence but ceases to be conclusive proof of the facts or matters (as the case requires).

The changes to the provisions give effect to the use of tokens and, without the amendments, the ability to effectively enforce the requirement to have a valid ticket and conduct efficient and effective prosecutions, and to control fare evasion, will be undermined.

The organisational and administrative burden involved in providing offences would be extensive, even where no real challenge to the reliability of the technology, devices and ticketing computer system. Experts might be required to give highly technical evidence for each court case, and this would result in more cases, and an increased burden on the courts.

Clause 31 of the Bill also enables regulations to be made to prescribe associated processes by amending section 230AH of the TCM Act. These are linked to the evidentiary provisions and relate to the prescription of devices and processes. These are essentially machinery or mechanical in nature.

Noting the provisions in section 230AF, I consider that while this limits the right to a fair hearing, there are no less restrictive means available. I consider that these provisions are compatible with the Charter.

Conclusion

I am therefore of the view that the Bill is compatible with the Charter.

The Hon Harriet Shing MP
Minister for the Suburban Rail Loop
Minister for Housing and Building
Minister for Development Victoria and Precincts

Second reading

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (20:57): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

Overview

This Government is committed to delivering improvements that enhance safety and amenity to Victoria's transport system. We recognise that Victorians do not just rely on trains, trams and buses to move throughout our beloved State. Commercial passenger vehicles also play a critical role in our community to get Victoria moving, forming an integral part of our transport network. This Bill will improve consumer confidence and safety in the commercial passenger vehicle industry. Amendments in the Bill will strengthen compliance and enforcement of commercial passenger vehicle industry laws by broadening the tools available to the regulator to deal with fare overcharging and other driver misconduct. The reforms also increase transparency in the industry by requiring relevant and accurate information in relation to industry participants to be made available to the industry regulator, Safe Transport Victoria, as well as the broader community. The package of reforms in the Bill will ensure the commercial passenger vehicle industry continue to deliver services to the community in line with Victoria's expectation of a safe and efficient service.

This Government is also committed to improving the public transport ticketing system in Victoria. We know the Victorian community expects our public transport network to keep pace with technological advancements in ticketing. Victorians want to be able to use different methods – such as credit and debit cards – to pay for public transport services rather than always having to carry a myki smartcard. This Bill provides technical amendments that will support the introduction of alternate methods of paying for public transport to improve accessibility and convenience when using Victoria's public transport system.

Commercial passenger vehicle industry reforms

In 2017, the Victorian Government introduced a series of reforms to the commercial passenger vehicle industry with the *Commercial Passenger Vehicle Industry Act 2017*. These reforms delivered more choice, safer services and improved customer service to Victorians. Both taxis and rideshare services now make up the commercial passenger vehicle industry, with the size of the industry progressively maturing over the past eight years to deliver more services to the Victorian community.

However, this Government recognises there are still areas for improvement. The Bill amends the *Commercial Passenger Vehicle Industry Act 2017* to implement a package of reforms to the commercial passenger vehicle industry to strengthen compliance and enforcement of industry laws and improve industry transparency, while maintaining a competitive industry and supporting consumer choice.

The Bill reforms the recording, access, use and disclosure of security camera and audio data in commercial passenger vehicles. The reforms will support the monitoring of compliance with commercial passenger vehicle industry laws by creating a more efficient and effective security camera and audio recording framework for investigations of commercial passenger vehicle complaints and incidents.

The Bill will permit security cameras and approved recording devices installed in commercial passenger vehicles to record audio. Presently, audio recordings in commercial passenger vehicles are not permitted in any circumstance. This has placed limitations on what the regulator and Victoria Police can use as evidence when investigating an incident or complaint. Enabling recording of images in conjunction with audio establishes a more comprehensive picture of what has occurred in a commercial passenger vehicle. A verbal exchange or agreement between a driver and passenger can be key to determining the outcomes of certain incidents, such as fare overcharging. Enabling audio recording significantly enhances the tools available to the regulator and other law enforcement agencies for compliance, enforcement and investigative purposes.

Access to security camera and audio recording data will be streamlined under the Bill. In addition to the regulator, Victoria Police and booking service providers will have direct authority to access, use and disclose security camera and audio recording data for investigative purposes. A direct legislative authority will reduce administration burden and enable more rapid investigations of incidents. The Bill also enables other persons to be prescribed or specified by the regulator as an authorised person who can access, use and disclose security camera and audio recording data.

The direct access to security camera and audio recording data will be limited under the Bill. Persons authorised to access, use and disclose security camera and audio recording data may only do so if it is for an authorised purpose. The Bill will ensure that the regulator can access, use and disclose security camera and audio recording data to carry out their functions, including the investigation of an offence against commercial passenger vehicle laws. Victoria Police will be able to access, use and disclose security camera and audio recording data so that police officers can carry out police officer duties, such as investigating and prosecuting crime and road safety laws. Booking service providers will only be allowed to access security camera and audio recording data if the purpose is to assist the regulator or Victoria Police in carrying out their purposes. These measures are cognisant of the importance of providing for legislative constraints on the purposes by which images and audio are used. The Bill ensure that this type of data is only directly accessible for purposes that enable the regulator and Victoria Police to do their jobs.

However, this Government recognises that flexibility may be needed to access commercial passenger vehicle security camera images and audio recording data for purposes other than regulatory means. The Bill enables other purposes to be prescribed or specified by the regulator. This means over time, there is flexibility for the types of authorised purposes by which an authorised person may access, use and disclose security camera audio recording data to be expanded. An example of possible additional purposes for booking services providers could include access to security camera data to assist with training and managing complaints.

Even though the Bill provides for streamlined access to security camera data and audio recording data, strict safeguards will be put in place to ensure that security camera and audio recording data are protected from misuse. The Bill empowers the regulator to determine minimum standards in relation to the collection, possession, transmission, disclosure and destruction of security camera and audio recording data. All authorised persons will be required to comply with the minimum standards, except for public sector organisations who are already subject to privacy standards under the *Privacy and Data Protection Act 2014*.

Reforms to the recording, access, use and disclosure of security camera and audio data in commercial passenger vehicles will be supported by the introduction of a 'two strikes and out' system to further strengthen enforcement against driver misconduct. Safe Transport Victoria is currently required to cancel the accreditation of drivers that are found guilty of serious offences including sexual offences, terrorism offences and serious motor vehicle offences. The Bill requires Safe Transport Victoria to also cancel a driver's accreditation if the driver is found guilty of specified offences on two separate occasions within a 10-year period. This means a driver found guilty of two fare overcharging offences under the *Commercial Passenger Vehicle Industry Act 2017* will now face expulsion from the industry. The Bill also provides for other offences to be specified in regulations. This allows other serious offences relating to driver misconduct, such as failing to operate a taximeter as required or refusing an assistance animal, to be subject to the 'two strikes and out' system. This Government is sending a strong signal to the industry that fare overcharging and other specified driver misconduct will not be tolerated. However, a second chance will be given to drivers who do the wrong thing to correct their behaviour. Only drivers caught doing the wrong thing on more than one occasion are set to face expulsion from the industry.

Commercial passenger vehicle drivers will also be subject to a strengthened public care objective. The Bill clarifies the scope of the public care objective to ensure that services provided by drivers of commercial passenger vehicles are provided to passengers without discrimination, sexual harassment or other conduct that is inconsistent with community standards of acceptable conduct. The change makes clear that Safe Transport Victoria can take disciplinary action for such unacceptable conduct.

A number of reforms to improve transparency and information available to the regulator, Safety Transport Victoria and the broader community will further make improvement to the commercial passenger vehicle industry:

- The Bill requires drivers and booking service providers to notify Safe Transport Victoria of the booking service provider a driver is associated with and whether a driver is a small booking service provider. Greater transparency around driver association and booking services will enable the regulator to gather more comprehensive information on the structure and composition of the commercial passenger vehicle industry.
- The Bill introduces a new offence for drivers who use signage of a booking service provider if the driver is not associated with that booking service provider. Prohibiting false or misleading signage supports customer choice and will facilitate more accurate complaints and incident reporting.
- The Bill also requires that Safe Transport Victoria publish disciplinary actions taken against industry participants on their public register. This will facilitate transparency, act as a deterrent against non-compliance and mitigate the risk of industry participants continuing to behave contrary to the law.

The Bill also makes minor amendments in relation to driver accreditation paper certificates by repealing outdated offences applicable to persons who fail to sign a paper certificate of driver accreditation issued to them by Safe Transport Victoria.

Facilitating improvements to the public transport ticketing system

Over 450 million trips were made on Victoria's public transport myki network in the past year, with each of these trips requiring passengers to touch on and touch off at a train station myki barrier gate or myki reader on trams and buses. The myki system is integral to keeping the community moving on Victoria's vast public transport network.

We know the Victorian community wants a public transport system that can meet their changing needs. Victorians no longer want to have to carry a myki smartcard or digital myki to travel on public transport when they know other methods of payment, such as credit and debits cards, can be used to pay and travel on our trains, trams and buses. Victorians want convenience and flexibility. This Government is listening to what Victorians want.

The Bill will amend the *Transport (Compliance and Miscellaneous) Act 1983* to support the option for passengers to use credit and debit cards in the place of myki cards when travelling on public transport in Victoria. To enable this change, the Bill will introduce new definitions, and amend existing definitions, relevant to public transport ticketing offences, defences, and evidentiary provisions.

When the legislation commences, passengers will continue to be able to use State-issued products, like myki smartcards, to travel on public transport. However, this legislation will open the way for passengers to have the choice: to use other physical and digital options – such as credit and debit cards – to validate their entitlement to use public transport services. This enhances convenience and improves access to the public transport network for all people that use our public transport system – whether they be Victorians or visitors from interstate and abroad.

> The ticketing amendments in the Bill provide flexibility for Victoria's ticketing system to progress, evolve and mature in the future. The legislative amendments provide for powers to make regulations and publish notices on matters related to the new types of entitlement to travel on public transport, as well as concession entitlements for public transport services, ensuring we are able to respond to the continuously changing landscape of ticketing technology. The Bill will also ensure evidentiary provisions apply to the new methods of obtaining or proving an entitlement to use public transport.
>
> Although the ticketing changes are largely technical in nature, they are important changes that will assist in enhancing Victoria's public transport ticketing system, making our vast public transport more convenient and accessible to the community.
>
> **Conclusion**
>
> This Bill represents the Victorian Government's continued commitment to improving access to our transport network. The important commercial passenger vehicle reforms will enhance consumer confidence in this critical transport sector that is safe and reliable.
>
> Similarly, updating our ticketing legislative framework enables the Government to make important changes to the State's public transport ticketing system for Victorians and visitors alike.
>
> I commend the Bill to the House.

Gayle TIERNEY: I advise the house that some amendments to the Transport Legislation Amendment Bill 2025 were passed in the Legislative Assembly. These are minor changes that fix typographical errors in the translational provision in response to the Scrutiny of Acts and Regulation Committee (SARC) report on the bill in relation to when certain provisions apply. I commend the amended bill to the house.

David DAVIS (Southern Metropolitan) (20:58): I move:

> That debate on this bill be adjourned for one week.

In doing so, I do not understand how we are getting a stream of bills through with these sorts of errors. There is a pattern now. I know it is not your fault. To be clear, Minister, I am not having a go at you. You have been dealt the rough end.

Gayle Tierney: It is hardly a stream. It is just two minor amendments, and they have been picked up by SARC. The Assembly has moved those amendments, and I am now reporting that to the house.

Motion agreed to and debate adjourned for one week.

State Taxation Further Amendment Bill 2025

Introduction and first reading

The PRESIDENT (20:59): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Commercial and Industrial Property Tax Reform Act 2024**, the **Congestion Levy Act 2005**, the **Duties Act 2000**, the **First Home Owner Grant and Home Buyer Schemes Act 2000**, the **Land Tax Act 2005**, the **Limitation of Actions Act 1958**, the **Taxation Administration Act 1997**, the **Building Act 1993** and the **Domestic Animals Act 1994**, to repeal the **Taxation (Interest on Overpayments) Act 1986** and to make consequential amendments to other Acts and for other purposes.'

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (21:00): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Gayle TIERNEY: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (21:00): 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* (**Charter**), I make this Statement of Compatibility with respect to the State Taxation Further Amendment Bill 2025.

In my opinion, the State Taxation Further Amendment Bill 2025 (**Bill**), as introduced to the Legislative Council, is compatible with the human rights as set out in the Charter. I base my opinion on the reasons outlined in this Statement.

Overview

The Bill makes a number of amendments to the *Building Act 1993* (**Building Act**), *Commercial and Industrial Property Tax Reform Act 2024* (**CIPT Act**), the *Congestion Levy Act 2005* (**CGL Act**), the *Domestic Animals Act 1994*, the *Duties Act 2000* (**Duties Act**), the *First Home Owner Grant and Home Buyer Schemes Act 2000*, the *Land Tax Act 2005* (**Land Tax Act**), the *Limitation of Actions Act 1958* (**LA Act**) and the *Taxation Administration Act 1997* (**TA Act**). The Bill also repeals the *Taxation (Interest on Overpayments) Act 1986* and makes consequential amendments to the *Planning and Environment Act 1987* and the *Development Victoria Act 2003*.

Many provisions of the Bill do not engage the human rights listed in the Charter because they merely clarify the operation of the law, do not affect natural persons, or they operate beneficially in relation to natural persons.

Human rights issues

The rights under the Charter that are relevant to the Bill are the right to property, the right to privacy, the right to recognition and equality before the law and the right to protection from retrospective criminal laws.

Right to property: section 20

Section 20 of the Charter provides that a person must not be deprived of his or her 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 arbitrary or unclear, are accessible to the public, and are formulated precisely.

The right to property under section 20 of the Charter will be limited when all three of the following criteria are met:

- the interest interfered with must be 'property'
- the interference must amount to a 'deprivation' of property, and
- the deprivation must not be other than 'in accordance with law'.

In *PJB v Melbourne Health* (Patrick's Case) ([2011] VSC 327 at [87]), Bell J observed that in the Charter, 'neither "property" nor "deprived" is defined. On first principles, these terms would be interpreted liberally and beneficially to encompass economic interests and deprivation in a broad sense. "In accordance with law" has a particular meaning in this context.' Money paid as State taxes is deemed to be property under its ordinary definition.

Building Act amendments

The purpose of the clauses in Part 10 of the Bill is to amend the Building Act so as to:

1. clarify the how the cost of the building work is to be calculated for purposes including the imposition and collection of the building permit levy under Part 12 of the Building Act; and
2. retrospectively validate all past estimates of the cost of building work, the calculation, imposition and collection of building permit levies in the past and all past actions, matters and things taken, arising or done based on those estimates, calculations, impositions and collections of the building permit levy.

The clauses in Part 10 of the Bill have been included as part of a response to the decision made in *May21 Pty Ltd v Building Appeals Board* [2023] VSC 203, which was affirmed by the Court of Appeal in *Victorian Building Authority v May21* Pty Ltd [2024] VSCA 150 (the **May21 Decision**). The May21 Decision concerned Subdivision 4 of Division 2 of Part 12 of the Building Act which provides for a scheme by which a building permit levy must be calculated and paid before a building permit can be issued. Specifically, the matter considered the basis on which the cost of building work should be estimated by a relevant building

surveyor, which has implications for the calculation of the building permit levy by the Victorian Building Authority (**VBA**) under sections 205I and 205G of the Building Act.

As a result of the May21 Decision, it became clear that the provisions in Division 2 of Part 12 of the Building Act could be improved to ensure that all relevant building surveyors calculate the cost of the building work in a consistent manner. The clauses in Part 10 of the Bill amend various provisions in Division 2 of Part 12 of the Building Act to give effect to this intent.

To the extent the May21 Decision raised doubt about the validity of past estimations of the cost of building work made by relevant building surveyors, or past calculations of the amount of building permit levy payable made based on those estimates, Part 10 of the Bill provides for the retrospective validation of all past estimates of the cost of building work and all past calculations, impositions and collections of the building permit levy. The validation provisions affect all calculations, impositions and collections up to the day on which new section 260A of the Building Act comes into operation.

Clause 60 of the Bill inserts new section 260A in the Building Act. This provision retrospectively validates:

- previous estimates of the cost of building work calculated by the relevant building surveyor under the Building Act (section 260A(1)(a));
- previous calculations made under the Building Act of an amount of building permit levy (sections 260A(1)(b), (c) and (d));
- amounts of the building permit levy, and amounts of any penalty levies, previously imposed under the Building Act (sections 260A(1)(e), (f) and (g));
- previous collections, receipts of and recoveries of the building permit levy and any penalty levies (sections 260A(1)(h) and (i));
- previous reassessments made under the Building Act of an amount of the building permit levy (sections 260A(1)(j), (k) and (l));
- previous actions, matters or things taken, arising or done as a result or consequence of, or in reliance upon, an estimate, calculation, imposition, collection, receipt or recovery referred to in section 260A(1) (section 260A(2)).

