Hansard

LEGISLATIVE COUNCIL

60th Parliament

Thursday 9 March 2023

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

Georgie Crozier

Deputy Leader of the Opposition in the Legislative Council

Matthew Bach

Member	Region	Party	Member	Region	Party
Bach, Matthew	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, Nicholas	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	Western Metropolitan	Lib	Ratnam, Samantha	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem	Northern Metropolitan	DLP
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Heath, Renee	Eastern Victoria	Lib	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tierney, Gayle	Western Victoria	ALP
Limbrick, David	South-Eastern Metropolitan	LDP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Lovell, Wendy	Northern Victoria	Lib	Watt, Sheena	Northern Metropolitan	ALP

Party abbreviations

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

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Thursday 9 March 2023

The PRESIDENT (Shaun Leane) took the chair at 9:33 am, read the prayer and made an acknowledgement of country.

Rulings from the Chair

Motions of urgent public importance

The PRESIDENT (09:34): I have received a letter from Ms Crozier seeking to propose a matter of urgent public importance. Under standing order 6.09(1) a member must provide notice in writing to the President of a definite matter of urgent public importance at least 2 hours before the President takes the chair. The notice must set out the subject matter desired to be discussed and a statement setting out the grounds considered to justify its urgent consideration. In this case I have not been given 2 hours to consider the matter which Ms Crozier raises. Standing orders do allow the President to waive the requirement if the President is satisfied that unusual and extreme circumstances did not permit the matter to be submitted 2 hours before taking the chair. I am not convinced that unusual and extreme circumstances apply here. A motion of urgent public importance requires the house to set aside its planned business in order to deal with the urgent issue. It requires a very high threshold. For that reason I will take time to consider the written submission of Ms Crozier, and I will come back to the house.

Papers

Papers

Tabled by Clerk:

Auditor-General – Maintaining Railway Assets Across Metropolitan Melbourne, March 2023 *(Ordered to be published)*.

Crown Land (Reserves) Act 1978 – Order of 26 September 2022 giving approval to the granting of a licence at Treasury Gardens.

Jobs, Precincts and Regions Department – Report, 2021–22.

Parliamentary Committees Act 2003 – Government response to the Public Accounts and Estimates Committee's Report on the 2022–23 Budget Estimates.

Subordinate Legislation Act 1994 – Documents under section 15 in respect of Statutory Rule Nos. 13 and 15.

Business of the house

Notices

Notices of motion given.

Adjournment

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (09:40): I move:

That the Council, at its rising, adjourn until Tuesday 21 March 2023.

Motion agreed to.

Members statements

Sandringham College

Ryan BATCHELOR (Southern Metropolitan) (09:40): Last week principal Amy Porter took me on a trip down memory lane, showing me around one of my old schools, Sandringham College, and –

A member interjected.

Ryan BATCHELOR: Yes, I did actually. I am getting to that joke, do not worry. A lot has changed since I was there 30 years ago, including the school uniform. A lot has not – many of the classrooms are unfortunately showing their age; aren't we all. But the students I met were enthusiastic about their school and let slip a few things that could be improved.

I am pleased to say that construction of stage 1 of their master plan is expected to be completed later this year, upgrading music facilities, the canteen and other amenities. They are building a new gymnasium. The government is working with the school and Bayside council to complete the construction of some new sporting facilities – two indoor courts, nine outdoor courts and a new oval – that will be shared-use facilities with the local community. I want to thank the principal and the wonderful staff that I met at Sandringham College, and I look forward to working with the Victorian government towards bringing this secondary school into the new era of 21st-century learning, with modern facilities to match.

Independent Broad-based Anti-corruption Commission

Melina BATH (Eastern Victoria) (09:41): It is incredibly disappointing that we have a government that refuses to listen to one of the highest authorities in our state and we have the Honourable Robert Redlich AM KC having to write a letter to the President and the Speaker and for that letter to contain such serious details. I have printed it from a media website:

> Dear Speaker and President
>
> …
>
> I am writing to you as the newly elected Parliament to bring to Parliament's attention, IBAC's concerns about the composition of the Parliamentary Integrity & Oversight Committee (IOC). As set out below, IBAC has been concerned for some time now that partisan politics has intruded into the workings of the Committee on issues of integrity. IBAC respectfully requests that Parliament giveurgent consideration to the structure and composition of the new IOC and to whether some amendment of the Parliamentary Committees Act 2013(PCA) is required.

It goes on to say:

> IBAC's experience with the IOC, particularly in the last twelve months, evidences a lack of fairness, partisanship and leaking of information to the media.

This is a disgrace.

Independent Broad-based Anti-corruption Commission

Adem SOMYUREK (Northern Metropolitan) (09:43): I rise to condemn former IBAC Commissioner Robert Redlich for bringing IBAC into disrepute by engaging in serial leaking of confidential information exchanged for favourable media coverage to feed his insatiable ego. The conclusion of Redlich's self-indulgent reign of error literally leaves behind a trail of death and destruction to fulfil his narcissistic needs. Over the last five years Redlich has done very little work but has shamelessly courted media attention and lectured on integrity as he has simultaneously siphoned off a lazy $5 million from the taxpayer in unjustified wages.

Redlich's obsession with the media has had disastrous consequences. One of Redlich's many leaks during Operation Watts was the leaking of the draft report, the effect of which has denied people natural justice. It is no surprise that we are now facing a farcical situation where Redlich wrote a letter to the Presiding Officers and then, true to form in his rat-cunning way, sneakily leaked the letter to the media. Corruption is about the misuse of entrusted power for private gain. Redlich's serial leaking of confidential information in exchange for favourable media coverage is the textbook definition of 'corruption'.

South-Eastern Metropolitan Region multicultural communities

Lee TARLAMIS (South-Eastern Metropolitan) (09:44): Recently I attended the 35th Antipodes Festival in Melbourne's CBD. It was fantastic to again be part of this wonderful celebration of Hellenic

culture, the largest celebration of its kind outside of Greece. Over two days around 100,000 people came from near and far to enjoy over 80 pop-up stalls selling delicious food and traditional arts and craft, carnival rides and three stages showcasing Hellenic dancing, singing, music, cooking and other entertainment. The festival was a raging success, and the performance by Greek singer Alkistis Protopsalti on Saturday evening also drew an amazing crowd. The annual Antipodes Festival is a wonderful celebration of diversity, culture and community, and the Victorian government is proud to be supporting it each year with funding. Congratulations to the Greek Orthodox community of Melbourne and everyone who contributed to another hugely successful event.

On the same weekend I also had the privilege of spending an afternoon in Dandenong Park supporting the local Albanian community at the Albanian Australian Community of Dandenong Keshava annual cultural festival. We shared Albanian food, dance and culture, and I caught up with many old friends and made lots of new ones. This was the first time the event had returned to Dandenong Park after many years, but if the turnout and enthusiasm of the attendees was any indication, the annual festival is only going to get bigger and better, and I look forward to being part of it. Thanks to everyone who worked so hard to make this such a successful event.

While these events showcased just two of the many multicultural communities that proudly call Victoria and the south-east home, they are a demonstration of our strength and diversity that is thriving in our state, where our vibrant communities are proud to share their culture, cuisine and traditions and where on just about any and every weekend you can attend and participate in a wonderful multicultural festival, event or celebration.

Jenny Smith

Wendy LOVELL (Northern Victoria) (09:46): I want to acknowledge the retirement of Jenny Smith from her role as chief executive officer of Council to Homeless Persons. Jenny has dedicated her professional life to the public sector, and she joined the Council of Homeless Persons as CEO in 2011. It was at this time I met Jenny in my role as Minister for Housing, and we quickly established a strong working relationship to address the housing needs of vulnerable Victorians. From the time I met Jenny it was obvious that she had extensive knowledge of the sector and an undeniable passion to end homelessness in Victoria. Jenny has completed a masters degree in social work as well as public policy and management, and she is a graduate of the Australian Institute of Company Directors. Jenny is a former chair of Homelessness Australia. I want to thank Jenny for her dedicated service to the sector and particularly for her tireless work and advocacy to help the most vulnerable members of society. I wish her well for her next exciting adventure.

Rotary Club of Tatura

Wendy LOVELL (Northern Victoria) (09:47): It was an absolute pleasure to attend the 60th anniversary celebration of the Tatura Rotary Club held at the Ballantyne Centre in Tatura last week. A large crowd gathered to pay tribute to and celebrate the wonderful service the club has given to the local community over the last six decades. I want to congratulate current president John Melathethil John on his leadership of the Tatura Rotary Club and wish the club's members and supporters the very best as they celebrate this wonderful milestone. I look forward to the Rotary Club of Tatura providing more outstanding leadership in the community over the next 60 years.

Medicinal cannabis

Rachel PAYNE (South-Eastern Metropolitan) (09:48): It was such a pleasure to attend the Medican conference in Nimbin at the end of February and hear from ex-magistrate and now dean of law at Southern Cross University David Heilpern on his hopes to change the roadside saliva-testing rules nationwide. As we saw in this chamber yesterday, attitudes are changing quickly, and David is a leader in this field. We heard from Debbie Ranson, a nurse practitioner from a cannabis clinic in Brisbane on her wealth of experience. We heard from Dr Ben Jansen, a cannabis-prescribing doctor, and Des Harp, a professional compounding chemist and leader in supplying customised medicine,

amongst others. It was a truly educative experience to hear from these experts in this important and emerging medicine. I extend my thanks and congratulations to the organisers, the Hemp Embassy, and a special thanks to Michael Balderstone for his tireless advocacy in this field.

Pride Cup

Michael GALEA (South-Eastern Metropolitan) (09:49): I recently had the privilege of attending the very first Pride match in the A-leagues when Melbourne Victory took on Adelaide United in a men's and women's double-header at AAMI Park. Having been a supporter of the A-leagues and a diehard fan of Melbourne Victory since the inaugural season, I know that regrettably football is one area of society where you can still readily witness homophobia, which is why it is especially important for the A-leagues to embrace the Pride round, as they have. The games themselves were hard fought, with both the men's and women's teams drawing level in their fixtures. There was a Pride Cup celebration on and off the field, with the Victory Pride village providing live entertainment, giveaways and a festive atmosphere. Pride Cup works with all levels of sport to break down barriers and make sport safe, welcoming and inclusive for LGBTQIA+ people through education and events. It was great to enjoy the event with my colleagues Minister Steve Dimopoulos and Minister Natalie Suleyman, and I would like to commend Melbourne Victory chairman Anthony Di Pietro and CEO Caroline Carnegie for ensuring that the A-leagues' very first Pride match was such a resounding success.

Independent Broad-based Anti-corruption Commission

Georgie CROZIER (Southern Metropolitan) (09:50): I rise to comment on the information that has been provided in the public domain today on the IBAC situation, and I want to make note of or bring to the attention of the house the Premier's comments. This is what he said this morning.

David Davis: He's a shocker.

Georgie CROZIER: More than a shocker, Mr Davis, he is a disgrace, because he said this:

> I'm not having a debate with a bloke who used to run an agency who's apparently written a letter that I haven't seen.

This is about the Honourable Robert Redlich, who is the former Commissioner of IBAC, which is supposed to be upholding our integrity in this state and looking at issues that are incredibly important around corruption. The Premier himself has been, it is reported, four times before IBAC. We do not know what for in terms of the full details.

David Davis: He's a frequent flyer.

Georgie CROZIER: He is a frequent flyer, Mr Davis. But doesn't it say so much about the man and about the administration of this state when we have got the Independent Broad-based Anti-corruption Commission Commissioner being dismissed by the Premier like he has. I think it shows the calibre and integrity of Daniel Andrews. It says more about him than anything else, and I think he should withdraw those comments, apologise and be up-front once and for all with the Victorian public about what he has done behind the closed doors of IBAC.

International Family Drug Support Day

Aiv PUGLIELLI (North-Eastern Metropolitan) (09:51): Last week I had the privilege of attending International Family Drug Support Day, an event here at Parliament House.

Members interjecting.

The PRESIDENT: Order! I am on my feet! The next person that yells something is going to have an early morning tea, seriously. We need to respect the member who has the call. I want Mr Puglielli to have his members statement. I want the time reinstated so he has got 90 seconds, and he has the right to be heard in silence.

Aiv PUGLIELLI: Thank you, President, and I thank the chamber. Last week I had the privilege of attending an International Family Drug Support Day event here at Parliament along with fellow member Mr Limbrick and my colleague in the other place Dr Tim Read. Every year on 24 February family members around the world come together to share their stories and break through the stigma around people who use drugs. This is International Family Drug Support Day's eighth year, and the chorus of voices demanding evidence-based drug policy grows louder and more insistent.

At the event we heard some incredible stories. We heard from family members, from advocates and volunteers, from people working in recovery services and from people who have experienced drug dependency themselves. With such a diverse range of experiences represented, it was remarkable to me that there was one thing that everyone in the room could agree on: the current punitive approach to drug policy here in this state just is not working. Criminalising people who use drugs puts them in legal and financial strife and does nothing to improve their health outcomes.

This year the event had two themes: the first, 'Support the family, improve the outcome', the second, 'Harm reduction helps keep everyone safe'. Members of this chamber have a responsibility to listen to this community and listen to people who have direct contact with the system that is shaped by the decisions in this place. I would like to thank the staff at Family Drug Support and all the speakers on the day for their work.

Wurruk Community House

Tom McINTOSH (Eastern Victoria) (09:54): 'Community' is not just an abstract word; it is a fundamental building block of what it means to be human, and Wurruk Community House is embedded in its community. Just last week I visited a transformational project in Wurruk on the outskirts of Sale, where I met with locals working hard to build a positive future. The Wurruk Community House has teamed up with the Wurruk Primary School and local volunteers to provide an after-school program for local children. Make no mistake, it is doing far more than what after-school care may conjure in your mind from the past. The after-school kids program provides a nurturing space for emotional and life skill growth.

The community of Wurruk has a traditional housing commission, and the families that I met there have a wide range of backgrounds and powerful stories. Sarah, who manages the community house, has done a power of work to bring the community together. Along with volunteers and the support of the school they are providing consistent after-school support to dozens of children, who are loving it and keep coming back for more. The house has a community garden, and the veggie boxes are nothing short of impressive, managed by self-made gardening gurus Neil and Kirraley. There is a great harvest for locals to share and enjoy. Deborah, Neil, Sarah, Heather and Kirraley ensure the food bank is stocked and families have regular opportunities to get what they need. This work being done on the ground is the fabric of what makes community and what changes lives for the better. It is a small team enabling big change and big plans for their future, which I look forward to supporting.

International Women's Day

Nicholas McGOWAN (North-Eastern Metropolitan) (09:55): As the two Ukrainian pilots pushed the throttle forward the ageing Beechcraft battered down the runway. Without warning the nose of the plane lifted abruptly into the clear blue sky, swirling well above Kabul. I was on my way to recuperate for a few days and take a break from my United Nations post in Kabul, a place I proudly called home. I am a long way from Kabul, and yet the plight of Afghans is a passion that will remain with me for a lifetime. As I speak, International Women's Day has just come to a close by some 3 hours. It is with much sorrow that I report to this house the alarming deterioration in the conditions and rights of women and girls. In Afghanistan today women and girls must cover their faces in public. Women should only leave their homes in case of necessity. Some are allowed to go to work but only in the company of a male. Girls have been forbidden from going to secondary schools in many provinces. They have banned any girls above sixth grade from education other than religious education, and the Ministry of Women's Affairs has been abolished. I did not eat cupcakes yesterday, and I do not mind

that others did. I support International Women's Day, but the sad truth is every day should be women's day. We only need to ask the women and girls of Afghanistan.

Western suburbs community groups

Moira DEEMING (Western Metropolitan) (09:57): This morning I would like to acknowledge and praise the work of several local volunteer organisations in the west that help to keep the government accountable. First up are the groups advocating against the expansion and mismanagement of the many landfill sites and waste in the west. Our residents have been forced by this government and its various agencies like the EPA, which itself has been condemned multiple times in independent audits, to live with the dust, debris, smoke, fumes and chemicals which impact their lives and the lives of their children. The groups are Sunbury Against Toxic Soil, Brimbank Community Against Barro Landfill and Stop the Tip Residents Forum. Then we have the Stop AusNet's Towers group. They are fighting against the 190 kilometres of powerlines and massive towers, each as big as the MCG light towers, that are being built throughout the western region. They are fighting for property rights, cultural rights and better environmental outcomes for all those whose homes and livelihoods are literally about to be bulldozed. Then we have Caroline Springs United, which advocates for better police resourcing for the west. In fact there is a local councillor and Liberal member Maria Kerr who helped found it, so a shout-out to her too. Thank you so much for everything that your organisations do to help in the west.

Independent Broad-based Anti-corruption Commission

David DAVIS (Southern Metropolitan) (09:58): The Honourable Robert Redlich AM KC has blown the whistle on the corruption at the heart of this government. It is clear that the Integrity and Oversight Committee has been nobbled and there has been really serious interference in the activities of that committee. The letter that is on the *Herald Sun* website today reveals just an absolute scandal. If that is the letter that came to the chamber and if that is Mr Redlich's letter – and we have no reason not to believe it is – it shows corruption in the heart of this government, corruption involving the Integrity and Oversight Committee. I think the community has every right to be very, very concerned about the extraordinary developments that are revealed in that letter and the misbehaviour of key members of the Integrity and Oversight Committee. I concur with Ms Crozier and the concerns she expressed about the misbehaviour of the Premier this morning. For him to dismiss Mr Redlich with 'I'm not going to have a discussion with a bloke who used to run an agency' – what an extraordinary, arrogant, out-of-touch approach.

Members interjecting.

David DAVIS: I tell you what: I remember another Premier who once dismissed an independent agency, another Premier who made a mistake in that regard, and the people did judge him very harshly in the end. This government's overweening arrogance shown by this process – *(Time expired)*

Business of the house

Notices of motion and orders of the day

Lee TARLAMIS (South-Eastern Metropolitan) (10:00): I move:

> That the consideration of order of the day, 1, for the resumption of debate on the motion for the address-in-reply to the Governor's speech and notices of motion, government business, 2 to 36, be postponed until later this day.

Motion agreed to.

Bills

Health Legislation Amendment (Information Sharing) Bill 2023

Second reading

Debate resumed on motion of Ingrid Stitt:

That the bill be now read a second time.

Sonja TERPSTRA (North-Eastern Metropolitan) (10:00): I rise to make a contribution on the Health Legislation Amendment (Information Sharing) Bill 2023. This is an important bill and is something that I know concerns a lot of people, and in a good way. It is basically the government making sure that we have a fit-for-purpose, modern information-sharing system that accommodates and accounts for patient needs. The Victorian government is committed to improving patient safety and continuity of care for all Victorians, and this also means ensuring our health services and clinicians have the appropriate tools and information at their disposal. The proposed new secure health information sharing platform will do exactly that by establishing a single point of complete and accurate patient information for clinicians to provide safe and timely care.

For example, if I am taken to an emergency department – hopefully that never happens – and I am out to it and I cannot speak for myself or a family member is not there, I would like to think that the clinicians that are treating me in that circumstance can have access to the information they need. I might have an allergy to medication, for example, and it would be great if they knew that before they started administering medication. But if I am not conscious and I cannot talk to them, then obviously there are going to be some delays that occur before they can get access to that information. So these sorts of systems really are critically important to ensuring that time can be gained and that there is no lost time when we look at getting access to patients' information. It is critically important. Time gained in those circumstances can make a big difference to outcomes for patients, so it is critically important.

Victoria's public hospitals were divided into autonomous networks in the early 1990s. That would have been a function of privatisation. Under which government? Their government over there, the opposition benches; that was another legacy. I think they even closed public hospitals, if I remember rightly. So we are still dealing with legacy issues that have arisen from those opposite. They want to lecture us about all manner of things today. Well, shame on them, because we are having to make sure not only that we address the legacy issues that were left by those opposite but that we move forward, we look into the future and go, 'Well, actually, we need to not only fix the problems of the legacy left by those opposite with their absolute obsession with privatisation but look forward as well and make sure we are providing the best regime for patients in our public hospitals.'

Nurses – aren't they great? Don't we love nurses and our public health practitioners? They are fantastic. Our nurses provide the best care in our public hospital system, and we value them. Not only do we value our nurses, we value our midwives and our doctors and everyone who works in the public health system. We know you hate the work 'public', because you always privatise anything that is public.

Members interjecting.

Sonja TERPSTRA: We know you hate it, and shame on you. You are embarrassing. Let us keep talking about our fantastic public hospital system and all the amazing people that work in it. Shame on you over there; you are an embarrassment and a rabble.

As I was saying, public hospitals were divided into autonomous networks in the early 1990s by those opposite but have been operating as parts of a single system, especially during COVID, but their digital records are not shared. I know that if anyone suffers a severe health issue and they are taken to hospital in an ambulance, they are going to a public hospital and a public emergency department, and the great thing about public EDs is that this government introduced nurse-to-patient ratios. Why? Because we know that that actually saves lives and gives better patient outcomes. It is about safety. Only this

government on the government benches over here, a Labor government, makes sure that our public hospitals and the great nurses, midwives and doctors that work in them are supported –

Members interjecting.

Sonja TERPSTRA: whereas you guys over there close hospitals and sack people. That is what you do. Most Victorian patients will be treated at different health services over their lifetimes, and patients –

Members interjecting.

Sonja TERPSTRA: I do not know, but I can kind of hear an irritating whining noise in here. It is really, really fascinating. It is like something going down the gurgle hole of irrelevance in political history. I do not know, but in the last election, didn't people vote for us? Yes, we were returned and increased our majority. I will leave you with that comment over there because, honestly, the whining noise – I do not even know where it is coming from, Mr Berger. Do you? No. It is the whine of irrelevance.

Anyway, I will return to my contribution. Most Victorian patients will be treated at different health services over their lifetime, and patients cannot know what information from their medical past will be critical to their medical future. This is actually true: you never know what might have happened in your past – how you have been treated, the issues or illnesses that you have had – and how that might impact patient outcomes in the future. Currently in Victoria critical health information is spread across different health services, depending on where a patient has visited or been transferred, and these records are also in separate systems and paper files, making them difficult to find in times of need. The fragmentation of the patient health information system means that clinicians, as I said, are often needlessly delayed by manually gathering patient information through faxes or phone calls. I was surprised: some doctors still use fax machines – oh, my goodness. I thought it was a relic of the past, but it is clearly not.

Nevertheless, you can see why having a joined-up system is pretty important. When someone has been treated in an emergency department it is critically important. If someone is suffering a stroke, time is really, really critical to make sure that they get the best treatment. When you have got a brain that is under pressure because of a stroke, time is critical when they can adequately and quickly get the information that they need. That is why we introduced stroke ambulances as well. Those things are critical, and they improve patient outcomes.

Just to depart from my contribution for a moment, I know also in regard to this bill the government has house amendments, and I call on the Clerk to circulate those house amendments now.

Amendments circulated pursuant to standing orders.

Sonja TERPSTRA: Medications that may interact, drug allergies, alerts such as severe asthma, past biopsy results, diagnoses that took months to make – especially psychiatric diagnoses – and results of tests and expensive scans all sit in the digital records, and with this bill we can make that information readily available, reducing delays and risks of misdiagnosis, or alternatively we can continue to let clinicians wait on the phone. The current way of doing things is clearly inconsistent with modern health information sharing standards and the approach taken by the Australian jurisdictions, such as New South Wales, Queensland, the ACT and South Australia, which have all successfully implemented health information sharing at the point of care.

Having been an official for the Australian Nursing and Midwifery Federation, I have worked with many nurses, and not only in our great public hospital systems. I was fortunate to have in my team people who had worked in the emergency department but also nurses who had worked in the mental health space. They talked to me quite often about making sure they had access to patient records in a quick and timely manner. I know that that information is critically important to their practice, because nurses talk a lot about making sure they have good practices, and they do continuing education to

make sure that in the way they operate and provide care in our great public hospital system they have the best practice available to them. This tool I know will be very much appreciated by nurses because, again, it allows them to have access to information. For clinicians and doctors it allows them to get access to information as quickly as possible, and that can only be a good thing. As I said, if I was out to it, if I was unconscious and being brought in by an ambulance into an ED, I would want to know that the clinicians treating me – nurses, doctors – had access to my information. It does not bother me; I actually would prefer that to be public.

In terms of the bill and what it does about information, the bill is not about whether public health services should share information. That is really important for the public to understand. It is about establishing a secure and more efficient platform for clinicians to access the relevant clinical information to treat patients safely. There are currently no opt-out arrangements under existing legislation, and Victorian public health services share information for the purposes of treatment.

The opt-out model suggested by David Limbrick and others is a step backwards. It actually undermines the primary objective of the bill, which is to ensure clinicians can have access to relevant medical information to provide timely care. An opt-out model also undermines the efficiency of our health system. An opt-out patient may be required to redo tests to safely effect diagnosis and treatment. It is distressing for the patient and creates unnecessary costs and delays for health services, who are already under significant strain. These inefficient, duplicative and unsafe manual processes increase wait times and delay care for other patients, such as when they present at emergency departments. Like I have just been saying, time is everything. Especially with stroke and with some other illnesses or injuries, time is everything. We can provide systems whereby treating clinicians – nurses, doctors – can save time and actually save costs.

It is kind of interesting to me that those opposite want to bang on about this, because really we want to make sure that we are actually saving money. Those opposite always carry on about how inefficient we are. We waste money and time and rah, rah, rah – standard catcalls from standard casting over there. No-one is listening to you. You are an embarrassment. Whenever we come up with good ideas over here, all you can do is rubbish them, because you have got no ideas between you over there. You are an embarrassment. You have got no ideas. God forbid you guys ever get into government, because you know what, you sell everything and privatise everything. That is what you do. You sack people and you hate the word 'public'. You privatise everything –

Nicholas McGowan: On a point of order, President, the member is referring to the members on this side of the chamber as 'you guys'. That is unparliamentary. I would ask you to bring the member to order.

The PRESIDENT: I will bring the member back to the bill, but I request that she gets heard in silence. Interjections are unruly, and they can provoke a response.

Sonja TERPSTRA: Thank you, President. As I said, there is strong support from clinicians and health services for these reforms, which will result in improvement in practice and patient outcomes – and that is important, because as you can see, whenever we go about implementing reforms and improvements we consult with people and we consult with those very people who are working in the system. We do not just sit here and make stuff up. What we do is consult with people, and as I said, these improvements are strongly supported by clinicians and health services.

Those who oppose the bill are content to point out the challenges we are facing without being part of the solution. As I was saying, these are critical reforms that are going to improve patient outcomes. It is very easy to be critical; it is easy to criticise. The hard part is actually coming up with solutions to make sure that patients get the best outcome, because ultimately this is about patient safety, and that is something that those opposite do not understand.

I know other colleagues of mine will be speaking on this bill, and I know they will also have a lot to say. I think I have addressed it in a substantial way. There is another thing that I might just quickly

touch on in the 2 minutes I have got left, FOI. Those over on the opposition benches and some on the cross bench like to run the line that everything we do either is corrupt or has conspiracy theories attached to it. It could not be further from the truth. As I have been saying in my contribution, it is incredibly tedious and predictable but just boring to listen to the constant stream. There is nothing more, nothing different. It is all more of the same, just talking to yourselves, and you keep doing that while we over here get on and make the changes that we know our health system actually needs.

On FOI rights, just in the 1 minute and 44 that I have got left – I will finish on this note – the bill does not change a patient's right to access their full medical records from their health service provider under FOI and privacy legislation. To ensure efficiency and timely care the information that will be included on the proposed platform is only the most relevant clinical data for the purposes of treatment, not the full medical history of the person. This includes allergies to medication, hospital treatment summary and diagnostic reports. That is actually being helpful. It is going to help nurses and doctors who are treating a patient to have the best, most accurate information they need to give treatment options for that person and make the best clinical decisions they can in the time that they need to. The bill does not enable FOI requests on the health-sharing system. This is because it would require the department to access clinical information to respond to questions, which would be inappropriate and counteractive to the strict protections and access controls the bill seeks to establish.