New section 260A(3) expressly provides that section 260A does not affect a proceeding relating to an estimate, calculation, imposition, collection, receipt or recovery where the proceeding is commenced but not finally determined before the day on which the motion for the second reading of the Bill for the *State Taxation Further Amendment Act 2025* is moved in the Legislative Assembly.

The right to bring a claim constitutes property

While the Victorian courts have not determined whether the right to bring a claim against the State constitutes 'property' for the purposes of section 20 of the Charter, the Supreme Court has indicated that the term should be 'interpreted liberally and beneficially to encompass economic interests'. As such, any accrued right to bring an action for the refund of part of a levy which may have been invalidly imposed by the State may be argued to constitute a property right for the purposes of section 20 of the Charter.

Deprivation of property

Further, the Supreme Court has noted that the term 'deprivation' should be construed in a similarly broad sense. New section 260A has the effect of altering any accrued rights to bring an action. Removing the grounds on which a claim could be brought could arguably constitute a deprivation of property under section 20 of the Charter.

The deprivation of property is 'in accordance with law'

However, any deprivation of property is 'in accordance with the law' where the law providing for the legal authorisation for the deprivation is 'publicly accessible, clear and certain'. New section 260A meets these requirements. Further, the retrospective application of these provisions will not, in of itself, contravene the lawfulness requirement.

Existing case law (*PJB v Melbourne Health* (2011) 39 VR 373) also requires that it be shown that the Bill does not operate arbitrarily. In the context of discussing the meaning of 'arbitrary' in section 13(a) of the Charter, the Court of Appeal said that a law is arbitrary where it is capricious, unjust, unpredictable or unreasonable in the sense of not being proportionate to a legitimate purpose in (*WMB v Chief Commissioner of Police* (2012) 43 VR 446). In my view, the new section 260A of the Building Act is proportionate to the legitimate purpose of the retrospective validation of the estimations, calculations, impositions, actions, matters or things referred to in new section 260A(1) and (2) for the following reasons.

There is a significant public interest in limiting the exposure of the VBA to claims for recovery of part of a levy on the basis of invalid levy calculation. The VBA is reliant on the building permit levy as a significant source of its revenue for the delivery of its regulatory work which includes providing assistance and protection to consumers through its dispute resolution functions and, regulation of the behaviour of industry participants. Drawing a line under all previous estimates of the cost of building work will ensure that the money collected via the building permit levy can continue to be put towards the regulatory work of the VBA rather than toward defending cases about how the cost of building work was estimated by relevant building surveyors.

There would also be significant resource and feasibility implications were the VBA to be required to review all previous instances where the building permit levy has been paid to determine whether the cost of the building work was accurately estimated by the relevant building surveyor. This is because the VBA, when calculating the building permit levy (under section 205I of the Building Act) relies on the accuracy of the estimates of the cost of building work produced to it by the relevant building surveyor. The VBA does not engage or control relevant building surveyors and it does not test the estimates produced by them. Therefore, the VBA has not collected data concerning how these estimates have been calculated in each instance where a building permit levy has been charged. For this reason, it is not possible for the VBA to ascertain whether the estimates of the cost of building work relied on by the VBA when calculating the building permit levy may have been affected by error.

The nature and extent of any limitation on rights is estimated to be low. The number of persons whose rights would be practically affected by the validation provision is likely to be relatively small. Importantly, the provision will not affect the rights of any person who has proceedings on foot at the time when the Bill is moved in the Legislative Assembly (section 260A(3)). Further, noting that the May21 Decision was made by the Supreme Court in 2023, there has been a period of more than two years in which a person who believed that the calculation of their building permit levy was affected by an inaccurate estimate of the cost of the building work, may have commenced proceedings. Accordingly, I do not consider it likely that there will be a significant number of persons who, having not so far chosen to exercise their right to commence proceedings, would, but for new section 260A of the Building Act, subsequently commence proceedings. Moreover, the LA Act imposes a 12 month limit for persons to commence proceedings to recover monies paid that constitute a tax or an amount attributable to tax for the purposes of section 20B of that Act.

On this basis, I do not consider that new section 260A of the Building Act will operate arbitrarily. Any deprivation of property under this provision is therefore 'in accordance with law' and does not limit the right to property in section 20 of the Charter.

CGL Act amendments

Clause 10 of the Bill amends the CGL Act to increase the congestion levy rate for category 1 and category 2 levy areas. Clauses 9 and 17 of the Bill amend the CGL Act to expand the current category 2 levy area. These amendments may engage the right to property as car parks owned by natural persons may be subject to increased congestion levy rates or become liable for congestion levy when they were not previously.

However, to the extent that a natural person's property rights is affected by these amendments, any limit is in accordance with the law, which is clearly articulated, not arbitrary, and sufficiently precise to enable affected natural person levy payers to inform themselves of their legal obligations and to regulate their conduct accordingly.

Duties Act and Land Tax Act amendments: New Zealand citizens

Clauses 19 and 20 of the Bill amend the Duties Act to introduce a requirement that New Zealand citizens must ordinarily reside in Australia after a relevant transfer of property in order to be exempt from the Foreign Purchaser Additional Duty (**FPAD**). Clause 28 of the Bill amends the meaning of ***natural person absentee*** in the Land Tax Act with the effect that New Zealand citizens who are merely present in Australia on 31 December but are not ordinarily resident in the year preceding the tax year will become liable for Absentee Owner Surcharge (**AOS**). These amendments may engage the right to property as New Zealand citizens that were previously not liable for the FPAD or AOS may now be liable if they do not meet the amended residence conditions.

However, to the extent that a natural person's property rights is affected by these amendments, any limit is in accordance with the law, which is clearly articulated, not arbitrary, and sufficiently precise to enable affected natural person taxpayers to inform themselves of their legal obligations and to regulate their conduct accordingly.

LA Act amendments

Clauses 39 and 40 of the Bill amend the LA Act to clarify that section 27 of the LA Act, which allows for a postponement of limitation periods in case of fraud or mistake, does not apply to the limitation period provided for in section 20A(2) of the LA Act.

The purpose of the amendment is to remove any uncertainty about the operation of the limitation periods contained in section 20A(2) and section 27 of the LA Act, and to unequivocally clarify that section 27 does not affect proceedings to which section 20A(2) applies. In so doing, this confirms the original and current intention of section 20A(2).

Section 27 is an original provision of the LA Act. Its purpose is to postpone the commencement of time of limitation periods in cases of fraud and mistake until such time as the plaintiff had discovered the fraud or mistake, or could, with reasonable diligence have discovered it. Section 20A was subsequently inserted into the LA Act by the Limitation of Actions (Recovery of Imposts) Bill 1961 following contemporaneous challenges to the validity of certain government charges and following a decision of the High Court that a New South Wales (**NSW**) plaintiff was entitled to the recovery of payments made to the NSW government over a period of approximately 17 months.[1]

At the time, parliament was informed that the insertion of section 20A addressed a risk that a successful challenge to the validity of a government tax or other impost could affect the ability of the State to 'meet the claims upon it and at the same time carry on the ordinary financial administration of the State.' Inserting section 20A into the LA Act addressed this concern and established that 'actions for the recovery of moneys paid as taxes or other imposts should be limited to the recovery of sums paid within twelve months before the commencement of the action.' If section 27 was intended to apply to section 20A at the time it was inserted into the LA Act, then section 20A would have no work to do.

In consideration of the history of section 27 of the LA Act and the intended operation of section 20A, it is my view that the proposed amendment to section 27 of the LA Act does not limit the right to property as the amendment does nothing more than confirm the existing operation of the law as parliament intended it to operate upon commencement of section 20A.

Notwithstanding the above, to the extent it may be considered that the amendment to section 27 of the LA Act does limit the right to property, the laws that permit or require a deprivation of property should not operate arbitrarily. Accordingly, an assessment of compatibility will depend upon the extent to which a deprivation of property does not operate arbitrarily and is sufficiently clear and certain to be considered 'in accordance with the law'.

Both section 20A and section 27 of the LA Act operate as a bar to remedy, by establishing the time period after which a plaintiff is not entitled to the recovery of past money paid – in effect this deprives the prospect of recovery of past payments made.

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right to not be arbitrarily deprived of their property. Whether property is deprived arbitrarily will depend on whether the property is removed in a way that is capricious, unjust or unreasonable in the sense of being disproportionate to a legitimate aim sought. The amendment of section 27 does not prohibit a plaintiff from seeking to recover money paid by way of tax or purported tax or by way of an amount that is attributable to tax if the plaintiff so chooses to challenge the validity of that tax or purported tax. It does however put beyond doubt that the limitation period for doing so is 12 months from the date of payment.

The balance between the importance of the purpose of the Bill must be considered against the importance of preserving the human rights, taking into account the nature and extent of the limitation. The purpose of the amendment of the LA Act is to provide certainty to the community and to the Victorian Government as to the applicable limitation period that would apply to permit a challenge to the validity of a government tax. In so doing, this ensures there is a level of certainty in the ability of Government to allocate public revenue to support effective economic management, the development and maintenance of public infrastructure and services for the community in a predictable fashion. The countervailing outcome is that this amendment confirms the limit of time in which an individual may be entitled to recover past payments for an invalid tax. In consideration of the broad public benefit of ensuring certainty to Government expenditure, I consider this limitation to be proportionate, reasonable and justifiable.

It is my opinion that there are no less restrictive and reasonably available ways to achieve the purpose of clarifying beyond doubt the intended operation of the LA Act. It is reasonable and justifiable for there to be time limits on the recovery of past payments of taxes to ensure the orderly and predictable functioning of Government and the delivery of services and infrastructure projects that are funded by those payments. If no such time limit existed, this could result in the arbitrary deprivation of property. If such time limits were too long, this could restrain the funding of such projects due to potential funding uncertainty. A limitation period of 12 months ensures prospective plaintiffs have ample time to bring a proceeding should they so choose, while also avoiding the uncertainty that an indefinite limitation period provides.

In my opinion, the potential impact of clarifying beyond doubt the operation of section 27, with respect to section 20A(2) on an individual's property rights is outweighed by the benefits to the State and its citizens in that it protects the ability to allocate capital to services and infrastructure projects of broad public benefit. In

reaching this view, it is significant that taxes are recovered for this purpose and that this purpose is consistent with a free and democratic society based on human dignity, equality and freedom.

Right to privacy: section 13

Section 13(a) of the Charter provides that every person has the right to enjoy their private life, free from interference. This right applies to the collection of personal information by public authorities. An unlawful or arbitrary interference to an individual's privacy will limit this right.

CGL Act amendments

Clauses 14 and 15 of the Bill require owners of private and public car parks within the expanded category 2 levy area to register with the Commissioner of State Revenue (**Commissioner**) for the congestion levy.

To the extent that the collection of any personal information from a natural person in relation to these car park registrations may result in interference with a natural person's privacy, any such interference will be lawful and not arbitrary as these provisions do not require that a person's personal information be published. Further, these provisions only require the provision of information necessary to achieve the purpose of determining a person's liability to congestion levy which is exclusively in the levy payer's possession. Therefore, there are no other reasonable means available to achieve this purpose.

Duties Act and Land Tax Act amendments: New Zealand citizens

Clause 20 of the Bill amends the Duties Act to impose notification requirements on New Zealand citizens upon becoming aware of certain circumstances that affect their liability to FPAD. Additionally, clause 28 of the Bill amends the Land Tax Act definition of ***natural person absentee*** in relation to New Zealand citizens such that individuals who are not currently subject to notification obligations under the Land Tax Act may be required to lodge an absentee owner notification with the Commissioner.

To the extent that the collection of any personal information from a natural person in relation to these notification requirements may result in interference with a natural person's privacy, any such interference will be lawful and not arbitrary as these provisions do not require that a person's personal information be published. Further, these provisions only require the provision of information necessary to achieve the purpose of determining a person's liability to FPAD and AOS which is in the taxpayer's possession. There are no other reasonable means available to achieve this purpose.

TA Act amendments

Clause 41 of the Bill amends the TA Act to include the Valuer-General Victoria (**VGV**) as an authorised recipient of information obtained under or in relation to the administration of a taxation law. The types of information that may be disclosed include, but are not limited to, information regarding land ownership and land use. These amendments are necessary to improve the quality of data held by the VGV and the State Revenue Office (**SRO**), help achieve efficiencies in the way the SRO receives data from the VGV and support the SRO's administration of taxation and levies.

Permitted disclosures are subject to considerable legislative safeguards. In particular, section 94 of the TA Act prohibits 'secondary disclosure', that is, on-disclosure of any information provided by a tax officer under section 92, unless it is for the purpose of enforcing a law or protecting public revenue and the Commissioner has consented, or a disclosure made with the consent of the person to whom the information relates (or at the request of a person acting on behalf of that person). Further, section 95 provides that an authorised officer is not required to disclose or produce in court any such information unless it is necessary for the purposes of the administration of a taxation law, or to enable a person to exercise a function imposed on the person by law.

Accordingly, to the extent that these provisions could interfere with a person's privacy, any interference would not constitute an unlawful or arbitrary interference.

Right to recognition and equality before the law: section 8

Section 8(3) of the Charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination, under section 6 of the *Equal Opportunity Act 2010*, includes discrimination on the basis of a person's nationality.

Duties Act and Land Tax Act amendments: New Zealand citizens

Clauses 19 and 20 of the Bill amend the Duties Act to impose FPAD on New Zealand citizens who do not satisfy a residence requirement in relation to certain transfers of property and to notify the Commissioner of circumstances affecting their liability to FPAD. Additionally clause 28 amends the definition of ***natural person absentee*** in the Land Tax Act to include certain New Zealand citizens making them liable to AOS and subject to absentee owner notification requirements.

The Charter implications of the original AOS and FPAD provisions were addressed in the Statement of Compatibility accompanying the State Taxation Acts Amendment Bill 2015. Given that FPAD and AOS

differentiate between taxpayers' liability on the basis of a person's citizenship, clauses 19, 20 and 28 of this Bill may limit a natural person's right to equal protection of the law without discrimination.

However, any limitation on those rights would be reasonable and justified in accordance with section 7(2) of the Charter because the amendments are required to ensure that New Zealand citizens who are not ordinarily resident in Australia are subject to FPAD and AOS consistent with other foreign purchasers of property and absentee owners of land. The amendments are consequently necessary to achieve the underlying purpose of collecting surcharge rates of land tax from absentee owners of land, which is to improve housing affordability for Victorians and to fund vital infrastructure by increasing the cost of holding land for foreign persons in the Victorian residential housing market. Differential treatment of foreign natural persons is necessary to achieve this purpose. The Bill ensures that this purpose can be achieved and further ensures citizens of all foreign countries are placed in the same position under Victorian law, limiting the extent of any discrimination between citizens of different foreign countries. There are no less restrictive means reasonably available to achieve these purposes.

Right to a fair hearing: section 24

Section 24(1) 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 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.

This Bill removes the basis for any legal claims for a monetary refund or compensation in specified circumstances. It affects the substance of relevant civil claims by removing the underlying cause of action, meaning there remains no civil right over which a court may exercise jurisdiction.

It is well recognised that judicial determination of a person's civil rights and liabilities is a crucial element of the fair hearing right. This right will be engaged where a person is prevented from having their civil rights or liabilities in a proceeding considered by a court. However, this right does not prevent the State from amending the substantive law to alter the content of those civil rights.

As such, I consider that the Bill does not engage or limit the right to a fair hearing in section 24 of the Charter.

Retrospectivity: section 27

Section 27 of the Charter is concerned with the retrospective operation of criminal laws. It provides that a person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.

CIPT Act and Duties Act amendments

Clauses 3 to 8 of the Bill amend the CIPT Act and clauses 22 to 24 of the Bill amend the Duties Act to make minor clarifications to those Acts which take effect from 1 July 2024. These provisions do not amend any criminal laws and therefore section 27 of the Charter is not engaged. In any event the amendments are necessary to ensure that only certain transactions enter the commercial and industrial property reform scheme under the CIPT Act, and attract appropriate exemptions under the Duties Act on a subsequent transfer, as has always been intended.

Conclusion

For these reasons, in my opinion, the provisions of the Bill are compatible with the rights contained in sections 8, 13, 20, 24 and 27 of the Charter.

JACLYN SYMES MP
Treasurer
Minister for Industrial Relations
Minister for Regional Development

[1] For example *Mason v New South Wales* [1959] HCA 5; (1959) 102 CLR 108, and *Dennis Hotels Pty Ltd v Victoria* [1960] HCA 10; (1960) 104 CLR 529.

Second reading

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (21:00): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Bill amends several taxation-related laws to enhance the integrity and sustainability of the tax system. The Bill also delivers reforms to the congestion levy to reduce traffic congestion in central Melbourne and surrounding suburbs, as announced in the 2024–25 Budget Update.