I know my colleagues will have much more to say on this, and some will probably talk about what happens in other jurisdictions as well. But as I say, as a former official of a nursing and midwifery federation, the nurses union, one of the largest unions in this country, I know that nurses and doctors and those who work in our public healthcare system greatly appreciate this. They support these reforms. Ultimately, it is about patient safety. The reforms that this government has made previously around nurse-to-patient ratios – again strongly opposed by those opposite – were all about improving patient safety. This mechanism and the bill we are introducing, this Health Legislation Amendment (Information Sharing) Bill, will also improve patient outcomes and improve patient safety.

Sarah MANSFIELD (Western Victoria) (10:15): Before I start my contribution, for transparency I would like to state for the record that my partner is employed at a public health service and is also a board member of another entity to which this legislation applies. This is already on the public record via my regular interest disclosures; however, in my assessment and based on advice received, the passage or otherwise of this bill has no relevance to his private interests and therefore does not present a conflict.

This is a significant piece of legislation, and I intend to do it justice by taking the time to outline the reasons why the Greens support the intent of the bill but why we also worked with the government to secure amendments to improve the bill and why we will need additional assurances from the government in order for them to get our vote. In developing our position we have liaised with a wide range of stakeholders, including health service providers, various consumer and privacy representative bodies, healthcare workers and the Department of Health. There are widely varying views about what is appropriate and workable, and we have sought to find a balance between these perspectives.

Like my colleague in the other place Dr Tim Read, I am acutely aware of the problem this legislation is attempting to address. As an emergency medicine registrar at the Austin and Geelong hospitals I spent countless hours chasing up medical records and became a pro at using fax machines. It has been said that some doctors use fax machines still. All doctors use fax machines; it is the most hardworking machine in the hospital. I have been in those middle-of-the-night situations where you are working with incomplete information – patients and their relatives trying to remember critical details about when, where and what you need to know happened. In the absence of this information, you hope the patient is not on a medication that might react or that they have a condition that affects their treatment, or you order another round of tests, because it is faster and easier than trying to get hold of previous results they might have only just had done. I remember once when I was a junior doctor – this is a true story – my team had to put a CD with images of a brain scan in a taxi so that they could be viewed by

a neurosurgeon at another hospital to assist us with our management. That was some time ago; I would hope things have improved, but I do not think they have improved that much since then.

It is hard to convey just how much time is spent by nurses, midwives, ward clerks and doctors chasing patient records and information and how much duplication occurs. In a system strapped for resources, particularly human resources, one of the questions we have to ask ourselves is: is that the best use of our hospital staff's time? In a system that is under financial pressure, should we be ordering costly tests again and again despite being unnecessary and possibly putting patients at risk of harm? While this bill is certainly no silver bullet for solving all health system problems, it is a step towards improving efficiency.

The Greens recognise that patient safety was the driver of the proposed legislation. The investigations and subsequent review into the tragic cluster of baby deaths at Bacchus Marsh hospital called for a statewide information-sharing system for greater hospital safety and quality assurance in Victoria. In an ideal world we would have a seamless healthcare system – integration between all aspects of care across the country, within the state and between primary, secondary and tertiary care – and we would have a record system that reflects this. Instead what we have is a highly fragmented system, with health information to match.

In Victoria our public health entities do not operate as a cohesive, effective health system. Since the time of Kennett, who broke up Victoria's health system, each health service has acted as an independent entity, each with its own records, management system and software. There is no mechanism for these different electronic records to talk to each other. Information is therefore scattered. It is stored in different places, it is in paper and electronic forms and it is duplicated and difficult to manage.

In 2009 I gave evidence to an inquiry into public hospital performance data to the Standing Committee on Finance and Public Administration – Mr Davis was actually a member of the panel – and one of the hot topics was the parlous state of our fragmented hospital IT system. I actually looked up the transcript to see what we had said – neither of us said anything to contradict our current positions. But it was really interesting to see that the same discussion could be had today.

A lack of information sharing increases the risk of errors or omissions and duplication of tests and procedures, which can be costly and even harmful. It is particularly challenging for people who have complex chronic health conditions or require care across multiple facilities. Increasingly, people who are from rural or regional areas must travel to metro areas for specialist treatment such as multidisciplinary cancer care. They might have surgery in one place, radiotherapy at another and continue chemotherapy at their local community health centre.

Again, in an ideal world the way we would deal with our fragmented health system would be to find a way that all the hospitals could communicate with each other efficiently without needing to centralise a platform hosted by the department, but getting every health service onto the same system within a reasonable time frame would be almost impossible according to health IT experts and others in the health department. They have not been able to achieve this in decades.

So we have before us the proposed mechanism attempting to bridge the communication divide that exists. The proposed system is not a panacea for all the ills of the health system or indeed even of health information sharing, but we recognise that it is a genuine attempt to fix a longstanding problem. The Greens support the intent of the bill: to improve quality and safety of patient care. However, provision of good clinical care is reliant not just on healthcare worker training and systems but on trust from patients. They must be able to trust that they will receive good-quality care. Having the right information at hand is part of that, but they also need to be able to trust that their sensitive information is going to be kept private and secure.

This is not a binary debate between effective, efficient clinical care versus patient privacy on opposing sides. A lot of focus has been on the fact that the proposed bill does not provide an opt-out or opt-in

provision. We have spent considerable time consulting with various stakeholder groups and have worked constructively with the government to see how the bill can better address their concerns. Many arguments being made against this system assume that the existing systems are somehow more secure or afford people more choice. At present laws require the collection and storage of information by a health service. This cannot be opted out of. Some health services are networked together already. Information is shared already between health services via email, fax, verbal communication and screenshots, which I would argue is less secure and lacks any ability to audit who has accessed the information in many cases. There are a range of laws that exist to govern how health information can be recorded, stored and shared and consent processes required, who can access information and what it can be used for. We must remember that these laws remain in place.

While we will not be supporting a blanket opt-out provision as has been proposed, the Greens do hold a range of concerns about privacy, autonomy and data integrity related to this bill. For this reason we have worked with the government to secure a legislated privacy management framework so we and the public can have confidence patient privacy will be central to the development of the platform. I thank the government for working constructively with us to improve the legislation. Amongst other things, the privacy management framework that we have secured in legislation must create a process to safeguard information that is highly sensitive; a process to protect the identity of patients who may be at risk of harm, including survivors of family violence – that is in the legislation; a process to allow patients to get reports on who has accessed their records – that is in the legislation; and regular audits and compliance checks of the system so that any inappropriate use can be detected.

Critically, we have ensured that consumers will shape and inform what additional privacy protections are needed. We have also pushed to have a review of this legislation incorporated into the bill, including a review of the privacy management framework. We want an independent expert review conducted and a report to Parliament no later than a year after this starts. When implementing important and complex legislation like this, where there are still many unknowns and where public concern is rightly elevated, a review process is essential to ensure that we are on the right track. The minister must either adopt the recommendations of this report or explain to Parliament why not. That is in the legislation.

While we welcome the government's willingness to work with us and include the amendments, we will still require assurances on a number of issues during the committee stage. We want confirmation that additional privacy and security measures will be afforded where required – for example, in the case of people who have sensitive or stigmatised conditions and for survivors of family violence. This is not new. Local health services already have systems in place to manage situations like this, and we want the privacy management framework to build on those systems. We also want assurances that people and agencies other than those directly involved in the clinical care of a consumer will not be able to access the information on this platform. We do not want law enforcement agencies or health department bureaucrats accessing these records. We want the government to provide details about the process for people to obtain a report listing who has accessed their electronic health information, and we want assurances that the department has appropriate resourcing to support the implementation of this system so it does not compound the workload of already overstretched hospital and health services. I have spoken with health service providers who are concerned about how they will meet the compliance requirements of this legislation and are concerned about having the budget to do so.

While the Greens understand the clinical safety and quality issues that are at stake here, the public also need to be able to trust the system to keep their information private and secure. That is why we have worked constructively with the government to achieve improvements in this legislation, and provided we receive appropriate assurances about other concerns, we will be supporting it. If the legislation passes, regardless of what amendments are made and what assurances are provided, ultimately responsibility for this system rests with the government. A lot will come down to how this is implemented, including the amount of time and money invested in ensuring that protections for people's data and privacy are the highest possible. Be assured that from the Greens' perspective

passage of this legislation is not the end. We will be watching closely and holding the government to account. The government must invest adequate time and resources to develop robust privacy measures and support health services to deliver those to ensure ongoing trust in our health system from the public.

Ryan BATCHELOR (Southern Metropolitan) (10:26): I am pleased to join the debate on the Health Legislation Amendment (Information Sharing) Bill 2023. I also want to start by thanking Dr Mansfield for her contribution. I thought it was exceptionally thoughtful and gave us an insight into the realities that our health and medical practitioners face on a day-to-day basis, which has really been absent from some of the contributions from the other side of the chamber. I do also want to acknowledge the small matter of my partner's employment in a medical service, which is reflected on my register of interests, and share the lack of concern that that poses any conflict of interest.

It is important to state in the context of this debate that we do see our health practitioners constantly trying to do the absolute best that they can for the patients that are presented to them on a day-to-day basis, often in very difficult circumstances, and what we as legislators in government can do to help give them the tools and information that they need to provide the best quality care is something that should be top of mind always in consideration of legislation that is before us. We know that better information, as complete and as accurate as we can make it be, may be a necessary but perhaps not sufficient ingredient in ensuring that high quality of care.

The bill before us today does a range of things, including enabling the Department of Health by amending the Health Services Act 1988 to create and establish an electronic health information platform to allow the sharing of information between specified health services via that secure platform for the purposes of treatment and patient care. It also facilitates the secretary of the department to have the necessary powers and controls to allow that process to occur and introduces new offences, new requirements and new penalties for unauthorised access or disclosure of that information. The legislation when it is passed – and we hope that it is passed – will sit alongside the very significant protections that exist in the Health Records Act 2001 and under the five health privacy principles to ensure that the use of health information in Victoria is both properly and well regulated and also has sufficient and necessary oversight. I think the government does take those concerns seriously, and clearly in the discussions with other members of this place and other members of the other place it has certainly been very willing to make sure that the sort of oversight that is put into this framework is the best that it possibly can be.

The other thing I want to reflect on – and this is something that I made a contribution on in the chamber last night – is the work that we have done previously that I have had the personal experience of working on in another sensitive context, that of the family violence reform context, and the information sharing that the government put in place following the coronial inquest into the death of Luke Batty and the Royal Commission into Family Violence in 2016. What was clear to us arising from the recommendations of both the coroner and the royal commission was that the lack of facilitation of information sharing between practitioners that are involved in support services – for victims of family violence in that case, and we can draw an analogy here to the provision of patient care in our health settings – had the potential to increase risk. An inability to see the full picture meant that the decisions that those trying to help needed to make sometimes were not fully informed. When we have a lack of full information, we can only make – health practitioners in this case – the best decisions available. I think it should be within the capacities of our government in governing to provide the necessary legislative and technological support to our medical and health professionals – that they are provided with all the tools they need in order to provide the best possible quality care to patients.

In approaching the task and thinking about this challenge in family violence, but I think it is applicable here in health as well, we need to think less about the health systems that we have in place and more about the people who use them. Always, always the operation of our health systems and the technology that supports them should be developed to consider the lives of the people that they are trying to help – to deliver a seamless patient experience but also to provide the best possible care. It is one of those

features that I think has the most striking impact on the provision of that high-quality care that this bill is trying to address.

At the moment, because of decisions that were taken more than 20 years ago about the structure of our health services in Victoria – and I am not going to the merits of those decisions, I am just looking at the consequences the structure of Victoria's health system have on patient experience and the potential of the receipt of high-quality patient care – by having effectively autonomous health service regions that have their own boards with their own structures, with their own information systems in place, what we have allowed to occur in Victoria is a siloing of information within the boundaries of those health services. I have got to say I have not met many patients who understand what a health service is, let alone know which health service they are turning up to when they are sick and need care at a community health centre or at a hospital. They are less interested, frankly, in the way we choose to draw lines on a map than they are about getting the best quality care.

What we have seen in Victoria and what the *Targeting Zero* report laid out in such stark terms is that the structures of the bureaucracy should not be impediments to patients receiving the quality of care that they need. Facilitating through the use of modern technology relevant information to be securely transmitted from one health practitioner to another to enable best practice, high-quality care to take place is something that should be within the capacity of a state and a state government that prides itself on having a world-class healthcare system. The health care Victorians receive should not be determined in its quality and efficacy by lines that were drawn on a map 20 years ago. That is fundamentally what this bill is trying to overcome.

The other thing that I think it is important to recognise in the course of this debate, which I think has been sadly lacking from the contributions of those opposite, is that the current arrangements under the health records act and the health privacy principles do already empower health professionals and clinicians to share information that they deem necessary for effective patient care. Effective patient care already allows health practitioners to share information. But as Dr Mansfield so eloquently explained, the way our health systems are structured and the technology that they provide for clinicians mean that often the tools that those health professionals have available to them are suboptimal at best. If the fax machine was not becoming too much of a cliché in this debate, it is a very real feature of our health system here in Victoria. I do not think that that is something we should be proud of, and I think that it is a good thing that this bill is trying to do away with those technological restrictions on effective health care in Victoria.

What the bill actually does is simply enable the facilitation, under existing health law, of new mechanisms for information to be shared. The bill in its current form and under the terms of the amendments that the government has circulated today will allow increased oversight of those platforms and will increase the penalties for inappropriate use, including imprisonment. Most importantly, unlike the way things work now, where people pick up the phone, call each other and open a paper file, what we will have is a much more detailed and secure audit log so that patients are able to see who has been looking at their files so that oversight can occur if those in management or other positions of responsibility have concerns about these practices taking place, and there will be actually something there to look at that, because at the moment there is no way of knowing who is going in and having a look at a patient file when they should not be. There is no way of keeping track of someone who might have less than honourable motives and is looking with improper purposes at someone's information. The provisions of this bill will put in place more penalties and put in place better mechanisms for keeping track of whether or not that is occurring. I think and the government thinks under the terms of this bill that that will be a positive for patient confidence in the operation of health records in Victoria.

We do think that it is time we got with the program. We do think it is time that Victoria's health system moved beyond fax paper and started getting to technology that enables information sharing and enables a doctor in one hospital to know whether the person who has presented to them, whether they be from the city going to the country or whether they be from the country coming into the city, has

had a blood test in the last couple of weeks or whether the person who has just turned up to the emergency department on a Saturday night, for example, has had a blood test or has a range of allergies, so that those tests and unnecessary procedures are not repeated, preventing unnecessary trauma on a patient who is required to go off and do unnecessary tests. Let us not forget that every time a doctor orders a blood test a patient has to give blood. If we have got the capacity for pathology to be shared more effectively between our health services, we might actually be providing a health outcome for patients that is much better for them.

This bill will make sure that when someone turns up for treatment, the treatment they are receiving is as fully informed as possible. It prevents duplication, reduces inefficiency, ensures that our doctors are spending less time rifling through paper and asking for stuff to be faxed to them from their colleagues – if they can get hold of them – at another hospital or another health service and enables them to be making the kind of informed clinical decisions that they require to provide high-quality patient care. It brings Victoria into line with other jurisdictions. It does what is necessary to demonstrate our commitment to the continual improvement of our health services here in Victoria.

It responds to key recommendations of the *Targeting Zero* report, which is all about trying to reduce avoidable harm in our health system and making sure that just like in other settings that we have moved on – as I mentioned earlier, in the family violence context, but in others – decisions that professionals make are more fully informed by the resources available to them, that there is increased oversight, that there are better protections, that there are new penalties and that the way that this framework is going to be operated and implemented will be subject to the kind of oversight and monitoring that gives this Parliament the confidence that the government is doing what it said it would do. Most importantly, and it brings me back to my original point, it allows our health system to be designed and operated for the benefit of patients rather than the administration of a health bureaucracy on the basis of decisions about administration that were taken more than 20 years ago. I think putting patients first in our health system should always be our absolute priority.

David LIMBRICK (South-Eastern Metropolitan) (10:41): Protecting privacy is key to ensuring human dignity, safety and self-determination. It is a fundamental human right that underpins freedom of association and of expression as well as freedom from discrimination – at least that is what it says on the website of the Office of the Victorian Information Commissioner. Both the previous and the current federal governments have acknowledged how important it is to get the laws and regulations around privacy right, with the federal Attorney-General releasing the *Privacy Act Review: Report 2022* just last month. Running at over 300 pages, the report concludes years of work to update our national privacy framework, which has been widely criticised for being woefully out of date. Some highlights that are relevant to the discussion today include proposal 11.1:

> Amend the definition of consent to provide that it must be voluntary, informed, current, specific and unambiguous.

Proposal 11.2, that the Office of the Australian Information Commissioner:

> … could develop guidance on … consent requests.

Proposal 11.3:

> Expressly recognise the ability to withdraw consent …

Section 4.7 relates to sensitive information, noting that sensitive information:

> … may only be collected with consent unless an exception applies, and more stringent requirements apply to its use or disclosure.

This includes health information. We have a situation now where the Greens have apparently done a deal with the government to look at privacy, which takes into account none of these issues around consent. There is no ability for someone to withdraw their consent, to give consent or to opt out of the

system. They are just talking about security, basically. Consent is a key feature of this report into privacy frameworks. Today we have got a bill that ignores the consent of the patient.

The report also recommends reforms focused on more control for individuals over their personal information, with a number of proposals modelled on the European Union's General Data Protection Regulation, or GDPR, which I will come back to later, as they interact with exactly the kind of digital health sharing systems that we are discussing today. It is hard to think of any information any of us might have that is more private than our medical information. In this case sharing is absolutely not caring.

I am not here for a second to endorse the old ways of handling medical information, like through fax machines. Clearly it needs to be updated. This need was identified in another report published in December. The *Strengthening Medicare Taskforce Report* clearly identifies an urgent need to improve IT infrastructure, modernise the My Health Record system, better connect health data across all parts of the health system and make other improvements. Absolutely no-one I am aware of continues to argue that the clunky system does not need updating. The debate here is about consent.

But this is pretty much the opposite of the proposal before us today. Under this proposal a range of people working for health services, not just doctors but many people working throughout Victoria's health system, will be able to find all the private information you have provided over the last three years. You do not have access to it. You have no choices at all. Your information does not belong to you. It is hidden from you, collected and shared without your knowledge, consent or participation. Here it will be kept safely in a handy database where it will supposedly be kept safe and secure.

Australian governments have a shocking record when it comes to managing IT projects. The federal government's COVIDSafe app is probably the most famous example, but the Victorian government is every bit as inept, having overseen Fines Victoria's new IT system, which incinerated $60 million of money. No doubt some of the people involved in these projects will be put in charge of handling this information. If not, maybe they will get them from Optus or Medibank.

It is worth noting that the first targets of the Medibank hack were high-profile figures threatened with the release of their sensitive health information related to mental health and substance abuse – exactly the kind of information that could be scooped up and widely accessed under the information scheme proposed by the government. While I am sure all efforts will be made to ensure that the database is secure, people who have concerns – and there are probably more of them now than there were a few years ago – have very good reason to be concerned.

Some examples of where data breaches have resulted in the exposure of sensitive health information include the following. In 2019 New Zealand primary health organisation Tū Ora Compass Health disclosed a data breach that exposed the medical information of roughly 1 million people. In Norway in 2018 South-Eastern Norway Regional Health Authority experienced a data breach where the personal information and health records of 2.9 million people – over half the population – were stolen. In 2019 Canadian clinical laboratory service LifeLabs experienced a hack that exposed the records of up to 15 million patients, including 85,000 lab results. They chose to pay the hackers to return the data. In Sweden in 2019, 2.7 million call recordings to a health service line were exposed after being uploaded to an insecure server. In the USA in 2022 the Department of Health and Human Services listed 701 major data health breaches, affecting 59 million individuals. Global risk management firm Kroll has reported that health care has overtaken finance as the most breached global industry in 2022.

I could go on at length as there are so many examples, but the point I am trying to make here is that the proposed centralisation of our health records in this database will be one of the most valuable cybersecurity targets in the nation. Shouldn't we have the option of whether we want our information included? Shouldn't we have the option, even if we want to participate in the scheme, to choose to keep our most sensitive information private? Of course the government will assure you that your information will be kept safe, but tell that to the Victorian information commissioner. They reported

124 data breaches in their most recent annual report. This new database would become a honey pot for organised crime, international intelligence or even marketers. In particular I am concerned about the dangers for women. It is not hard to imagine that a jilted lover you met on Tinder or a stalker who works in a hospital could get hold of your information and send it. All it takes is one breach for this information to be all over the internet, and the internet is forever.

The risks are real, and they do not just come from external threats. The Healthcare Sector Cybersecurity Coordination Centre in the US Department of Health and Human Services published a report in 2022 on insider threats in health care. They noted a decrease in external threats that also corresponded with an increase in internal threats. These came from a mix of malicious insiders and negligent ones, with negligent insiders making up 61 per cent of insider threat incidents.

In the latest data breach report from the Office of the Australian Information Commissioner, health services remain the sector with the highest number of notifiable data breaches. For the purpose of our debate today, it is worth highlighting that it was easily the sector with the highest number of data breaches caused by human error. It is a cliché in cybersecurity but it is true: the people are the weakness. It is not that they are bad or lazy, but we know that people are more susceptible to cyber attacks, such as phishing emails, when they are tired and overworked, and we know that healthcare workers can be among the most overworked people in the state.

My concerns about the structure and security of the system are not really a good reason to oppose the legislation, however. It is clear that we do need to speed up the integration of digital records into the health system. The central question here is simply: who owns your private medical records? Do you have any right to view and control your own medical records? Are other people, agencies, services and businesses authorised to have control and streamlined access to your records while they are hidden from you?

We have had this debate before. The debate around the federal My Health Record scheme covered many of the same issues: the sensitivity of certain records relating to sexual health, substance dependence and mental health issues. But even worse, the legislation needed to be amended because it left an open door to other agencies, such as the ATO, Centrelink and police, to access these records without a court order. At the time, the head of the Royal Australian College of General Practitioners revealed that he opted out over concerns that these other agencies would have access to his records. Parliament had to come back and fix it, and while about 10 per cent of Australians had opted out, the design was much more ethical and patient centred than what is being proposed today. The system also allows you to view your own records, check them and choose what may be viewed.

Unless it is amended, this bill will give you no such luxury. There is currently no opt-out or opt-in mechanism and no independent oversight. This is a flagrant breach of every written principle of health care, right up to the report on patient-centred health care that you will find in the Australian Charter of Healthcare Rights launched in 2019. According to this charter, patient-centred health care is about treating a person receiving health care with dignity and respect and involving them in all decisions about their health. This government has a different view. The new law means information collected from you will be exempt from critical parts of the Health Records Act 2001 and these pesky health privacy principles. It is also arguably another breach of section 13 of Victoria's Charter of Human Rights and Responsibilities, the right to privacy and reputation. As the website of the Victorian Equal Opportunity and Human Rights Commission states:

> This right applies to surveillance such as closed-circuit television, collection of personal information by public authorities, results of medical tests or examinations and other confidential matters.

What a strange debate we are having over this legislation – as though the idea that patients should be centrally involved in decisions about their health is some radical and outlandish prospect. No doubt in the next couple of weeks we will hear about some new announcement of what the government is doing

to implement the recommendations of the Royal Commission into Victoria's Mental Health System. Maybe we should talk about recommendation 62, where it says:

> a new user-friendly online consumer portal (web and mobile) connected to the Mental Health Information and Data Exchange that allows consumers to view key information about themselves and authorise –

or not authorise –

> sharing of information with members of their care team, including families, carers and supporters …

It is hard to understand why we have these very sensible recommendations that the government has committed to implementing, and then we have the bill before us today. Do ministers in this government even talk to each other? Does this mean that we will have parallel systems for mental health data – one where service users have access and the ability to authorise sharing, and another one where their information is scooped up and shared without their consent? It is not a radical idea to centre patient rights and consent when it comes to electronic medical records and data sharing.

The Law Institute of Victoria has publicly expressed its concerns with the legislation, as has Liberty Victoria. The Victorian Alcohol and Drug Association have expressed concerns, noting that people with drug and alcohol issues were the very first people targeted in the Medibank leak. The Health Issues Centre, the Australian Privacy Foundation and Digital Rights Watch have all echoed similar concerns.

How do other jurisdictions handle this? The government would like us to believe that this is simply standard operating procedure and not some sinister violation of our medical privacy. The balance between privacy and convenience is one that any country with digital health infrastructure will have considered in recent history or may be in the process of considering at the moment.

Let us start with the European Union, returning back to the GDPR that I mentioned earlier. The GDPR explicitly provides for a right to access your own personal data and approve its transfer to another entity and have it transferred directly to you. You have the right to request rectification of your data and have a right to erasure and several rights ensuring consent around medical data.

In the UK a 2013 plan to centralise GP records in a database was abandoned in 2016 after confidentiality complaints, and more recently the department of health had to concede that they had taken the trust of the public for granted in relation to a medical data-sharing scheme that was badly rolled out in 2021. They have since committed to ensuring better engagement with the public, improving individuals' access to their own health records and simplifying opt-out processes.

In Ontario in Canada health privacy is governed by the Personal Health Information Protection Act. This gives the right to refuse or give consent to the collection, use or disclosure of your personal health information, except in certain circumstances. It gives you the ability to withdraw your consent by providing notice, expressly instruct that your personal health information not be used or disclosed for healthcare purposes without your consent, access a copy of your personal health information except in limited circumstances, and request corrections to be made.

Even Thailand has been undergoing this same process of centralising health records and streamlining data sharing. Data privacy in Thailand is governed by the Personal Data Protection Act. Many elements of this legislation are similar to the EU GDPR, with individual privacy rights central to its function. Consent, particularly in relation to sensitive data, which includes health data, is central to its function, with guidelines for obtaining consent from data subjects published late last year. These require that consent be freely given and that it be informed, specific and able to be withdrawn – totally unlike this bill or the proposed amendments. So here in Victoria we are clearly laggards in both technology and also medical ethics.

Why not look at the country that ranks as a leader, or I should probably say the leader, in digital health on every measure that is ranked: Estonia – a country that is globally recognised for its innovation when it comes to creating a digital economy and integrating this with government services. They were early

movers in digital health, regularly reviewing and updating legislation and processes. Ninety-nine per cent of health data created in Estonia since 2015 is fully digitised, 99 per cent of hospital discharge letters are sent electronically to the central database, 99 per cent of prescriptions are electronic and nearly every hospital and pharmacy is on the network. In stark contrast to the approach proposed in the legislation before us today, patient rights are absolutely central in this scheme. By logging into the patient portal you can view your health data, provide additional information and update records.

Nicholas McGowan: It's a former communist state.

David LIMBRICK: That might be a good point there. If you wish, you can close the data, removing it from view, even if this would negatively impact your health care – because it is your choice. You can make various declarations authorising or refusing certain procedures, authorising persons to purchase medicine on your behalf, consenting to organ donation, otherwise consenting to or withdrawing your consent from medical care or stating what happens to your medical data.

I could go on at length describing the various approaches that different countries have taken to this issue and to navigate the tensions between data security, efficiency and patient autonomy, but I will simply conclude by stating that the staff in my office have spent many hours poring over different health department websites, journals and medical technology press from around the world and have struggled to find another example where an electronic health record system exists that does not allow for patient access and have either an opt-in or an opt-out provision. What is being proposed here is completely out of step with best practice, with human rights, with international best practice and with the Australian Charter of Healthcare Rights. We saw this throughout the pandemic. Under a state of emergency government ministers and health bureaucrats determined that they knew what was best for us and that any dissent was irresponsible – they know best and our preferences be damned.

Frankly, I am sick to death of our basic rights being trampled with some hand-waving justification. Our rights are not just an inconvenience for the government and bureaucrats to dispose of as soon as it becomes difficult. It is not good enough. The idea that this is the only legislation that could achieve the intended outcome and that there is no alternative, less restrictive approach that could be adopted is a farce. It makes an absolute mockery of our human rights charter, which creates a legal obligation for Parliament and the public service to act in accordance with the charter, including considering less restrictive approaches.