Vacant residential land tax

The Bill amends the *Land Tax Act 2005* (Land Tax Act) to exclude residential land in Dinner Plain village from vacant residential land tax (VRLT). This change recognises that accommodation in this area is likely to be vacant for more than 6 months of the year but is unsuitable for long-term residential use. Alpine resort areas have been excluded from VRLT since the tax expanded statewide from 1 January 2025. Dinner Plain is the only Victorian village located at a similar altitude to Victoria's alpine resorts and has a similar climate, local economy and level of amenities. However, as Dinner Plain properties are predominantly under freehold ownership, VRLT applies to vacant properties in this area. This amendment applies retrospectively from 1 January 2025 when VRLT expanded statewide. The SRO will identify and contact exempt Dinner Plain owners who paid VRLT to arrange refunds.

The Bill changes the VRLT notification date from 15 January to 15 February each calendar year. Currently, owners must notify the SRO in writing if residential land they own was vacant in the previous year, and apply for certain VRLT exemptions, before 15 January. Moving the deadline to 15 February will provide more time for taxation obligations to be met by taxpayers and their legal or tax representatives. This amendment will commence from the day after Royal Assent for the 2026 land tax year.

The Bill introduces a VRLT exemption for land with a residence under construction or renovation, or an uninhabitable residence, at any time during the year prior to the tax year. This ensures that VRLT is not imposed on a residence that was unavailable for occupation for a significant part of the year. This exemption will operate in addition to an existing exemption for construction or renovation being undertaken for a longer period on land. The new exemption does not impose a minimum period of construction or renovation to simplify administration and maintain consistency with similar exemptions. The amendment will take effect from the day after Royal Assent for the 2026 land tax year.

Land tax exemption for low-value land with non-permanent shelter

The Bill amends the *Land Tax Act 2005* (Land Tax Act) to introduce an exemption from land tax for land valued less than $300,000 containing a non-permanent shelter used as the owner's residence. While a principal place of residence (PPR) is normally exempt from land tax, the PPR exemption requires a residential building to be affixed to the land that is lawful to use as a place of residence. Therefore, land with a non-permanent shelter such as a caravan or tent does not qualify for a PPR exemption. This has a disproportionate impact on those who may not have the means to build a home on their property. The new exemption will have similar requirements to the PPR exemption. In addition, the land's site value must be less than $300,000, the owner must own no other land, and the land must have a non-permanent residence being used by the owner or a vested beneficiary of a fixed trust. However, partially built homes or non-residential properties will not be able to receive an exemption. Residential use requirements will align with the existing PPR exemption requiring the land to be used as a PPR since 1 July in the previous year, with some narrow exceptions. The amendment will take effect from the day after Royal Assent for the 2026 land tax year.

Application of certain tax measures to New Zealand citizens

The Bill amends the *Duties Act 2000* (Duties Act) and Land Tax Act to clarify how foreign purchaser additional duty (FPAD) and the absentee owner surcharge (AOS) apply to citizens of New Zealand. FPAD and AOS target foreign and absentee owners who do not reside in Australia permanently, and therefore they do not apply to permanent residents of Australia or holders of special category visas. Special category visas are exclusive to New Zealand citizens and enable the visa holder to live in Australia indefinitely. Unlike other visas, a special category visa ceases when the New Zealand citizen leaves Australia but a new special category visa can be granted on each re-entry. This creates anomalies in the application of FPAD or AOS. For example, New Zealand citizens who ordinarily reside in Australia can be liable for FPAD or AOS if they are outside Australia on the relevant liability date. Also, New Zealand citizens who ordinarily reside overseas can avoid FPAD or AOS by travelling to Australia briefly so that they hold a special category visa on the liability date. To address these issues, the amendments broadly align the status of New Zealand citizens with other foreign citizens. To be excluded from FPAD, a New Zealand citizen will need to satisfy a requirement to ordinarily reside in Australia for a continuous period of at least 6 months in a period commencing 12 months before the date of the dutiable transaction or relevant acquisition and ending 12 months after that date. To be excluded from AOS, a New Zealand citizen will need to be ordinarily residing in Australia and not be absent from Australia on 31 December in the year immediately preceding the tax year, or for a total period of at least 6

months in the year immediately preceding the tax year. This amendment will commence from the day after Royal Assent.

The Bill also amends the *First Home Owner Grant and Home Buyer Schemes Act 2000* (FHOGHBS Act) to remove the requirement for citizens of New Zealand to hold a special category visa to be eligible for the First Home Owner Grant (FHOG). As with FPAD and AOS the operation of special category visas can make NZ citizens ineligible for the FHOG if they are outside Australia at the time their eligible transaction is completed. For the build of a new home, the completion date is when the occupancy permit is granted. To confirm a New Zealand citizen's residency in Australia, they will still be required to meet the existing 12-month residence requirement that applies to all FHOG applicants. This amendment will commence from the day after Royal Assent.

Other duties-related amendments

The Bill amends the *Commercial and Industrial Property Tax Reform Act 2024* and Duties Act to provide that for direct transfers of land to enter the commercial and industrial property tax (CIPT) reform, duty must be payable on 50% or more of the dutiable value of the property. The broad intention of the CIPT reform scheme is for commercial or industrial land to enter the CIPT reform on a transaction of land, or an interest of 50% or more in land, where full duty is paid on the interest acquired. One of the existing requirements for an entry transaction is that it not be eligible for a *Duties Act 2000* exemption. However, there are some scenarios where duty is reduced other than by an exemption – for example, if dutiable value is reduced through a partition of land, or where duty is only payable on the value of property in excess of the entitlement of a beneficiary of a unit trust or a deceased estate. These transactions can trigger entry into the CIPT reform even though nil or nominal duty is payable. The Bill amends the entry test to require duty to be payable on 50% or more of the dutiable value. This aligns best with the policy intent of the CIPT reform and is consistent with the existing landholder acquisition entry test. The amendment will apply retrospectively to transactions from 1 July 2024 when the CIPT reform commenced.

The Bill amends the Duties Act to introduce an exemption for transfers of bare legal title between a trustee and custodian, such as the appointment or change of a custodian, a transfer back to the trustee or appointment of a sub-custodian or nominee. Custodian transfers are intended to be exempt from duty since they represent administrative restructures rather than changes to the underlying beneficial ownership of dutiable property. The SRO currently exempts custodian transfers as changes of trustee but introducing a dedicated exemption will ensure the benefit is more tailored to custodian arrangements, giving greater certainty to taxpayers. The amendment will commence from the day after Royal Assent.

Amendments to tax processes

The Bill amends the FHOGHBS Act to deem a document sent electronically by the Commissioner of State Revenue (Commissioner) to be served when the communication is received. The amendment aligns the electronic service rules for the FHOGHBS Act with the *Taxation Administration Act 1997* (TAA) to ensure consistency. The measure is intended to avoid the discrepancy that can currently result when documents are served on a person under both Acts at the same time. This discrepancy can result in different timeframes for objections and appeals in relation to different aspects of a particular electronic communication. The amendment will take effect from the day after Royal Assent.

The Bill amends the Land Tax Act to raise the threshold for the Land Tax Hardship Relief Board (Board) to consider applications from $1,000 to $5,000 and remove the requirement for the Treasurer to approve the Commissioner's grants of relief. The Land Tax Act gives the Commissioner discretion to grant hardship relief to landowners for assessments of $1,000 or less in a single year. The Board must consider all hardship relief applications for amounts over $1,000. Raising the threshold to $5,000, and removing the requirement for the Treasurer to approve the Commissioner's waivers of land tax, will enable the Commissioner to consider a greater range of hardship applications, helping to reduce turnaround time for vulnerable taxpayers. This amendment will commence from the day after Royal Assent.

The Bill amends the TAA authorising the SRO to share tax-related information with the Valuer-General Victoria (VGV). This amendment will facilitate the administration of Victorian tax and revenue laws and protect public revenue. Any information sharing with the VGV will be conducted under the strict protections and safeguards provided by the TAA's secrecy provisions. Importantly, the information shared is at the discretion of the Commissioner. The amendment is not intended to lead to the VGV gaining full access to taxation data, only the information required to facilitate the administration of revenue laws. In this way, the amendment preserves the independence of the VGV and the SRO in undertaking their respective legislative functions. This amendment will commence from the day after Royal Assent.

The Bill repeals the *Taxation (Interest on Overpayments) Act 1986*, which contains provisions requiring the Commissioner to pay interest on refunds to taxpayers following a successful objection or appeal. These provisions have been codified as part of the TAA. The *Taxation (Interest on Overpayments) Act 1986* no

longer has any application because all historical objections, appeals and refunds have been finalised. The amendment will take effect from the day after Royal Assent.

Other amendments

The Bill also contains amendments related to tax and revenue raised under other Victorian legislation.

Building Act

The Bill also amends the *Building Act 1993* (Building Act) to ensure that the method of calculating the building permit levy is clear and fit for purpose. The amendments establish a clear calculation method going forward, validate the calculation and imposition of the levy in the past and make other consequential amendments to ensure smooth operation of the building permit levy scheme.

The Building Act currently requires building permit applications to specify the contract price for the proposed building work for the Relevant Building Surveyor to estimate the cost of building work. The Victorian Building Authority, currently trading as the Building and Plumbing Commission, is required to calculate the levy payable based on the surveyor's estimate of the cost of the building work. This reliance on cost estimations has caused uncertainty about levy calculations for the building industry, its consumers and the Commission.

The Bill will require the surveyor to calculate the cost of the building work using a prescribed formula, rather than "estimating" this cost. The cost of building work will be the sum of the contract price or agreed or estimated amount to be paid to the builder for carrying out the building work, including the cost of labour and material and including GST, less the cost of any chattels and any prescribed excluded items included in the contract or agreement. The formula is slightly different in relation to the building work carried out by an owner-builder.

GST is expressly included for the avoidance of doubt, as the cost of the building work is intended to relate to the costs incurred by the land or building owner. The term "chattel" will retain its common law meaning and the exclusion of chattels from the cost of building work is intended to exclude goods and building materials that are not permanently affixed to the land or building at the completion of the building work. The Bill creates a head of power to prescribe in regulations any item the cost of which is to be deducted when the cost of the building work is being calculated. This will allow the concept of the "cost of the building work" for the purposes of the levy to be responsive to changing industry practices over time.

Because the Bill is replacing the current method for calculating the amount of levy payable with a new formula, to address the uncertainty created by the current formula, the Bill validates all past estimates of the cost of building work and levy amounts calculated and imposed by the Commission. These validation provisions do not override any legal proceedings commenced but not finally determined before the day on which this Bill is second read in this place.

Other consequential amendments to ensure smooth operation include expanding the surveyor's authority to refuse a building permit application in certain circumstances, such as if the permit application does not set out factually correct information relevant to the cost of building work, and expanding the Commission's authority to reassess levy calculations if there has been a variation to the cost of the building work.

Animal registration fees

The Bill amends the *Domestic Animals Act 1994* (Domestic Animals Act) to give effect to a modest increase in the amounts payable to the State Government from dog and cat registration fees collected by councils, and greyhound registration fees collected by Greyhound Racing Victoria (GRV). The Bill will increase the amount payable from $4.51 (2024–25) to $9.00 (2026–27) for each dog and cat registration, increasing annually in line with regular increases to fees under the *Monetary Units Act 2004*, and from $3.50 (2024– 25) to $7.00 (2026–27) for each GRV greyhound registration. The increase will support Agriculture Victoria to continue to undertake important activities such as responsible pet ownership programs, animal welfare initiatives and research.

Limitation of actions

The Bill will amend the *Limitation of Actions Act 1958* (Limitation of Actions Act) to clarify the limitation period applicable to proceedings for the recovery of invalid taxes. This amendment clarifies that section 27 of the Limitation of Actions Act does not apply to proceedings to which section 20A(2) of the Act applies.

Section 27 is an original provision of the Limitation of Actions Act. Its purpose is to postpone the commencement of time of limitation periods in cases of fraud and mistake until such time as the affected party had discovered the fraud or mistake, or could, with reasonable diligence have discovered it.

Section 20A was subsequently inserted into the Limitation of Actions Act by the Limitation of Actions (Recovery of Imposts) Bill 1961 following contemporaneous challenges to the validity of certain government charges and following a decision of the High Court that a New South Wales (NSW) plaintiff was entitled to

the recovery of payments made to the NSW government over a period of approximately 17 months (*Mason v New South Wales* [1959] HCA 5) and an unsuccessful challenge to a state tax in Victoria (*Dennis Hotels Pty Ltd v Victoria* [1960] HCA 10).

At the time, it was Parliament's intention that the inserting section 20A addressed a risk that a successful challenge to the validity of a government tax or other impost could affect the ability of the State to 'meet the claims upon it and at the same time carry on the ordinary financial administration of the State.' Inserting section 20A into the Limitation of Actions Act addressed this concern and established that 'actions for the recovery of moneys paid as taxes or other imposts should be limited to the recovery of sums paid within twelve months before the commencement of the action.' If section 27 was intended to apply to section 20A at the time it was inserted into the Limitation of Actions Act, then section 20A would have no work to do with respect to invalid taxes.

To confirm that the Limitation of Actions Act operates as Parliament intended when introducing section 20A, this amendment is being introduced to make certain of the interaction between section 27 and section 20A(2) of the Limitation of Actions Act with respect to the applicable limitation period to challenge the validity of a tax. This amendment will also ensure there is a level of certainty in the ability of Government to allocate public revenue to support effective economic management, the development and maintenance of public infrastructure and services for the community in a predictable fashion.

While the Bill does not amend section 20A(2), I note that past practice with respect to amendments of section 20A(2) has been to comply with the requirements contained section 18(2A) and section 85 of the Victorian *Constitution Act 1975* (Constitution Act) which arise with respect to legislation that directly or indirectly affects the jurisdiction, powers or authorities of the Supreme Court of Victoria. While the Government does not regard such action as having been necessary when s 20A(2) was previously amended, these steps were observed in those past instances out of an abundance of caution. It is the view of the Government that this amendment, which amends section 27 only, does not affect the jurisdiction of the Supreme Court and the manner and form requirements of section 18(2A) and section 85 of the Constitution Act are unnecessary.

To provide certainty to Government and the community, the amendment to the Limitation of Actions Act is proposed to commence the day of Royal Assent. In keeping with the past practice associated with the commencement of legislation dealing with the application of limitation periods in relation to the recovery of taxes, the amendments made by this bill apply to and in relation to money paid before, on or after the date upon which the amendment receives the Royal Assent, but do not apply to a proceeding commenced before that date.

Congestion levy

The Bill amends the *Congestion Levy Act 2005* (Congestion Levy Act) to change the category 1 area levy rate to $3,030 per leviable parking space, in line with the parking space levy rates in Sydney's CBD. The Bill also changes the category 2 area rate to $2,150 per space. The changes will commence from 1 January 2026 for the 2026 levy year. Levy rates in 2027 and subsequent years will be adjusted annually by Consumer Price Index.

The Bill further expands the category 2 area to include inner-eastern suburban areas not currently captured by the levy, despite having similar proximity to Melbourne's CBD as other suburbs subject to the levy. These include the suburbs of Burnley, Cremorne, South Yarra, Windsor and parts of Richmond, Abbotsford and Prahran in proximity to Chapel Street, Bridge Road, Swan Street, Victoria Street, Hoddle Street and Punt Road. The expanded zone has similar levels of congestion, distance to the Central Business District, and access to public transport when compared to areas already in category 2. It is therefore only reasonable and equitable that they be treated the same. The increased category 2 rate of $2,150 per leviable parking space will apply to the expansion area.

The Bill also provides new congestion levy exemptions and concessions in response to specific issues brought to our attention by and car park owners and operators. First, the Bill reduces the levy to 50% of the amount otherwise payable, for conditional free parking provided by shopping centres and other retailers in the category 2 area exclusively for retail customers. To be eligible, the parking space must be exclusively set aside for retail customer parking and connected to a retail premises or retail shopping centre such that the parking space is located on, or adjacent to, the retail premises or retail shopping centre. The parking must be either provided free of charge for at least 60 minutes to all customers or provided free of charge to customers who make a purchase at the retail premises or shopping centre. Finally, the Bill will move the Queen Victoria Market from the category 1 to the category 2 area to equalise levy rates between Queen Victoria Market and other like markets, such as South Melbourne Market and Prahran Market.

Secondly, government schools and government boarding schools providing free parking will be exempted from the levy. The levy currently applies to all non-exempt parking spaces located on state government land,

including government schools. This change will ensure they are treated the same way as non-government schools, which are generally exempt from the levy if they are charitable or religious organisations.

The Bill also improves congestion levy administration by excluding exclusively residential parking spaces from the levy framework, which will remove the requirement for home-owners to register as levy-payers with the State Revenue Office (SRO). As owners of exclusively residential parking are already fully exempt from the levy, this amendment will reduce red tape.

The amendments to the Congestion Levy Act all commence from 1 January 2026.

I commend the Bill to the house.

David DAVIS (Southern Metropolitan) (21:01): I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Building Legislation Amendment (Fairer Payments on Jobsites and Other Matters) Bill 2025

Second reading

Debate resumed on motion of Harriet Shing:

That the bill be now read a second time.

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (21:01): This bill second reading started on Tuesday, and I thank the previous speakers. I am stepping in for Minister Shing and summing up on this bill. Of course Victoria's hardworking tradies keep our state's building industry growing, and the government is fighting to ensure that they get paid fairly and promptly for their hard work or for the goods and services they provide to a construction project. The bill makes amendments to the Building and Construction Industry Security of Payment Act 2002 to implement 15 reforms recommended by the inquiry into employers and contractors who refuse to pay their subcontractors for completed works, which will improve subbies' ability to recover payments for completed construction work and goods and services supplied to a construction project. Not only do these changes ensure subbies are paid on time and to the full amount owed, but they also make the security of payment act processes clearer for builders and head contractors, the overwhelming majority of whom want to see their tradespeople paid as efficiently as possible.

The bill also amends the Building Act 1993 to authorise development of a plumbing code of conduct to be enforced by Victoria's new one-stop shop building regulator, the Building and Plumbing Commission, also known as BPC, which was established after the government passed the Building Legislation Amendment (Buyer Protections) Act 2025 in May. The bill also reforms the building surveyor and inspection registration schemes to boost workforce supply and maintain Victoria's high standards for building surveyor work. Several other laws are also modernised and improved, including clarifying amendments to the Planning and Environment Act 1987, the Environment Effects Act 1978 and the Heritage Act 2017. We have heard claims over the course of the debate that the Victorian School Building Authority is withholding money from subcontractors. This is not true. As the Roberts Co matter is an active litigation, it is of course inappropriate for me to express any comments in relation to that matter beyond how unfortunate the situation is, especially of course for the Roberts Co subcontractors. In any event, the subcontractors in this case will likely remain unsecured creditors of Roberts Co, not the VSBA. In fact I am also advised that the VSBA claims Roberts Co owes the money as well as their subcontractors, so I will leave that matter there.

I have also heard claims along the way that these changes will (1) force builders and head contractors to overpay subbies who might later be found not to be entitled to certain amounts, (2) overload builders with unworkable payroll administrative requirements, (3) risk overlapping claims due to the removal of reference dates in the bill and (4) force parties to a contract to renegotiate the terms of contract because of the amendments' retrospective application. Again, these claims are false. A core principle of the security of payment act in Victoria – and every other jurisdiction in fact – is that barriers to

subbies receiving money they are owed are removed. However, there is always the opportunity to seek judicial review of an adjudicator's determination. There is no requirement to pay the claimant the adjudicated amount before seeking such review. There is no doubt respondents will have to be more scrupulous in quickly identifying reasons for non-payment, because they are no longer allowed to inject new reasons for non-payment in response to an adjudication application. However, this is nothing more than what is required in every other jurisdiction in the country.

Moreover, the bill will not risk overlapping claims due to the removal of reference dates. Section 14D of the amended act makes it very clear that only one claim may be made for construction work completed, or related goods or services supplied. The amendments largely impact only the way claims and disputed claims are processed or adjudicated. This is a matter of administration; it does not require any revision of existing contracts. It should be noted also that in 2006 there were amendments to the security of payment act that were likely retrospectively applied. Finally, by providing for the amendments' commencement on a date to be proclaimed, the government will provide a sufficient transitional period to allow construction firms and developers to make such administrative adjustments as are needed to comply with the act.

I would like to close by highlighting the contribution of the following people to this bill: Patrick Pearlman, Richard Brice, Ada Young, Megan Peacock, Sahra Mohammadi, Nick Oats, Natasha Hammersley, Paul Salter, Belinda Harrison, Jenny Gabriele, Rowena Sheffer, Sinead Medew-Ewen, Gerson Hernandez and Aaron Hemsley.

In closing, the bill of course builds on the Allan Labor government's strong track record of nation-leading building reforms to increase confidence in the building industry for consumers and subcontractor tradies. Thank you to those that contributed to the bill in previous days. I commend it to the house.

Motion agreed to.

Read second time.

Third reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (21:06): I move:

That the bill be now read a third time.

The PRESIDENT: I am of the opinion that the third reading of this bill is required to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT: In order that I can determine an absolute majority can be obtained, can I ask those members who are in favour of the motion to now stand.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Mental Health Legislation Amendment Bill 2025

Second reading

Debate resumed on motion of Harriet Shing:

That the bill be now read a second time.

Georgie CROZIER (Southern Metropolitan) (21:13): I rise to speak to the Mental Health Legislation Amendment Bill 2025, and in doing so, I note that the government have told me that they will not be having one speaker to speak on this bill – not one. The whip told me that the minister will be summing up, but not one member of the government is speaking – other than the minister to sum up – on this important bill. That is what they think of this important issue – they cannot even be bothered to speak on this important bill. What a disgrace. This is an important bill. Do not forget this state had the Royal Commission into Victoria's Mental Health System. That was supported in a bipartisan fashion, and I will come to that. My colleague Emma Kealy, who has done a fantastic job in raising issues and addressing the significant problems in the mental health sector, I think, has made very many points around that royal commission in terms of where the recommendations are and what is happening, and I have got some questions in relation to all of that. Nevertheless, this bill is to amend the Mental Health and Wellbeing Act 2022 in relation to the Mental Health Tribunal. There is an issue around information sharing. It also amends the Crimes (Mental Impairment and Unfitness to be Tried) Act 1977 to abolish the forensic leave panel and to provide for the functions and powers of the Mental Health Tribunal under the act.

As I was saying, this bill represents a second amendment to the Mental Health and Wellbeing Act 2022. The first tranche of amendments in 2023 walked back a key recommendation of the royal commission and reinstated a police-led response to emergency mental health matters, amongst other minor amendments. At the time the government was spruiking that it was going to be a health-led response, but they have walked that back, and it is now a police-led response. In the briefing we did ask about some of these issues, such as now that the police have this responsibility, why are they not included in the information sharing. I will get to that further down in my contribution. In this second tranche of amendments though, in relation to what this bill does: it abolishes the Forensic Leave Panel and transfers responsibilities to the Mental Health Tribunal; it makes amendments to information sharing to enable rollout of a new electronic mental health management system; it clarifies that when decision-making is deferred to a support person, that it is the view of the patient or resident that must be considered, not that of the support person; and it adds the requirement for the authorising psychologist to examine a person after an approved restrictive practice has been administered.

As I said, these sets of amendments firstly abolish the Forensic Leave Panel. The Forensic Leave Panel is an independent statutory tribunal which was established under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 to support the rehabilitation of forensic patients and residents and assist with their reintegration into the community. Forensic residents and patients are people who have been placed on custodial supervision orders by the courts, having been found unfit to stand trial or not guilty of an offence because of mental impairment under the act. Whilst we understand that there are many complicating issues around that and it can be a very complex area that the various authorities have to deal with, it is aimed to protect obviously the individual but also the community. The panel comprises members of the judiciary, the chief psychiatrist and nominees, psychiatrists, psychologists and members from the community. The main role of the panel is to hear applications for on-ground and limited off-ground leave from patients and residents so that they can participate in a range of activities in the community and therefore assist with their rehabilitation.

It does seek to abolish the Forensic Leave Panel and transfer the associated responsibilities and funding to the Mental Health Tribunal. This amendment has been in response to calls from the Forensic Leave Panel and the Supreme Court. The court has said that it is becoming increasingly difficult to meet the demand for hearings within the limited resourcing constraints. We know that our courts are under huge pressure. Former Shadow Attorney-General Michael O'Brien has pointed out the cuts to the courts,

the shocking backlog of issues that have arisen in the courts over the time of the Allan Labor government and really their incapacity to manage so much that is going on. Of course we have got a crime crisis that is out of control, and our courts are dealing with those issues. I digress slightly, but it does show that there is stress within that system and that there is a view that the Supreme Court and others cannot meet the demand of these hearings. So to deal with those requests, this bill will remove judicial appointments and instead appoint a number of legal professionals with experience in forensic mental health to the Mental Health Tribunal. They will then be making the decisions.

In the 2024–25 financial year the Forensic Leave Panel received 226 applications for leave from 113 patients, considered over 41 hearings. Out of all of that, 92 per cent of those applications were approved. I go to the issue around information sharing, which is a major part of the act. What the bill does is make further changes to support the implementation of recommendation 62 of the Royal Commission into Victoria's Mental Health System, which did acknowledge the issue of being able to share information, and enable the rollout of the new mental health electronic health information system. Electronic medical systems – doing that – is a big ask. We know that they are expensive and we know that the government has failed to do that in the acute health system. We have got a very piecemeal, fractured system that is not joined up and is not being able to share information as it should. That has a huge impact with the delay of care and on the ability to provide timely care for those patients and those clinicians that are caring for those patients. This is to assist with many issues around information sharing and looking at what needs to be done, but I do question how the government will do that, and I will be asking about that in the committee stage, given that it is a big ask. We saw this, and the royal commission had the same issues with family violence. They promised exactly the same thing, and they still do not have an information-sharing system from that. That royal commission was 10 years ago, and we are still none the wiser about how that information rollout has gone on.

It is noted that, as I said, there are so many issues with the rolling out of information sharing. Other services, such as private mental health services and government-funded alcohol and other drug services, may be prescribed access to it a later date, but goodness knows when that will be. The state is fast running out of money, with a spiralling debt and increasing taxes that are putting further impost on business and on households. Really I think these are just words from a government that has no real ability to deliver what it is promising. It is very unclear if the Orange Door will be prescribed access to the mental health information-sharing system, given what I have just said – they were promised it after the Royal Commission into Family Violence, and it is still not implemented fully, if at all.

I made the point at the start that this was supposed to be a health-led response, but there was a winding back of this. The government could not deliver that, so it is now back to being a police-led response, yet the very people that are doing that response are not going to be connected to this system. It makes no sense at all. This is a government that just keeps failing to think things through. They talk a big game, but they actually do not follow through when they need to on some of these things that will make it much more efficient and easier for those that are dealing with complex patients to understand issues around the complexities of their mental health complaints and disorders.

What we have seen over the last few weeks is very poor monitoring and supervision of forensic patients and residents while on leave. There is evidence that the conditions of leave are not being appropriately and safely managed. That is a real concern. That brings in line a real concern about the safety of those patients but also the community. What we have seen is that residents and patients on leave are not routinely screened for drugs and alcohol upon return, and there is very limited supervision of patients and residents whilst they are on leave. These issues are not insignificant. They are very significant for this particular complex cohort of patients. It beggars belief that patients are not screened for drugs and alcohol upon their return from leave. Again it just goes to show the inadequacy of the management of this system under the Allan government.

Only a few weeks ago a forensic patient on day leave from Thomas Embling went missing for two days after a violent crime spree while armed with a hammer. This is, as I said, not insignificant; these are very significant issues. There is just no capacity for these patients to be monitored properly whilst

they are on leave. Again I say that the drug use of these patients when they are on leave is well known, it is well reported, it is well understood, and smuggling drugs back into Thomas Embling is a very common occurrence. Why are they not being scanned, tested or screened for drugs when they return to the facility? It is just a disgrace, given the nature of these complex patients, and it just shows us, as I said, how mismanaged the system is under the government.

I want to go back to the bit on the police-led response. In the final report the royal commission stated:

> Given that most people experiencing a mental health crisis have done nothing illegal, the involvement of police can be humiliating and traumatic.

When the government did announce their intention that it would be a health-led response in 2022, there was a huge embrace of that by government. As stated in 2022:

> The shift from a police-led response to a health-led response is supported by the majority in the sector as a more appropriate approach to deal with Victorians in crisis, however it is not yet clear how this will be applied in practice and what additional resources will be allocated to enable this to occur.

It really is very evident that the government talked this up; they said they would implement all the recommendations. They failed to do that. It is clear that there is a lack of government resourcing to implement this change, and that is why they have gone back to a police-led response, but they are not providing the police with the basic information they need so that they can manage these patients appropriately.

As the Police Association Victoria have said, this puts unreasonable additional pressure on the limited resources that police already have, including extreme workforce shortages. We know that we are close to a thousand police short and others on WorkCover and stress leave and all manner of things, given the enormous workload that they have with the crime crisis and the never-ending protests that have gone unchecked week after week. So police are under huge stress. All of these expectations for police to do this was not what was said by the royal commission – it was not that recommendation. The government promised that they would implement the recommendations. They have failed to do so, and I think that is another indication of the failure in terms of dealing with the whole mental health crisis on a whole. We know that there are issues in the workforce. I said today in question time that the number of young people who cannot access alcohol and drug treatments has risen by 100 in the last year. There is just a huge backlog of people, and the crisis is getting more and more significant. That is not a good thing, and it is very concerning for those people with mental health problems and mental illness, given the support that they do need so that they can get out of that crisis and deal with their mental health.

Nevertheless, as I said, this bill is looking at those issues around abolishing the Forensic Leave Panel and transferring that responsibility to the Mental Health Tribunal after requests from the Supreme Court to enable a better approach to that, given the workload in the Supreme Court, and to deal with the requests. I do think there are some issues, as I said at the outset, about how patients are managed on day leave and when they return from day leave. We know from those stories that have occurred that there are many issues that the government has failed to address. In saying that, I will leave my comments there, and I will be asking more around some of these issues that I have raised in the committee stage.

Gaelle BROAD (Northern Victoria) (21:30): I am pleased to be able to contribute to this – well, it is not really a debate, is it? I guess it is just our side talking about the Mental Health Legislation Amendment Bill 2025. I do want to thank my Nationals colleague Emma Kealy, Shadow Minister for Mental Health, for her work and her engagement with stakeholders. It is very clear that Labor has failed to implement the royal commission's recommendations, with the exception of introducing the mental health tax – that certainly came in. But the sector does feel betrayed by the action taken – or lack of action taken – by the government and can see no meaningful improvements in the structure, access to services or service delivery models.

We know budgets have been cut. There are critical workforce shortages that have not been addressed, and access to mental health support is now worse than before the royal commission. They promised mental health and wellbeing locals, which have been scrapped, and Victorians are paying the price for the mismanagement of such critical reforms. Mental health was ignored by the government in the recent budget. The budget confirmed that the government had deferred the establishment of 35 local mental health and wellbeing hubs, many in regional Victoria, and this is despite Labor forcing employers to pay a mental health levy to fix our mental health system – funds that are being used to plug gaps in the budget.

I remember speaking to a lady who works in the sector earlier this year, and she was talking about the enterprise bargaining agreement with the Victorian government – which is still to be finalised – in public mental health. It left allied health professionals in public mental health earning $30,000 to $45,000 less than nurses doing the same job. They did a survey at the time, and it showed that 90 per cent of the members were considering leaving the public mental health system if the government did not improve the offer. Certainly the workforce are under incredible pressure. There are massive caseloads, which I talked to this worker about. But they are highly specialised professionals that work in this area – at suicide prevention and crisis response – and they have very complex risk assessments.

I will also share that I met with another lady that worked in mental health in the police stations based in regional Victoria. It is very concerning, because I received a copy of correspondence that was talking about the government's proposed plan to cut funding for the health and wellbeing hubs and the embedded mental health clinicians who currently support police members across Victoria, including those stationed in rural and regional communities such as ours. These clinicians play a critical frontline role in safeguarding the mental health and wellbeing of our police officers. By being embedded within stations, they provide timely, visible and judgement-free support that enables members to access care early before reaching crisis point. Their presence reduces stigma, builds trust and fosters resilience within a workforce that is constantly exposed to high levels of trauma, pressure and scrutiny. That is the correspondence that we received, and I know my Nationals colleague Jade Benham raised that. She called on the Victorian government to reinstate funding for the western region health and wellbeing hub. It is quite incredible that this mental health service was scrapped just 12 months after being established, despite strong evidence it was delivering real, measurable outcomes for police officers across regional Victoria. I know Ms Benham said:

> Pulling the plug now is not just irresponsible, it is dangerous.

The hub embedded mental health clinicians, as I said, in regional police stations like Mildura, and they provided that really essential support for police on the front line. So this decision to scrap that program just made no sense at all. That wellbeing hub was backed by recommendations from the Royal Commission into Victoria's Mental Health System, Beyondblue, and leading experts, all who have been very strongly advocating for localised mental health services for first responders. I also think of the mental health of our police, with over 2000 shortages that we face currently in Victoria. As was said before, there are over 1000 vacancies and many more on leave. Again, I think of the mental health of people who are victims when it comes to crime, because we know – and I have spoken about it in this chamber today – just how crime rates are continuing to escalate.

Victoria is in a crime crisis. Every time the statistics come out from the statistics agency, it is incredible. Just the jump – it just keeps going up time and time again. I have spoken to so many residents who have a lot of scars that they carry from these experiences. I have spoken to people who have got bats next to their beds as they go to bed because they are scared. Another lady that I have mentioned previously, whose home has been broken into three times, is now selling her home. Others are dealing with physical injuries from being assaulted and the scars that leaves with them. I think this government needs to think about the mental health of people living in our community. They are doing self-defence classes in Bendigo now, subsidised by the City of Greater Bendigo, for women over 55, because this is the point we have got to. The state government are not taking action. The local council is using ratepayers money to try and help people who are not feeling very safe in our community at all.