An e-petition calling on this chamber to consider amending this legislation took only a few days to collect over 10,000 signatures. People in this state are clearly concerned about their medical privacy. While I cannot speak to the reasons that each of these people signed for, the simple fact is that it does not matter. It does not matter if their reasons are based on misunderstandings or if they are so profound they would make you cry – it does not matter. All we need to know is that they want to have control of their own sensitive medical information. This should be enough.

I would like to signal to the house that I have two amendments that I would like to circulate now that address some of these issues.

Amendments circulated pursuant to standing orders.

David LIMBRICK: The first of these amendments addresses the issue around consent. It ensures that patients are not brought into this system without their consent, in line with the charter of healthcare rights. It also ensures that people can select certain pieces of information if they want certain healthcare providers to be included or not included. It also caters to provisions around consent for children, where consent is a much more complicated issue. The second amendment deals with the ability to access audit logs and these sorts of things. I note that the house amendments, which were only circulated a while ago, from the government also address this issue, so at least one thing that I am concerned about might be addressed. But I think it is absolutely essential that people know who has accessed this system, who has accessed their records and what information is actually being held in the system.

Also, I would like to signal that these amendments that were circulated only a few minutes ago have not been viewed by any of these organisations that have expressed concern. They have not been looked at by the Scrutiny of Acts and Regulations Committee.

There are very serious human rights implications with this bill and the proposed amendments. I will be moving after the second-reading debate that this bill goes back to SARC for reassessment, including the amendments, so that we can get a better understanding of the human rights implications of what is being proposed here. With that I will conclude.

Sheena WATT (Northern Metropolitan) (11:00): I rise to speak on the Health Legislation Amendment (Information Sharing) Bill 2023 and in doing so want to put on the record how proud I am to be a member of the Andrews Labor government, which is committed to improving our health system and committed to improving patient safety and continuity of care for all Victorians.

What this bill will achieve is establishing an electronic health information sharing platform, and it builds on the Andrews Labor government's proud record of investing in our health system. As the last few years have highlighted, there is nothing more important than having a strong, robust and well-funded health system, and I am so proud that the Andrews Labor government will fund the biggest hospital infrastructure program in Australia's history, right up the road in Parkville, by building new Royal Melbourne and Royal Women's hospital campuses. Once completed, the project will dramatically increase the capacity in the emergency, critical care and birthing departments as well as provide more elective surgery for Victorians.

Victoria's public hospitals were divided into autonomous networks in the early 1990s but are now operating as part of a single system – especially during COVID. But their digital records are not shared. Most Victorian patients will often be treated at different health services over their lifetime, and patients cannot know what information from their medical past will be critical to their medical future. Currently in Victoria critical health information is spread across different health services, depending on where a patient has visited or been transferred. These patient records are also in separate systems and paper files, making them difficult to find in times of need. The fragmentation of patient health information means that clinicians are often needlessly delayed by manually gathering patient information through fax or phone calls. This can be of particular risk and distress for patients presenting in emergency departments.

The government will continue its focus on women's health by creating two new women's health clinics at public hospitals and more sexual and reproductive health hubs across our state. The Andrews Labor government will also work with Aboriginal health organisations to deliver the first ever dedicated Aboriginal-led women's health clinic. This also means ensuring our health services and clinicians have the appropriate tools and information at their disposal. The proposed new secure health information sharing platform will do exactly that by establishing a single point of complete and accurate patient information for clinicians to provide safe and timely care.

Medications that may interact, drug allergies, alerts such as severe asthma, past biopsy results, diagnoses that took months to make – especially psychiatric diagnoses – results of tests and expensive scans all sit in these digital records. With this bill we can make this readily available, reducing risks of delays and risks of misdiagnosis, or alternatively we can continue to let our most valued health workers and clinicians wait by the phone. The current model of doing things is clearly inconsistent with modern health information sharing standards and the approach taken by other Australian jurisdictions such as New South Wales, Queensland, ACT and South Australia, which have all successfully implemented health information sharing at the point of care.

This bill is not about whether public health services should share information, it is about establishing a secure and more efficient platform for clinicians to access the relevant clinical information to treat patients safely.

There are currently no opt-out arrangements under existing legislation, and Victorian public health services share information for the purpose of treatment. The opt-out model that has been suggested by Mr Limbrick and others is a step backwards, in my opinion. It undermines the primary objective of the bill, which is to ensure clinicians can have access to relevant medical information to provide timely care. An opt-out model also undermines the efficiency of our health system. An opt-out patient may be required to redo tests to safely effect diagnosis and treatment. This is distressing for the patient and creates unnecessary costs and delays for health services, who are already under significant strain.

These inefficient, duplicative, unsafe and manual processes increase wait times and delay care for other patients, such as when they present critically in our emergency departments. Our public hospital emergency departments are experiencing record demand, with the equivalent of one in 10 Victorians seeking treatment in the last quarter alone, and there is strong support from clinicians and health services for these reforms, which will result in improvement in practice and patient outcomes.

Those who oppose the bill are content to point out the challenges we are facing without being part of a solution. Of course there are concerns when it comes to FOI rights, and this bill does not change a patient's rights to access their full medical records from their health service provider under FOI and relevant privacy legislation. To ensure efficiency and timely care, the information that will be included on the proposed platform is only the most relevant clinical data for the purposes of treatment, not the full medical history of the person. This includes allergies to medication, hospital treatment summations and diagnostic reports. This bill does not enable FOI requests on the health sharing system. This is because it would require the Department of Health to access clinical information to respond to questions, which would be inappropriate and counteractive to the strict protections on access controls the bill seeks to establish.

The government in this bill is committed to ensuring patients' data is stored securely and stringent protections are in place. The bill will introduce strict controls, and these include frequent auditing to ensure authorised people are accessing our health information. The bill specifies that only healthcare providers who are directly involved in a person's care or treatment can access medical information and only for the purposes of providing care. Three new criminal offences are being introduced prohibiting unauthorised access and unauthorised disclosure of information. The penalties in the bill include 240 penalty units – which is, for those wanting to know, $44,380.80 – or two years imprisonment for any unauthorised access, use or disclosure of information held in the system.

An independent oversight committee supported by the clinical advisory group will be established to provide advice to the Secretary of the Department of Health on the implementation and successful operation of the information system before it commences in February 2024. This includes establishing appropriate risk control and compliance frameworks. A primary management framework will be implemented prior to commencement to limit access to and management of highly sensitive health information. Restrictions to sensitive information will ensure additional protections for vulnerable groups, like victims of domestic violence, and only designated health service staff who need to see the information for clinical decision-making purposes will have access to it.

The bill's changes will apply to the following specified entities, and this is important to note: public hospitals, multipurpose services, denominational hospitals, metropolitan hospitals, prescribed health services, registered community health organisations or centres, the ambulance service across our state, the Victorian Institute of Forensic Mental Health and the Victorian Collaborative Centre for Mental Health and Wellbeing.

Of course, as I mentioned earlier, there have been some reflections on other states and their practices. I will begin with the reflection on the state of New South Wales, which has implemented HealtheNet. It is there to establish a secure statewide clinical portal which shares summary-level patient and clinical information across New South Wales health services. It provides clinicians with immediate access to an aggregated view of patient and clinical information from New South Wales health clinical systems and the federal government's My Health Record. Further north in the state of Queensland the

government there has implemented the Viewer, which collates data from multiple Queensland health systems, enabling healthcare professionals to access patient information quickly without having to log into different systems. Further south and close to home is of course the Australian Capital Territory, which has Digital Health Record implemented, which stores health information for patients who use any of the ACT's public health services and is available to clinicians in those public health services.

The Health Legislation Amendment (Information Sharing) Bill 2023 has been introduced, and there are no issues with the original legislation as was introduced in 2021. Can I just note that this bill will continue to build on our proud record of delivering on health. I will just take a moment to reflect that when it does come to the work of our health providers and our health services there is of course much that I can personally reflect on, and I have not yet had a chance to do that. I will say I have been involved in health organisations now in a governance and operational sense in executive and operational roles for a number of years and of course also, with part of that, policy and advocacy roles that have led to the implementation and rollout of systems such as My Health Record and other health management data systems, including in highly sensitive settings such as health services providers, family violence shelters and refuges, dental services and others.

I can say that it is of course entirely a very, very complex system and requires sensitivities when dealing with particular groups. My experience there is particular to Aboriginal and Torres Strait Islander people, victim-survivors of family violence and those that have had contact with the justice system. In that there are many, many stakeholders with many, many views, and I do appreciate, having taken the time through the implementation of My Health Record some time ago, hearing from those groups regarding the concerns that they had. Whilst certainly it was far from perfect – the implementation of My Health Record – I will say that the valuing of Aboriginal people's perspectives and those of victim-survivors of family violence in the use and application of My Health Record, including access from family members, was something that has rested with me quite considerably over the years. One other reflection on my time in a health organisation is managing disclosures of health and sensitive records, which of course is something that I think needs due respect and consideration in the systems and structures of our health system here in our state.

There are of course enormous challenges when it comes to data management, data integrity and data access as appropriate in our state. They have come up time and time again through health services. The example that comes to my mind is rolling out of upgrades. It is true that a great number of our health services across the state – and I am thinking of those that I listed earlier, not the large, major hospitals but some of those that are smaller in size but no smaller in impact – have challenges when it comes to upgrading their systems, so this will have some statewide application, particularly for those services that do not fit neatly within a geographic area but may in fact be a service provider, given the specialised nature of what they do, over a great geographic area that could cover a range of different patients and applicable partnering health organisations. One that might come to mind would be a specialist rehab clinic or something like that.

It is tough stuff. The governance of health data, the access of health data has come up time and time again. So I am just reflecting that that is challenging, and I really appreciate the efforts that have been made to really enhance cybersecurity and safety when it comes to our health system and our health records and thank those professionals and data scientists and others that have been putting in an enormous bit of work over the last number of years as we move into a very new way of doing in our health system.

I know that there are of course a number of amendments on the table, and I look forward to hearing from members with their various contributions to amendments to this bill when we do get to that in the committee stage. I thank you for the opportunity and those members in the chamber here for hearing me out as I reflected today on the Health Legislation Amendment (Information Sharing) Bill 2023.

Adem SOMYUREK (Northern Metropolitan) (11:13): I have a strong belief that where a government is potentially breaching individual civil liberties in any form in rolling out systems for the common good, unless there are extenuating and compelling circumstances individuals must be given the opportunity to opt out. Even though I acknowledge that the legislation is clearly in the common good, I do not believe such extenuating and compelling circumstances are in existence in this case.

Having opt-out certainly does not put the viability of the potential system at risk. Data from the Commonwealth data sharing scheme, where opt-out provisions apply, certainly demonstrates that the overwhelming majority of Australians do not opt out of the system, and in Victoria I understand that the number of Victorians that choose to opt out of the Commonwealth system is only about 10 per cent. Had that figure been much higher, I do understand a cogent argument may have been able to be mounted to support compulsion, but the fact is there are a very minimal number of Australians and Victorians opting out of that system, meaning that the viability of the proposal is not at risk. Therefore in this situation the advantages of compulsion do not outweigh the cost of breaches of privacy of Victorians, who may be anxious about their records being shared.

This debate reminds me a bit of the NBN rollout when the then Rudd government introduced the NBN when he took office in 2007. At that point the NBN was a $44 billion project, as I recall. I entered the debate in 2010 when I became the Shadow Minister for Technology in the Andrews opposition. The viability of that project entirely rested on the number of people that took up the NBN. There was a great pressure on the government at the time to make NBN compulsory, but they did not; they chose opt-out legislation instead. As I said, it was critical at that point for Australians to jump on board the system. Therefore there was a great pressure for compulsion, but they chose to respect Australians' civil liberties. On the other hand, Turnbull, who is a great civil libertarian but in this instance was clearly acting out of political expediency, was arguing for an opt-in model. The reason why he was doing that was to smash the fibre to the node model of the NBN. I must note that the government at the time was respecting people's civil liberties even though the minister who had carriage of the NBN project Mr Stephen Conroy would not understand the notion of what civil liberties are. He certainly does not respect anyone's civil liberties. I make the point that we have come a long way since those times. The erosion of civil liberties in this country should be a source of concern for every Victorian and every Australian.

Another problematic feature of the bill is that the scheme is exempt from freedom of information. From my perspective I think it is only logical that if your files are being accessed, if your privacy is being impeached, you ought to know who has accessed those files. For the record, the Law Institute of Victoria also has trouble with these two features of the bill.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (11:18): I thank all members for their contributions on this important bill. Obviously there are deeply held views across the chamber on the bill, and we look forward to taking it into committee. I apologise in advance for the state of my voice and my cough. Perhaps I am a good advertisement for the bill itself. I thank everyone for their contributions. It will support clinicians working in Victoria's public healthcare system to connect care securely and in a timely manner whilst continuing to recognise patients' rights to confidentiality and privacy. In passing this bill the Andrews Labor government hopes to deliver on a key commitment to strengthen our hospital networks by ensuring secure sharing of certain health information between clinical teams at the point of care. A patient's care journey can take them to different health services in different locations over the course of illness. Secure access to complete and accurate health information at the right time and at the right place will save lives and improve care, and it is essential to providing the best care and treatment for patients.

The opposition has discussed and moved amendments to put an opt-out option into the bill. This would be a backward step for a more connected and patient-centred care system in Victoria. Health services can already share patient information for the purposes of medical treatment, but this bill will enable

the operation of a secure and modern platform to do so more safely and more efficiently than relying on phone calls and faxes.

This bill will bring Victoria into line with other jurisdictions in Australia. Queensland, New South Wales, the ACT and South Australia all operate secure electronic health information sharing across their public health systems without an opt-out.

The opposition has also suggested that patients will not be able to access their information under FOI legislation. This bill does nothing to affect patients' existing rights under Victorian privacy legislation to access and correct any personal or health information held by them directly with their health service provider. The FOI exemption in this bill is important to ensure that management of patient requests remains where it should be – with your treating health service. If the system was subject to the Freedom of Information Act 1982, the Department of Health as the host of the system would be responsible for accessing, assessing and responding to requests from patients, which would not be appropriate. Patients will be able to access their medical information from their health service provider, as they do now, and they will also be able to get a record of which providers have accessed their information from the system, including where and how patients' information has been accessed.

Additionally, Minister Thomas has committed to requesting that public health services are reminded of their obligations to facilitate and optimise patient access to their health information outside this process. The government has also committed to working with all public health services to ensure that by the time the electronic patient health information sharing system is operational there are mechanisms in place so that a patient's individual health information will be available to them without cost in an accessible and, where possible, machine-readable format without having to use freedom of information.

Some members in the house have raised concerns about the concentration of so much sensitive information in one place. The information in the new secure system will be protected by robust safeguards in the same way other health data is secured by the Victorian government. Access to sensitive information will be governed by the privacy management framework, which will provide additional protections for vulnerable groups, such as those subject to or at risk of family violence.

The framework and operation of the system will be overseen by an independent oversight council to ensure and report on its safe, confidential and secure operation. A clinical governance body with consumer participation will advise the Secretary of the Department of Health on ongoing enhancement of the system's clinical utility. The system will also be subject to robust audit arrangements to ensure patient information is safe and that privacy is maintained. An independent review of its operation will be tabled on completion of three years of operation. I am pleased to commend the bill.

Motion agreed to.

Read second time.

Referral to committee

David LIMBRICK (South-Eastern Metropolitan) (11:22): I move:

> That pursuant to standing order 14.12(b) the Health Legislation Amendment (Information Sharing) Bill 2023 and all amendments that have been circulated for the bill be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report by Tuesday 21 March 2023.

As I stated in the second-reading debate, I am very concerned that these amendments that we are talking about today have not been examined by the Scrutiny of Acts and Regulations Committee. There has not been an opportunity for many of the stakeholders, such as the Law Institute of Victoria, Liberty Victoria, the Victorian Alcohol and Drug Association and all these other groups, to see them, and they have not been able to consider them and form submissions. I think that SARC would be the appropriate place to examine the human rights implications of what is going on here.

Aside from the amendments, I have concerns about the human rights issues that were detailed in the recent SARC *Alert Digest*. One of the requirements under the charter of human rights is that any limitation on rights must be the least restrictive. The SARC *Alert Digest* clearly identified another system which has less restrictive means on freedom of information, which is the firearms registry, which does allow freedom-of-information requests to request your own information, unlike the proposed system here. I think that this is to be examined in more detail. There are most likely many, many other issues that need to be examined in further detail, so I urge the house to support allowing SARC to examine the human rights issues around this.

Georgie CROZIER (Southern Metropolitan) (11:24): I rise to speak in support of Mr Limbrick's motion to refer the bill off to the Scrutiny of Acts and Regulations Committee to have further scrutiny of this important legislation. Mr Limbrick has just highlighted an example of what came out in that initial meeting with SARC, and I note that in a vote on that the committee sought further information from the Minister for Health about what less restrictive means of implementation were considered, noting the above comparison to the firearms registry. On that, it was clear the government did not support that.

We need to understand the implications of this legislation and how it could impact on the rights of the individual. This is not absolutely time sensitive in terms of what we are doing here today, but we need to get this right. This Parliament has a role to play in supporting legislation to get it right. The government is introducing amendments at the last minute because they know they have not got this legislation right. So we have a job to do, and I would urge all members of the Parliament to allow SARC to do their job and have a look at this very important element so that we can get this legislation right.

Nicholas McGOWAN (North-Eastern Metropolitan) (11:25): I rise to also support the referral to the Scrutiny of Acts and Regulations Committee. These additional amendments that we have been handed today come at very late notice, with less than an hour or so to consider them, and we need no further evidence than point 2 of the government's suggested amendments, where it says:

> 2. Clause 4, page 14, line 17, omit "**1982**.'." and insert "**1982**.".

This is rushed. It has got mistakes littered throughout it. We and the Parliament and the chamber and the people of this place have every right to look at this in a detailed fashion rather than rushing it through. There is no time imperative here, and the suggestion in the motion put is a sensible and commonsense one.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (11:26): I rise to speak against the motion, and I note I also do so as a former chair of the Scrutiny of Acts and Regulations Committee. I used to find it interesting as chair of SARC and certainly in the time post that how many members of this place do not actually really appreciate the full role of SARC itself, what its role actually is to do. Its role is to consider the intent and the purpose of the bill, to scrutinise the bill for compliance with the Charter of Human Rights and Responsibilities and to ensure that all legislation is not infringing on human rights in the appropriate recognition and hierarchy of those rights.

What is very clear – and I might say I also find it a little ironic that a bill that is about saving lives is also in many respects being compared here to the firearms legislation – is that this bill has been considered in detail by SARC, and the amendments that have been proposed are not contrary to the original intent of the bill and do not in any way further restrict any human rights in their application beyond what has already been considered by SARC. This bill is about saving lives and it is about ensuring that patients get the best possible care by establishing secure digital health information sharing across our public health system. There really can be no more important right in my view that this place is here to ensure and be protected by the Parliament, which is people's right to live a happy and healthy life.

The information in the system will be protected by robust safeguards. There is going to be a privacy management framework. That was indeed the original intent of the bill and through these amendments has been put into further detail. It will be implemented to ensure that there is restricted access to sensitive information and to provide additional protections for vulnerable groups – for example, in circumstances such as family violence and mental and sexual health conditions. The establishment of the system will be oversighted by a health information sharing management committee. The committee will have a wide range of expertise, including medical experts and patient advocates. It will oversee the development of the privacy management framework to make sure that robust policies and safeguards are in place to protect health information and safeguard patient privacy and confidentiality. In order to reinforce the government's commitment to transparency and accountability and oversight of the new health information sharing system, the amendments themselves as they have been circulated go to continually ensuring that effectively the right to protection of one's health is met by also ensuring the right to the protection of information. The amendments themselves are not in any way contradictory to what was originally considered by SARC, and a referral back to SARC is just prolonging what is an important reform that is about protecting the health and safety of Victorians.

Council divided on motion:

Ayes (17): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Adem Somyurek, Rikkie-Lee Tyrrell

Noes (21): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Motion negatived.

Committed.

Committee

Clause 1 (11:38)

Georgie CROZIER: Minister, as you are aware, the government tried to introduce very similar legislation in 2021, and by the time we finished the second-reading debate there were exactly the same concerns as are going on with this debate. One of those concerns that I had in relation to what was proposed by the government was around the implementation of this scheme – the electronic patient health information sharing system, which I will probably refer to from now on as the information-sharing system. But I am wondering if you could tell the committee what funding requisites will be required by the government for the implementation. Will the government be fully responsible for all of the implementation, or will it be up to individual health services to fund and install it?

Lizzie BLANDTHORN: The funding decisions are obviously decisions that will be considered at a further point in time in the appropriate way. To take to your original point, this is an important bill, and that is why we are very pleased to be returning to this conversation and this bill at this point in time following the re-election of the Andrews government.

Georgie CROZIER: I take it from that there is absolutely no money being put aside for this implementation of this system?

Lizzie BLANDTHORN: That is not what I said. What I said is that we are here today to discuss the legislative changes themselves and to go into the legislation, not to make announcements in relation to budgets.

Georgie Crozier: On a point of order, Deputy President, I know the minister is new to this place, but this is clause 1, and I have every right to ask about these questions in relation to this system. The minister cannot brush it off and just go off on her frolic to say we are here to look at the legislative requirements. This has a huge budgetary cost, and I think the Victorian public deserve to understand what requirements have been put in place by government on the cost of the system.

The DEPUTY PRESIDENT: Ms Crozier, as you know, I cannot instruct the minister how to answer the question. But this is an important process in the passing of this bill, and I think that everybody should take it as seriously as it should be taken.

Lizzie BLANDTHORN: As I have said – and I think the questions are already getting a little repetitive – we are here today to talk about the aspects of the legislation itself, not to announce funding decisions. There has obviously been a business case developed for this project, and funding decisions will continue to be made and announced in the usual fashion of government.

Georgie CROZIER: So in the business case that you have just referred to, Minister, there must be some financial aspect. That is the normal process for a business case. So what has been provided to government in relation to the business case and the funding required?

The DEPUTY PRESIDENT: Before I call the minister, I remind all members to wait until you have the call. This is going to be, I would expect, a long and quite contested committee stage, so just wait for the call before we start, okay?

Lizzie BLANDTHORN: As I said, a business case has been developed, and it will continue to go through the processes of the government, as is appropriate, and decisions in relation to funding will continue to be made. I look forward to further conversations in relation to the actual bill itself.

Georgie CROZIER: So I take it from that we have got a half-baked business case that has been put to government or is in the process of being developed. There is not a full business case that has been put to government. There is one; it is still a work in progress. Is that correct, Minister?

Lizzie BLANDTHORN: They are your words, not mine.

Georgie CROZIER: You just said it was still being developed.

Lizzie BLANDTHORN: Ms Crozier, what I –

The DEPUTY PRESIDENT: Ms Crozier, just let the minister answer your question.

Lizzie BLANDTHORN: Without interruption I would appreciate it, given clearly my voice is in a difficult state. It is very difficult to have an adverse conversation. I am trying to be as helpful as I possibly can. There has been a business case developed, that is known, and decisions in relation to the funding of that will continue to go through the usual appropriate processes of government decision-making in relation to funding. What we are here to talk about are the clauses of the bill, and I am happy to answer questions in relation to the clauses of the bill.

Georgie CROZIER: Deputy President, I know that you have already made a ruling in relation to how you cannot direct the minister on how she should answer questions, and I understand the minister is new to this house – she has been in the Assembly, where often members and ministers do not understand what we do up here – but I have every right, from clause 1, to ask questions relating to what this means on behalf of Victorians. I will continue to ask – and I am sorry that you have got a failing voice, Minister, but you might need to get another minister to help you if that is the case – because these questions are important. If you are saying that there is a business case in place and that funding and budgetary aspects are still to be considered, I would then ask: in that business case, what are the time lines that have been proposed for the information-sharing system to be fully implemented?

Lizzie BLANDTHORN: I do not appreciate the assertion that because I come from the Assembly I do not understand what happens in this place or indeed in committee of the whole. I have probably,

even as a backbencher, had far more experience with committee of the whole already than perhaps many of the members sitting in this place, so the assertion is a little unnecessary. In relation to the reference to my voice, I was simply saying I would rather not have an argumentative conversation and I am trying to be as helpful as possible. But if we keep asking the same question, then we are going to get the same answer, which is that a business case is being developed and the funding decisions will be made through government in the usual fashion.

Georgie CROZIER: The minister just confirmed that the business case is being developed. Can I have that assurance?

Lizzie BLANDTHORN: A business case has been developed.

Georgie CROZIER: I am sorry to have to go back and forward, but you just said in the previous answer that it was being developed.

Lizzie BLANDTHORN: My apologies. That may have been my expression. There is a business case, and it will be considered in the appropriate fashion.

Georgie Crozier interjected.

The DEPUTY PRESIDENT: Sorry, can we just wait until people have the call. It is not a conversation; it is a committee stage.

Georgie CROZIER: I apologise, Deputy President. Minister, I appreciate where you are coming from, but what I am trying to ascertain is: is the business case fully complete or is the business case still being developed, because on a couple of occasions you have asserted both and I am trying to establish where that business case is at.

Lizzie BLANDTHORN: My understanding is the business case has been developed and is being considered for funding, but I will consult with the box.

The business case has been developed and is being considered.

Sarah MANSFIELD: I have a question on a related subject. Will the government ensure that health services are supported with respect to compliance with this legislation, including additional IT and administrative costs?

Lizzie BLANDTHORN: Yes, we will be supporting health services to comply.

The DEPUTY PRESIDENT: Minister, if you just speak into the microphone rather than to the person, then everyone will get it.

Lizzie BLANDTHORN: Sorry. The answer to the question is yes. We will be as a government supporting health services to comply.

Georgie CROZIER: Following on from Dr Mansfield's question, how long will health services have to comply?

Lizzie BLANDTHORN: The plan is that there will be 12 months from the passing of the bill, with an end date in 2024. There will be opportunity for extension as is necessary.

Georgie CROZIER: Just on those time frames, I am trying to work out: there is a business case that is still being developed and we are still telling health services that they will get assistance in the transition of this system, but you are saying that they need to comply by the end of 2024. That is less than two years away, so are you saying that the system will be in place, fully operational, by the end of 2024?

Lizzie BLANDTHORN: Ms Crozier, I did confirm for you that the business case has been developed, and I apologise if my expression of that earlier caused confusion. As I said, the plan is 12 months from now for the program to be put in place and that by 2024 it will be complete.

Georgie CROZIER: Thank you, Minister, for that clarification. Minister, we know that Labor governments have got a poor record on IT systems, and I refer to the HealthSMART debacle back in 2013. The then Auditor-General had a report, *Clinical ICT Systems in the Victorian Public Health Sector*, and it found that the Department of Health:

> … significantly underestimated project scope, costs and time lines, as well as the required clinical and other workflow redesign and change management efforts.

So based on previous history of Labor governments in rolling out health IT systems, and with your assurance to the house now that this will be rolled out and complete by 2024, which is less than two years away, can you guarantee that this system will be delivered within that time frame? We do not know what the budget is; I suppose we have to wait for the budget in May. But based on that history, can you guarantee that what you are telling the committee will be delivered to the health services?

Lizzie BLANDTHORN: Obviously, significant consultation on this bill has taken place, and there has been continued engagement in order to ready the sector for these changes. The legislation is timed to ensure that the framework can protect the privacy and any legislative implications that are known well in advance, and the lead time of the bill will also enable the Department of Health to ensure that consumers, patients and the health services are also well aware of the new information-sharing provisions ahead of time. So it is well and truly anticipated that this will be ready in February 2024.

Georgie CROZIER: Ready in February 2024 – actually I thought it was the end of 2024, so –

Lizzie BLANDTHORN: I said in 2024.

Georgie CROZIER: I beg your pardon. Minister, that is my mistake, because I thought you meant the end of 2024. So you are saying within 12 months this will be rolled out?

Lizzie BLANDTHORN: I did say within 12 months from now – February 2024.