I think about the mental health of our teachers and families and students as well, due to the teacher shortages that we have in our public education system. It makes me reflect, as I think about our education system, on the impact of Labor's COVID lockdowns, which caused significant mental health damage to a generation of Victorian children. The effects are still being felt every day across our schools. Brett Sutton, the former chief health officer, was speaking with Neil Mitchell recently, and he really questioned the approach taken. He said that there are other ways rather than lockdowns. I raised that recently in the Parliament with the minister to find out what the plans are if we face a pandemic again, because the impact of the approach taken has been significant. Nearly 40 per cent of 16- to 24-year-olds reported having a mental health disorder between 2020 and 2022. A key impact of the mental health crisis is on the rates of school refusal, which grew by 50 per cent in the three years to 2021. Another key impact is on classroom behaviour, with our schools having some of the worst rates of classroom disruption.

Under this government, I think about the mental health impact that there has been on businesses and the flow-on effect on families during the COVID lockdowns but again today. There is also the mental health impact of this government on athletes. We certainly saw that with the Commonwealth Games when it was cancelled because, yes, that was a big about-face. But that is typical. We have seen that many, many times, and I am sure we will continue to see it until next November. But also worth mentioning is the mental health of nurses and doctors in our hospital system, because our hospital system is overwhelmed. It is under pressure. We have had code yellows in Bendigo, and I know we have had them in Mildura this year. Jade Benham has brought that up as well. In Wodonga they have got a shortage of beds, and the master plan is still going to be short of beds. Doctors find they are spending more time trying to find a bed for a patient than they are trying to treat patients. But ambulance ramping is right across our state, and this is causing incredible pressure on the health system and on the people that work in it. I was looking at the Bendigo Health annual report today for 2024–25, and it refers to the workforce challenges over the past year in mental health. They recruited 21 overseas clinicians to boost inpatient and community positions. When it comes to our hospitals, I am also reminded of another issue that I brought up earlier today, which is the long work shifts of our paramedics, and you think about the mental health impact on them. I referred to an incident where it was said that the paramedic had been on a shift for 18 hours and that vehicle accident was at the end of that. It is just horrific to think that that is what happened and can happen when people are pushed to the limit.

I also think it is worth noting the mental health impact of thousands of people who are currently waiting months, if not years, for surgery due to our overwhelmed hospital system. I know from an experience that we had in our family, just in this last week, the burden of the long wait times in hospital – a family member sat all night in a chair waiting for a bed – and the angst that that caused our family and I know many other families. I have spoken to people who have been waiting such a long time for surgery, often living with pain, and that can have a massive impact on your mental health. These are all things where I feel the government is just failing in so many areas, and that flow-on effect it has to Victorians is incredible. You think about the impact on someone's mental health and on the 60,000 families that are on the social housing waitlist or struggling to afford a home or to rent a home because of the massive tax increases that this government has put on property. You think about the mental health impact of the extra taxes on families and businesses just trying to pay the bills. We are all paying for the financial mismanagement of this government.

I was at the Bendigo show on the weekend. I had a stand, and lots of people came and talked to me about some of the issues. We had the petition there for scrapping the tax. I was very concerned when a couple came up, very passionately went straight to sign it and shared how someone they knew, a farmer in the west of the state, had actually committed suicide. They put that down to the impact of the additional taxes, the stress and everything that had been on that farmer. It was awful to hear that.

We know that this government is really looking down the back of the couch and trying to find the coins in the car seats now, because I will tell you there is more legislation that is going to be coming

through into our chamber soon that is going to see an increase to the car park congestion levy. It is going to see pet registration fees going up. It is going to see greyhound registration fees going up. This government just look for any opportunity to try and get more money out of people, because they do not know how to manage money or manage projects, and as a result the state debt is skyrocketing and the interest payments are skyrocketing. It is not even paying off the debt; it is just trying to pay the interest on the debt. This is the situation we are in now in Victoria. We can see from the repayments that are going to be required to refinance some of that debt that it is going to get worse.

I would also question, because there is a link between some mental health issues and drug use: what is the government doing to curb drug use? Because we know that it can contribute, as I said, to mental health issues. I remember when I first got elected to this chamber, a lady who was a mother called me and spoke about her son, who had been hospitalised with breakdowns several times. She put that to the impact of drugs on his life. She had to speak in code on the phone because she was in fear of her own son in her house. That is the impact that drugs can have. I know in Bendigo there are people that walk around and seem very spaced out. I had a family member that had someone approach them, threatening them with a bottle, and they clearly needed help. But under Labor Victorians who reach out for assistance are not getting the help they need. We are aware of funding cuts to critical alcohol and other drugs programs.

It is also worth mentioning Lifeline, a crucial suicide prevention service that cannot expand to meet rising demand in Victoria, due to a funding shortfall. I asked a question of the Minister for Health about Lifeline and raised the important work that they do. They provide services – I know they are based in Bendigo – right across Northern Victoria, from Kyneton right up to Mildura, and they operate a call centre and provide face-to-face counselling. Despite Victoria generating nearly 30 per cent of Lifeline's national call volume, only 12.5 per cent of those calls are answered in Victoria. And unlike other states such as New South Wales and Queensland, Victorian Lifeline centres receive no direct state funding to build local capacity. This urgently needs to change. Now, I asked this question earlier this year and an answer was due in May, but still no answer has been provided by the minister. So that is a big concern to me because it shows such low interest – *(Time expired)*

Melina BATH (Eastern Victoria) (21:45): I am pleased to rise to make just a few brief comments on the Mental Health Legislation Amendment Bill 2025, and certainly it is a bill that touches a very important and critical issue facing our state. I was listening to both Ms Crozier and my colleague Mrs Broad, and I was nodding my head the whole time that Mrs Broad was speaking, because she touches on so many things that are relevant not only across Victoria but particularly in rural and regional Victoria. I think if you want to go out and see both an incredibly resilient people but also an incredibly stressed people, the ones who carry a huge burden across our state, you go outside the tram tracks and you see where that burden is being carried.

Mental health touches every corner of our society. We are seeing it more and more, and we are seeing it in a variety of capacities. Mrs Broad touched on many of those. We see it in regional Victoria in my patch, where we have had multiple incidents of bushfires and multiple incidents of storms. There is anxiety that comes with having your next-door neighbour be the government in terms of the lack of bushfire mitigation, the fact that the government is not a good neighbour – there are often fires that come out of public land – and the preparedness that communities are having to address, all because the government is not implementing some recommendations from the 2009 Victorian Bushfires Royal Commission. So there is that mental anxiety about when it is going to happen again.

We had some significant warnings through last week about storms and high winds. When driving through Mirboo North, I thought about what an incredible community that is and a resilient one. However, there is that anxiety. I certainly am not going to lay windstorms and rain et cetera at the government's feet, but it is all about those communities that pull together. Often there is such a lot of internal support in those small communities, but it also gets to breaking point and they really get community resilience fatigue and community support fatigue and they look to government. I will just give you one small example from Mirboo North. When those storms hit they created terrible distress

of course – there were roofs off houses, communities without power, vehicles smashed, no electricity, no telecommunications. The Premier at the time and all the others came rushing down there to Mirboo North, after deciding to thank all of the emergency services that were out there. They thanked the CFA. They stood next to the CFA shed, which is old, antiquated and in need of replacement. They went and thanked them, 'This is a great community.' And then what did they do? They turned their back and they are still not funding the very basic things that those communities need to keep resilient.

I say that because again it is the mental health strain that is focused on these giving people, these volunteers. And then, as my colleague Mrs Broad said, you have got the emergency services tax going over the top of that. These are the things that make regional people feel like they are getting hit for six all the time. Indeed I want to talk briefly about the royal commission, because for those of us who have been here for a little time in this place – it was in 2021, the Royal Commission into Victoria's Mental Health System – it was a beacon of hope. It was down at the Royal Exhibition Building, where Parliament used to sit many, many years ago – a century ago – and the Premier Daniel Andrews stood up there and was resplendent in his excitement about this royal commission and its report. I know my colleague – and we have heard her mentioned – the very, very capable Emma Kealy, as shadow minister, was there, and everyone was there. People rocked up in cars, and it was a big fanfare. There were people with lived experience of mental health issues who had come through the system with harrowing stories – not one but multiple – and if you go and look in that book you will see them and the royal commission recommendations et cetera. They were really harrowing stories. They took that brave chance to stand up in front of thousands of people and explain, and there was a feeling of hope.

We have got 74 recommendations that were presented in 2021 at the exhibition building. Well, we have seen that only 11 of those have been completed, and this was by last year – 11 completed. We also know that some of those recommendations very much include support from hubs and mental health locals, and we do see that again some of those have been now pushed out. They were recommended. I have heard in this place the virtues of those hubs and the importance of the hubs, and yet for many communities they are now going to be delayed and delayed again. So these are some of the frustrations that people feel, not only in the regions of course. Many people gave their heart and soul and presented for this royal commission. Health professionals across the board gave evidence and the wisdom of their knowledge, and yet we are seeing this delayed. We did see key reforms like establishing a lived-experience agency and health-led crisis responses and eliminating seclusion and restraints. I know that people have spoken about this on this bill. We saw all of that, and yet it is so frustrating. You can imagine that the members who work in this fraternity and work in this sector, given the mental health of their own professionals, must be quite at their wits' end.

Despite the royal commission's clear road map, we are still falling behind. The workforce has not doubled. We have services that are harder to access – and you only need to go to the regions to know how long you have got to wait to see a mental health professional – and we see, sadly, suicide rates are at record highs. I have presented at length today in relation to Aboriginal and Torres Strait Islander mental health. They are at a three times higher rate than non-Aboriginal Victorians, and yet we are supposed to see that it will all be okay from now on because we now have a treaty across this state that apparently will do what the government has failed to do for the last 11 years. We will wait and see, won't we?

In relation to the bill, it addresses two key areas: it addresses Forensic Leave Panel reform, and it transfers the responsibilities to the Mental Health Tribunal. It certainly, as my colleague Emma Kealy has said, is a necessary step driven by an overwhelmed judiciary. It must be done safely, and we have seen certainly some disturbing cases of reports of drugs and violence and absconding patients. We heard one recently of a patient from the Thomas Embling Hospital who escaped and ran off amid a drug crisis and rising violence, and that is certainly very, very frightening, not only for their loved ones but also for the staff who are having to reel those sorts of patients back in. I note that my colleague Emma Kealy often also speaks about the cutting of drug and alcohol specialists and the danger that causes in our regions across Victoria.

It also centralises the mental health record system and it centralises that IT. I understand that is certainly welcome, but it does exclude Victoria Police from that platform. However, so regularly Victoria Police – our VicPol, our police members – are those first responders right at the scene. Whether it is domestic violence or somebody in the street, they are called and they are the first responders, so excluding them is a glaring oversight. Anyone who has walked past a police station will have seen the vehicles that are colour coated. They have got so frustrated that they are writing on them things like '1100 job vacancies' and '700–800 long-term sick leaves'. They usually have some nice messages there that Jacinta Allan should pick up her game and respect them. It just goes to show you the frustration that our VicPol often feel.

Then, what has happened today, this week and last week, to add insult to injury – they are overworked, they are under-resourced, we have got scary events happening in the CBD drawing our VicPol from the regions to backfill, and yet the government is too mean to cut the grass at the police station.

Georgie Crozier: Too broke.

Melina BATH: That is right. There is too much penny pinching to actually give some respect to the police station: 'You can't change your light bulbs because we don't have any.' What sort of a state are we in? I cannot believe this. How did we get like this? You have a police station in our country towns – I am sure it is the same in others – and it is a respected place. They do community work. They are very much at the forefront of the mental health issues that I am speaking about, but they do community work – work for community safety and to understand where the crime is and inhibit and attack it before it begins, alleviate that and deter that – and the government cannot be bothered to cut the grass. This is just a symbol of where the government is not directing funding in the right directions. Whilst this is not the most extreme thing going on, it is symbolic of what this government is not doing.

One of the things that we really need to look at also is the cycle of mental ill health and homelessness. Indeed a study by Launch Housing found that over 500 people are discharged from acute mental health care each year into homelessness. It is that cycle where they get through their mental health episode, they are in hospitals, the hospitals are under stress and lacking in nurses – and indeed the government have just got this policy they introduced about free midwifery and free nursing, and then once they are finished their nursing they actually cannot go in and do their grad year, and you wonder why our hospitals are so under-resourced – and so they are coming out and they are in rooming houses or motels. Indeed I was contacted by somebody very frightened about rooming houses, but sadly – very sadly – when people have no alternative place to go they often end up in these rooming houses, and sadly they are a breeding ground for more crime and more abuse. For those fragile people that are coming out of hospital and going into that, their mental health is again at risk.

Finally, I have talked about workforce shortages in our hospitals, but a 2024 survey found that 90 per cent of psychiatrists in Victoria say workforce shortages are negatively impacting patient care and 80 per cent report burnout. Our psychiatrists are very important, and I remember when the royal commission was on and they were having round tables. There was one in Warragul that I attended with a father whose son was very unwell with mental health issues. The psychiatrist I sat next to – a local – was like gold. She was a psychiatrist who was treating patients in Warragul. She just said that her books are full and the lists are full, and this was some years ago.

Business interrupted pursuant to standing orders.

Ingrid STITT: Pursuant to standing order 4.08(1)(b), I declare the sitting be extended by up to 1 hour.

Melina BATH: Look, there is my contribution. I also wanted to make some comments about the Orange Door follow-up. The Victorian Auditor-General has put out some things that are not working with Orange Door. I think it is a very important read and I hope to see the passage of this bill go through the house. I just reiterate to the government: when will the recommendations be included? But please, please do not forget the regions, because we are under struggle and in need.

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (22:01): The mental health and wellbeing system has experienced significant reform over the last four years, including the introduction of the Mental Health and Wellbeing Act 2022, which was a key recommendation of the Royal Commission into Victoria's Mental Health System. I would like to acknowledge the enormous amount of work that has gone into not only the royal commission itself but the important recommendations that flowed from the final report and the interim report. I would also like to acknowledge everyone that has contributed to working in partnership with us to continue to transform the system, including those with lived and living experience, the workforce and the sector more broadly.

In terms of the bill before the house today, it will do three key things: it will transfer the functions of the Forensic Leave Panel to the Mental Health Tribunal, it will enable a new electronic health information system consistent with recommendation 62 of the Royal Commission into Victoria's Mental Health System and it will make minor changes and technical amendments to ensure the act operates as intended.

I have listened carefully to the contributions of those opposite and of course reviewed the second-reading contributions from the Legislative Assembly. I will try and confine my comments to those matters that are actually relevant to the bill before the house, although I do note there was a lot of debate about things that are not before us tonight – some slightly related, some very unrelated. The Forensic Leave Panel plays a very important role in supporting the treatment and rehabilitation of forensic residents and forensic patients by determining their applications for short-term, off-ground leave. The bill will transfer the functions of the Forensic Leave Panel to a new forensic division of the Mental Health Tribunal, which is very well placed to take over these functions. The bill will also ensure that the existing exemption that the Forensic Leave Panel has from the Freedom of Information Act 1982 is transferred to the forensic division to continue the protection of sensitive information related to forensic leave matters.

I just want to touch on the importance of community safety, and it will continue to be a key consideration in determining applications for leave. To ensure appropriate qualifications and skills are present in hearings of the new forensic division of the Mental Health Tribunal, the presiding member of the tribunal will be a legal member who has been an Australian lawyer for a minimum of five years. These members will be supported in their role with extensive training and operational support and guidance. In addition, decisions of the forensic division will also be reviewable by VCAT, ensuring access to a more senior legal review when appropriate.

In relation to the information sharing reforms, the bill will also enable the delivery of a modern IT system, which was called for in recommendation 62 of the royal commission. While there is already provision in the act for electronic mental health records to be kept, the bill will enable the full implementation of a new records system that is currently being built. This will include enabling a staged expansion of the types of agencies that can use the system, including the mental health and wellbeing locals, supporting a secure and protected exchange of information between the new mental health information system and the electronic patient health information system known as CareSync Exchange, which is used in physical health. As we continue to deliver on this royal commission recommendation, we need to make sure health information is protected, safe and secure, and that is the highest priority. There are a range of legislative and operational safeguards in place to ensure that people's information is safe and secure. In addition, there will be a strict control on who can access the system, including role-based access controls, two-factor authentication and the ability to retrospectively audit access. This bill will also allow information from the electronic health information system to be disclosed to prescribed emergency service providers so that they may perform their functions under the act, and this will enable information to be accessed and entered by Ambulance Victoria paramedics.

I just want to take a moment to address a matter that was raised by Ms Crozier around the emergency service providers' prescribed access to the electronic health information system. This will be limited

to Ambulance Victoria. Ambulance Victoria was clearly identified by the royal commission as needing better access to information to effectively deliver services, and no other emergency service was identified by the royal commission in this way. Any health decision should be informed by clinical experts involved in the provision of mental health and wellbeing services. In terms of the role of Victoria Police and Ambulance Victoria in our mental health system, obviously we appreciate enormously our police, our paramedics and our dedicated mental health workforce for the critical role they play, particularly when people are being supported in crisis. The royal commission made a series of recommendations to establish a comprehensive system of crisis supports, and that critical design and enabling work to support these important recommendations is currently underway. This includes working with Ambulance Victoria and Victoria Police to develop a pathway to deliver a health-led response to people experiencing crisis wherever it is safe and appropriate.

I also just want to touch on what I think may be a misunderstanding of the amendments around authorisation of restraint. The Mental Health and Wellbeing Act already provides that a person must be examined following the authorisation of a restrictive intervention, and this examination is conducted by a psychiatrist to determine whether the restraint can be removed or is absolutely necessary as the least restrictive option. The bill contains an amendment which clarifies the circumstances when an authorised psychiatrist must be notified of the use of a restrictive intervention. As such, this is a clarifying amendment to make clinical practice clearer and simpler, and there is no additional burden on the workforce.

There has been a bit said about our mental health reforms this evening. Of course we know that this is incredibly important work, and we are continuing to deliver significant reforms, including to grow our workforce; deliver new acute beds and new services; improve infrastructure; and, importantly, embed those with lived and living experience in the work that we are doing. We are getting on with the process of transforming the mental health system to deliver access to mental health care closer to home, including in regional Victoria. This bill is an important step in progressing reforms and safeguarding the rights of Victorians receiving mental health care. I understand the opposition would like to ask some questions in committee. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (22:10)

Georgie CROZIER: I will put all my questions in clause 1, Minister, in the interests of time for us all. The second-reading speech refers to the royal commission recommendations. Would the minister provide a report on the current status of all recommendations, including the revised implementation date for any recommendations that are overdue? I know that you did mention that in your summing-up around the advancement since the royal commission, but I am wondering if you would not mind providing the house with an update, please.

Ingrid STITT: Ms Crozier, that is outside the scope of the bill before us this evening. There is a process, separate to what we are here to do this evening, through information that we provide as a government to the Mental Health and Wellbeing Commission in our report of progress against the recommendations of the royal commission.

Georgie CROZIER: That is disappointing, Minister, given you did reference the royal commission and the work you were doing. So I will say that you are unwilling to provide an update to the house. As I said, it is in the second-reading speech on this very legislation, so I do not understand how you can even dispute the question. Nevertheless I will go to the next one and give it a try. The second-reading speech makes reference to the mental health workforce. The current mental health

workforce strategy expired in 2024, so I ask: when will the mental health workforce strategy be released for this year and beyond?

Ingrid STITT: Ms Crozier, the bill before us has a pretty narrow set of amendments. That is not a matter that is within the scope of the bill before the house this evening. There are other mechanisms that you are very well aware of, having been here as long as you have. You can ask me questions either in question time or as questions on notice, or there are other mechanisms that you have available to you, including something as simple as the shadow spokesperson ringing me up and asking me for a briefing on those matters. But they are not matters that are within the scope of this bill.

Georgie Crozier: On a point of order, Deputy President, I am asking questions on clause 1, and I am seeking some guidance. Given the second-reading speech has referenced the royal commission recommendations and also made reference to the mental health workforce, I am wondering why the minister is refusing to answer these questions in relation to this bill. It was in the second-reading speech, yet the minister is saying it is not within the scope of the bill. These are important issues around the current state, because it does go to where we are heading for this particular bill around looking at those with mental illness and needing some support in relation to the tribunal and other areas.

The DEPUTY PRESIDENT: My apologies, I was not actually listening at the time; I was having a conversation with the Clerk. We can ask questions of the minister, but I cannot instruct the minister how to answer those. If we can keep the questions related to the bill and if you can display how they are related to the bill when you ask the question, the minister should respond.

Georgie Crozier: Deputy President, if I may, on the point of order, I just need clarity, because the second-reading speech refers to the royal commission recommendations. Does that not fit within the scope of what I am asking around the recommendations?

The DEPUTY PRESIDENT: I have allowed the question. It is up to the minister how she answers it, but the minister has said she is happy to respond.

Ingrid STITT: Ms Crozier, I am happy to go to the second-reading speech, because the second-reading speech begins by stating that the Mental Health and Wellbeing Act 2022 delivered on a key recommendation of the Royal Commission into Victoria's Mental Health System. Then it goes on to talk about what the act provides, which is promoting good mental health and wellbeing and a reset of the legislation foundation underpinning the mental health and wellbeing system. Then it goes on to talk about how it supports the delivery of services. In relation to the workforce, the second-reading speech simply says:

> I would also like to acknowledge our mental health workforce. The workforce are the backbone of our mental health and wellbeing system, supporting Victorians in their hardest moments. I thank you for continuing to provide Victorians with world-leading mental health and wellbeing services during a time of significant reform and change.

I am sure that these are sentiments that we can all support and get around.

Georgie CROZIER: Indeed we can. There is a shortage in the workforce, and it is disappointing that the minister will not even acknowledge the mental health workforce strategy, which expired in 2024, given the huge pressures on the system as you quite rightly acknowledged in your second-reading speech around the workforce. Nevertheless I will move on. Are patients and clients at Thomas Embling Hospital routinely tested for drugs and alcohol following leave?

Ingrid STITT: Currently where testing is a condition of the leave that has been granted by the Forensic Leave Panel, then Forensicare, which provides obviously, as you know, adult forensic mental health services at Thomas Embling Hospital, ensures compliance with that condition. In terms of if there is an absence of a condition of the leave, Forensicare's procedures include guidance on frequency of regular testing according to the leave type or if clinically indicated. Routine and random drug screening is used as a clinical tool by treating teams where clinically indicated and aligned with the

principles of the Mental Health and Wellbeing Act. Forensicare also conducts drug screening and random searches, including with drug detection dogs, in line with their clinical and security protocols. Individual compliance and substance use history are obviously recorded as well, if that is relevant, in clinical files, and they are considered by the panel during any leave application.

Georgie CROZIER: Minister, I think you referred to 'some are tested' or 'there is routine testing', but it is not done on condition of returning from leave. It is as per the guidelines. I am not quite sure what you said, but I think you said 'as per the guidelines' or 'as per assessment' or something. I am just wondering how somebody returning from leave would be considered for their need to be tested? Obviously if they are in an incapacitated state, I presume that they might require testing, but are there any other criteria that might trigger testing to be undertaken?

Ingrid STITT: As I said, they routinely do random drug screening. Also, when somebody returns from a period of approved leave there is physical security screening that occurs when they come back into the premises. But the other circumstance is if it is a condition of their approved leave that they be drug tested upon return, then they will be.

Georgie CROZIER: How many patients and clients who were granted forensic leave had a condition of drug and alcohol testing upon return to the facility, and how many are failing those drug tests when they are undertaken?

Ingrid STITT: Obviously for the process involved in leave applications there is quite a bit of information that is not shared publicly. It is confidential because it relates to individual forensic patients or residents. We do not have those stats because health information is protected, essentially.

Georgie CROZIER: But do you keep data on numbers, not specifics about the patient? The numbers seeking leave per annum, the numbers that are tested for when they are on leave and then the numbers that fail the test – it is not seeking personal information, just those numbers.

Ingrid STITT: Leave decisions for forensic patients and residents under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 are made by the Forensic Leave Panel, not the Department of Health. It is not data and information that is held by the department; it is held by the Forensic Leave Panel. That would obviously be data that is reported at a high level in the annual report of the Forensic Leave Panel each year. We are obviously aware of how many leave applications are granted, how many are suspended or rescinded, how many apply versus how many are approved. We have all of those statistics, but in relation to individual patient or resident information regarding things like drug testing, we are not privy to that information; they are private health records.

Georgie CROZIER: If you are rolling out an information-sharing mechanism and there is an issue with these patients going on day leave if they are being tested and constantly failing tests – I do not know what happens if they fail tests, but if they are failing tests – would that information be on the information-sharing record or is that kept from that information sharing that you want to roll out?

Ingrid STITT: Health records, including clinical notes, would be held on the health information sharing system, but the Forensic Leave Panel's information would be held by them, and that will in turn by transferred – should this bill be passed – to the forensic division of the Mental Health Tribunal.

Georgie CROZIER: I just want to go back to that point around the data and how that is kept. You said it is kept at a high level in reports – it does not come to the department, it is kept at that high level in forensic reports. How can you be certain that the drug testing is actually being done, then? Who is monitoring and auditing this? What assurances can you get as minister to say that the testing is appropriate – you can monitor it properly and take appropriate action if required?

Ingrid STITT: Ms Crozier, just so I am clear on what you are asking me to answer: you are asking about drug testing. The Forensic Leave Panel is an independent body. If they require a patient or resident, who is seeking leave, to have drug checking as a condition of their leave being approved and they grant that leave, then Forensicare is responsible for complying with that leave order.

Georgie CROZIER: I appreciate that; I appreciate they are responsible for it. But do you as minister have any oversight of the processes that are happening in there to be assured of that monitoring and compliance? I just say that given the Thomas Embling situation that happened a few weeks ago. Surely as minister you would want to be aware of those issues and how that is being monitored and audited and the situation surrounding that individual. I am just wondering: what is the monitoring and auditing process around all of this drug testing to see that it is actually happening when they return from leave? Otherwise we just do not know if it is stuck in some high-level report that you do not have visibility or are not informed of. How do you know drug testing is actually happening and it is being undertaken appropriately?

Ingrid STITT: Firstly, compliance with leave conditions, including if there is a requirement for drug checking – those conditions are recorded, and they are also considered in any future leave application by the Forensic Leave Panel. So if somebody has not complied with the conditions of their leave previously, then that will be a factor in any future application. But as I was indicating to you earlier, Ms Crozier, Forensicare have got a range of different tools that they use, including guidance and procedures around the frequency of and regular testing according to the leave type or if it is clinically indicated as something that is appropriate to do with a particular resident or patient.

As I already indicated, Forensicare also conduct drug screening and random searches, including with drug detection dogs, and they have clinical and security protocols which cover these issues. They also have procedures in place to mitigate the risk of contraband such as drugs entering the hospital, and they are constantly monitoring that practice. All patients granted leave are escorted by clinical staff to the hospital exit when departing and from the entry point upon return so that they can ensure compliance of the returning patient with those screening protocols. They have got policies and procedures in place, and this is an issue that is certainly important. And more generally, they have got policies and procedures in place for managing those residents and patients that have leave granted, including requiring pre- and post-leave mental state assessments of the consumer to ensure that there are no identifiable risks to consumers or community safety.

Georgie CROZIER: An article in the *Sunday Age* on 12 October explicitly points out the problems in the system and blames budget cuts for making four registrars redundant. It goes on to say that:

> … drug-testing program or the number of patients breaching conditions of their day release, citing the risk of compromising security protocol protocols.
>
> …
>
> Staff have described, anonymously to protect their employment, drug abuse being a recurrent issue both on site and for patients allowed to leave on day release.
>
> "Patients have attacked staff … completely beaten up because patients came back on hard drugs," …
>
> "We also have patients who have no leave who are testing positive for ice. It's in the hospital."

These are really concerning allegations that have been raised in media reports. I am not sure that we are getting a true sense of the protocols that are there that need to be undertaken so proper auditing can be done for the protection of staff, patients and the community. I mean, do you want to respond to those comments in the *Age*? You must have read it. They are blaming redundancies for the shortage of staff, but it has resulted in some very dangerous situations. And ice in the hospital for someone that has not been on leave, I think that is terribly alarming.

Ingrid STITT: Ms Crozier, I mean, obviously I have read the article. I am not in a position to be able to comment on the veracity of some of the unsourced claims that are in that article, but it was a very concerning article. And I have since reading that article made my expectations very clear to Forensicare, both in relation to the workforce changes that have been foreshadowed by Forensicare – that any change must not compromise clinical care, staff safety or the delivery of essential forensic mental health services – and I have obviously made it very clear that frontline staff are a very important resource, given some of the challenges, particularly with recruiting clinical staff in some parts of the

system. These are important roles and my department has been working closely with Forensicare on these issues.

In relation to leave, it is incredibly important that any decision of the Forensic Leave Panel or in the future the Mental Health Tribunal is managed appropriately by Forensicare and Thomas Embling Hospital. That is my very strong expectation.

Georgie CROZIER: We will move on. I will move on to the next question. But I make the point: the reason I was asking the series of questions before around data and whether you are getting that is for exactly the reasons you have just said that you are working with Forensicare. But I think you are flying blind because you actually do not know how much testing is going on. There is no auditing or monitoring, and I actually think that you are flying blind, Minister. I would hope that could be changed at some point. Nevertheless can I ask –

The DEPUTY PRESIDENT: Sorry, the minister wants to make a response.

Ingrid STITT: I will respond to that statement, it was not really a question, but –

Georgie CROZIER: Well, you can see where I am coming from.

Ingrid STITT: Yes. And the point I have been trying to make, Ms Crozier, is that I am not going to get access to confidential patient data. That will not happen because that is protected information. But I do get at a high level the data in relation to leave applications.

Georgie CROZIER: But not the drug testing – that is the point. You do not get the drug testing. So you have just confirmed that. Anyway, are all patients, clients, staff and visitors to Thomas Embling screened for drugs upon entry?

Ingrid STITT: I think that the same screening procedures apply for visitors to Thomas Embling. It is a secure facility, as you know. You cannot just breeze in and breeze out. It has a very vigorous security screening arrangement upon entry, and they work hard to make sure that contraband does not get into the facility. That is part of the screening process.

Georgie CROZIER: Minister, if these checks are occurring for all staff, how is it that patients that have not been granted leave are testing positive for drugs and alcohol use? You said previously you are not going to respond to the article – what I have quoted around patients using ice and those that have been quoted in the article – however, surely you would want to know that as minister.

Ingrid STITT: Well, you are right. I am not going to respond to something in an article in the paper that is unsourced; I do not know the veracity of the claims that are in that. But what I will say is what is actually happening: to support security and safety, Forensicare has a robust entry screening procedure, as I have already described, and that includes scanning all property brought into the hospital by consumers, staff or visitors to detect prohibited items. It requires individuals to walk through a body scanner which detects metal objects, and an ion scanner is used, where indicated, to identify potential traces of illicit substances.

Georgie CROZIER: Minister, okay, you are not responding to the article that I have referred to –

Ingrid STITT: No, I just responded to the question around the process.

Georgie CROZIER: No, I understand that, but I want to understand because I am concerned that if you do not get data about drug testing, do you get information around patients that are using drugs or alcohol in the facility?

Ingrid STITT: Well, you are making an assumption there that that is the case, but again, an individual consumer's health records are private, and it is not something that is shared with either the department or individuals in the government.

Georgie CROZIER: Minister, I find it extraordinary if you do not understand what is going on in a facility that you have responsibility for. These are really seriously complex patients, as we understand. Surely you would want to have an understanding about the level of drug use that is occurring or any injuries around staff that may have occurred. I find it extraordinary that that is clearly something that is not occurring. So could I ask: what supervision is undertaken of patients and clients granted leave?

Ingrid STITT: That depends on the conditions of their leave.

Georgie CROZIER: So given critical staffing challenges, have there been any instances where supervision of a patient on leave has not occurred?

Ingrid STITT: Consumers who are on a custodial supervision order can, obviously, have the right to apply for leave as part of their rehabilitation. Their applications are assessed independently by the Forensic Leave Panel currently. The criteria for granting leave remains consistent with the current processes under the Crimes (Mental Impairment and Unfitness to be Tried) Act, and clinical expertise will be maintained. Forensicare mental health services at Thomas Embling Hospital have escalation and reporting processes in place should a consumer breach the condition of their supervised leave, and more generally, as we have already discussed a little bit this evening, Forensicare has policies and procedures in place for facilitating leave, including requiring pre- and post-leave mental state assessments to ensure there is no identifiable risk to consumers or to community safety.

Georgie CROZIER: Thank you for explaining the process, Minister. My question was: have there been any instances where supervision of a patient on leave has not occurred, which you failed to answer. So I will ask: was the patient that was wielding a hammer when on leave from Thomas Embling under supervision, and if not, why not?

Ingrid STITT: I am not in a position to disclose private patient information.

Georgie CROZIER: Surely that is in the public's interest. Was that patient under supervision? That is a question that needs to be answered, Minister. I am not asking for the patient's name or the details – who they are, what they are, where they went. I am asking: were they under supervision?

Ingrid STITT: You have asked the question in a few different ways, but the answer remains the same: we are not privy to private, confidential consumer records.

Georgie CROZIER: Well, if you are not fully across what is going on under your responsibility, I am saying you are not doing your job properly. How many patients granted leave have absconded over the past year?

Ingrid STITT: Again, Ms Crozier, patient and resident health and disability service information is protected under the Mental Health and Wellbeing Act, the Health Records Act 2001 and the Disability Act 2006. The Mental Health and Wellbeing Act contains provisions that allow the chief psychiatrist, in the case of a forensic patient, and the Secretary of the Department of Families, Fairness and Housing, in the case of a forensic resident, to suspend leave granted by the Forensic Leave Panel if they are satisfied that the safety of the person or members of the public will be seriously endangered if leave is not suspended. The panel are required to record and report any suspensions of leave, which they do every year in their annual report.