Georgie CROZIER: Minister, the Auditor-General's report that I referred to in my previous question went on to say that the HealthSMART system 'is not well suited to the specialist needs of some hospitals'. You just said that significant consultation had taken place. Has that consultation taken into consideration the findings of the previous Auditor-General's report, understanding that specific hospitals need systems that meet the needs of the health services that they deliver?

Lizzie BLANDTHORN: The recommendations of auditors-general are always taken very seriously and taken into consideration when government is considering further objectives, and I am sure they have been in this case.

Georgie CROZIER: That is an opinion. I just need to know whether that actual consultation with those particular hospitals actually has taken place. I do not want your opinion, I want to understand whether the government has actually done the work.

Lizzie BLANDTHORN: I will consult with the box as to whether there is anything further to add on consultation.

I am advised that the health services continue to be deeply engaged in all of the planning around this.

Georgie CROZIER: Thank you for that response, Minister. Minister, in addition, the Auditor-General found that health services had implemented other clinical IT systems rather than the HealthSMART system that the government put forward. In fact it was Premier Andrews who was the health minister at the time; it is his watch that this debacle happened under – just one of many. It was a huge cost, and those health services went it alone and put in their own IT health systems. So based on what has happened today with an attack on Eastern Health, can you provide to the committee whether that was a cyber attack or whether that was some other IT malfunction that occurred?

Lizzie BLANDTHORN: My advice is that Eastern Health experienced computer and phone system issues which were caused by a critical core switch outage.

Georgie CROZIER: Thank you very much for that response, Minister. In relation to the issue around health services that have gone it alone with their IT system, how much money has been spent by those health services putting in their own IT systems? You might need to take this on notice. I think it is an important question to ask, because obviously these are health services that utilise taxpayer money. The question is: how much has already been spent by public health on implementing their own electronic management records?

Lizzie BLANDTHORN: I will just consult on that matter. We are happy to take that on notice and provide some further detailed information, but we have been consulting and working with services and the values are comparable with other states.

Georgie CROZIER: I would appreciate if we could have that information prior to the end of the committee stage, Minister, because I know when I speak to large health services – for one health service, for instance, it is in the vicinity of $100 million. That was some years ago. These are very expensive platforms that have already been expended by the public health system in many instances, so I think it is important for the committee to understand just how much has already been spent on those systems.

My next question goes to the fact that we have a national My Health Record, and it looks at the interoperability between what the government is proposing and that record. What work has been done on that aspect?

Lizzie BLANDTHORN: My Health Record obviously contains important information. However, it is not designed to do what we are proposing to do here, which would be a comprehensive record of information relevant to patients' day-to-day clinical care. Importantly, it will ensure that the records can work with each other, if you like, to ensure that information can be shared.

Georgie CROZIER: Right. Again, I go to the point about us having cross-border communities. We have hospitals such as the Albury Wodonga Health service, which sits on the New South Wales–Victoria border. We have a New South Wales facility run by Victorian health, and New South Wales have their own system. So what aspects of compatibility – I did ask this in the briefing, I think – will be required for that health service to be able to operate, understanding that it caters for both patients in New South Wales and patients in Victoria?

Lizzie BLANDTHORN: My understanding and my advice is that the systems have been designed to complement each other. I will consult with the box in relation to any other specifics around compatibility.

I am advised that there is funded work underway in order to ensure that in particular in relation to the Albury-Wodonga hospital, which you referred to, the systems are compatible. That work is underway and progressing well.

Business interrupted pursuant to standing orders.

Members

Minister for Training and Skills

Absence

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:00): I inform the house that for the purposes of question time I will be accepting questions for the portfolios of training and skills, higher education and agriculture.

Rulings from the Chair

Motions of urgent public importance

The PRESIDENT (12:00): As I mentioned this morning, I have received a letter from Ms Crozier in relation to a letter sent by the former IBAC Commissioner to the former President. Ms Crozier submits that this is a matter of urgent public importance and a motion to take note of the letter should be debated urgently. Under standing orders, if the President is satisfied the matter is of such importance and warrants urgent consideration, the matter must be dealt with as a priority over all business. Standing order 6.10 sets out how the President is to consider whether the matter meets the urgency test. While it is arguable that the matter is a somewhat recent occurrence, I do not find that Ms Crozier's submission has met the criteria for this to be deemed urgent. Firstly, I do not believe the rights, welfare or security of citizens could be said to be in jeopardy in this instance. Secondly, there is a distinct possibility of the matter being brought before the Council in reasonable time by other means. Indeed Mr Davis gave notice on Tuesday of a motion about this matter, and it could have been brought to the chamber yesterday, but it was not. Ms Crozier can also seek to have that motion or an alternative motion debated on the next sitting Wednesday. On balance, this request does not meet the criteria such that the house must set aside all other business. I have notified Ms Crozier and I now inform the house, as I am required to do under the standing orders.

Questions without notice and ministers statements

Independent Broad-based Anti-corruption Commission

Georgie CROZIER (Southern Metropolitan) (12:02): (73) President, going to that issue that you have just been speaking about, my question is directed to the Attorney-General. Attorney, in today's media it is reported that Victoria's former IBAC Commissioner the Honourable Robert Redlich has accused the Andrews Labor government of revenge attacks in retaliation for a series of probes into its dealings. How does the Attorney-General determine that IBAC is afforded the respect and freedom to act as an independent entity to expose corruption when an esteemed former IBAC Commissioner states that he witnessed this corruption by government members of the Integrity and Oversight Committee?

The PRESIDENT: I am concerned, Ms Crozier, that it might be asking for an opinion. Can I bother you to read it out again, if that is okay?

Georgie CROZIER: In today's media it is reported that Victoria's former IBAC Commissioner the Honourable Robert Redlich has accused the Andrews Labor government of revenge attacks in retaliation for a series of probes into its dealings. So the question to the Attorney is: how does the Attorney determine that IBAC is afforded the respect and freedom to act as an independent entity to expose corruption when a former esteemed IBAC Commissioner states that he witnessed this corruption by government members of the Integrity and Oversight Committee?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:04): Ms Crozier, you are confusing my role with the role of a parliamentary committee which has a statutory function in relation to oversight of the IBAC. The IBAC and its functions are provided for under legislation, and that guides the roles and responsibilities of that office. There is also oversight of that body from the Victorian Inspectorate. Of course Mr Redlich in his capacity as former IBAC Commissioner met regularly with me, and it is fair to say, as you would appreciate given his public commentary, that he was not shy in bringing forward his views in relation to his office. Any requests that he made in relation to legislative changes – all of those – were acted on and presented to the department for advice, and I continue to have ongoing conversations with senior officials at IBAC on a regular basis in relation to how they undertake their functions.

Georgie CROZIER (Southern Metropolitan) (12:05): Thanks, Attorney, for that response. As you have just said, you do have regular conversations, so I do think you have oversight of this. Mr Redlich stated:

> IBAC's experience with the IOC, particularly in the last twelve months, evidences a lack of fairness, partisanship and leaking of information to the media.

Attorney, what is the government doing? Government MPs directed the independent auditors to 'find dirt on IBAC and data that is not readily publicly available'. What are you doing? Are you outraged? I am. What are you doing as a government, as the Attorney? Government MPs have directed the independent auditors to 'find dirt on IBAC and data that is not readily publicly available'.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:06): Ms Crozier, from what I can take from the words that you used in that question you are referring to a parliamentary committee, which as the Attorney-General I do not have a role in relation to. But any suggestion that anyone in the government has acted inappropriately is utterly rejected.

Hemp industry

David ETTERSHANK (Western Metropolitan) (12:07): (74) My question is for the Minister for Agriculture, Ms Tierney, and relates to grants for the hemp industry. Minister, yesterday my colleague Ms Payne asked you a question in relation to a hemp grant scheme, highlighting in particular Western Australia, where the government has provided grants to local companies to drive the growth of the hemp industry. Your answer, though, yesterday, Minister, did not touch on grants at all. Quite specifically, Minister, will you contemplate a grant scheme to incentivise the Victorian hemp industry?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:07): I thank Mr Ettershank for his question for Ms Tierney, the Minister for Agriculture. Unfortunately she is absent today, but I will pass that question on to her and her office and get you a response.

David ETTERSHANK (Western Metropolitan) (12:07): I thank the minister for her response. Funded projects under the Western Australian grant scheme included seed and crop trials, establishing a hemp-processing facility and building carbon-neutral homes from hemp biomass. Could you see similar projects being the recipient of grants here in Victoria?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:08): Mr Ettershank, I will pass that on to Minister Tierney. But as the former Minister for Agriculture, there are a range of grants that anybody that is a primary producer could access, so some of the issues that you touched on might actually be eligible for existing grant programs. But I will let the now relevant minister respond in more detail about any of the available grants that might pick up some of those projects that you talked about.

Ministers statements: youth justice system

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:08): I am pleased to update the house on the work we are doing in our youth justice system by giving young people the skills and training they need to transition into meaningful employment upon their release from custody. Our government's priority is to keep Victorians safe and help young people turn their lives around. One of the best ways we can ensure their time in our care is productive is by training them with the skills and experience that will allow them to thrive in a professional work environment. Giving young people the training and confidence to secure and keep a job when they return to the community helps break the cycle of reoffending.

The John Holland graduate program is a great example of putting this into practice. The program is led by Parkville College in collaboration with youth justice and provides young people at Parkville with an opportunity to secure paid employment. The program offers formal, theory-based learning and development programs as well as practical on-the-job experience under the supervision of a senior staff member of the company. The program also offers an opportunity to network with senior leaders

and the potential to secure ongoing employment with John Holland after the successful completion of the program. This is a great example of government and the private sector working together to create win-win outcomes, delivering not just a positive social impact but an economic return. This program has seen a number of young people come through it and transition from short-term probationary work into full-time paid employment. Some are now working on the state's largest ever infrastructure projects as part of our Big Build, projects that are helping to create jobs not just for these young people but for everyone across our great state.

Independent Broad-based Anti-corruption Commission

Georgie CROZIER (Southern Metropolitan) (12:10): (75) My question is again to the Attorney. Attorney, in *The Independent Performance Audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate* minority report, it is clear that the audits were not completed in a fair and independent matter. Rather, the Labor committee chair sought to interfere and direct the independent auditor, contrary to convention and public expectation. So I ask: is it government policy that the Labor-dominated Integrity and Oversight Committee has interfered in an independent audit of IBAC and the Victorian Inspectorate?

The PRESIDENT: I am struggling a bit to see where that falls inside the minister's administration.

Georgie CROZIER: On a point of order, President, these are really serious matters. The Attorney actually has responsibility for IBAC. This goes to the heart of –

Jaclyn Symes interjected.

Georgie CROZIER: Yes, I know that, but in terms of your portfolio responsibility, you just said you have numerous conversations. This is about the integrity of what is going on in this place. I ask around what has happened on that committee, and I would say that it does fairly fall in the Attorney's portfolio.

The PRESIDENT: I cannot see how the workings of that committee come under the Attorney-General's responsibility. But, Ms Crozier, I am happy to put the question to the Attorney-General in regard to her responsibility for IBAC.

Georgie CROZIER: Thank you, President. If I can just reiterate, in the general order of 5 December 2022 it says the Attorney-General is responsible for the Independent Broad-based Anti-corruption Commission Act 2011, so that is why I asked the question.

The PRESIDENT: I am happy for anything relevant to the Attorney-General's administration, if she would like to respond to the question.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:12): Thank you, President. Matters pertaining to parliamentary committees are a matter for the Parliament.

Georgie CROZIER (Southern Metropolitan) (12:12): Attorney, it is disappointing that you will not give a proper response to this serious issue, so I ask: the minority report of the performance audits recommends legislative changes to the IBAC act and the Victorian Inspectorate act to ensure absolute independence for the auditor. Will the Attorney-General support this recommendation, and when will she introduce legislation to do so?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:13): We seem to have given a lot of weight to a minority report from politicians in relation to their views in relation to IBAC. It is of course important for me as the responsible minister to listen to IBAC and others in relation to the functioning of IBAC and about the legislation under which they are overseen and operated. Of course I have regular conversations about this, and I will continue to do so.

Oil and gas exploration

Sarah MANSFIELD (Western Victoria) (12:13): (76) My question is to the environment minister, Minister Stitt. We understand that in order to go ahead with their enterprise gas drilling project near the Twelve Apostles, Beach Energy needs to submit an environment plan to the Department of Jobs, Precincts and Regions under the Offshore Petroleum and Greenhouse Gas Storage Regulations 2021. We understand that this environment plan has not yet been submitted. Can you please let the house know why this is the case?

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:14): I thank Dr Mansfield for her question. This is actually a matter for the Minister for Energy and Resources in the other place, who I do actually represent in the Council. What I can advise is that I understand the Beach Energy project is still going through the required approvals, including an environmental plan, but I am very happy to forward your specific question to Minister D'Ambrosio for a response in accordance with the standing orders.

Sarah MANSFIELD (Western Victoria) (12:14): I thank the minister representing the minister for resources for their answer. My supplementary question is: in the past the process around how gas-drilling projects are approved in Victoria has been very opaque, with very little community consultation, unclear processes for how decisions are made and environment plans that have just been tick-box exercises. Will the minister guarantee that proper community consultation will happen before this project proceeds further?

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:15): Similarly, Dr Mansfield, I will refer your supplementary question to the relevant minister for a written response.

Ministers statements: family services

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (12:15): I rise to update the house on what this government's $387 million investment in family services means for vulnerable families across our state. Family services provide vital interventions and supports and improve parenting capacity, child safety and family functioning. Every day across the state expert family service practitioners are working sensitively and purposefully with vulnerable families to provide the knowledge, skills and resources to get them back on their feet and stay on their feet.

The case of Sean and James illustrates this well. As always, I have changed the names to protect anonymity. Sean is a single father to 12-year-old James. James experienced neglect while in the care of his mother as a younger child and has lived with his father for four years. Child protection referred Sean and James to family services as they were concerned about James's limited engagement with school, his increase in anxiety and his escalating behaviour.

Family service practitioners worked with Sean and James to undertake safety and care planning, strengthening their attachment and helping Sean to understand the impact of trauma on his son's brain. Sean was supported to use trauma-informed activities and strategies to help James. In addition, the family services practitioner integrated regular meetings between the school and James's psychologist and paediatrician; training for James's school on PTSD and its impacts on young people; planning for James's re-engagement with education; a discussion with his paediatrician around medication and an NDIS application; and the purchase of a swimming membership for James and Sean to promote connection, activity and recovery.

So what has been the result for James? Sean reports that James is now experiencing less anxiety and has been able to follow the care team's plan. His medication has enabled him to manage his stress, anxiety and panic attacks, and he has followed the stepped plan to return to school. He has made strides in his recovery thanks to the supports put in place by family services practitioners.

In 2021–22 more than 12,500 families across Victoria accessed family services. We must always remember that behind each of these cases is a story of hardship and often trauma. It is why we are investing $387 million in family services, and that is why we, unlike those opposite, dedicate a cabinet portfolio to family services. It is for children like James.

Independent Broad-based Anti-corruption Commission

Georgie CROZIER (Southern Metropolitan) (12:17): (77) I again direct my question to the Leader of the Government. Minister, the former IBAC Commissioner stated in his letter to Presiding Officers:

> IBAC's experience with the IOC, particularly in the last twelve months, evidences a lack of fairness, partisanship and leaking of information to the media.

Will the Leader of the Government assure the Victorian community that IBAC will not be subjected to further interference from the Premier's private office?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:18): Ms Crozier, they are views of a former commissioner, and they are a matter for him. You have raised allegations that are not necessarily proven, and I do not have a role in directing members of the IOC in relation to how they conduct their role. The only role I had in relation to that committee was proposing a motion in this house to appoint a member of this chamber to that committee. That is the only role that I have had in relation to the operation of that committee. So, no, I will not be proposing that I interfere with a parliamentary committee's work. That would be incredibly inappropriate.

Georgie CROZIER (Southern Metropolitan) (12:19): What I want to ask the Leader of the Government again is: considering that it is the Parliament's, in line with the former IBAC Commissioner's letter to Presiding Officers, will the Leader of the Government, as you just said, now urgently commit to changing the make-up of the Integrity and Oversight Committee membership to include a non-government chair and majority?

The PRESIDENT: I have a serious concern that the make-up of a committee and how that committee goes about its business is not within the Attorney-General's administration. If you want to raise a point of order, Ms Crozier, I am happy to hear it.

Georgie CROZIER: On a point of order, President, the Premier himself was asked about the make-up of the committee. So if the Premier was asked, I am asking Minister Symes, as Leader of the Government.

The PRESIDENT: Yes, but that was outside of question time. It was at a doorstop; that is my understanding.

Nicholas McGowan: On a point of order, President, the minister clearly has responsibility for the act, and the question was in respect to –

Members interjecting.

Nicholas McGowan: No, not the committee, in respect to the broad-based anti-corruption commission, and the question was in relation to that.

The PRESIDENT: I have a couple of concerns. It is the wrong act that Mr McGowan is quoting, but my other concern is that, if I set a precedent that ministers can answer questions around committee administration, which has nothing to do with them, people would be very upset if they thought that ministers had some overriding power or they determined that work. I am not going to put the question.

Health services cybersecurity

Rikkie-Lee TYRRELL (Northern Victoria) (12:21): (78) My question is for the minister representing the Minister for Health. In reference to this morning's Eastern Health announcement of an IT system outage and ensuing code yellow, even with no current evidence of a cyber attack this

highlights the undeniable fact that digital systems are vulnerable, which can have serious consequences for the provision of critical services and data management. Will the government acknowledge this threat and take proactive steps to address it, including investing in robust cybersecurity measures and contingency plans to ensure that essential services are not disrupted in the event of a cyber attack or system failure?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (12:22): Thank you, Mrs Tyrrell, for the question. It is obviously a question for the Minister for Health, so in accordance with the standing orders, I will pass that on to her and ensure that she replies in accordance with the standing orders.

Rikkie-Lee TYRRELL (Northern Victoria) (12:22): One more question: what steps are being taken?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (12:22): Thank you, Mrs Tyrrell, for the question, obviously again for the Minister for Health, so I will pass that aspect of the question on to her as well and ensure that you receive a reply within the standing orders.

Ministers statements: coastal public access and risk grants

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:23): I was very pleased last week to announce the successful recipients of our $1.1 million coastal public access and risk grants program for 2022–23. The Andrews Labor government is committed to ensuring that it is as easy and safe as possible for the community to access our spectacular beaches. But we also know that the marine and coastal environment is regularly changing due to the impacts of climate change, tides, storm surges and other local conditions, and that is why through this annual grant program we are working together with land managers to identify and mitigate these risks to our coastline.

Thanks to this funding 16 important projects will be supported to deliver vital safety and access upgrades at coastal locations across our state. This includes beach access improvements at Ocean Grove, Lorne, Marengo, Warrnambool, Sandy Point, Seaspray, Phillip Island, Parkdale, Middle Park and Blairgowrie. We are also delivering funding for safety assessments and planning work for future improvements at Walkerville – a lovely spot – Dromana and White Cliffs, and new safety signage at Phillip Island nature parks and beaches. Since 2014 more than $140 million has been invested into marine and coastal environmental projects across our state, supporting our statewide marine and coastal strategy and building the adaptation and resilience of Victoria's coastal communities for years to come.

Independent Broad-based Anti-corruption Commission

Members interjecting.

Georgie CROZIER (Southern Metropolitan) (12:24): (79) These are serious issues. You might laugh over these, but these are serious issues. My question is to Minister Shing. Minister, were you ordered to gag the former IBAC Commissioner in order to protect Premier Daniel Andrews?

The PRESIDENT: I also have concern that this is a question relating to what is not the minister's administration in this term, but I am prepared to put the question.

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Commonwealth Games Legacy, Minister for Equality) (12:25): Thank you, President. Without wanting to set any precedent along the lines of what you have just described as it relates to commentary on the execution of functions under the parliamentary committees structure, regulated as it is by the Parliamentary Committees Act and therefore regulated by the Parliament, I want to confirm to the house that I was asked this question this morning at the back of the Parliament and I have been

asked this question on a number of occasions before, and my answer has been on the public record in every instance whereby I have been asked this question. And the answer has always been no.

Georgie CROZIER (Southern Metropolitan) (12:26): Minister, given you admitted to acting alone in disgracefully gagging the IBAC Commissioner, how can Victorians trust that you manage your portfolios in a transparent and accountable way with the highest level of integrity when your track record shows that you interfered in anti-corruption investigations into the Premier?

The PRESIDENT: I have got a problem with that one because it should be by a substantive motion if you are going to make an allegation against a sitting member. I am not going to put the question.

Poultry industry

Georgie PURCELL (Northern Victoria) (12:26): (80) My question is for the Minister for Agriculture. Every year 12 million chicks are killed on their first day of life in Australia. Biologically, only female chicks can lay eggs, but statistically around half of chicks born for the industry are male. After hatching, these chicks are put onto conveyor belts and sorted by sex. Currently the standard industry practice to deal with the unwanted male chicks is to send that conveyor belt into an industrial-sized blender, where they are minced alive in a practice known as chick shredding. In 2020 a parliamentary committee recommended that the government examine alternative practices with a view to adopting world's best practice. Despite government support for this recommendation, live chick maceration continues across Victoria while other countries around the world adopt advanced prehatching technologies. Have the government conducted their examination into alternative practices to chick shredding?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:27): I thank Ms Purcell for her question, and I will pass that on to the Minister for Agriculture for a response.

Georgie PURCELL (Northern Victoria) (12:28): Thanks, Minister Symes, for the referral. At the 2018 state election the Andrews government made a commitment to modernising Victoria's animal protection laws. This is an instrument that could be used to end routine cruelty such as chick shredding, and it was recommended these laws be implemented urgently by the same parliamentary committee. Five years on we are yet to see this happen. Will the government introduce protections that stop the practice of macerating baby chickens alive in this legislation?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:28): Again I thank Ms Purcell for her supplementary question and her passion for this topic. I am sure that Minister Tierney will be happy to engage with you on this and, in accordance with the standing orders, provide a response.

Ministers statements: International Women's Day

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Commonwealth Games Legacy, Minister for Equality) (12:28): I rise today following International Women's Day to celebrate the work of women in water. Our water sector is extraordinarily progressive when it comes to inviting expressions of interest from women, encouraging women in pathways through professional development through a range of different opportunities and programs and then fostering a sense of momentum for the careers and the development of women in this sector.

Many of the members here in this chamber will be well aware, whether they like it or not, of my passion for water and natural resource management and of the role that women in water play. I am really proud of the work that we have achieved in this portfolio to ensure that we are delivering programs that have delivered 57 per cent of board directors in our water corporations being women, which is 83 out of 146, and 61 per cent of water corporation board chairpersons being women, which is 11 out of 18. At our catchment management authorities, 61 per cent of our CMA board members

are women, which is 43 out of a total of 70, and 67 per cent of our CMA board chairpersons are women too, which is six out of nine.

What we need to do is to continue to develop this work. That includes our Insight program, it includes our Women in Water program and there are so many other examples of the encouragement that is happening across the sector that are bearing very significant and positive results. Right now, though, board positions and applications are open for people to express interest in a board appointment to one of our water corps, CMAs or the Victorian Environmental Water Holder. I would strongly encourage women and people from diverse backgrounds with a range of perspectives to apply for one of these positions. Your skill and experience lend a greater quality to decision-making, and I would urge everyone to get on board.

Written responses

The PRESIDENT (12:31): The Leader of the Government will get answers for Ms Purcell and Mr Ettershank from the Minister for Agriculture. Minister Stitt will get responses in line with the standing orders for Dr Mansfield's questions to the minister for energy, as will Minister Blandthorn for both Ms Tyrrell's questions to the Minister for Health.

Constituency questions

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:31): (71) My question is for the Minister for Training and Skills. Minister, constituents in Eastern Victoria are interested in the investment of the government in TAFE Gippsland. I have visited the new facility at Sale and spoken to local people about the importance of moving the TAFE to the centre of town at the beautiful Port of Sale. I am aware there are also terrific upgrades in Morwell and other locations. Could the minister please provide an update on the investment by this government into TAFE upgrades in Gippsland? It is important to recognise that Gippsland is an area undergoing major changes. Front of mind is the clean energy revolution and the fact that Gippsland has been declared a renewable energy zone by the state government and Australia's first declared offshore wind zone by the federal government. Morwell has also been earmarked as an office site for the revived SEC. How is the work of TAFE Gippsland supporting the community to be involved in this clean energy revolution in Gippsland?

Western Victoria Region

Joe McCRACKEN (Western Victoria) (12:32): (72) My question is to the Minister for Transport and Infrastructure, and it relates to the Keeping Ballarat Moving project, which started in late 2020, which aims to replace the roundabouts at high-traffic intersections with traffic lights in Ballarat. As reported in the Ballarat *Courier* today, a traffic jam occurred at the intersection of Wiltshire Lane and La Trobe Street in Ballarat not before but after the traffic lights were turned on. Regional Roads Victoria estimates that 20,000 people use this intersection daily. Locals have said cars have been banked up. The *Courier* said that this may have increased travel times by up to 30 minutes. I can recognise that this project did have good intent, so my question to the minister is: will the minister review this project and report back to the house?

Northern Metropolitan Region

Samantha RATNAM (Northern Metropolitan) (12:33): (73) My constituency question is to the Minister for Planning. Beveridge and Wallan residents have been tirelessly campaigning against plans for a quarry in the new Beveridge North West precinct. The proposed quarry will be located less than a kilometre from a residential area and will cause significant dust and noise pollution, reduced health and wellbeing, traffic chaos, catchment and water table pollution and significant downstream impacts on the Merri Creek. There has been no assessment of the impact of the quarry on the Merri Creek or on the proposed Wallan regional park. Minister, will you ensure a full environmental assessment of the impacts of the quarry is urgently carried out before making a final decision on the quarry permit?

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:34): (74) My question is for the Minister for Public Transport, and it concerns the parcel of land owned by VicTrack on the corner of Hogan and Casey streets in the heart of Tatura. The vacant land is currently being released from VicTrack by the Greater Shepparton City Council and is adjacent to Mactier park, a beautiful public space where many community events are held. The *Tatura Community Plan* committee would like to extend Mactier park using this vacant VicTrack land. Unfortunately three commissioned reports, two by council and one by VicTrack, have found the land to be contaminated and the soil requiring amelioration before any development work can commence. I have been advised by members of the *Tatura Community Plan* committee that the cost to decontaminate the land by ameliorating the soil would be about $400,000. Will the minister provide funding to Greater Shepparton City Council to cover the full cost of the decontamination of the VicTrack-owned land on the corner of Hogan and Casey streets in Tatura?

Southern Metropolitan Region

Katherine COPSEY (Southern Metropolitan) (12:35): (75) My constituency question is for the minister representing the Minister for Tourism, Sport and Major Events. Over the past 10 years the Victorian government has spent over half a billion dollars of taxpayers money on the grand prix, and while a relatively small cohort enjoys this upscale event, the impact on the community who enjoy Albert Park year-round is immense. Community sport suffers, having to suspend their activities for months on end, clubs lose members and money and the grounds of the park are significantly damaged. Having met with the Albert Park Community Sporting Tenants Association last weekend, they shared with me that the consultation with the community is at a bare minimum and any compensation provided for clubs is wildly inadequate. If this government choose to proudly claim that Albert Park is a jewel in the crown of Melbourne, they should invest in the facilities used by locals and visitors year-round. I ask the minister, on behalf of the Albert Park Community Sporting Tenants Association, to advise what funding will be allocated to major improvement projects for community sport facilities or otherwise outline why they do not see value in doing so.

Eastern Victoria Region

Melina BATH (Eastern Victoria) (12:36): (76) My question is to the Minister for Outdoor Recreation. Under the Game Management Authority a group was established made up of animal welfare organisations, such as RSPCA, and hunting organisations, such as Field and Game Australia and Sporting Shooters Association of Australia, the wounding reduction working group. They have come up with an action plan, and that action plan had recommendations and was sent last year, approximately five months ago or more, to the then minister responsible, Minister Tierney. It has been languishing on the desks of Minister Tierney and subsequently the Minister for Outdoor Recreation. This is a really important one; this is a combined action plan and recommendations. So my Field and Game Gippsland constituent asks: when will the government respond to this important plan and its recommendations?