Georgie CROZIER: Minister, what are the consequences for returning late from leave?

Ingrid STITT: Noncompliance with a leave arrangement will be recorded and will be taken into account in any future leave applications.

Georgie CROZIER: How many patients have lost access to leave for absconding or being late?

Ingrid STITT: That information is contained in the annual report of 2023, which is the most recent annual report. I think I have a copy with me, but it is publicly available.

Georgie CROZIER: I just want to ask a question regarding mental health records. I am not asking about the patient information, but do prisons have access to mental health records – not just Thomas Embling but other prisons?

Ingrid STITT: Forensicare do operate some of the forensic beds in some of our correctional facilities. Clinicians will have access to those medical records, but general prison staff, including prison guards, would not. It would only be the clinicians that would have access.

Georgie CROZIER: Okay. The reason I ask that is because, as you are aware, at the Royal Melbourne a couple of days ago a mental health patient was stabbed in hospital by another patient on leave from prison, and those mental health beds are currently closed. So how can mental health workers and mental health patients be safe if prison guards cannot have access to records to understand the severity of a patient and make informed decisions on where a safe or appropriate site of care is?

Ingrid STITT: I will not comment on the matters you refer to at the Royal Melbourne. They are under an active police investigation. But in relation to generally why are we not providing access to the electronic health information system and information sharing to those outside of clinical roles, it is really a direct result of the recommendations of the royal commission, which made the very clear case for clinical staff and also Ambulance Victoria to have access. But there was very strong opposition to police and other emergency services having access, particularly from lived-experience and consumer advocates.

Georgie CROZIER: Minister, I understand that and I understand that that was the reason why it was meant to be a health-led response, but it is not a health-led response. It is now a police-led response. So it makes it very difficult, I think, for those that are attending to be able to understand what they are dealing with. Nevertheless if I can move to the Forensic Leave Panel, could you provide me with some answers around a few questions I have on this? How many people are currently serving on the Forensic Leave Panel? Let us do a couple of questions, because they are sort of related, if I may; it might save a bit of time. How many people with legal experience will be appointed to the Mental Health Tribunal to assist with forensic leave applications?

Ingrid STITT: I have just got to see whether I have numbers, but I can certainly go to the skill set and who is on the current panel. One moment, please.

The membership of the current panel and how many members are in each category is in the annual report. We have six judicial members, but obviously we are changing from the Forensic Leave Panel to the Mental Health Tribunal. The chief psychiatrist is a member. There are six nominees of the chief psychiatrist, four registered medical practitioners with experience in forensic psychiatry, three registered psychologists with experience in intellectual disability and forensic psychology, and six members that represent the views of the community. The new panel will include legal representation, and they must have at least five years of legal experience. The intention is to move the current members, other than the judiciary, over to the new division of the Mental Health Tribunal and then add the legal expertise to that, and then there will be some requirements around training and procedures.

Georgie CROZIER: Minister, will the funding for the Forensic Leave Panel be absorbed or transferred to the Mental Health Tribunal funding or is the current funding for the Forensic Leave Panel currently acquitted against the mental health levy?

Ingrid STITT: The current secretariat support for the Forensic Leave Panel is provided by the Department of Health, and the board fees of the Forensic Leave Panel members are part of their budget. As to whether or not it is coming from the levy, obviously the levy is designed to drive the reforms to the system, but that is only part of the overall government investment in mental health each year, so it is the levy plus. The Mental Health Tribunal already have their annual budget. The resources and the associated costs of the Forensic Leave Panel will be moved over to the Mental Health Tribunal.

Georgie CROZIER: Minister, I will just move quickly to the medical record. You did say a bit in your summing-up and through the discussion, but in terms of the milestones, including expected data completion, costs required for each stage and allocated budget to date, can you provide the house with an update for each of those elements?

Ingrid STITT: Obviously we are replacing a 30-year-old legacy system, and we will be rolling out the new system, which will allow for the sharing of information with the broader health system's CareSync Exchange in limited circumstances for provision of integrated care. The full system, including the consumer portal and data repository, is expected to be delivered by 2028. There are some milestones, including next year, as we sort of stage that process.

Georgie CROZIER: And what is the cost?

Ingrid STITT: We committed $64.7 million in the 2022–23 budget to provide the statewide electronic mental health and wellbeing record; a consumer portal, which is the next stage of the project; and a data repository and improved information exchange. It is quite a big IT project, and it will be delivered by 2028 from the 2022–23 budget.

Georgie CROZIER: Given that medical health record systems for regions are significantly more than that $64.7 million, are you expecting further money to be required for the implementation and rollout? That $64.7 million, is that for the entire system across the state?

Ingrid STITT: Yes, that is right, Ms Crozier. It is to deliver on recommendations from the royal commission about the need to make sure that we have a centralised system so that people are not having to endlessly repeat their story, which can be quite traumatising for some consumers. This project was funded in the 2022–23 budget.

Georgie CROZIER: I just have one last question. You mentioned the royal commission made a recommendation for a health-led response, and the government has walked that back to a police-led response. Given that and given you said that lived experience informed the recommendation for it to be a health-led response, why are the police being excluded from accessing these records, given they are dealing with these patients? Surely they should have access to that information if they are the ones that are dealing with them at the coalface and managing them and assisting with their transportation, care and supervision and the like. Surely they should understand some history.

Ingrid STITT: The Mental Health and Wellbeing Act clearly sets out a required shift to a health-led response for people experiencing crisis. That is a significant piece of reform. We are in the process of that critical design and enabling work to support that important recommendation, but it is not a small change. It is quite a significant reform. We are working closely with Ambulance Victoria, Victoria Police, the health department and other agencies and departments to make sure that we get those changes right. The act already provides for the prescribing of relevant emergency services providers so that access can be granted at a time when the system design is ready. But the royal commission very clearly indicated that the most appropriate emergency services agency was Ambulance Victoria, not other emergency agencies, including VicPol. That is a very clear signal from the royal commission, and that is why we have gone down the path that we have.

Business interrupted pursuant to standing orders.

Ingrid STITT: Pursuant to standing order 4.08(1)(b), I declare the sitting to be extended by up to a further hour.

Georgie CROZIER: Just in response to your last answer to me, Minister, you were saying that the ambulance response was in line with the royal commission's recommendations, but it has been a police-led response, not solely a health-led response. Could you just clarify that for me? Then the next question: can patients access their own health records?

Ingrid STITT: Crisis response does often include a number of different agencies, but in terms of who has access to clinical records, it is restricted to clinicians and Ambulance Victoria under these changes that are before us.

My understanding is that consumers can already access their own health records, and under these IT changes that will not change.

Clause agreed to; clauses 2 to 92 agreed to.

Reported to house without amendment.

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:02): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:02): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

The DEPUTY PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Business of the house

Adjournment

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:03): I move:

That the Council, at its rising, adjourn until Wednesday 12 November 2025.

Motion agreed to.

Adjournment

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:03): I move:

That the house do now adjourn.

Bev McArthur: On a point of order, Deputy President, today in question time Minister Symes suggested that she had answered the letters of councillors, and she actually produced a letter that she waved around. I have received that letter, but that letter had not been sent to mayor Stephen Jolly. It arrived at 1:53 pm today, after question time. My point of order is that the Treasurer misled the chamber today. That letter had not been sent to mayor Jolly, and I would like her to reconsider her answer.

Georgie Crozier interjected.

Bev McArthur: Thank you, Ms Crozier. She could provide a personal explanation as to why she misled the chamber.

Michael Galea: On the point of order, Deputy President, I do not believe there is a point of order. Can Mrs McArthur please provide the standing orders to which she believes the point of order is relevant?

The DEPUTY PRESIDENT: I will take Mrs McArthur's concerns on board and refer them to the President for him to make a ruling on.

Drought Response Taskforce

Bev McARTHUR (Western Victoria) (23:05): (2066) My adjournment is for the Minister for Water, and the action I seek is that the minister justify her absence from the most recent meeting of the Drought Response Taskforce. Under fire from farmers, councils, emergency services volunteers and the United Firefighters Union, the Allan Labor government was forced to huddle in their bunker back in May. Like an episode of *Utopia*, they desperately scribbled ideas on the whiteboard and concocted a grand plan to manipulate rural and regional voters into thinking the government care about them. Guess what their number one initiative was. The Premier's Drought Response Taskforce of course. They put out a press statement, they called the press pack and they got their photos on the front page and the nightly news, but they did not quite get the media they hoped for when 15 CFA trucks drove up and down Camperdown streets with their sirens occasionally blaring.

A taskforce can be effective if it is taken seriously by the government, if its members are listened to and if it leads to action. But I had great suspicion at the time that this taskforce would become an orphaned child in the long run. According to the Victorian Farmers Federation the taskforce was meeting weekly, presumably reflecting the seriousness of the drought. But as soon as the media cycle moved on to a new issue, those meetings by and large dropped off. Over the last four months they have only met once. The last meeting occurred online in late August. Ms Terpstra noted in this place on 18 June that:

> The Premier is chairing that taskforce. It includes … Jaclyn Symes … Ros Spence … Gayle Tierney and many … other people who have deep connections to rural and regional communities.

I can tell you that, other than Minister Spence, not a single one of those ministers, those so-called rural and regional champions – those Collins Street cowboys – turned up at that August meeting. What was their excuse? Ultimately, the drought continues on in parts of western and northern Victoria. The water levels in many of our dams are reportedly lower than last year. The roads and fields look like moonscapes, and it could worsen as summer approaches. The government's truancy clearly reflects their apathy. I call on the Premier and her ministers to immediately apologise for failing their own taskforce colleagues and the rest of our community.

Inclusive education

Sonja TERPSTRA (North-Eastern Metropolitan) (23:08): (2067) My adjournment matter this evening is for the Minister for Education in the other place, and the action I seek is for the minister to outline the benefits of the inclusive playgrounds being delivered by the Allan Labor government, like the fantastic new playground at Warranwood Primary School. I was absolutely delighted to visit Warranwood Primary School just last month to officially open their new inclusive playground. It is a beautiful, welcoming space that has been made possible thanks to just under $300,000 in funding from the Allan Labor government's Inclusive Schools Fund round 9. The Allan Labor government is committed to creating a space where every child, regardless of ability, can play, learn and grow together. It is about making sure our schools reflect the values we hold dear: fairness, respect and inclusion. This is what Labor governments do. We invest in public education, we back our schools and we make sure no child is left behind. I also want to acknowledge the incredible work of the Minister for Disability, who has been driving landmark inclusion reforms that are making a real difference, not just through infrastructure like this playground but by making it easier for families to access the services they need to support their kids. Warranwood's new playground is a shining

example of what inclusive education looks like in practice. I would love to hear from the minister about how these projects are helping students across Victoria thrive.

Victorian Assisted Reproductive Treatment Authority

Rachel PAYNE (South-Eastern Metropolitan) (23:09): (2068) My adjournment matter is for the Minister for Health, and the action I seek is for an assurance that parents and donor-conceived children will no longer be left behind following the dissolution of the Victorian Assisted Reproductive Treatment Authority. Late last year this government introduced the Health Legislation Amendment (Regulatory Reform) Bill 2024. Legalise Cannabis Victoria did not support this bill. As a donor-conceived person, I had concerns about plans to dissolve the Victorian Assisted Reproductive Treatment Authority, known as VARTA. This world-leading service was responsible for regulating fertility clinics to protect the best interests of people receiving treatment, and their children. VARTA also provided community education and ensured people involved in donor conception were informed and had their connection preferences respected. Unfortunately, despite our opposition, the bill passed, and from 1 January this year the management of Victoria's donor conception register transferred to the Department of Health. The Department of Health provide an assurance on their website that:

> During this transition period the Department will work to minimise impacts on registry applicants however there

What comes next is unclear, because this part of their website, ironically, is incomplete.

When we first debated this bill, I mentioned my concerns that this decision was a Trojan Horse for cost cutting, and to date we have not been proven wrong. Since these changes, we have seen a series of disturbing bungles from IVF providers. I have also been contacted personally by a parent whose donor-conceived son has been caught up in the transition. Their son was 16 when they decided to apply to be on the voluntary register to begin the process of contacting their donor and any of their donor siblings. Their son is now 18, and despite several follow-ups they have not heard from the department. This delay has left both parent and son feeling seriously anxious and as if they have been forgotten about in the transition process. While it is not unexpected that this transition could cause delays, almost two years of radio silence is simply not good enough. So I ask: will the minister provide an assurance that parents and their donor-conceived children will no longer be left behind following the dissolution of the Victorian Assisted Reproductive Treatment Authority?

Grahamvale Primary School

Wendy LOVELL (Northern Victoria) (23:12): (2069) My adjournment matter is for the Minister for Education. The action that I seek is for the minister to release the promised traffic assessment for Grahamvale Primary School and instruct the Department of Education to begin negotiations to acquire land that adjoins the school to provide for a safer student drop-off and pick-up area. Seventeen years ago I started asking Labor governments to acquire more land around Grahamvale Primary School, but nothing has been done. First in 2008 and then again in 2015, 2018, 2019 and most recently in 2024 I urged the government to acquire more land and expand the footprint of the school, which desperately needs more space for a safer student drop-off and pick-up area and for future expansion of the school.

Grahamvale Primary School was originally designed as a small school on the outskirts of Shepparton for a population of 75 to 100 students, but it has grown very rapidly and now has over 350 students enrolled. The rapid increase in student enrolments has resulted in a large traffic increase at the school. The school is not immediately connected to the residential catchment area, so there are no children living close enough to walk. There is also no bus going to the school, so almost all parents drive their kids to school and drop them off. Cars quickly fill up the limited parking at the front of the school and then begin lining up for 200 metres along the grass verge on Grahamvale Road, an arterial road, the C391, which forms part of the Shepparton alternate route that carries heavy vehicles around the town centre. Mixing traffic and small children walking on the side of the road is a recipe for disaster, and

this danger is a result of policy choices by the Labor government, which has so far refused multiple requests from the school to acquire adjoining land for safer student drop-off and pick-up areas.

When I raised the matter in November last year, the minister said that the department would undertake a traffic management assessment at the school and consider solutions, including introducing a bus service. A year later the traffic assessment has not been released and there has been no word about the bus service. Grahamvale Primary School sits within the *Shepparton North East Precinct Structure Plan*. The precinct structure plan has already earmarked a portion of land immediately around the school for future expansion of the school site, and the rest of the land surrounding the school is identified for future residential development. It is expected that the precinct will support around 1500 new homes and approximately 4000 residents, attracting even more students in the future.

I met recently with Virginia Campbell, the new school president, who stressed to me that the Victorian government – *(Time expired)*

Treaty

John BERGER (Southern Metropolitan) (23:15): (2070) My adjournment today is for the Minister for Treaty and First Peoples in the other place. Last month negotiations were finalised between the Victorian government and the First Peoples' Assembly of Victoria for the Statewide Treaty Bill 2025 that was introduced into Parliament and has been passed tonight. The journey towards truth and treaty has been ongoing over a decade, and I am proud that we as a government have committed to facilitating self-determination, truth-telling and respect for our First Nations communities here in Victoria by establishing a permanent representative and deliberative body for First Nations people, in Gellung Warl.

My community in Southern Metro Region sits on the lands of the Wurundjeri and Bunurong people, and I have First Nations-led organisations doing crucial work in my electorate. One of these organisations is the Ngwala Willumbong Aboriginal Corporation, a statewide community-controlled organisation whose headquarters are located in the electorate of Prahran and who has program centres across the state. They have served Aboriginal and Torres Strait Islander families and communities across Victoria for over 50 years by providing holistic, specialist and culturally sensitive alcohol and drug treatment and recovery, homelessness programs, public intoxication responses, counselling, family violence and youth services, and more. Ngwala Willumbong saves lives, and their operations are vital and indispensable to communities across the state.

The action that I seek is for the minister to inform me how the implementation of the legislation, particularly in regard to introducing the powers and purposes of Gellung Warl to advise the Parliament and the state government in relation to matters that affect First Peoples, will hold the state government to account in relation to its commitments. The impact of its actions on First People will strengthen the work of Aboriginal community controlled organisations like Ngwala Willumbong, who service Aboriginal and Torres Strait Islander people both in Southern Metropolitan Region and across the state.

Friends of Anglesea River

Sarah MANSFIELD (Western Victoria) (23:17): (2071) My adjournment is for the Minister for Water, and the action I am seeking is for the minister to meet with the Friends of Anglesea River. Over the past few years this grassroots community group have been raising awareness about their concerns with Alcoa's Anglesea application to extend their groundwater licence to fill their legacy mine void. What initially began as a group of local residents who were alarmed by the decline in the Anglesea River estuary has grown into an active and engaged collective who deeply care about what happens next. Friends of Anglesea River has gained significant media attention, hosting river walks, social nights and a fantastic community event recently that drew over 400 local people to a community hall. They have advocated to numerous decision-makers, including Southern Rural Water, who received 170 individual submissions on this application, and to you, the minister.

It is my understanding that representatives of the group wish to deliver a community petition bearing 1635 signatures, almost half the population of the town, to the Minister for Water. Further, they wish to meet with you to discuss the concerns of the community and experts who have weighed in on the dangers associated with this application. Minister, as you know, mine rehabilitation obligations must be enforced in ways that are environmentally responsible, safe and sustainable for the Anglesea community and for the region's future. An already depleted groundwater landscape cannot afford any further environmental stress. As the Minister for Water and a fellow member for Western Victoria, I strongly urge you to accept a copy of their petition as a record of community opposition and hear the concerns of the Friends of Anglesea River about this unnecessary proposal.

Victorian Men's & Mixed Netball Association

Gaelle BROAD (Northern Victoria) (23:19): (2072) My adjournment is to the Minister for Tourism, Sport and Major Events. Minister, as you may be aware, Netball Australia are inviting people to get behind their campaign to see netball included in the Brisbane 2032 Olympic Games but so far are pushing for women only, even though there is significant men's representation at international level, similar to the women. Men's and boys' netball is not officially recognised under the Australian Sports Commission through Netball Australia. However, men's netball is endorsed by World Netball, and earlier this year they announced the first men's Netball World Cup, to be held in 2027. Netball is the fastest-growing male participation sport in Australia, yet the lack of support and recognition by netball's governing organisations are limiting the opportunities for the funding, growth and advancement of men's netball. To play netball, both girls and boys are required to register with their state body. In Victoria this is Netball Victoria. They pay the same registration fee, but only girls are eligible to apply for state-based grants, including local government grants, the Victorian government sporting champions grant, the Australian Institute of Sport local sporting champions grant, the Aboriginal sport participation grant and the Sports Excellence Scholarship Fund – and they are ineligible for federal grant programs.

Melissa Ryan, the parent of a male netball athlete, who also has a daughter who plays, highlighted the inequality of support for her son to participate in representative men's netball – yet her daughter can access multiple funding opportunities. He could not access financial support and assistance to represent our state at the national level or when he represented Australia in the last international series. This inequality also impacts our Australian Kelpies, who proudly represent our country at the international level. This is because men's netball is not recognised under the Australian Sports Commission. Netball Australia need to recognise men's and boys netball with the Australian Sports Commission to ensure that all men and boys who play netball have an equal opportunity for support and recognition of participation in their sport and that the financial burden does not exclude them from participating. The action I seek is for the minister to work with the Victorian Men's & Mixed Netball Association to support the recognition of men's and boys netball by the state and federal governing bodies. It would be great to see men's netball in the Olympics and our male athletes equally supported to do so.

Cranbourne Community Hospital

Michael GALEA (South-Eastern Metropolitan) (23:21): (2073) My adjournment matter this evening is for the Minister for Health, and the action that I am seeking is an update on the new Cranbourne Community Hospital and how it will be providing more support for people in the south-east community.

Georgie Crozier interjected.

Michael GALEA: I am not sure why you do not support community hospitals, Ms Crozier, but they are indeed a fantastic thing. The new Cranbourne Community Hospital is already providing dialysis, pharmacy, pathology and adult mental health services, and in the coming weeks and months it will include aged care, youth and family services, youth mental health services, dental, audiology and ophthalmology services.

Ann-Marie Hermans interjected.

Michael GALEA: I am not sure why you are complaining, Mrs Hermans. It is a great new community hospital in our local community. It has been open for several weeks. I note your notice of motion from earlier in the week, but it has actually already opened. It is already providing fantastic services to our local community. It is great to see the advocacy of the hardworking member for Cranbourne in helping to see this through to completion. I know Mr Tarlamis and I are both very excited about what this means for our community and the services it provides for the community.

Ann-Marie Hermans interjected.

Michael GALEA: I hear Mrs Hermans saying that there is no hospital. It is there. It is standing. It is on Berwick-Cranbourne Road, the extension of Sladen Street. You can even go there yourself, Mrs Hermans, and see it. It is in your electorate. You can go and have a look yourself. I encourage you to do so and check out the amazing services that Monash Health are providing in this community hospital that is providing community and local health services. In doing so it is also helping to alleviate the pressure on neighbouring hospitals, including Casey Hospital – I am very excited to see the upcoming major upgrade to its emergency room as well. Of course on the other side you have got the new Frankston Hospital – Peninsula University Hospital, soon to be called – the $1.1 billion investment, the largest single hospital investment outside of inner Melbourne in this state's history. It is a very exciting project. People in Cranbourne will have Casey to one side upgraded, and they will have the brand new Peninsula University Hospital to the other side. For those local community-based healthcare services, they will have the Cranbourne Community Hospital.

It is disappointing that the Liberals cannot seem to support this policy or indeed see that we need to provide different levels of care, whether it is tertiary and acute-level hospitals, whether it is community hospitals, whether it is urgent care clinics or the virtual emergency department as well – another very important service that members of the opposition do not seem to either know about or care about. I do not know, but people I have spoken to in the community who have used the VED have found it to be incredibly useful as well. Cranbourne is a very exciting hospital to see open, this new community hospital, and one of many, many initiatives that we are providing to support the healthcare needs of people in Cranbourne and the south-east.

Community health services

Katherine COPSEY (Southern Metropolitan) (23:24): (2074) My adjournment is to the Minister for Health Infrastructure, and the action I seek is that community health funding in Victoria is increased to 3 per cent of the health infrastructure budget. Community health is an essential part of our health ecosystem, providing low-cost services for health care and pension card holders across my electorate and across the state. Infrastructure Victoria recommended in August this year that the state government increase community health funding from 0.3 per cent currently to 3 per cent of the state's health infrastructure budget, acknowledging the important role that it plays in early intervention health care and keeping people out of hospital. Community health centres deal with some of the most complex health matters, saving the state $14 for every $1 that is invested. Infrastructure Victoria starts its recent report by stating:

> In 2023–24 there were 546,000 emergency department visits in Victoria that could have been avoided if they were managed in the primary and community health sectors. This would have saved Victoria's public hospitals an estimated $554 million per annum in expenditure in emergency departments. With the right infrastructure and service planning, community health organisations can help ease demand on hospitals by efficiently managing some of these cases in the community.

While operational funding for primary and community health is a shared responsibility between federal and state governments, health infrastructure is largely a state government responsibility. I join my Greens colleagues in calling the decision by governments to not properly fund community health nonsensical and incredibly short-sighted. Just yesterday this chamber passed a Victorian Greens motion calling on Labor to rescue Cohealth with an emergency funding package due to the lack of

state government infrastructure funding and inadequate Medicare funding that is not sufficient to cover the complex healthcare cases they deal with. The state government has dropped the ball, and the community is paying the price.

When I look at the Southern Metro Region, I see many community health organisations struggling with the same broken funding model. The Better Health Network is closing in Bentleigh. Patients and staff will reportedly be redirected to sites like Parkdale, but I note that that is a 1-hour journey by public transport, including a lengthy walk between those two locations. Infrastructure Victoria refers to this, stating:

> The Parkdale site is located on Nepean Highway, a busy 8-lane road that is not close to public transport.

It has been clear for years that the state's neglect of community health funding is having a real impact on services and on patient care. I ask the minister to urgently increase community health funding in Victoria from 0.3 per cent to 3 per cent of the health infrastructure budget.

Disability services

Georgie CROZIER (Southern Metropolitan) (23:27): (2075) I raise this issue for the Minister for Disability because I am very concerned. Two constituents have raised with me concerns around their family members. It is not just my two constituents, that have raised this directly with me in the last few days – there are thousands of Victorians who will be facing eviction from their homes. These are some of the most vulnerable members of our community, members of the community with disabilities – Victorians with disabilities – and they are at risk of being evicted from their group homes and losing the carers who look after them. Cheryl's son Jeremy is in a group home operated by the Department of Families, Fairness and Housing, which the minister is responsible for. They have pulled the transitional funding needed to keep it open and the third-party provider that operates the home on a day-to-day basis is exiting. This will leave Jeremy without an appropriate home because Cheryl has visited two dozen alternatives and none of them are suitable. Another constituent contacted me about her brother, who lives in a wonderful group home in Bayside with amazing staff that look after him. Both of these women are just beside themselves. They are so worried about where their loved ones are going to go.

There are thousands of Victorians that have essentially got nowhere to live. This is appalling. If we are thinking about vulnerable Victorians, these are some of the most vulnerable Victorians. They are people with disabilities. They need care and they need homes and they need support and they need that security, and I am telling the minister, who is shoving the blame to the federal government, that that is not good enough. There is an issue between the federal and the state governments, but it is up to the state to go and negotiate this and to give the assurance before the deadline of 31 December when all this is going to come to an end. These families are beside themselves about what they can do for their family members. The action I seek is for the minister to immediately intervene in this crisis and get this issue sorted out so that people like Jeremy and Chrissy's brother who I speak of have homes to live in and carers to look after them in their time of need.

Metro Tunnel

Jacinta ERMACORA (Western Victoria) (23:30): (2076) My adjournment matter is for the Minister for Transport Infrastructure Gabrielle Williams. Following the opening of the Metro Tunnel in early December and the big switch to Victoria's new train network, it will mean over a thousand new services across the state. My request for the minister is to provide an explanation of benefits for people travelling by train from western Victoria.

Victorian Maternity Taskforce

Georgie PURCELL (Northern Victoria) (23:31): (2077) My adjournment is for the Minister for Health, and it relates to maternity care in Victoria. Recently I met with Jess and Rowie, who both work as doulas and have a range of experience supporting people giving birth. We discussed the challenges

and opportunities for maternity care in Victoria, and we particularly discussed the importance of relationship-based care, such as continuity of midwifery care, globally considered to be the gold standard. Those receiving continuity of care report more positive experiences during pregnancy, labour and postpartum. Midwifery group practice has been shown to cost 22 per cent less than other models of public maternity care. Increasing the proportion of those accessing midwifery group practice to 40 per cent has the potential to save the government $132 million per year. Due to my high-risk status, I have been fortunate enough to receive continuity of care myself throughout my pregnancy, but most people are not so lucky. In 2023 only 5 per cent of Victorians had access to midwifery continuity of care, compared to almost 20 per cent in Queensland. People receiving maternity care in Victoria largely experience fragmented care. Few know the midwives attending their births, and even fewer are offered any postnatal care, which can often leave birthing people feeling very vulnerable. The 2022 national core maternity indicators show Victoria's maternity care is more medicalised than other parts of Australia without necessarily contributing to better maternal outcomes. Midwifery also has the second-lowest retention rate in the health workforce. The government has acknowledged the need to address workforce challenges and improve service delivery in maternity care, and in October of last year it commissioned a taskforce to report and make recommendations on these issues. The taskforce aimed to deliver an interim report to the government at the halfway point of this year, a report which I have been told has been delivered to the minister. I have been contacted by many involved in the maternity sector who are incredibly eager to ensure that this is not just another report that gathers dust on a desk. So the action I seek is for the minister to update the house on the work of the Victorian Maternity Taskforce.

Illicit tobacco

Trung LUU (Western Metropolitan) (23:33): (2078) My matter is for the Minister for Consumer Affairs in relation to the lucrative illicit tobacco trade and the effect it has on public health. The action I seek is for the minister to urgently strengthen enforcement against the illicit tobacco trade and review the Allan government's tobacco control strategies, which have clearly failed to protect vulnerable Victorians. Australia is facing a public health crisis. For the first time in years, the smoking rate is rising, and it is being driven by the booming black market. Over 5 billion illicit cigarettes were smoked in the past year, with brands like Manchester and Double Happiness now making up 64 per cent of total cigarette sales. This surge is sharpened by young Australians and low-income earners. Smoking among 18- to 24-year-olds has skyrocketed by 82 per cent. Among those earning under $50,000, the smoking rate has jumped up 66 per cent. These are the very groups we should be protecting, not exposing to cheap, unregulated tobacco. Packets of black market cigarettes are selling for as little as $10, compared to $45 to $55 for legal products. While the government boasts about having the highest tobacco tax in the world, it is clear that the policy is backfiring. Instead of choking off demand, it is driving consumers straight into the arms of organised crime. The Australian Medical Association has warned the smoking rate is now at its highest in a decade. Waterways analysts confirm that nicotine use is at an eight-year high. Meanwhile, federal excise revenue is at its lowest in more than 10 years. This is not just the failure of enforcement, it is a failure of leadership. We need stronger law enforcement, tighter supply chain control and proper licensing. Yet under the Allan Labor government, tobacco control has been wound back to the 1970s. So I call the minister to act now. We need to crack down on illicit tobacco and review the policies and renew commitments for protecting young Victorians from addiction, because if we do not do it now, we risk undoing decades of progress in public health and leaving a generation behind.

Victorian Fisheries Authority

Ann-Marie HERMANS (South-Eastern Metropolitan) (23:36): (2079) My adjournment matter is directed to the Minister for Outdoor Recreation. The action I seek is for the government to reconsider the restructure of fisheries Victoria that occurred earlier this year and to re-employ the scientists and fishery officers that have been dismissed. On 20 May 2025 the Victorian Fisheries Authority (VFA) announced the closure of fisheries stations at Braeside and Altona North, leaving no operational

stations at the northern end of Port Phillip Bay. This restructure has resulted in a 44 per cent reduction in full-time officers from 69 to 39, and there has been a loss of experienced scientists and research staff across Victoria. The removal of this expertise has diminished scientific monitoring and data collection, undermining the evidence base for managing fish stocks, water quality and ecosystem health. Without strong science Victoria risks overfishing, poor stock management and long-term habitat decline. Despite these risks, it appears no formal risk assessment was undertaken for what is described as a $9.4 million cost-saving measure. Yet data from 2023–24 shows fisheries officers made contact with 49,818 fishers, with 10 per cent found in breach of regulations – proof that strong enforcement is essential for sustainability.

In the VFA recent annual report fish stocking reached an all-time record 11.5 million fish into Victoria's lakes and rivers, growing from 3 million in 2016. Rather than strengthening science in the face of the alleged climate change action for potential marine heatwaves, the government has reduced research capacity and frontline patrols, increasing the likelihood of illegal and unsustainable fishing activity. Meanwhile at the Great Barrier Reef the federal government and Queensland agencies are investing heavily in restoration and marine science, recognising that sound research underpins both environmental and economic sustainability. Victoria's fisheries from Port Phillip Bay to Western Port and the Gippsland Lakes deserve the same level of scientific commitment.

Minister, please prevent data fudging and illegal, criminal activity in our waterways. I urge you to review this restructure and restore the scientific and enforcement capacity needed to protect Victoria's fisheries for future generations.

Donnybrook Road, Kalkallo

Evan MULHOLLAND (Northern Metropolitan) (23:39): (2080) It would not be a sitting week if I did not talk about Donnybrook Road in my electorate, so my adjournment is for the Minister for Roads and Road Safety. Minister, as you would know, as I have told you several times, Donnybrook Road is a mess. On the Kalkallo and Donnybrook side it is an old farm track riddled with potholes. Tens of thousands of homes are popping up like pimples on prom night. There is only way out for residents, which is the Hume, which as many would know from about 2:30 in the afternoon is a car park and used as a local road. Residents are at boiling point. There is no solution other than duplicating the bridge over the Hume. We do not know how much the government is contributing to the announcement by the federal government that they will contribute $125 million as part of their $1.2 billion roads blitz, of which the state government is only contributing $200 million – barely anything. We do not know how much the state government is contributing. I seek the action of the minister for that information, with which they have not been forthcoming.

Also, I would like the minister to come out to Donnybrook Road, particularly at peak hour. I would like the minister to come out at about 7:30 in the morning to Kalkallo or Donnybrook, and I would like the minister to come out in the afternoon from about school pick-up time on the Hume and on Donnybrook Road, because residents are selling up. There are residents who have told me that they are selling up.

I suggest to the minister that this government has been too focused on a hypothetical Mary and Joe and not focused enough on Preet and Jasleen from Kalkallo. If they were listening to Preet and Jasleen, they would have duplicated Donnybrook Road already, just like when we were in government the Liberals duplicated the Mickleham side of Donnybrook Road, a lovely four-lane road that was signed in agreement through a developer contribution plan, which meant the road was built as residents moved in, not after. The best thing this government can provide for the people of Mickleham is a half-a-billion-dollar mothballed white elephant quarantine facility. Perhaps on the minister's visit with me she can check that out as well and decide what to do with it. I seek the action of the minister to come out to Donnybrook Road with me and finally commit to duplicating the bridge over the Hume.

Responses

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:42): There were 15 adjournment matters to 11 separate ministers, and written responses will be sought in accordance with the standing orders.

Katherine COPSEY (Southern Metropolitan) (23:42): I wish to seek an explanation for overdue adjournments, numbers 1921, 1904 and 1873.

The PRESIDENT: Will the minister commit to chasing those up, please?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (23:42): Yes, President, I will.

The PRESIDENT: The house stands adjourned.

House adjourned 11:42 pm.