Western Victoria Region

Bev McARTHUR (Western Victoria) (12:37): (77) My constituency question is for the Minister for Planning and concerns her deeply regrettable recent decision to jeopardise Viva Energy's plan for a gas import terminal in Corio Bay. How do she and the Andrews government expect any business to invest in Victoria? It is clearly a mystery. To mix metaphors, Viva have jumped through the hoops but now find the goalposts have moved, even in the water. With breathtaking irony Ms Kilkenny told the Assembly:

> When planning is done poorly, it can have a negative impact on those communities through their health and wellbeing.

Tell that to the communities threatened by the monster towers and transmission lines of her government's Western Renewables Link. They will now watch that environment effects statement process even more closely. So, Minister, the question I have is: will your higher requirements for EES processes – in this case a blatant sweetener for the gas-hating Greens – extend to the Western Renewables Link also?

North-Eastern Metropolitan Region

Nicholas McGOWAN (North-Eastern Metropolitan) (12:38): (78) My matter is in respect to the duplication of the train line in my district, the North-Eastern Metropolitan Region. A number of citizens have spoken to me about this issue recently with the Hurstbridge train line. It is a duplication of approximately 3 kilometres between Greensborough and Montmorency stations and 1.5 kilometres between Diamond Creek and Wattle Glen. That project was due to be finished this year. Well, of course that is not the case. The people of those districts right along the Hurstbridge train line have waited a very long time for this to occur, and I would ask the minister for transport to provide an update on the duplication project itself. Further, I ask whether the government will commit to building a level crossing removal at Diamond Creek. This is something that is severely needed by the people in that local community, and I know from my history there that the other aspect of this of course is to commit to the completion of duplication all the way to Diamond Creek from Greensborough.

Eastern Victoria Region

Renee HEATH (Eastern Victoria) (12:39): (79) My question is for the Minister for Public Transport. Will the minister and state Labor government commit to funding and building the Frankston to Baxter metro rail extension in the state budget, utilising the $225 million in federal funding secured by Chris Crewther? In the 2018 federal budget the now member for Mornington secured $225 million of budgeted federal coalition funding towards the Frankston to Baxter metro rail extension. The funding remains on the table unless removed by the Albanese government in the budget. In October last year the state coalition committed to funding and building the full $971 million project if elected. This has previously been garnered and supported by the federal Labor government. This project would mean Metro services to Frankston East, Langwarrin and Baxter; closer Metro rail services for the peninsula; less parking at Frankston, Kananook and Seaford; and opening the way for return Metro rail services to Mornington East, which the member supports.

North-Eastern Metropolitan Region

Matthew BACH (North-Eastern Metropolitan) (12:40): (80) On Sunday my daughters and I had a great day back at the Vermont footy and netball club. It was the club's season launch, and it was great to be back there with president Danny Ross and a huge crowd. It is a thriving club. Historically the footy club is the most successful suburban football club in the whole country. They have got great facilities, but there is one big problem with the club, and that is the lights. I have spoken in this place before about the fact that when the council put up the current lights – surprise, surprise – they stuffed it up and put in globes that are not strong enough to allow night footy. The club, because of the incredible culture there, has a burgeoning youth program and also a burgeoning women's program. Danny and his board want the women's teams to be able to play in prime time after the blokes, but they cannot do it at the moment because they cannot play in the dark. The council messed it up. The former member for Forest Hill and I made a major announcement before the election to say we will fund $150,000 worth of new lights. My question to the Minister for Community Sport is: will you match that in the upcoming budget?

Bills

Health Legislation Amendment (Information Sharing) Bill 2023

Committee

Resumed.

Clause 1 further considered (12:42)

Georgie CROZIER: Prior to question time we were talking about compatibility and the national My Health Record. I have had some correspondence from some community health services, and they are concerned that some of their clients have chosen to opt out of the national My Health Record. I want to understand in relation to those clients that access community health, which plays a very important role in preventative health and to support patients: what is the government's estimate around those numbers of clients, because some of these clients are some of the more vulnerable clients in the health service? The reason I ask is I am concerned that they may not be forthcoming with their information that this legislation seeks to address.

Lizzie BLANDTHORN: Sorry, Ms Crozier, just to be clear, are you talking about individuals who have opted out of My Health Record or services that cannot then access the My Health Record?

Georgie CROZIER: I raise the issue because I have had feedback after I sought to get some feedback from community health services, and they were saying that their clients have opted out of the national My Health Record. They are concerned that some of their patients are quite vulnerable. What sorts of numbers has the government identified for some of these clients? The risk is that they may not provide their full history, and therefore what you are attempting to achieve will be lost because these clients, particularly those that are accessing community health services, will not provide what you are trying to achieve. So I am just wondering if there is an estimate of any numbers of those patients that might be involved in the community health sector but have also opted out. I think it is 10 per cent of Victorians as a total, but does the government have any visibility of that?

Lizzie BLANDTHORN: Obviously, community services will be treated the same way as hospitals. But in relation to those individuals, they cannot obviously opt out of the proposal here, so their information will be within that, and the community services records within My Health, as inclusive, or non-inclusive, as they are, will be compatible. The sharing of the information is indeed the very purpose of this bill. Its purpose is to ensure that people as far as possible do have access to that data. But if their data is not in My Health Record to start with and the community service does not have that data, then the extent to which it is compatible will be considered.

Georgie CROZIER: Minister, I think you misunderstood my question, but I will not labour the point. I was making the point that these patients or clients have concerns about their information, so they have opted out of the national My Health Record. There is quite a large cohort of these patients. They are the most vulnerable patients often that are being seen, and what this legislation is attempting to do is capture their information. What I am saying to you is that they may not be providing that full information and therefore the legislation will not capture what you are attempting to achieve. My question therefore is: what campaign are you going to run to provide certainty to these vulnerable clients or patients that access this care either through community health services or through other major health services in the state?

Lizzie BLANDTHORN: I am sorry, Ms Crozier, if this is causing confusion for either of us or we are talking at cross purposes, but in any case I think the privacy management framework that is part of this and has been certainly emphasised throughout the bill and our comments earlier will ensure that for public community health services, which already manage very sensitive conditions, that will continue to be the case under the privacy management framework. So in terms of the sensitivity of their information, that will be there.

Georgie CROZIER: Will you be running an information campaign?

Lizzie BLANDTHORN: There will certainly be support and information, as I said earlier, through the health services that are included, but also obviously it will be spoken about with individuals.

Georgie CROZIER: Minister, the Victorian Alcohol and Drug Association put out a press release in relation to this bill, and I mentioned it in the second-reading debate. They feel that the bill will further exacerbate stigma, as information relating to substance use, such as overdose or support through opioid substitution therapy, will be visible to a range of health professionals without patient consent. There were other concerns around the cyber attacks have gone on, and they mentioned the Medibank hack. The government has brought in amendments around that privacy framework that you have spoken about, so I would like to understand what consultation you have had with these agencies around the latest amendments that you have provided to the house today.

Lizzie BLANDTHORN: I will just consult.

There have been two years of comprehensive consultation on this bill. The amendment that has been circulated from the government today is reflective of that consultation.

Georgie CROZIER: Minister, this was a press release of just a few days ago, 22 February, so whatever you have said over the past two years they are not satisfied with. So I am taking it from your response to me now that they have not been consulted about these amendments. Is that correct?

Lizzie BLANDTHORN: As I said, the amendments go to issues which have been well canvassed and well discussed in the consultation in relation to this bill for a lengthy period of time, and the amendments are reflective of the intent of the bill in the first instance, which, as I said in my remarks relating to the procedural motion earlier, go to ensuring that the privacy of information that people have and the security of that information are absolutely paramount at any point.

Georgie CROZIER: It is a simple question, Minister: were they consulted or not?

Lizzie BLANDTHORN: It is a simple question and it is a simple answer. As I said, the consultation has happened over two years in relation to the entire purpose and intent of this bill, and it has always been the case that this bill is about sharing information for the health and safety of patients but ensuring that in so doing people have their privacy, particularly in relation to sensitive conditions, protected.

Georgie CROZIER: Minister, I do not think you have answered the question. Regarding the amendments in your name that have been circulated today, were these agencies consulted on these amendments that you are putting into the Parliament today?

Lizzie BLANDTHORN: Ms Crozier, I think I have answered the question. The amendments, as I said, are reflective of the issues surrounding this bill, both in relation to the sharing of information but also ensuring the protection of privacy around that information, and they are issues that have been broadly discussed throughout the consultation period.

Georgie CROZIER: Minister, you have brought a bill in for the second time around this issue. The government has constantly said that there will be safeguards and information will not be breached and privacy will not be breached, yet you have to justify that because of the concerns of the crossbench. Let us make no bones about it: you needed the support of the crossbench. These are what the Greens were talking about too, and you are reflecting that. It is a very simple question: did you consult or not about these amendments? I do not care what they reflect. These are amendments to the bill that you have put in, and I am just asking the question: did you consult or not? It is a simple yes or no. With your answers I am getting the feeling that there was no consultation with these agencies.

Lizzie BLANDTHORN: As I said in my opening remarks in relation to the first version of this same question, the amendment that has been worked on, as you rightfully point out, with the assistance, and valued assistance, of the crossbench, has been the product of a great deal of

consultation, and the consultation on this bill and these very issues that are canvassed in the amendments extends across a two-year period.

Georgie CROZIER: If you have been consulting over two years, why on earth are we seeing these amendments today?

Lizzie BLANDTHORN: Again, I appreciate the question – I am not sure how many times we are up to actually – but as I said, it has always been the intent of this bill to share information and ensure the protection of privacy. Those issues have been broadly consulted on over a two-year period, and the amendments that have been proposed simply further reflect that.

David LIMBRICK: On this same line of questioning, was the intent of the government to establish this framework without legislation, because this could have been just established as part of the project? I suppose my question is: the things that are in this amendment, were they going to happen anyway? Because the minister has already spoken of the intent, and the amendment reflects that consultation, was this going to happen anyway, or is this a new thing?

Lizzie BLANDTHORN: Obviously, the system cannot be comprehensively and effectively established and maintained without the legislation. As I said to Ms Crozier, the privacy of information has always been a paramount concern, and it has always been the intention that we both share the information and protect the security of the information. These amendments simply go further to that.

David LIMBRICK: I thank the minister for her answer. So what does this amendment actually do that was not already going to happen?

Lizzie BLANDTHORN: As I said, the legislation itself was always designed in a way that was going to ensure that we can share the information and protect the security of the information. With the assistance of members of the crossbench, we have simply moved amendments that further enhance that.

Georgie CROZIER: I do not know how many people are watching this debate, but those that have signed the petition and the hundreds of thousands of Victorians that have got concerns about this bill I think will be very alarmed by the answers that you have provided to Mr Limbrick, because as he rightly asks, Minister, what are these amendments doing that were not in the bill previously? We can go around and around in circles, but this is just to placate a number of the crossbench to get the bill through the chamber. We know that because you have been very stubborn on it. But I want to go back to the point about these amendments and my original question about consultation. You talk about consultation over two years, but on the day that this bill is to be passed we see these new amendments. Could you please explain to the committee which stakeholders have had consultation from the minister's office on these amendments?

Lizzie BLANDTHORN: As I have said a number of times now – and we can, as you said, Ms Crozier, keep going around in circles – this piece of legislation has been in the making for some time, and this bill has been in consultation for a two-year period. The issues have all been well canvassed, and the purpose of the bill was always to ensure the sharing of health information so that we can best deliver health services to those in our community who need them, particularly, as you rightfully point out, those who are most vulnerable, and so that we continue to do that in the most secure and safe way possible. That is exactly what the bill, with the amendments, does.

Nicholas McGOWAN: Thank you, Minister, for your answers so far. I appreciate the fact you do have a croaky voice today, so I will try and keep most of my questions as straightforward and easy as possible in terms of minimising the back and forth, because I do appreciate that. In respect to the amendment itself, did the government consult the Law Institute of Victoria?

Lizzie BLANDTHORN: I will just consult with the box.

As I have previously indicated, both the bill itself and the development of the bill, including the amendments, are the products of broad consultation that has happened for some time with a range of stakeholders. Consultations over time have included the law institute, and the amendments that we have before us to the bill reflect the issues within those consultations over some time with all of those stakeholders.

Nicholas McGOWAN: I thank the minister for her answer. I just want to narrow that slightly in respect to this amendment. I appreciate what you are saying in respect to the previous consultations, but given the very new nature of this amendment, were the law institute consulted in any way on this specific amendment?

Lizzie BLANDTHORN: Again, as I have said, the bill itself, including the amendments and the issues that the breadth of that includes, is a reflection of the consultation that has happened over time with a number of stakeholders, including the law institute.

Nicholas McGOWAN: Minister, has the government consulted Liberty Victoria at all in respect to this amendment?

Lizzie BLANDTHORN: My answer remains the same. Consultations happened over a two-year period in relation to the issues that are included in both the bill and the amendments that are proposed. Those issues have been well canvassed with a range of stakeholders, including the legal ones.

Nicholas McGOWAN: Minister, thank you for your answer. Did the government consult Liberty Victoria in respect to the substantive bill itself?

Lizzie BLANDTHORN: Again, it is a similar question. My answer remains the same. The consultation has happened over a two-year period in relation to the bill itself, and the issues that it and the amendments collectively canvass have been well consulted on.

Sitting suspended 1:01 pm until 2:06 pm.

David LIMBRICK: I have a number of questions, and if it suits the minister I will acquit them all on clause 1, as I believe the others are doing. My first question is: what is the reasonable justification for having no opt-out provision? In other words, what harm is there in allowing some Victorians to enjoy the benefits of the new system and other Victorians to choose not to enjoy those benefits by opting out?

Lizzie BLANDTHORN: Thank you, Mr Limbrick, for the question. The scheme has been designed purposely without the opt-out provision. Under the existing law, public hospitals can share health information required in connection with the further treatment of a patient without getting their consent first. The bill adopts a similar approach by allowing the health information to be shared for the continued care and treatment of patients. The proposed secure health information system will not change the ability of health services to share information but will improve the way that information can be accessed and the security around the sharing arrangements. It should be noted that this approach is indeed consistent with Queensland, New South Wales, the ACT and South Australia.

David LIMBRICK: I thank the minister for her answer. The minister just mentioned Queensland. It is my understanding that you can opt out in Queensland under their system.

Lizzie BLANDTHORN: I will seek some advice.

Not within the public hospital system, no.

David LIMBRICK: The Minister for Health in the other place during the second-reading speech mentioned a privacy management framework. I am sort of wondering when that will become publicly available, or is this amendment the privacy framework?

Lizzie BLANDTHORN: The privacy framework, as we were discussing earlier, goes very much to the core purpose of the bill – the sharing of the information, but then protecting the security of the information in relation to patients. Public community health services also manage sensitive conditions, and these will also be managed under the privacy management framework. The bill was designed to give effect to that, the amendments further enforce that, and that will be a fundamental part of the scheme.

David LIMBRICK: I thank the minister for the answer. The minister spoke earlier about many of these things that we were talking about in the amendments, such as the privacy management framework. Clearly that was planned because the minister spoke about it in the second-reading speech, but there was also talk about negotiations with crossbenchers, such as the Greens, on improving these things. Which of these things in the amendments are new – that were not originally planned when this bill was put forward?

Lizzie BLANDTHORN: Clearly, as you correctly identified, Mr Limbrick – and the minister spoke herself to the importance of not only sharing the information but protecting the security of the information and the privacy of patients – that was indeed always planned, and as we discussed at length earlier as well, it was indeed always part of the consultations with a broad range of stakeholders. It was always planned; it was always facilitated by the legislation. There was always intended to be a policy framework. These amendments simply spell out all of that policy framework that the minister spoke about in her second-reading speech, which clearly was intentioned in the bill itself, through the amendments.

David LIMBRICK: I thank the minister for her answer. If my understanding is correct, everything in this amendment was already going to happen. It is just that it is saying it in the legislation now.

Lizzie BLANDTHORN: I will just seek some further advice.

As I said, the privacy framework and the review were always contemplated. It just spells it out further within the legislation, and the minister's earlier remarks in relation to the second-reading speech go to that point.

David LIMBRICK: I thank the minister for clarifying that the Greens negotiations did not really do anything. Given that only the Department of Health and not the treating health service will have access to the audit trail of who has accessed patients' information in the system, why is the department exempt from FOI?

Lizzie BLANDTHORN: As I said in my remarks in relation to the procedural motion that you put to the chamber earlier, for the department to be responsible for FOI would be for the department, rather than the health service itself, to access all of that information. Because they are the owner of the system, it would be much more appropriately managed through the health service itself.

David LIMBRICK: I thank the minister for her answer. I understand that the health services are meant to synchronise with the system. However, there could be errors through things not being synchronised that someone would not be able to pick up. For example, I may have gone to a doctor and got an incorrect diagnosis, and then I may have gone back again and got a correct diagnosis. If for some reason it was not synchronised, if I cannot see the centralised system, then I do not know whether that record has been updated or not.

David Davis: Tampered with.

David LIMBRICK: Yes, or tampered with for that case. I accept that a patient through the normal process can go through the health service provider, but there is still a requirement in my mind that they would want to know what is on the centralised system as well to ensure that they actually are the same documents.

Lizzie BLANDTHORN: Sorry, Mr Limbrick, could you just ask your question again?

David LIMBRICK: Yes. Given that there are potential problems with the synchronisation between these two systems, why does the government feel that it is not required for someone to be able to access the information in the centralised system to see what records are in there?

Lizzie BLANDTHORN: Just to be clear, you are still referring to FOI in particular? Yes. Patients currently have rights to access their full medical records from their health service provider under FOI and privacy legislation, and this bill obviously does not do anything to disrupt that aspect of it. Importantly, the information within the system is not necessarily, as you say, a complete medical record but a subset of the information held by the service providers, and it includes information held in the system. To be accessible under the Freedom of Information Act 1982 would mean that the Department of Health would be responsible for accessing, assessing and responding to requests from patients. As I said, they are not the appropriate people to be responding to those requests, and the best source of a patient's health information is the health service that has provided the service and has that complete medical history so that they have all of that information available to them.

David LIMBRICK: I thank the minister for her answer. If I was a patient and I suspected that the central system records were different to what the medical provider had, how could I firstly find out about that, and how could I go about changing it? It is not clear to me how a patient can actually find out if there is a synchronisation problem between the health service provider and the centralised system; it does not seem clear to me how a patient can ever know that there is a problem there.

Lizzie BLANDTHORN: Obviously, if patients have queries about their own individual health information, they can first discuss their concerns with their own individual health provider or the other health service that may have created and holds the medical records. Of course it should be noted also that patients who are not satisfied with that response will have the opportunity to lodge their concerns with the health complaints commissioner, but in the first instance they can take those issues up with the provider themselves.

David LIMBRICK: I thank the minister for her answer. I will make it simpler: is there any mechanism for a patient to see what is held in the centralised system?

Lizzie BLANDTHORN: I will seek some further clarification if that can be of assistance to you.

I am advised that it is one and the same thing. It is the same data. They can access it through their health provider, and they will be able to see the information that is held on them there.

David LIMBRICK: I thank the minister. So what you are saying is: I go to my health provider, they have got access to the system, I can sit with them, they can access it and I can view it on the screen or something. Is that how it would work? I am just trying to get in my head how this actually works – how I actually see what is held in the central system.

Lizzie BLANDTHORN: As I said, Mr Limbrick, by accessing the information through their health service provider they will be able to see that information, and that includes all of the information about their own health condition.

David LIMBRICK: I thank the minister for her answer. Why does the bill not restrict who at the Department of Health can access the system?

Lizzie BLANDTHORN: My advice is that departmental staff will not be in a position where they will need to access that information. There will be audit processes in train, and there are obviously fines for people who do the wrong thing.

David ETTERSHANK: This bill presents an opportunity to enable individuals to access their health data electronically in a manner contemplated by the European Union general data protection regulation, which addresses their accessibility and portability, as such an approach would enable individuals to obtain their health data free of charge in a generally available, machine-readable form. There are four main benefits to this: individuals could check the accuracy of their health information

and correct it; individuals would be able to, at their option, share their health data with private sector providers, for example; patients would not have to access the expensive, time-consuming and complex FOI requirements to access their own information; and patients could use this information to identify any information that they do not wish to have shared or accessible. So my question, Minister, is: can you commit that this approach will be addressed and implemented prior to operationalising the electronic patient health information sharing system (EPHIS)?

Lizzie BLANDTHORN: Thank you, Mr Ettershank, for your question. As we have talked about all day, really, this bill is an important road to improving health information sharing and protecting the privacy and security of the information for patients. Citizens, as we were just discussing with Mr Limbrick, can already access their own health information, and they will retain that capacity. Some health services already operate patient portals or can provide health information under Office of the Victorian Information Commissioner-specified informal arrangements. *Victoria's Digital Health Roadmap* details the government's commitment to putting health information in the hands of citizens and, where indicated, their carers or their parents. The government will also work with all public health services to ensure that by the time EPHIS is operational there are mechanisms in place so that a patient's individual health information will be available to them at that time without cost in an accessible and, where possible, machine-readable format without having to use freedom of information, as we were discussing earlier.

Nicholas McGOWAN: Thank you, Minister, for your previous answer to Mr Limbrick. Just in respect to persons working for the secretary not needing to have access, why does the bill propose to give them that access when it says 'The Secretary, or a person employed' and so on and so forth?

Lizzie BLANDTHORN: Obviously this is a bill to establish a statewide scheme compatible with My Health Record, and it is a scheme that is operated by the department. With Mr Limbrick, I was talking about why people or how people might be able to access people's individual health information. I would imagine, without wanting to of course put words in Mr Limbrick's mouth, we were going into talking about the privacy and the security of the information and the protection of that for patients. In the sense of accessing people's personal records, there is no need for individuals within the department to be accessing that information, and there will be an audit trail to make sure that people are not doing that. If it has been done, and is found to be done inappropriately, there are fines to address that issue.

Nicholas McGOWAN: Just further to your answer, Minister: if there is no need, again I repeat: why would the bill then have specific provision for persons – that is, all persons – employed by the secretary to be able to have lawful access to this mega-database?

Lizzie BLANDTHORN: Sorry, I just missed the question.

The DEPUTY PRESIDENT: Could you repeat the question, please, Mr McGowan.

Nicholas McGOWAN: I can repeat the question. Minister, the question I asked was in respect to why those employed by the secretary under the act have unfettered access, and specifically why a person employed by the secretary – so any person. That was the question asked, and your response was that there is no need for those people to have that access. Therefore, why would it be in the bill?

Lizzie BLANDTHORN: I will seek some further clarification, but I believe my answer remains the same.

Further to my point, department staff will not be accessing the personal information, which is what I believe I was discussing with Mr Limbrick. The department will, though, be managing health services' access to the system itself.

Nicholas McGOWAN: Just picking up on the FOI questions asked before as well, in respect to FOI I think what the member was trying to allude to is that it is true, is it not, that no member of the

Victorian public – in fact no-one at all – will be able to access records of anyone in the department or in any authority in regard to the access they may have had to a database held by the department?

Lizzie BLANDTHORN: I am advised that, no, they cannot, but they can FOI. In fact many health services will provide that information without FOI, but they can go directly through the health service for that information.

Nicholas McGOWAN: I appreciate the minister's answer. Unfortunately, going through the different health providers – they will not have access of course, because the database is held and administered by the department. So the only way in which people could actually receive information in respect to whether it has been accessed, for example, by the department themselves, is through the department. How do we overcome that difficulty?

Lizzie BLANDTHORN: I think we are talking a little bit at cross-purposes. Somebody can FOI their individual health data. They can go to the health service for that, and they can FOI the health service. But many health services will provide that without an FOI. Correct me if I am wrong, but my understanding of what you are asking is: can effectively the department be FOI-ed to see who at the department end has accessed the information? And that is still FOI-able.

Nicholas McGOWAN: I thank the minister for her clarification. I would like to understand in this bill where that is permitted, though, because the way it is currently structured ensures that the department is in fact able to use this bill as a guard to prevent those kinds of freedom-of-information requests.

Lizzie BLANDTHORN: In relation to the specific question you are getting to in relation to whether the department can be FOI-ed in relation to departmental staff access of the database, say, or inappropriately accessing information or whatnot, our belief is that that is not prohibited by the bill.

Nicholas McGOWAN: Again, I thank the minister for her answer. But I bring the minister's attention to division 5, clause 1. It says very specifically:

> The Freedom of Information Act 1982 does not apply to …

It includes (a) and (b), and (b) is:

> the Electronic Patient Health Information Sharing System.

The way the bill is currently drafted, that would have the effect of the department successfully, in every application for freedom of information based on anything in respect to that health information sharing system, being able to deny that application, because there is a disapplication of the Freedom of Information Act under this bill. Is that not correct?

Lizzie BLANDTHORN: My advice is that that interpretation is not correct – that it is intended that an FOI of that nature would still be permitted under the legislation.

Nicholas McGOWAN: I thank the minister for her answer. But that being the case, without suggesting an amendment, is it not open to the government to provide that? Why is that not provided for in detail here? Because if we have the strict application of this bill as it stands, it does, as I said, preclude anyone from being able to make a freedom-of-information application as it currently reads.

Lizzie BLANDTHORN: On your specific point, Mr McGowan, I think we have a difference of opinion about what it does and does not allow for.

David LIMBRICK: In my second-reading speech I spoke at length about the differences in underlying philosophical principles between this and other pieces of legislation. My question is: why is the government adopting a policy position in the bill that is contrary to all other recent Victorian health legislation, where the focus has been on respecting patient autonomy and prioritising patient wishes rather than being overridden by what someone else considers to be in the best interests of the patient? I can give you some examples: the Medical Treatment Planning and Decisions Act 2016

enables a patient to refuse medical treatment and make a binding advance care directive regardless of the views of others, the Voluntary Assisted Dying Act 2017 allows eligible patients to choose the timing and manner of their death, the Guardianship and Administration Act 2019 provides that a person's will and preferences should direct as far as practicable decisions that are made for that person, and even more recently the Mental Health and Wellbeing Act 2022 seeks to prioritise the views and preferences of mental health consumers. Also, recent changes to the Health Services Act 1988 permit patients to opt out of receiving the benefits of a statutory duty of candour.

Lizzie BLANDTHORN: Thank you very much, Mr Limbrick, and thank you for your question. I think the fundamental difference between this legislation and most of the other examples that you have given – notwithstanding that some of those examples people in this chamber have very different views about, including me – is where somebody is making a decision about their own health treatment as opposed to this bill being about the sharing of information in a way that protects the privacy and security of that information. It is about being able to deliver the best possible patient care by the health service having access to the information it might need as opposed to the nature of care that somebody receives in terms of some of the other examples you have given, where people are choosing treatment or otherwise as opposed to choosing whether or not their data is shared.

David LIMBRICK: I thank the minister for her answer. My next question is: has the government in the construction of this bill considered the views of Victorians who opted out of My Health Record, which, as was said many times during debate, was about 10 per cent of the population, or the views of people that were subjected to the Medibank health information breach more recently?

Lizzie BLANDTHORN: As we discussed earlier, this bill has been a long time in the making and has had two years of thorough consultation. I think all of those considerations have had some weight given to them in the development of this bill. Ultimately what is, I guess, winning out in the proposal of this bill is the principle that the best possible patient care is reliant on sharing information about other care that that patient may have had at some point in time that is relevant to the care that they might then be seeking, at the same of course acknowledging many of the very valid questions that have been raised here today and ensuring that that is done in a private and secure fashion.

David LIMBRICK: I thank the minister for her answer. I move on to penalties. With the existing penalties in the principal act – this is in section 141 of the Health Services Act 1988, for the benefit of those in the box – my understanding is that they have never been used to prosecute health information privacy breaches. If that is true, how will statutory penalties deter privacy breaches in the proposed health information sharing system if those existing penalties have never actually been used?

Lizzie BLANDTHORN: I think the reality is that fines are always a deterrent and penalties of other natures are always a deterrent to some level. There is going to be a rigorous audit regime, and a fine for a breach or inappropriate use of the scheme and the records is most appropriate and I think, hopefully, an adequate deterrent.

David LIMBRICK: Is there any potential overlap between the Commonwealth My Health Record and the proposed system?

Lizzie BLANDTHORN: Obviously, as we were discussing earlier, the systems are indeed complementary and they will work together to ensure that we are in a position to both deliver the best possible patient care but also deliver it in a private and secure way. My Health Record contains important summary information. However, it is not a comprehensive record of the information that is relevant to your day-to-day clinical care, particularly within a public hospital, and the proposed Victorian system will complement the My Health Record as the national system for shared health information between public and private hospitals as well as general practitioners, specialists, community health services, pharmacies and so forth.

Sarah MANSFIELD: Will the minister write to all public health services requiring them to allow patients access to their medical records without recourse to FOI?

Lizzie BLANDTHORN: FOI is obviously the current mechanism for patients to access their medical records from public health services, and it is the mechanism currently provided for in the existing legislation, such as the Health Records Act 2001, the Health Services Act 1988 and of course the Freedom of Information Act. Formally excluding health services from FOI would likely require further legislative reform. However, Minister Thomas has committed to writing to public health services – to go to your specific query – to remind them of their obligations to facilitate and optimise patient access to their health information.

Sarah MANSFIELD: Will patients also be able to receive a report on who has accessed the electronic patient health information system and when and from which health service?

Lizzie BLANDTHORN: Patients will be able to access details regarding which clinical teams have accessed their health information as well as when and where their patient health information has been accessed. Individual names may have to be redacted due to privacy concerns, as we have discussed a few times now. There will be audit trail information from the system, which will be made available to health services, and guidance will be provided to ensure patients are readily able to access it.

Sarah MANSFIELD: Will individuals and agencies not involved in a person's care, such as the police, have access to their electronic patient health information system record?

Lizzie BLANDTHORN: The bill prohibits any voluntary information sharing with other government agencies, including law enforcement agencies. However, as is the case now, it does not preclude circumstances where the department would be legally required to provide information to the police, such as under a warrant or a subpoena. Any compulsory requests like this will be dealt with according to established processes, including strict legal reviews. Health services currently must comply with subpoenas and with warrants.

Sarah MANSFIELD: Will the government ensure that there are regular surveillance audits for episodes of inappropriate access to records?

Lizzie BLANDTHORN: I think we have covered this matter a couple of times, but again, the department will be regularly auditing how clinicians are using the system and addressing any unusual activity with public health services. Health services will also be required to monitor their usage in accordance with their existing information security management processes, and details of the audit process will be included in the privacy management framework.

Sarah MANSFIELD: Can you assure us that survivors of violence and others in need of protection will be offered additional privacy protection, such as being allowed to use an alias?

Lizzie BLANDTHORN: This is one, given the nature of my own portfolios, I also have been very interested in. Guidance will be given to health services to ensure that highly sensitive patient information, like that of victims of domestic violence, will be treated with additional care and confidentiality, and depending on the circumstances, this may include locking down information so that it cannot be viewed or applying for an alias to a file. Hospitals already have in place processes such as the use of aliases and locking certain records for circumstances like these, and with the privacy management framework we will build on those already established processes.

Sarah MANSFIELD: Will consumers and citizens with particular concerns be able to have input to the privacy management framework, and how will that operate?

Lizzie BLANDTHORN: Consultation on the development of the privacy management framework will be robust, as I said. Issues around privacy in particular have been a point of consultation throughout the two-year process. But consultation on the development of the privacy management framework will be robust. It will include community groups that advocate for the interests of patients, healthcare workers and carers, and citizens may engage with groups like the Health Issues Centre to put their views forward or write to the minister or to their local MP.

Bev McARTHUR: Minister, correct me if I am wrong or if I misheard you, but did I hear you say that you would be protecting the privacy of the providers in the healthcare system?

Lizzie BLANDTHORN: Sorry, Mrs McArthur, are you referring to the question that was asked in relation to survivors of violence? We were talking about giving guidance to health services to ensure that highly sensitive patient information like that of victims of domestic violence will be treated with additional care and confidentiality and that depending on the circumstances this would include locking down information so it cannot be viewed or applying an alias – and the hospitals already have in place a process.

Bev McARTHUR: No, that was not what I was referring to. You answered a question where you said the providers of the information would have their names redacted to protect their privacy. Is that what you said?

Lizzie BLANDTHORN: Sorry, Mrs McArthur, I am not sure which question you are referring to. Was it the immediate one about the privacy of patients?

Bev McARTHUR: It was not about the privacy of the patients.

Lizzie BLANDTHORN: I am not certain – sorry, Mrs McArthur – which question you are referring to. We were talking about who will have access to the records. We were talking about surveillance and audits for inappropriate access to the records, particularly vulnerable participants in the health system. What we were talking about was the privacy of the information of the individuals.

Bev McARTHUR: Sorry, Minister, it was when you were referring to a patient getting access to the information that others might have. I thought you said those people's names – not the patients but the providers – would be protected by privacy and their names would be redacted.

The DEPUTY PRESIDENT: Mrs McArthur, perhaps instead of referring to what you think might have been said, just ask the question on the information you are trying to get. That might help her to answer it.

Lizzie BLANDTHORN: I am advised that I did not say it was about that, and if I misspoke, I did not mean to. I am happy to consult *Hansard*. But, no, we were specifically talking about the individuals and their privacy, not that of the health services.

Bev McARTHUR: Then I will ask the question another way: if a patient accesses the information that is on their records, will the privacy of the medical practitioners or whoever be protected by redaction of their names?

Lizzie BLANDTHORN: Sorry, I misunderstood your question. Yes, at times the privacy of, say, the individual nurse or doctor or whatever it is may well be.

Bev McARTHUR: Then, Minister, if it is good enough for the privacy of the providers of health who are providing health care to that patient to be protected, why is it not essential that individuals have their privacy protected if they do not want their records accessed?

Lizzie BLANDTHORN: The provisions in relation to the workers in the system are a different issue to that which we were talking about in relation to the individuals. The very purpose of this bill is being able to deliver the best possible patient care, and crucial to that is being able to share information about what other health treatment the patient may have received in the past that is relevant to the treatment that they are seeking. As we were just discussing with the questions from the crossbench, where there is a particular security or safety issue in relation to an individual who may be vulnerable, such as someone who is potentially a victim of domestic violence, then there is the opportunity for an alias or a locked record or whatnot. But in this instance across the board the very purpose of this bill is information sharing.

Bev McARTHUR: So a patient may not be able to access the names of the people who have accessed their records. Wouldn't that be critical to the patient seeking the information?

Lizzie BLANDTHORN: Further to my information, what will be visible is the clinical team, for example, just not the individual name – it necessarily may be redacted – of an individual nurse or other clinician. There have been instances in the past where, sadly, some of the workers in the deliverance of health care have been the target of violence, for example, and so there is a reason that it becomes necessary at times to redact the names of individuals. But the clinical team as a whole – it would be obvious who the clinical team is and where they were from.

Nicholas McGOWAN: This is critical. It goes to the heart of your answer just given to member McArthur's question – it goes to the heart of the whole integrity of the entire system. If members of the public cannot even be sure that they will ever know who accessed their information – notwithstanding that I understand your concerns, and they would be my concerns too, about unforeseen consequences of people finding that information out at some point in time – if even by the very definition their identity is kept confidential, then no-one in Victoria will ever know who has accessed their information, except to say they may know, if they can ever get past the FOI restrictions, what clinic, hospital, department et cetera. My question is: how could you possibly police this system?

Lizzie BLANDTHORN: The very principle of this system, just to be clear on that, is about information sharing within the parameters that afford the necessary protections to the information. The names of clinicians would not necessarily be automatically redacted; they may be redacted as may be needed. The whole point is information sharing, and being able to see where that information has come from is an important part of the system.

Nicholas McGOWAN: I thank the minister for her answer. I am probably a little bit more confused, because you are now using the phrase 'redacted'. I understand that. Previously it was that their privacy would be protected or it may refer more broadly to a department – the emergency department, for example. I just want to be clear: is it that in fact every end user's – that is, somebody who collects the information; I will call them 'collector' for the rest of the day – any collector's, no matter where they are, personal information will be known to the Department of Health or not?

Lizzie BLANDTHORN: Sorry, perhaps your use of 'collector' is going to insert more confusion into the conversation than otherwise, but by 'collector' are you referring to any clinician?

Nicholas McGOWAN: Yes, I am referring to all of those who are authorised to access the information and input the information too – correct.

Lizzie BLANDTHORN: The advice that I have is that, if we start at first principles, for every hospital or health service provider, effectively, their name as a headline is in the system and the treating clinician is in the system, as is in line with normal and current practice within hospitals and within health services. Again, as is the case in hospitals and health services, at the moment there are sometimes reasons why that service may have a policy where for some particular reason in relation to certain individuals or groups of individuals they may not provide their name, and that name may not necessarily be provided. Where names are provided but then it becomes apparent that it is not appropriate for those names to be accessed, names can be redacted.

Nicholas McGOWAN: I think we are starting to get there, so I appreciate your efforts. If there were a treating physician and there were a number of nurses, for example, is it correct that those nurses' names – or any example, because it is not just about nurses, it could be pathology, it could be pharmacists, it could be laboratory workers; many, many, many may have access. Is it correct to say that other than the person who is authorising the script or looking for the test, there will be no way of actually tracking those other people?

Lizzie BLANDTHORN: It would be provided in accordance with the current hospital or health service processes or policy as it exists now, and effectively we are picking it up and lifting it into an

electronic system. If it were the policy of the hospital to perhaps release the name of the treating doctor but not necessarily the nurses, then that would be reflected in the system. It would depend on the policy of the delivering hospital or health service.

Nicholas McGOWAN: I appreciate the minister's answer. Therefore I suppose my concern, and maybe that of members present, is that what I am hearing then is that in fact we may as well take out all these provisions about the penalties and such, because if we have a system – as member Batchelor said earlier – that goes back 20 years, we will actually never be able to tell who accessed the information, and if there are breaches of the type that are envisaged by this bill, the public have no certainty, in fact no confidence, that we will ever know who they are.

Lizzie BLANDTHORN: Mr McGowan, at risk of bringing our conversation back when I thought we were moving forward, I am speaking to people who are perhaps inputting information and then accessing the information to treat. There will be a rigorous auditing process of who has accessed the information and ensuring that that will be rigorous and that there are fines at the end of that for people using the information inappropriately. But I thought your questions principally went to who will be listed in there as having provided the treatment as opposed to having access to the system. So you are talking about access. Let me seek some further advice – if there is anything to add to that.

All usage and all interactions with the system are obviously recorded, and that is subject to a rigorous audit process. The redaction of names is obviously based on policy and at times case-by-case arrangements, and inappropriate use will be picked up through the auditing and is subject to the fines.

Bev McARTHUR: Minister, this seems unreal. You have got one sector of the health system able to have their privacy protected – that is, the clinicians or those accessing information, because you have said they can have their names redacted, or the institution they are involved in might have a policy where no names are released – yet the patient, who might need to be reminded exactly who provided a service that they are inquiring about, cannot have their privacy protected. Why is there one rule for the clinicians or the institution but another for the individual patient?

Lizzie BLANDTHORN: As I said, the fundamental purpose of this bill is information sharing and being able to be in a position to deliver the best possible care to individual patients and to be able to do that by having access to care that they have received previously and knowing how that impacts on the care that they are receiving. In relation to who interacts with the system, obviously there are ways, as we were in the process of discussing previously, for individuals to have their privacy, particularly in vulnerable circumstances like domestic violence et cetera, and their anonymity protected through aliases or locked records or whatnot. When it comes to who enters the records into the database, that is all recorded and who is accessing it is all recorded. It is all audited, and inappropriate use will be picked up through that process. It is a rigorous process, and there are fines at the end of it in order to deter against inappropriate use of it. There are indeed times when it is appropriate for a number of reasons, as is the case already in hospitals and health services, for names of clinicians to be redacted, but that redaction is a case-by-case process.

Ann-Marie HERMANS: Some of the concerns I have, with mental health claims having significantly risen – obviously my background is in WorkCover – are patients not being given the option to choose whether they want people to access their information and also that they may not be able to find out who has. You did mention that people in vulnerable circumstances may have aliases or the opportunity to withdraw their information. Should a person feel that it would impact their mental health in any way, are there provisions provided to allow this type of patient to withhold their own medical information or restrict professional access because they would consider themselves to be people in vulnerable circumstances?

Lizzie BLANDTHORN: It is unfortunate that you were not here for some of the earlier conversation, because I think we have been over this ground a number of times now. We have talked about both why there is not an opt-out provision and how under the existing law public hospitals can

share that health information required in connection with the further treatment of a patient without getting their consent first, and this bill adopts a similar approach to that by allowing health information to be shared for the continued care and treatment of patients. Obviously, the sharing of information to be able to be in the best place to deliver care and service to these patients is dependent on being able to access that previous information. But as we were talking about previously, when members of the crossbench asked similar questions to what you have just asked, of course one of the questions that was asked was in relation to domestic violence survivors and others being able to have security of their information. As we have already said, guidance will be given to health services to ensure that highly sensitive patient information like that of victims of domestic violence will be treated with additional care and confidentiality, and depending on the circumstances, that could include locking down information so that it cannot be viewed or applying an alias to a file, for example.

Ann-Marie HERMANS: Who is going to determine that the circumstances are actually vulnerable? Is it only going to be based on domestic violence, or are there going to be other criteria that determine that somebody is in vulnerable circumstances?

Lizzie BLANDTHORN: As I said, guidance will be given to the health services to ensure that those people directly delivering the care, who are in the best possible position to ensure that the appropriate consideration is given to those factors, find ways to judge the sensitive information of people, such as victims of domestic violence or people who are in similar need of protection.

Ann-Marie HERMANS: Where are these criteria going to come from? Who is determining this? What are the boundaries, and who has the input into who makes that criteria of who is considered to be a person in vulnerable circumstances?

Lizzie BLANDTHORN: This is a conversation that happens already in health services all of the time. Information of patients, particularly vulnerable patients in need of protection, is something that health services make decisions about already all of the time. Guidance will be given to the health services, and that will come in a variety of ways. But really, the health services themselves are the best people placed to make those decisions – and they already do.

Georgie CROZIER: Minister, I just want to return to some issues of today in relation to the IT outage at Eastern Health, which had a severe impact to a number of health services in that area, where clinicians and administrators had to resort to pen and paper. In the past we have in this place spoken about the number of cyber attacks to the Department of Health and others. Can you provide the committee – it might be another question on notice – how many cyber attacks the Department of Health is getting each day or each week? I cannot quite recall what the information we previously got was, whether it was weekly, monthly or daily, but I seem to recall it was on a daily basis. What is the number of cyber attacks that occur but do not actually breach the system?

Lizzie BLANDTHORN: I am advised that there have been no successful attacks, but let me consult with the box.

We can provide some more detailed information on notice. But I am advised that, consistent with a range of health providers everywhere, including across this jurisdiction – and, it is worth saying, all other entities as well – there are hundreds of attempts on almost a daily basis. But in terms of the specific ones, the Department of Health will provide that information on notice.

Georgie CROZIER: Thank you for your response and providing that information, Minister. After the very severe attacks that hit the Victorian health services in the south-west area, and then of course we had the Austin in 2021, the Victorian government put I think around $50 million into cybersecurity. I am just wondering, of that $50 million that was in the budget back in 2021 I think it was, how much of that has been expended into the public health system?

Lizzie BLANDTHORN: I am having flashbacks to Public Accounts and Estimates Committee hearings, but let me check.

I am advised that all of the allocations are spent on exactly that purpose.

Georgie CROZIER: You may have answered this, so I apologise if it is being repeated. It goes to the audit process. I am concerned about medical histories being accessed by doctors that might be looking at other potential employees or healthcare workers that might be working in a health service and their ability to access a service and see such things as – as Mrs Hermans was talking about – mental health, or there could be some other issues around domestic violence or any number of medical conditions. Just in terms of the audit process, would you mind providing the committee again with what that audit process will look like and how often it will be undertaken? Is it undertaken in each health service? If so, how often? Is it done from a department-wide perspective? How would that audit process be conducted?

Lizzie BLANDTHORN: Thank you, Ms Crozier, for the question and thank you for the opportunity also to add slightly to my answer to Mrs Hermans's question before. There will also be an independent oversight committee, which will go to some of the issues that you were raising, and the broader privacy policy framework will also address some of those particular issues. I will see if there is anything more specific in relation to the finer aspects of your question.

Just to add to that, there will be routine auditing, and that will be at least monthly and it will be within the individual health services themselves.

Georgie CROZIER: Do the individual health services have to provide for those auditors, and is that an extra resource that they will have to provide in terms of every health service will have an auditor? How will that work?

Lizzie BLANDTHORN: That is something that the individual audit teams, which already do exist within each of the health services, will be responsible for. There will be technical support for that coming from the central system.

David LIMBRICK: Does the government have an estimate of approximately how many people will have access to this system? I understand it would only be an estimate, but are we talking 1000 people, 10,000? How many?

Lizzie BLANDTHORN: Just to seek some clarification on your question, Mr Limbrick, do you mean how many health service providers or, through the health service providers, how many staff – workers, clinicians et cetera?

David LIMBRICK: Yes, I am interested in the number of individuals that might have access to this system as part of working in their job.

Lizzie BLANDTHORN: To go back to the original purpose of the bill – and I know I keep referring to it, but it is important in the consideration of all of these questions – the purpose of the bill is information sharing to provide the best possible care for the individual who presents. Obviously, at the point of presentation the relevant and appropriate clinicians can access the information, and at another point in time at a different presentation the relevant clinicians can access the information as appropriate and needed. So it is in many ways very difficult to give an estimate, I think, to the very specific question that you are asking. But I will also return to the central point: that the purpose of the bill is information sharing. One of the things that has been given due consideration throughout it and is reflected in the amendments is the importance of the privacy management framework to ensure that for the information, regardless of the number of people who could potentially have access to it, there is an important privacy management framework in place and a rigorous auditing process and fines at the end of that auditing process for people who do the wrong thing.

David LIMBRICK: I thank the minister for her answer. In the design of any IT system one of the key pieces of information is: how many users is it going to have? Surely the government must have some estimate of the number of users that would have an account on this system and be accessing it.

Lizzie BLANDTHORN: I think the question is twofold, and you were going specifically in your earlier question to numbers of individuals as opposed to numbers of health services. Obviously, the system is being designed in a way that reflects the health services that need to access it and the clinical teams within those health services. If there is more detailed information we can provide you, we will. But in terms of number of any individuals, and for any one patient, that is a variable number and there is no one answer.

David LIMBRICK: I think the minister may have misunderstood my question. I am not talking about the number of individuals who can access any individual one patient, I am talking about the number of workers across the entire system who would have access to it.

Lizzie BLANDTHORN: I do not think we misunderstand the question; it is just a difficult question. 'Hypothetical' is not quite the right word, but it is a difficult question to answer. There are 72 health services, and obviously the relevant clinical teams within those health services will have access to that and the capacity to input the information and use the information as needed to deliver care for the patient. The key I think is the privacy management framework to ensure that that information is secure, that the privacy of the individuals is maintained and that there is a rigorous auditing process. And there are the fines at the end of that process in order to deter people from doing the wrong thing.

Georgie CROZIER: Minister, if I could just follow up Mr Limbrick's question around that, you have just answered with '72 health services', but in actual fact it is a lot more than that, isn't it? We are talking about community health. We are talking about the North Richmond injecting room, for instance; that would be included in this bill. Those clients that go to the North Richmond injecting room through the community health service there would be included in this bill. So it is not just 72 health services. If, as Mr Limbrick has said, you are talking about not just doctors and nurses but those administrators within the 72 public health services that you are referring to, you have got a whole range of other people that are also working in these other services, so there are a very large number of people that will be utilising this system. I think that is what Mr Limbrick is saying. Could you just clarify that, yes, it does include public health services, community health services and –

Bev McArthur interjected.

Georgie CROZIER: Well, I am getting to that. That is clause 4. But now that you have raised it, clause 4 goes to the issue. Maybe if I can just ask that question and come back to my next question, which is that one.

Lizzie BLANDTHORN: There are obviously a large number of health services that are part of the system – that is a given – and the purpose of the bill is to connect patient care across that very large health system. In many respects the number of people is not as important as the privacy management framework which goes to protecting the way in which that system is used, the protection of the data within that system and the protection of the privacy of the individuals as patients.

Georgie CROZIER: Now that we are onto this, as Mrs McArthur was talking about – she wanted to know this – the bill, under 'definitions', talks about 'participating health services'. The majority of this definition encompasses public health services and, as is highlighted, the various schedules, so that is what we were referring to in terms of what would be captured under this: pathology and a whole range of things, as I said – community health services and the like. But in those definitions new subsection (k) says:

> a prescribed entity or a prescribed class of entity that provides health services …

Can you rule out that private health services will be captured by this through regulation?

Lizzie BLANDTHORN: There is no intention to do that, Ms Crozier, no.

Georgie CROZIER: The intent is one thing here and now, but will you guarantee that no private service – GPs; private health organisations, such as health providers and a whole range of other providers in the private system; aged care, for instance – will be captured by this bill? I know you say the intent, but I need to get a guarantee.

Lizzie BLANDTHORN: My advice, Ms Crozier, is that the bill does not capture those private providers. Obviously the bill is subject to review in three years. But further to that, there would be some information from private providers that might be included in My Health Record, for example, where they already upload that information to My Health Record. But, no, this bill does not, in the bill itself or through the regulations, apply to the private sector.

Georgie CROZIER: I thank you for that assurance that no private health service will be captured by this bill, but if it is the intent of the bill to be able to share information among services, often a GP will have information of a patient and they will be making referrals to large hospitals, they will be communicating with a large hospital about that patient's information, so if the government is talking about true patient information sharing, what is the view of not having that system extend into these areas?

Lizzie BLANDTHORN: Thanks, Ms Crozier. It goes to my earlier answer. Already My Health Record captures GPs, for example, but we do not have jurisdiction to be able to implement these same provisions in relation to private providers.

Georgie CROZIER: Yes. I notice on the department's website where they do talk about My Health Record and they do talk about health services having access to that; it is already on the department's website about My Health Record and how that works. And you are right, GPs will have access to My Health Record – that is why it was set up – but My Health Record has an opt-out, and again, there is a large degree of inconsistency here around the opt-out. I would just like some confirmation, because when I have looked at the Queensland department of health patient information sharing it does talk about an opt-out system. Admittedly I cannot see when it has been updated recently – it does say some time ago – but it does actually say you can opt out, and I am happy to read that in. Could you provide the committee with some information as to where you got that from about Queensland or when it was updated? They maybe have not updated their website, because on the website it does say you can opt out. Could you provide the committee with where that is?

Lizzie BLANDTHORN: My advice is that they can opt out of providing information to GPs but not to public hospitals.

Georgie CROZIER: I think that is where there is a bit of confusion, because on that site it says:

> **Opting out**
>
> Queensland Health Practitioners will be able to access a range of information regarding your public hospital healthcare.

So you are talking about the GP here.

> If you would prefer that your treating Health Practitioner did not have online access to your public healthcare information, you have the right to opt-out.

Your treating health practitioner could be in a community healthcare setting, could be a private GP, could be in a public health service, right? But they are clearly saying to the Queensland public, 'You have a right to opt out.' It says:

> Opting out means eligible Health Practitioners won't be able to access information regarding your public hospital healthcare through the Health Provider Portal.

I think that is pretty significant in relation to what they are telling the Queensland community and what you are providing here, and I think there needs to be some more clarity around this, because it clearly

says you have the right to opt out. And with 'your treating health practitioner', it does not define that that is your GP. Can you comment on that?

Lizzie BLANDTHORN: My advice is that in Queensland you cannot opt out of the information-sharing system for the public health system and that Queensland's electronic health information sharing arrangements go beyond Queensland's public health services, though, and also involve other practitioners not working in the public health system, like GPs, private specialists and community pharmacists. These are referred to in the Queensland system as 'eligible health practitioners'. My further advice is that Queensland Health allows you to opt out of sharing information with these community sector practitioners, but patients cannot opt out of their records being shared with Queensland Health clinicians working in public health services. They can always view patient records through their electronic sharing platform, the Viewer.

Georgie CROZIER: So clearly, if the Queensland government, as you say, have extended into other areas where your information is, there is absolutely no guarantee – I just need to get this really clear – that the Victorian government will not provide for other private providers to be included in this system into the future.

Lizzie BLANDTHORN: My answer remains the same. And just to be clear, there is no intention with this legislation to rope in, for want of a better term, private providers. For discharge summaries and so forth private providers will follow the same processes they already follow in terms of going with the patient in whichever way is deemed appropriate at the time by them and the patient, but there is no intention to rope in private providers of any kind.

David LIMBRICK: Is there a definitive list of organisations which fall under what is called in the bill:

> a prescribed entity … that provides health services …

This is in – maybe your advisers can help with this – new section 134ZE(k) under 'Definitions'. Is there a definitive list of who falls under that?

Lizzie BLANDTHORN: The only addition to the list that is currently in the act is the centre for mental health and wellbeing.

David LIMBRICK: I thank the minister for her answer. A more specific question: will the Victorian Refugee Health Network be caught up under this information-sharing system?

Lizzie BLANDTHORN: No.

David LIMBRICK: I thank the minister for her answer. Was that an intentional exclusion because of their obvious status, or is there some other reason that they are not caught up in this?

Lizzie BLANDTHORN: It goes to the conversation we were having earlier with Ms Crozier. They are not a public provider. They are a private organisation that is not included in this.

David LIMBRICK: I thank the minister for her answer. Back to the issue around – I think the term used was 'a highly sensitive patient'. One of the examples given was potentially someone who is experiencing domestic violence issues. Who decides whether that person is a highly sensitive patient or not?

Lizzie BLANDTHORN: There will be an independent oversight committee as part of the process, and that will have a role in that. Obviously guidance will be given to the health services who are dealing directly with the patients. They will have clinical views about that as well. There will be an independent oversight committee.

David LIMBRICK: I thank the minister for her answer. It sounds like that is going to be worked out later; that is fine. What we are talking about here with these highly sensitive, vulnerable groups – isn't this really just a highly selective and limited opt-out? That is what it sounds like.

Lizzie BLANDTHORN: Obviously the intent of the bill, as we have talked about many times now, is sharing information and protecting privacy in the best interests of the health needs of the patient. For vulnerable patients – particularly those presenting in situations that are impacted by circumstances that go to the protection of the individual, where it is necessary to facilitate the protection of the individual to ensure their health and wellbeing – that is obviously being provided for through these provisions.

David LIMBRICK: I thank the minister for her answer. Related to consultation, did the government consult with the federal digital health agency in the production of this bill?

Lizzie BLANDTHORN: To return to the conversation around consultation, there has been a two-year consultation process, where a range of stakeholders were consulted on the varied aspects of the bill, and that included stakeholders in a range of fields from legal to – the most obvious – medical, but a range of stakeholders were consulted on the various issues within the bill.

Bev McARTHUR: Minister, can you just confirm that, for anybody with private health insurance who attends a private hospital or who attends a private GP or attends a GP in a private capacity or a psychiatrist or when they go to the chemist or any other health professional that they attend in a private capacity, none of their information will be captured by this bill?

Lizzie BLANDTHORN: I will return to my previous answer: private providers of any type are not picked up by this bill.

Georgie CROZIER: There is an inequity issue here in relation to that, is there not: that those that have to attend a public health service – and I am 100 per cent supportive of our public health service; I have worked in some fabulous hospitals here in Melbourne – have no right to opt out. If you attend a private hospital emergency department with that same care, they will not have your information, but if Ambulance Victoria picks you up and takes you to another public hospital, they will have your information. There is an inequity here, is there not?

Lizzie BLANDTHORN: Clearly, the intent of this bill is to ensure that every patient receives the best possible care that is available, and the best way to provide holistic care for a patient is to have access to the information. We do not have jurisdiction to implement this legislation in relation to private providers. We do have jurisdiction to implement this legislation, designed to provide the best possible care to patients, in the public system, and that is what we are doing.

Georgie CROZIER: I appreciate that and I understand that, but again there is no provision for somebody to opt out of the system should they not have the ability to afford private health insurance. I think that those people should have a right to be able to opt out. What I am concerned about is that you will use this argument that I just put, saying there is an inequity, and then move into the private system. So what I ask again is: with that review in place for three years, will that review take into consideration some of these arguments we are putting to you today, or can you guarantee that no private hospital, or no private entity, will be caught up in this legislation?

Lizzie BLANDTHORN: As I have already said, Ms Crozier, no private entity is caught up in this legislation. That said, information from private entities is often entered into My Health Record and will obviously continue to be so. The intent of this legislation and where we have jurisdiction is to provide for information sharing; it is about delivering the best possible care for patients insofar as we can and do have jurisdiction to put that in place.

David LIMBRICK: The records themselves that will be held in this system – who actually owns these digital health records?

Lizzie BLANDTHORN: I will just consult.

The individual health services remain the custodians of the information.

David LIMBRICK: This creates some sort of conflict, though, doesn't it? The point that I was making before about the possibility of the health service provider and the system being out of sync with each other is definitely a possibility in my mind. Therefore we are saying, if the data is wrong in the central system, it is going to be the health service provider's fault because they are the owners of that data. Doesn't this create a problem?

Lizzie BLANDTHORN: As I said, the individual health services remain the custodians of the data for which they are responsible, and the point of the system is sharing that data. But the individual health service, yes, does remain the custodian of the data that it is responsible for.

David LIMBRICK: I thank the minister for her answer. I come back to a question I had before, which we thought we understood. I was asking about refugee health services. It is my understanding that in the Health Services Act, schedule 5, 'Public health services', Western Health is one that is included. They are listed in Maribyrnong as providing a refugee health program, so surely they would be caught up in this, wouldn't they?

Lizzie BLANDTHORN: I will just consult, but I think there is an interpretation.

Where individual public services are offering a refugee health program as part of their public health program, that will obviously be included, but where there is an individual refugee organisation that is a private organisation, that is not proposed to be added to the list.

Ann-Marie HERMANS: Just to help me clarify something, given that it is only for the government hospitals, can private hospitals and services opt in to the electronic patient health information sharing system, and if they do, how will patients know they have opted in? Would there be some sort of way for that to be revealed so that patients could have the choice in a private health system?

Lizzie BLANDTHORN: No. My advice is they cannot opt in. If it is a private organisation, private provider or private entity, it is not included, and if it is public, it is.

Georgie CROZIER: Minister, in your previous answer to the question I asked you, you said that Victoria does not have the jurisdiction to encompass private health services in the bill yet noted Queensland have extended their information sharing into private services. What is stopping Victoria from doing the same?

Lizzie BLANDTHORN: I will seek some advice.

In Queensland my advice and my understanding is that the difference in the jurisdiction or I guess the system is that they have the option to opt in. So in the review with people in three years time we could consider whether we want to give privates the option to opt in, but we cannot require them to opt in.

Georgie CROZIER: So what consultation have you had with the privates, given that you just said that with the review we might give privates that option? What consultation have you had with the private sector now?

Lizzie BLANDTHORN: Just to be clear, I will consult with the box in relation to your additional question regarding consultation specifically, but I did not say that we would. And to go to your earlier question, which I realised after I sat down I did not fully answer, in relation to the review considering all of the issues that have been raised here today – and this is another one – there will be a full review of the legislation in three years time, and all of these issues obviously can be encompassed as part of that review, including whether or not at that point in time people want to consider whether it would be something that could be not required but chosen, opting in. But let me consult regarding any consultation that might have happened.

Two things, one on the point of consultation and one for further clarity regarding the Queensland situation – and obviously I am speaking here as a Victorian minister, not as a Queensland one: my understanding is that in Queensland private GPs can specifically look at information, say, in a public hospital, for example. So it is not that they come into the system so much as they can access the system

to see that information that might be relevant to the patient that they are then treating. In regard to consultation, there has not been specific consultation, as far as I am aware, with individual private hospitals or others, but the AMA and other key peak stakeholders have been consulted as part of that two-year consultation on the breadth of issues in relation to the bill as a whole.

Bev McARTHUR: Minister, I just go to this new section in the amendment where the minister has the power to appoint an expert panel of three persons. It does exclude:

(a) a current employee or executive officer of a registered political party … or

(b) a current or former member of Parliament …

Will it also exclude any current or former staff members of members of Parliament or any current or former members of the bureaucracy in relation to health?

Lizzie BLANDTHORN: The exclusions are there and explicit in the bill.

Bev McARTHUR: So, Minister, then it can include any staff of members of Parliament and any staff of bureaucracies?

Lizzie BLANDTHORN: The exclusions are explicit in the bill.

Nicholas McGOWAN: Was it modelled in the business case how many Victorians will not be captured by this bill?

Lizzie BLANDTHORN: Sorry, I do not have the number at hand, Mr McGowan, but obviously anybody presenting to a public service will be captured. I know that does not directly answer your question.

Nicholas McGOWAN: In the example given by another member a brief time ago in respect to an ambulance, if an ambulance picks up a Victorian and takes them to a private facility, because they are going to a private facility are they also captured insofar as their engagement with the ambulance service goes?

Lizzie BLANDTHORN: In that instance, Mr McGowan, the ambulance service data would be captured, but if there was then a presentation at a private hospital, not the private hospital's. Of course obviously My Health Record does then capture some of that data at that end.

Bev McARTHUR: Minister, just in relation to Mr McGowan's question, I have got private ambulance cover, so why would my journey be captured?

Lizzie BLANDTHORN: Mrs McArthur, as a public service, despite the fact you might have private cover that pays for that service, it is using a public service and the data from the public service would be captured.

Nicholas McGOWAN: I think I may know the answer to this, but I will ask nonetheless. Does that also stand for a public patient who goes to a public hospital but the public hospital offers to have them as a private patient?

Lizzie BLANDTHORN: Again it goes to the provision of the service rather than who pays for it. If the provision of the service is via a public hospital, then that would be captured.

Nicholas McGOWAN: In drafting this bill, did the government of Victoria consult the protective security policy framework devised by the federal government?

Lizzie BLANDTHORN: No.

Nicholas McGOWAN: Just to be clear, is that a 'No' or a 'Not sure' from the advisers?

Lizzie BLANDTHORN: Sorry, could you repeat the question, please, Mr McGowan?

Nicholas McGOWAN: That is okay; I thought I might need to. Did the Victorian government consult the protective security policy framework devised by the federal government?

Lizzie BLANDTHORN: Sorry. For clarity, yes.

Nicholas McGOWAN: Did the government explore a system that would provide an opt-out?

Lizzie BLANDTHORN: Obviously in the development of the bill over two years of consultation lots of considerations were given. Schemes were looked at that included opt-out provisions, but they were considered to be of low clinical utility. The very purpose of the bill is to ensure that they are at the highest possible end of clinical utility, hence the scheme that has been proposed.

Nicholas McGOWAN: Thank you very much for the answer, Minister. In respect to the low clinical utility, are you able to share with the house the parameters which they set for that and what the benchmark was in specific terms? And are you also able to share with this house the brief in that respect?

Lizzie BLANDTHORN: I am advised that no specific numbers were set in relation to that, but it was considered, based on observations of other jurisdictions, that this model was the best model to proceed with.

Nicholas McGOWAN: I thank the minister for her answer. The reason I asked, really, is because it occurs to me that if the federal system had around 90 per cent who opt in, that would seem to be a rather large number. Speaking to Member Somyurek's references in this house today, it would strike me that it makes both good policy and good politics to provide an opt-out, because with so few people opting out – and in fact in Victoria perhaps you would even get less than that – wouldn't it have been simpler and perhaps, from my perspective, the right thing to do to provide an opt-out?

Lizzie BLANDTHORN: Look, under the existing law, public hospitals can share health information already if it is required in connection with the further treatment of a patient without getting their consent first. It does indeed happen already, and the bill adopts a similar approach by allowing the health information to be shared for the continued care and treatment of a patient. Obviously it is designed around what is in the best interests of the patient's wellbeing. The proposed secure health information system will not change the ability of health systems to share that information. That already happens; they can do that, but it will certainly improve the way that information can be accessed, as we have discussed ad nauseam already, so I will not repeat myself. There is security around those arrangements already, and as I said, it is consistent with other jurisdictions.

Nicholas McGOWAN: Minister, thank you again for your answer. Is the minister able to provide a copy to the house of the business case?

Lizzie BLANDTHORN: Mr McGowan, the business case itself is cabinet in confidence. It is part of ongoing discussions and considerations at that level.

Nicholas McGOWAN: Is the minister able to provide any evidence of the department's consideration in respect to the protective security policy framework?

Lizzie BLANDTHORN: Yes, we can provide on notice evidence of the interactions in relation to that.

Nicholas McGOWAN: Did the department at all consult ASIO in drafting this bill today or previously?

Lizzie BLANDTHORN: No.

Nicholas McGOWAN: Did the department consult ASIS before they brought this bill to the house today?

Lizzie BLANDTHORN: No, they were not, Mr McGowan. But all federal requirements in relation to security were contemplated in this space.

Nicholas McGOWAN: I thank the minister for her answer. I also ask whether the department consulted the federal police in respect to the bill.

Lizzie BLANDTHORN: No.

Nicholas McGOWAN: Did the department consult the Australian Signals Directorate in respect to the bill?

Lizzie BLANDTHORN: I am advised, Mr McGowan, that the process, the system, adheres to all Australian Signals Directorate requirements.

Nicholas McGOWAN: Minister, are you able to provide a copy of that or some evidence of that to this house?

Lizzie BLANDTHORN: Yes, we can do that on notice.

Nicholas McGOWAN: Did the department take into consideration at all the potential for an unconscious bias in respect to the information that will be shared and how it is shared when patients are treated?

Lizzie BLANDTHORN: I am advised that it is not directly relevant in the sense that the documents that we are talking about are clinical documents, like pathology results et cetera, as opposed to more subjective things.

Nicholas McGOWAN: I thank the minister for her answer. The unconscious bias is in respect to if a clinician, for example, is treating a patient and they read the file before they consult the patient – that is, while they are waiting for them – that notwithstanding that, there is unconscious bias. So the question I suppose is, as I said previously: have the department taken into consideration the risk that presents to the individual's health but all Victorians' health?

Lizzie BLANDTHORN: Yes.

Nicholas McGOWAN: Would you mind sharing the evidence of that as well with the house?

Lizzie BLANDTHORN: On notice; that is fine.

Nicholas McGOWAN: Another question in this respect: did the department take into consideration the potential for confirmation bias when they formulated the bill?

Lizzie BLANDTHORN: Not specifically, I am advised.

Bev McARTHUR: Minister, just going back to your answers in regard to the expert panel, forgive my scepticism, but a minister appointing a panel leaves me with considerable concerns. Could you confirm that somebody potentially like Professor Sutton or Commander Weimar could be appointed to the expert panel?

Lizzie BLANDTHORN: The exclusions for who cannot be appointed to the panel are very clear.

Bev McARTHUR: So they can be, effectively?

Lizzie BLANDTHORN: The exclusions are very clear.

Nicholas McGOWAN: Have the department, Minister, done any assessment in respect to whether they are concerned that this bill may have a push effect onto the private system, given that in the private system patients there are accorded their privacy?

Lizzie BLANDTHORN: Consideration was given to that, and in particular the examples of other jurisdictions were looked at, and there is no evidence of that occurring.

Nicholas McGOWAN: Minister, has the department provided or completed a draft budget in respect to the establishment of this database?

Lizzie BLANDTHORN: Budget considerations remain the consideration of the relevant parts of government.

Nicholas McGOWAN: I pick up on a question asked by one of the Greens members earlier today in respect to IT – I think the language was 'IT products' or 'IT services', that kind of thing. I was not quite clear what the answer was, because there may be a need in some, say, low-tech – and we have heard a lot today about low-tech – facilities where they do not have computers, for example, and the means by which to provide the information. Has there been any consideration given to providing funding to any number of the outlets that are required to share this information with the department?

Lizzie BLANDTHORN: As I have said already, services will be supported. Funding decisions remain the consideration of government.

Nicholas McGOWAN: In respect of the Health Records Act, has anyone ever been prosecuted for a privacy breach in respect to that act?

Lizzie BLANDTHORN: We will take that on notice and come back to you.

Nicholas McGOWAN: Thank you, Minister. I suspect I know the answer to this question, but I will ask just for purposes of clarity. When we talked earlier about the participating health services, you mentioned the number 72. I would be keen to know whether you also have a collective number for (a) through to (k) in respect to part 2, new section 134ZE. It is under 'Definitions'.

Lizzie BLANDTHORN: Twenty-two.

Nicholas McGOWAN: So 22 is the number on top of the 72 – so 72 plus 22. Is that correct?

Lizzie BLANDTHORN: Yes.

Nicholas McGOWAN: Has the department, Minister, done any research that you are aware of or have been made aware of in the drafting of this bill on the potential consequences on the health of those who would prefer to opt out but will now no longer seek medical attention?

Lizzie BLANDTHORN: Sorry, can you repeat that question, Mr McGowan?

Nicholas McGOWAN: Has the department done any research or given consideration to the individuals who may have wanted to opt out but will no longer be able to do that in the system, in terms of their possible health outcomes, if they do not engage in the system?

Lizzie BLANDTHORN: Thank you, Mr McGowan, for your question. There is no evidence of that in any of the other states in the research that the department did, and consumers were overwhelmingly supportive.

Nicholas McGOWAN: Is the department able to share that research or that investigation they undertook?

Lizzie BLANDTHORN: Yes.

Nicholas McGOWAN: In respect to the bill itself, just taking a look at that – is there a reason why they have not defined the word 'centralised' in part 1, clause 1(a)(i)?

Lizzie BLANDTHORN: 'Centralised' refers to those that will be operated by the department, and we can take on notice, if you like, why it was not further defined, if that is helpful.

Nicholas McGOWAN: I thank the minister for her answer. What I am also keen to understand is whether in using the word 'centralised' it literally means that it will be centralised in the department

or whether the department may look to have that function actually administered and housed outside of the department itself.

Lizzie BLANDTHORN: No, it will be definitely operated by the department – within the secure environment of the department.

Nicholas McGOWAN: So just to confirm: there are no plans, there is no intention in the future, to have that outsourced in any way?

Lizzie BLANDTHORN: No.

Nicholas McGOWAN: Does that include Cenitex as well?

Lizzie BLANDTHORN: No. Sorry, a double negative there. There is no intention for it to include Cenitex, as you asked.

Nicholas McGOWAN: Minister, in respect to the same section, it refers to 'specified health services'. I am wondering why they used that because it is not a term defined, although we both know that it refers later to a 'participating health service', and in paragraph (k) of that it talks about a 'prescribed entity' or 'prescribed class'. But it seems to have, for some reason I am not quite sure why, 'specified health services' undefined in part 1, clause 1(a)(i).

Lizzie BLANDTHORN: Let me double-check my thinking.

Sorry, Mr McGowan. I think we are all getting hard of hearing in the afternoon. Did you say 'specialised' or 'specified'?

Nicholas McGOWAN: Specified, Minister – 'specified patient health'. It appears twice: in the early part of subparagraph (i) and the later part of subparagraph (ii).

Lizzie BLANDTHORN: Thank you. That is what I thought you said. We will take that on notice specifically. I do not think there is any particular reason – I think it is referring to those public health entities – but we will take that on board.

Nicholas McGOWAN: Thank you, Minister. I appreciate that. Also in respect to part 1, clause 1(a)(ii), again it uses 'specified health services'. There is no definition. It does not seem to correlate necessarily to the rest of the bill that I can see before me.

Lizzie BLANDTHORN: I will seek some further clarity and come back to you on that. I think it is an oversight.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4 (16:13)

The DEPUTY PRESIDENT: Ms Crozier has withdrawn her amendments 1 and 2 on her sheet GC43C, so we do not need to deal with those.

Georgie CROZIER: It is Thursday afternoon, and we are all going a bit troppo. Obviously I am going to move my amendment in relation to the opt-out, but I just want to ask some general questions around the notice of health information, around clause 4. On pages 5 and 6, section 134ZH provides that the secretary may specify certain health information be given by participating health services for the information-sharing system. I know that we have been talking about specified health information, and Mr McGowan has asked that and we have clarified a lot of what the intention is here. However, section 134ZH(2) says:

> The Secretary may also specify … a relevant date in relation to health information … being not earlier than 3 years before the commencement of …

part 6C. That is February 2024. So is it the intention of the government to include all specified information for the three years prior to the commencement of the bill?

Lizzie BLANDTHORN: Yes.

Georgie CROZIER: So if I look back – and I will use the Premier as an example with his back injury, which was in 2021 I think – would somebody like the Premier have his health information at the Alfred be available, shared across the health information system as the bill outlines, from that time?

Lizzie BLANDTHORN: I am advised that in order for it to be clinically useful we need to go back three years, but there are conventions in place to protect the privacy of people whose privacy needs to be protected.

Georgie CROZIER: So now we have got selective information, Minister; is that what you are saying? With someone like the Premier, who had a great deal of privacy around his accident – nothing wrong with that – are you saying that there would be selective information around various individuals dependent on the privacy aspects of who that individual is? Did I misinterpret you and how you answered that?

Lizzie BLANDTHORN: As I said, health services apply current conventions and those conventions are in place across that breadth of information for everyone, and they will continue to apply going forward.

Bev McARTHUR: Minister, why are medical professionals not given any discretion under the proposed section 134ZI as to whether or not they provide a particular aspect of a patient's health information to the state government?

Lizzie BLANDTHORN: I am advised, Mrs McArthur, that does not happen currently.

Bev McARTHUR: Does the government believe that there are no circumstances in which it may be reasonable for a medical professional to wish to keep a particular aspect of a patient's health information private and not provide it to the state government?

Lizzie BLANDTHORN: That is the purpose of the privacy management framework – in order to do that.

Bev McARTHUR: We love frameworks. Is the government aware that the Australian Charter of Healthcare Rights applies to all healthcare services in Victoria, and can it foresee any possible conflict between the charter and the mandate on medical professionals through their employer to provide specified health information to the state government?

Lizzie BLANDTHORN: The charter to which you refer is obviously in place right across Australia, and it has not been an issue in other states or provided for there to be a conflict.

Bev McARTHUR: Sorry. Could you repeat that, Minister?

Lizzie BLANDTHORN: It hasn't been a problem in other states that have similar systems and then created a conflict. It is a charter that already exists across the country and does not present that type of conflict in other jurisdictions that have similar systems.

Bev McARTHUR: Minister, has the government received advice relating to the interaction between the proposed provisions in the bill and health service providers under the federal Privacy Act 1988?

Lizzie BLANDTHORN: Yes.

Bev McARTHUR: Australian privacy principle 6, under federal privacy law, requires entities to obtain consent from individuals before disclosing information to any other party. So, Minister, how does the government believe this requirement will interact with proposed new section 134ZL, which expressly states that no consent is required for disclosure of the relevant health information to the state government?

Lizzie BLANDTHORN: It is anticipated that the legislation will provide a secure environment in which to provide that protection.

Bev McARTHUR: 'It is anticipated'. Is that your answer?

Lizzie BLANDTHORN: My advice is that we can potentially get you some further information. But yes, the belief is that the security provisions that are in the bill and the framework will provide for the issue you are speaking of.

Bev McARTHUR: I look forward to receiving that in detail. Has the government sought advice regarding the constitutionality of proposed new section 134ZL, which expressly states that no consent is required for disclosure of the relevant health information to the state government, particularly with respect to its potential inconsistency with federal privacy law?

Lizzie BLANDTHORN: There are exemptions for medical treatment, and where otherwise legally permitted, there are exemptions under the federal privacy law.

Bev McARTHUR: Is it the government's intention to capture under proposed new section 134ZI health information that has been collected by health service providers solely for research purposes?

Lizzie BLANDTHORN: No.

Bev McARTHUR: Minister, how does the government interpret the phrase 'or has received health services from' in new subsection 134ZI(1)(a), and could it capture the information of participants in research conducted by health service providers?

Lizzie BLANDTHORN: The system is not intended to be used for research, and there are good mechanisms in place to protect it against that use.

Bev McARTHUR: Minister, 'not intended' or 'will not be'?

Lizzie BLANDTHORN: Yes, will not be. There are other mechanisms in place for research.

Bev McARTHUR: Does the government believe that federal privacy law applies to the use of health information on the electronic patient health information sharing system accessed by participating health services under the proposed section 134ZM?

Lizzie BLANDTHORN: I am advised that the Australian and Victorian privacy laws are consistent.

Bev McARTHUR: The proposed sections 134ZM and 134ZN allow for those engaged or employed by participating health services to use and disclose specified patient health information for various purposes, namely providing medical treatment, giving information to the secretary and conducting information security and data management. Is it the government's understanding that these activities are an exhaustive list of the purposes for which the health information could be used or disclosed?

Lizzie BLANDTHORN: Yes.

Bev McARTHUR: Will the electronic patient health information sharing system in the form to be determined by the secretary under the proposed section 134ZF keep track of the individuals who access and use Victorians' private health information and for what purpose?

Lizzie BLANDTHORN: Yes, it will capture it all, but it will only be for the purposes of sharing the information as the bill intends or for the purposes of auditing the system.

Bev McARTHUR: Minister, does the fault element of the offence under the proposed section 134ZP, unauthorised persons knowingly accessing the electronic patient health information sharing system, mean that the individual must both know they are accessing the information and know they lack authorisation, or only the former?

Lizzie BLANDTHORN: I will take that on notice, Mrs McArthur.

Bev McARTHUR: What other uses and disclosures under Victorian or federal law would be permitted as exemptions to the offence in the proposed section 134ZR?

Lizzie BLANDTHORN: Again we will come back to you on notice, Mrs McArthur.

Bev McARTHUR: Maybe you could just tell us when you will come back, and then I will ask another question.

Lizzie BLANDTHORN: Sometime today, Mrs McArthur.

Bev McARTHUR: Thank you very much, Minister – much obliged. Minister, presumably the government has considered the extent of the impact of this legislation and therefore the other purposes for which Victorians' private health information can be used – in which case, can you list any other permitted uses and disclosures under Victorian or federal law which would constitute exceptions to the offence in proposed section 134ZR?

Lizzie BLANDTHORN: We will include that in the information we provide you today.

Bev McARTHUR: What is the policy rationale for the disapplication of the Freedom of Information Act 1982 under proposed section 134ZS?

Lizzie BLANDTHORN: That is as we were discussing earlier today when we went through these FOI issues in clause 1. The disapplication of the FOI aspect remains with the health service other than insofar as we were discussing with Mr McGowan as it relates to the departmental aspect of managing the system as a whole.

Nicholas McGOWAN: My question is in respect to division 1 and in particular the definition – division 1, new section 134ZE(d) – of 'a multipurpose service'. Is there a definition for that?

Lizzie BLANDTHORN: It is referring to rural health services with residential aged care.

Nicholas McGOWAN: In respect to division 2, new section 134ZF(2), it says:

> The Secretary is to keep the Electronic Patient Health Information Sharing System in a form …

Can the minister advise the house what that form will be?

Lizzie BLANDTHORN: It will be in a secure electronic form, as per normal systems.

Nicholas McGOWAN: Might that also, though, include other various forms? Is that yet to be determined?

Lizzie BLANDTHORN: No, insofar as we understand the question, Mr McGowan, it will be stored in a secure electronic form.

Nicholas McGOWAN: In respect to new section 134ZH(3):

> A participating health service must give to the Secretary …

This really relates to the information. How does the system anticipate duplicate information? That is, if I go to a GP and ask for a blood test and that GP receives the blood test results but I also go to pathology and pathology get the blood test results, presumably they have also copied in numerous doctors – perhaps a specialist as well – so they have that information. Has the system anticipated duplicate copies of the same information?

Lizzie BLANDTHORN: A health service will only upload the document once. If someone within a short period of time, for example, had had multiple, we would envisage that they would need to all be uploaded in the case that one might be different from the other as such, but for the same document, the same test result, it is envisaged only once.

Nicholas McGOWAN: In respect to clause 4, the same 134ZH, it says that the participating health service must give the health information and unique identification numbers within five days. Why the five days? How was that arrived at?

Lizzie BLANDTHORN: In order to meet the requirements of patient safety it is envisaged within five days.

Nicholas McGOWAN: Was there any other limitation considered by the department to come up with five days? Because it just strikes me that five days is a very short notification period for any organisation.

Lizzie BLANDTHORN: That was envisaged in order for the protection of patient safety.

Nicholas McGOWAN: I understand that, Minister, but given that a health service may be provided up to six months, it seems to be quite a small amount of time for a health service to actually be given to provide that information.

Lizzie BLANDTHORN: Sorry, Mr McGowan, I will ask you to repeat the question. Also, Deputy President, there are lots of different conversations happening around the chamber, and I am struggling to hear.

The DEPUTY PRESIDENT: Yes. I will ask for some quiet in the chamber. And, Mr McGowan, could you just articulate a little bit better; I struggled then too.

Nicholas McGOWAN: The question is in respect to the five days. Given that the health services can obtain with the permission of the secretary up to six months to provide the information, it just seems to me that five days is a very small amount of time, given they might be given up to six months to provide the same information.

Lizzie BLANDTHORN: My advice is that it is principally in relation to patient safety and there might be exceptions where perhaps patient safety will not be compromised by the exception. But let me see if there is any further clarity to add to that for you.

The five days was obviously envisaged in relation to individual patient safety. There will be different capabilities of systems in different health services, and the exception is to allow for those health services that may take longer to onboard onto the system on that basis and need further technical advancement support and so forth.

Georgie CROZIER: Minister, what happens if a health service does not comply with that requirement?

Lizzie BLANDTHORN: That is not envisaged. The health services are all supportive and want this, so it is not envisaged that that will be the case.

Nicholas McGOWAN: Is the minister prepared to delete new section 134ZL from the bill?

Lizzie BLANDTHORN: Let me just double-check.

No. Sorry, I was just clarifying that it was not a trick question and you were not tripping me up in relation to the amendments, but no.

Nicholas McGOWAN: It is always worth asking. In respect of new section 134ZP(2), are paragraphs (a) and (b) superfluous? Couldn't they just add the word 'access' in (b) to (a)?

Lizzie BLANDTHORN: The drafting has been recommended by those who probably know better than us how to give effect to the intention that is being put forward here, and other than the proposed amendments, we are not proposing to change the bill as it stands.

Nicholas McGOWAN: In respect of new section 134ZQ, has there been any consideration given to a definition of 'unauthorised purpose'?

Lizzie BLANDTHORN: Again, Mr McGowan, ultimately the entirety of this bill is subject to a three-year review, but the bill stands as presented, subject to, of course, amendments that I will move later in the discussion around this clause. But the bill stands as it has been proposed.

Nicholas McGOWAN: I have a question in respect of – and I raised this earlier in the chamber – amendment 2:

> Clause 4, page 14, line 17, omit "**1982**.'." and insert "**1982**.".

What is the correct date that is supposed to appear there, or is that somehow the correct date?

Lizzie BLANDTHORN: I believe that is 1982. Let me just double-check.

It was simply a punctuation issue, Mr McGowan. The year is the correct year. It was a punctuation matter.

Nicholas McGOWAN: I am not quite sure I follow that, because they are just omitting '1982' to then insert '1982'.

Lizzie BLANDTHORN: I believe it was a full stop in the wrong place, but let me double-check.

Yes, it was. It was the full stop. It was as I thought.

Nicholas McGOWAN: In respect of proposed new section 134ZT(2) was any consideration given to defining the word 'consult' in that paragraph?

Lizzie BLANDTHORN: As I have said before, there was a great deal of consideration given to the drafting of the bill. It stands as proposed, and it is obviously subject to a three-year review.

Nicholas McGOWAN: In respect of the same paragraph and the word 'should' in 'should require different levels of protection under the Privacy Management Framework', as someone who has applied the law for a very long time now, when I see the word 'should' there is a correlating word of three or four letters that goes with that usually because 'should' is very discretionary. Is there a reason why the word 'should' is there and not 'must'?

Lizzie BLANDTHORN: As an industrial advocate I take your point, and I will double-check the answer. It is the conventional definition and expression.

Nicholas McGOWAN: Again, the amendment's new subsection 2(c) talks about 'participating health services.' I am just wondering how this is consistent with the rest of the act.

Lizzie BLANDTHORN: As we have discussed a few times, the participating health services are as prescribed and relate to the private entities, and to the extent there is any inconsistency in the expression we will consider that, but the bill is drafted in the way that gives effect to the purpose of the bill.

Nicholas McGOWAN: In respect of the amendment's new subsection 134ZT(3)(b), it refers to including processes and goes on to talk about safeguards, and (c) talks about facilitating patients accessing reports. Is there a definition for the process or any consideration the department might have made in respect of the processes they are outlining there?

Lizzie BLANDTHORN: I will take some advice. Sorry, Mr McGowan, could you repeat the question please?

Nicholas McGOWAN: The question was in respect of new section 134ZT(3)(b) and (c). The word 'process' is included – ' include a process to safeguard' – in (b), and in (c), 'include a process'. I was asking if there was any elucidation they can provide on those processes.

Lizzie BLANDTHORN: Thank you, Mr McGowan, for your patience. Some of us heard (d), some of us heard (t) and some of us heard (p). I believe we are talking about (t) – yes. It is in reference to

the department's usual processes and diligence around security of information and patient information in particular.

Nicholas McGOWAN: I do not have too many more to go. In respect of new section 134ZT(2)(a):

> relevant groups and organisations that represent the interests of patients, carers or health care workers …

Is any consideration given to what those words mean together – 'relevant groups and organisations'?

Lizzie BLANDTHORN: I am advised that will be based on an appropriate cross-section of interest groups within the community.

Nicholas McGOWAN: Do you know who determines who those groups are? Who is the arbiter of that? Who decides?

Lizzie BLANDTHORN: I am advised that there would be a broad-based consultation process to ensure that all views are captured.

Nicholas McGOWAN: Just finally, in respect to the expert panel, are those positions remunerated, and do they have a tenure that they would be likely appointed for?

Lizzie BLANDTHORN: How long their terms will be, Mr McGowan, will be determined through the privacy management framework, and remuneration will again be part of that process but will depend on their other roles and other considerations.

I move:

1. Clause 4, page 4, after line 26 insert –

> "***Privacy Management Framework*** means the Privacy Management Framework established under section 134ZT;".

As I have already said a number of times, this bill itself goes to saving lives and ensuring that Victorian patients get the best possible care by establishing secure digital health information sharing across the public health system. The information in the system will be protected by robust safeguards, and a privacy management framework will be implemented to restrict access to sensitive information and to provide additional protections for vulnerable groups, as we have discussed here a number of times during the course of today, in particular, for example, in circumstances such as family violence and mental and sexual health conditions.

The establishment of the system will be oversighted by a health information sharing management committee, as we have been discussing, and the committee will have a wide range of expertise, including medical experts and patient advocates. It will also oversee the development of the privacy management framework to make sure that robust policies and safeguards are in place to protect health information and safeguard patient privacy and confidentiality and to reinforce the government's commitment to transparency, accountability and oversight of the new health information sharing system. I thank crossbench colleagues for working with us to clarify these issues and for the questions that they have asked today in order to clarify these issues.

The first amendment reinforces the government's commitment to a robust and transparent privacy management framework that will protect the health information of Victorian patients. It ensures that the privacy management framework will undergo rigorous consultation with the people that this system will help the most, including patients, carers and health workers. It reflects the government's commitment to the privacy management framework being a publicly available document that will detail the many protections for patients' health information.

The second amendment will ensure that, once established, the system is working as it is intended, and to this end the government provide for an independent review to be conducted on the operation of the system and the privacy management framework. The review panel will be fully independent with relevant experience in one or more of the fields of human rights law, privacy, clinical care, and

consumer and patient advocacy. The review will be wide reaching and will examine how information in the system is being protected, any issues of misuse of information, the scope and operation of the system and the experience of health services using it, among others. This review will be tabled in Parliament, and any recommendations made by the review will be carefully considered. I am pleased to move this amendment.

Georgie CROZIER: The opposition will not be opposing these amendments, but I make the point they fall way short of what is required in relation to the concerns of so many stakeholders and so many Victorians around an inability to have an opt-out provision, which obviously my amendments will go to. I further note that these amendments that have come in today are really just to placate the Greens and to get their support to get this bill over the line. I think that those watching this debate will understand the lengths the government has had to go to in relation to that, noting that these amendments have come in today but were widely in the media yesterday, and I think that is very poor form.

David LIMBRICK: The Liberal Democrats also will not be opposing these amendments. As we discovered in committee, most of the things in these amendments the government was planning on doing anyway, so I do not really see that they do a lot extra, but they certainly do not hurt anything either. I agree with Ms Crozier: it does just seem like a way to placate the Greens. But that said, I will not be opposing these amendments.

The DEPUTY PRESIDENT: The question is that the minister's amendment 1 on her sheet LB05C, which tests her amendments 2 and 3 on the same sheet, be agreed to.

Amendment agreed to.

Georgie CROZIER: I move:

1. Clause 4, page 5, after line 17 insert –

   "(3) In establishing and maintaining the Electronic Patient Health Information Sharing System, the Secretary must ensure that there is a mechanism to allow a person to opt-out of the Electronic Patient Health Information Sharing System in accordance with section 134ZLA.".

2. Clause 4, page 5, line 20, before "The" insert "(1)".

3. Clause 4, page 5, after line 24 insert –

   "(2) The Electronic Patient Health Information Sharing System must not contain any health information about a person who has opted-out of the Electronic Patient Health Information Sharing System in accordance with section 134ZLA.".

As I have stated previously, the Liberals and Nationals are strongly of the view that there needs to be an opt-out mechanism. That is what these amendments would do. As so many stakeholders have said, the government's amendments do not go any way towards doing that. My amendments would enable the secretary to have a mechanism to allow a person to opt out of the electronic patient health information sharing system in accordance with section 134ZLA. So that is the amendment that would be included in the bill. It is a necessary aspect if we are truly to have patient autonomy: to allow people to ensure that the information they want shared will be shared, but equally to give those people who feel that they do not want to have that government control the ability to opt out. This amendment will allow that to occur.

It is a very important part of, as I said, a patient having that ability to have that choice, to have that patient autonomy, and whilst we have had the debate around security and the government has allowed tinkering at the edges around some of the issues that were concerning various members of the crossbench, it really does go to the heart of what we require, and that is for Victorians to have greater choice over their patient information and how it is going to be shared. We have that at a national level through the My Health Record. We have heard through the debate today that this legislation will be under review. The government has said it will be in place within 12 months. There are a lot of issues surrounding the ability of the government to do that, and I think that is very concerning as well. So

with those few words, I would urge the house to support this amendment. It is an important amendment to provide Victorians with a choice whether their patient information is shared with their consent or whether it is not. I think that is the critical thing.

The DEPUTY PRESIDENT: I also should have explained as we started this that we have two very similar sets of amendments. The first one is from Ms Crozier, which allows for an opt-out mechanism for people to opt out of the scheme. If that passes, we will not deal with Mr Limbrick's amendments. If that one fails, we will deal with Mr Limbrick's set of amendments, which is an opt-in mechanism to the scheme.

David LIMBRICK: This opt-out mechanism is something that many, many stakeholders have been calling for. In my view it does not quite go far enough, because it does not address the issue around patient consent. But I do agree with Ms Crozier that it does allow for patient autonomy, allows them to opt out of this system. If they feel that they are a vulnerable person or for whatever reason, they can opt out of this. I think that the government's proposed method of doing this by reviewing whether someone is a highly sensitive person is not sufficient. Therefore this is far better than what the government is proposing, and I will strongly support it.

Sarah MANSFIELD: While the Greens will not be supporting a blanket opt-out provision as has been proposed, we do understand concerns about privacy, autonomy and data integrity related to this bill. As we have previously said, we spent considerable time consulting with various stakeholder groups. We have worked constructively with the government to see how the bill can better address their concerns, and I thank the government for putting forward the amendments that have now been included in this legislation. I believe they really do strengthen it from a privacy perspective.

We believe that people's private health information needs to remain just that: private. We need those strong privacy protections, and consumers also must be a part of determining what this looks like. This is particularly the case for people with sensitive or stigmatised conditions and for survivors of family violence. I would like to note that opt out does not automatically protect the privacy and identity of people who have highly sensitive or stigmatised conditions or people at risk of harm. Opt out is a blunt tool. It relies on people to be fully informed, engaged and in a position to advocate for themselves, which is not the case for many in our society. We must ensure that privacy is built into the system for everyone at the outset. That is why we have worked with the government to secure a legislated privacy management framework with a number of things that it must consider outlined in the legislation so that we and the public can have confidence that patient privacy will be central in the development of the platform, not just relying on some individuals to decide to opt out.

Amongst other things, it must create a process to safeguard health information that is highly sensitive and to protect the identity of patients who may be at risk of harm, and that includes survivors of family violence. As has been talked about, health services already have systems in place to manage this, and the privacy management framework will build on those systems. I am really proud that we have managed to work constructively with the government to build those privacy protections into the legislation, so while we will not be supporting the blanket opt-out provisions as have been proposed, the Greens do strongly support protections to privacy and people's ability to access their own information. We believe that the consumer voice needs to be a fundamental part of shaping these privacy protections, and that is reflected in the amendments that we have worked with the government to secure.

Lizzie BLANDTHORN: Can I thank Dr Mansfield for those remarks and particularly her point that an opt-out provision does not automatically equal privacy and that we do need to build in a framework that provides that level of protection and privacy for everyone. I would also just like to further add that under the existing law public hospitals can and do share health information required in connection with the further treatment of a patient without getting their consent first, and this bill adopts a similar approach by allowing health information to be shared for the continued care and treatment of patients. The proposed secure health information system will not change the ability of

health services to share information, but it will, as I said earlier, improve the way in which information can be accessed and the security around sharing arrangements. This approach is consistent with health information sharing arrangements in other jurisdictions.

The DEPUTY PRESIDENT: We are now considering Ms Crozier's amendments 1 to 3 on her sheet GC367C, which test her amendments 4 to 6.

Council divided on amendments:

Ayes (18): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Georgie Purcell, Adem Somyurek, Rikkie-Lee Tyrrell

Noes (20): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Amendments negatived.

The DEPUTY PRESIDENT: I ask Mr Limbrick to move his amendment 1 on sheet DL44C, which tests his amendments 2 and 3 on that sheet.

David LIMBRICK: I move:

1. Clause 4, page 5, after line 17 insert –

"(3) In establishing the Electronic Patient Health Information Sharing System, the Secretary must ensure that –

(a) there is a mechanism to allow a person to consent to be included in the Electronic Patient Health Information Sharing System in accordance with section 134ZL; and

(b) specified patient health information about a person is only collected, used and disclosed under this Part in accordance with that person's consent.".

It was interesting that there were some comments by Dr Mansfield and the minister before. They both made the point that an opt-out system does not automatically cater for patient consent, because they have to be engaged and know how to opt out. That is exactly what my amendment addresses. Consent has to be obtained before using the system. I believe that this brings it in line with the Australian Charter of Healthcare Rights.

Sarah MANSFIELD: What we have here is effectively an opt-in mechanism. While we understand the sentiments behind this, we will not be supporting this amendment. There are practical concerns that have ethical implications for this amendment. Consent must be informed, and to be meaningfully informed involves additional, potentially confusing conversations at every point in clinical care. There is a very real risk that these conversations would be avoided in order to simplify and speed up interactions or that people would just opt in or out to hurry along a conversation. We would all be familiar with this from when we have read a lengthy privacy policy, for example. Again, only the most engaged will be able to make a truly informed decision, while many who are busy just coping with whatever health issue is going on for them, or who perhaps face other communication barriers, may not, and this is not true consent. We know that work done with consumer groups regarding the sharing of health information shows that, while they initially support the idea of opt-in, when presented with what it looks like in real life their support diminishes due to the disproportionally high burden it places on them with the extra contacts and conversations. As I said previously, privacy needs to be built into this bill from the get-go so that everyone is protected from the start and they are not relying on a blunt tool – opt in or opt out – to protect their privacy and protect their sensitive information.

Georgie CROZIER: Whilst I have got some concerns about the government's approach to this bill and would have preferred an opt-out, as we have just voted on, the Liberal–Nationals will be supporting Mr Limbrick's amendment. We think that it goes some way to providing patient autonomy. At the moment with what the government is proposing it does not allow that to the extent that it should, so we will be supporting Mr Limbrick's amendment.

Lizzie BLANDTHORN: Without repeating my comments earlier in relation to the opt-out amendment, I would just say in relation to the opt-in amendment, if we go back to the first principles of this bill – as we have discussed a number of times today in terms of the importance of information sharing to be able to provide the best possible care for the patient in terms of being able to access information about the treatment they have previously received insofar as it relates to treatment they present for – that for that to be clinically useful it is important that that is a system across the board, not an opt-in system.

Council divided on amendment:

Ayes (16): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

Noes (21): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Amendment negatived.

The DEPUTY PRESIDENT: Mr Limbrick, I invite you to move your amendment 1 on your sheet DL45C, which tests amendment 2.

David LIMBRICK: I would like to indicate to the house that I will be withdrawing this amendment as it conflicts with the government house amendment that we received a few hours ago. I had no way of knowing that in advance, but as it conflicts I will be withdrawing it and will not be putting it forward.

Georgie CROZIER: I move:

1. Clause 4, page 13, line 26, omit "141." and insert "141.'.".
2. Clause 4, page 14, lines 1 to 17, omit all words and expressions on those lines.

This goes to the ability for a Victorian to FOI the Department of Health to understand actually who has looked at their patient health information. It is a very simple amendment. It is absolutely critical that we have an ability to understand who has accessed patient information. I think that this amendment is a very simple one around that FOI process so that it gives Victorians the right and the opportunity to understand exactly who has accessed their health information. If we are talking about trust, if we are talking about wanting Victorians to have some say in their ability to understand what the department or the government is doing, surely they should have a right to be able to FOI the Department of Health. It is a very simple amendment and would improve this bill out of sight, and I urge all members to support my amendment.

David LIMBRICK: I will also be supporting this amendment. As was indicated in the Scrutiny of Acts and Regulations Committee *Alert Digest* and as I alluded to earlier in my second-reading speech, there is another example of very sensitive information that is available via FOI, which is the firearms registry. It is I think the government's explanation that the healthcare provider will be the primary source where you will get the information, but I do foresee situations where that information will go out of sync and there may be other technical information in the information-sharing system, which would mean that they are different, and therefore both should be able to be accessed via FOI.

Sarah MANSFIELD: While, once again, I think we understand the underlying intent of this, and it was something we spent quite a lot of time interrogating to understand better, we do believe that there may be unintended consequences from removing the FOI exemption. We understand the provision was included to prevent departmental bureaucrats or anyone other than those involved in clinical care from accessing records. It actually serves to protect people's information. If the exemption is removed, in order to action FOI requests department bureaucrats will have to access people's health information, and it is not in the best interests of people's privacy. People will be able to obtain, we have been assured and we now have in legislation, an audit trail of who has accessed their information from the central information-sharing platform. They will be able to get a copy of that information via a health service, and we are satisfied that that satisfies the intention of those who have called for a removal of this FOI exemption.

Lizzie BLANDTHORN: Thank you for the contributions we have had thus far. To follow on from Dr Mansfield's eloquent points, patients currently have the right to access their full medical records from their health service provider under FOI and under privacy legislation, and this bill does not disrupt that. Importantly, the information within the system is not complete medical records but a subset of the information held by the service providers. Making information held in the system accessible under the FOI act would mean that the Department of Health, as Dr Mansfield put it, would be responsible for accessing, assessing and responding to requests from patients, which would not be appropriate. The best source of a patient's health information is the health services that have provided care and who hold the complete medical history.

David DAVIS: I just want to make a comment here. I think the amendment moved by Ms Crozier is entirely appropriate. Essentially what the minister has just told us is that health officials are able to access this information but the patient is not able to access their own information through this route. The minister has tried to argue that the information can be got through the health service, but the health service may not be aware in all cases of who has accessed the central repository. So that is the point, and Ms Crozier's amendment is entirely appropriate. The idea that you would actually have health officials in the department able to have access and not be able to be tracked, and patients unable to even oversight that, is not right.

Lizzie BLANDTHORN: It is unfortunate that Mr Davis has not been in the chamber across the course of the discussion today, because I think the issues that he seeks to make a point about would have been adequately clarified for him. But what we are saying is that patients do and should and will continue to, through the existing FOI and privacy legislation, have access to their own records. As we clarified earlier in the debate, we do not believe that the provisions stop FOI insofar as they relate to department officials, and there will be a rigorous auditing process that also includes fines as a deterrent to inappropriately accessing the system. It would have been good, Mr Davis, if these were issues of concern to you, that you had been here for the conversation earlier, but what you have put is not actually the case.

Council divided on amendments:

Ayes (16): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

Noes (21): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Amendments negatived.

Lizzie BLANDTHORN: Again, I am very pleased to move the amendments in my name. I will not go over the ground that we have already discussed other than insofar as to go back, as I have said a number of times today, to the original purposes of this bill, which are obviously ensuring that we have the best possible systems to deliver the best possible care to those who need it and that in so doing we have an information-sharing system that operates as effectively as it can at the same time as protecting the privacy and security of the information relating to individual patients. In doing that, we are very pleased to have worked with the crossbench in relation to these amendments, which give effect to those objectives of ensuring we deliver the best possible care with a privacy and a process management framework around that as well as ensuring that we have an opportunity to in three years review the legislation. So I am very pleased to move these amendments. I move:

2. Clause 4, page 14, line 17, omit "**1982**.'." and insert "**1982**.".

3. Clause 4, page 14, after line 17 insert –

"**Division 6 – Privacy Management Framework**

134ZT Minister must establish Privacy Management Framework

(1) The Minister, by order published in the Government Gazette, must establish a Privacy Management Framework for the Electronic Patient Health Information Sharing System as soon as practicable after the day on which this Part comes into operation.

(2) In establishing the Privacy Management Framework, the Minister must consult with the following persons and bodies in relation to whether certain health information or classes of health information should require additional levels of protection under the Privacy Management Framework –

(a) relevant groups and organisations that represent the interests of patients, carers or health care workers;

(b) any relevant public sector body within the meaning of the **Public Administration Act 2004**;

(c) participating health services.

(3) The Privacy Management Framework must –

(a) specify categories of health information that are sensitive in nature and include a process to safeguard that information; and

(b) include a process to safeguard the identity of patients who may be at risk of harm, including patients who identify as being at risk of family violence; and

(c) include a process to facilitate patients accessing reports that specify who has accessed their health information through the Electronic Patient Health Information Sharing System; and

(d) include a process for regular audits and compliance checks of the Electronic Patient Health Information Sharing System.

(4) The Privacy Management Framework takes effect on –

(a) the day on which it is published in the Government Gazette; or

(b) a later day as specified in the order.

Note

Section 41A of the **Interpretation of Legislation Act 1984** provides that the power to make an instrument includes the power to repeal, revoke, rescind, amend, alter or vary the instrument in the exercise of that power.

134ZU Compliance with Privacy Management Framework

Any person who is authorised or permitted under this Part to access the Electronic Patient Health Information Sharing System must comply with the Privacy Management Framework to the extent reasonably practicable.

Division 7 – Independent review of this Part

134ZV Independent review by expert panel

(1) The Minister must cause an independent review of the operation of this Part, including the Privacy Management Framework, to be conducted by an expert panel after the second anniversary of the day on which this Part comes into operation.

(2) The independent review must examine and make recommendations in relation to the following –

(a) whether health information is sufficiently protected;

(b) which health services should be participating health services for the purposes of this Part;

(c) the misuse of specified patient health information;

(d) the costs of compliance and the administrative burden imposed on participating health services by this Part;

(e) whether the Electronic Patient Health Information Sharing System is operating as intended.

(3) The independent review may examine and make recommendations in relation to the following –

(a) current issues and trends relating to health information systems;

(b) data management;

(c) information technology security;

(d) patient privacy;

(e) any other relevant matter.

(4) The independent review must be completed no later than the third anniversary of the day on which this Part comes into operation.

(5) The Minister must cause a copy of a report of the independent review to be laid before each House of Parliament no later than 3 sitting days after the day on which the final report of the independent review is given to the Minister.

(6) The Minister must consider any recommendations made by the independent review, including any recommendations to amend this Act, and within 18 months of receiving the final report –

(a) implement the recommendations made by the independent review; or

(b) advise Parliament why the recommendations have not been implemented.

134ZW Appointment of expert panel

(1) For the purposes of section 134ZV, the Minister must appoint 3 persons to form the expert panel.

(2) The Minister must ensure that each person appointed to the expert panel has experience in one or more of the following –

(a) human rights and privacy matters;

(b) legal and regulatory compliance;

(c) health information systems;

(d) clinical care;

(e) health care quality and patient safety;

(f) consumer or patient advocacy.

(3) The Minister must not appoint a person to the expert panel if the person is –

(a) a current employee or executive officer of a registered political party within the meaning of the **Electoral Act 2002**; or

(b) a current or former member of Parliament.'.".

Amendments agreed to; amended clause agreed to; clauses 5 and 6 agreed to.

Reported to house with amendments.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:35): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:35): I move:

That the bill be now read a third time.

The PRESIDENT: The question is:

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

Council divided on question:

Ayes (21): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Noes (16): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

Question 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 with amendment.

Local Government (Moira Shire Council) Bill 2023

Royal assent

The PRESIDENT (17:42): I have a message from the Governor, dated 9 March:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the undermentioned Act of the present Session presented to her by the Clerk of the Parliaments:

3/2023 Local Government (Moira Shire Council) Act 2023

Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023

Introduction and first reading

The PRESIDENT (17:42): I have a further message:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Children, Youth and Families Act 2005**, the **Social Services Regulation Act 2021**, the **Child Wellbeing and Safety Act 2005**, the **Commission for Children and Young People Act 2012**, the **Magistrates' Court Act 1989**, the **Health Services Act 1988** and the **Public Health and Wellbeing Act 2008**, to make minor and consequential amendments to other Acts and for other purposes'.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:43): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Lizzie BLANDTHORN: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:44): 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 Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023.

In my opinion, the Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the *Children, Youth and Families Act 2005* (CYF Act), the *Child Wellbeing and Safety Act 2005* (CWS Act), the *Social Services Regulation Act 2021* (SSR Act), the *Commission for Children and Young People Act 2012* (CCYP Act), the *Health Services Act 1988* (HS Act), the *Public Health and Wellbeing Act 2008* (PHW Act) and other acts to:

- Amend the provisions of the CYF Act for protecting children and providing community services for children and families to advance Aboriginal self-determination;
- Amend the HS Act and the PHW Act to recognise and advance Aboriginal self-determination in Victoria's health and wellbeing services;
- Amend the CWS Act to expand the definition of 'employee' consistent with the intended scope of the Reportable Conduct Scheme, provide the Commission for Children and Young People (Commission) with an express power to commence proceedings for offences under the scheme, and powers to effectively enforce requirements relating to notifying the Commission about reportable allegations;
- Amend the SSR Act to provide for transitional provisions relating to the Suitability Panel and other consequential amendments;
- Amend the CYF Act to enable the Children's Court to make rules that delegate certain powers of a registrar or magistrate to a judicial registrar; and
- Amend the CYF Act to enable the Children's Court to make rules that delegate certain powers of a Amend the CCYP Act 2012 to enable the Commission to advocate on behalf of children and young people who have had contact with the child protection and out of home care systems.

Human rights promoted by the Bill

The Bill promotes the following rights under the Charter:

- Right to equality (s 8(2)–(3))
- Protection of children (s 17(2))
- Cultural rights (s 19(2))
- Fair hearing rights (s 24(1))

Amendments to the Children, Youth and Families Act 2005, the Health Services Act 1988 and Public Health and Wellbeing Act 2008

Cultural rights

Section 19(1) of the Charter provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy their culture, declare and practise their religion, and use their language. Section 19(2) of the Charter further provides specific protection for Aboriginal persons, providing that they must not be denied the right, with other members of their community, to enjoy their identity and culture, maintain and use their language, maintain kinship ties, and maintain their distinct spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

Advancement of the self-determination of Aboriginal people in relation to child protection, community services and health and wellbeing services

One of the main purposes of the Bill is to advance the self-determination of Aboriginal people in relation to the protection of children, the provision of community services and in the health system. Clause 4 of the Bill inserts new a Part 1.1A in the CYF Act, in which new section 7A contains a Statement of Recognition that acknowledges that Aboriginal people are the First Nations people of Australia, and acknowledges the role played by the child protection system in the policies that led to the dispossession, colonisation and assimilation of Aboriginal people. A new section 7B expressly acknowledges the treaty process in progress in Victoria and the aspirations of Aboriginal people to achieve increased autonomy and control of decision-making in relation to the administration of services for Aboriginal children and families.

Clause 4 then inserts new Part 1.1B into the CYF Act which sets out binding principles relating to the recognition of Aboriginal children in respect of child protection. The principles aim to guide decision making in relation to Aboriginal children and to ensure that the distinct cultural rights of Aboriginal children and families are recognised, respected and supported in the context of child protection and other services.

Similarly, clause 60 of the Bill inserts new Part 1A into the HS Act, to enshrine a Statement of Recognition and Statement of Recognition principles into the Act. Clause 61 of the Bill inserts new Part 1A and a Statement of Recognition and Statement of Recognition principles into the PHW Act. Although the Statement of Recognition principles do not expressly guide or aid in the interpretation of the HS or PHW Acts, these changes also embed the recognition of the cultural rights and self-determination of Aboriginal people in relation to the health system, and to ultimately improve health and wellbeing outcomes for Aboriginal people in Victoria.

The insertion of an Aboriginal Statement of Recognition and associated recognition principles in the CYF Act, the HS Act and the PHW Act seeks to promote the protection and maintenance of cultural rights of Aboriginal people, particularly children, in respect of child protection and the provision of community services and the health system. The right to self-determination of Indigenous peoples is recognised in international law, including under article 3 of the United Nations Declaration on the Rights of Indigenous Peoples. The new provisions expressly recognise and promote the self-determination of Aboriginal people in respect of decision making in the child protection, community services and health and wellbeing contexts.

Powers of Principal Officers

Clause 7 substitutes section 18 of the CYF Act and inserts new sections 18AAA and 18AAB. New section 18 enables the Secretary of the Department of Families, Fairness and Housing (the Secretary) to authorise a principal officer of an Aboriginal agency to perform certain functions and exercise certain powers conferred on the Secretary as a protective intervenor or in relation to the making of a protection order or other relevant order, in respect of an Aboriginal child or class of Aboriginal children, or their non-Aboriginal siblings. New section 18 aims to empower principal officers to exercise the functions and powers of the Secretary with regard to the entire course of a child protection investigation: from the investigation of the first report until the making of a protection or other order. The new provision also avoids the need for a principal officer to obtain authorisations at different stages of a case, for example at the commencement of a protective intervention investigation, and then again once a protection order is made.

Clause 7 also inserts new section 18AAB which provides that the principal officer of an Aboriginal agency must notify the Secretary if they consider an authorisation for them to exercise various powers to no longer be in the best interests of the particular child or children to whom it relates. In reaching this conclusion, the principal officer must have regard to any views expressed by the child or children and their parent if their views can be obtained. The Secretary must then revoke the authorisation under section 18 of the Act.

These changes are intended to streamline the authorisation process that empowers principal officers of Aboriginal agencies to exercise the functions and powers of the Secretary in relation to Aboriginal children and to ensure these children receive continued culturally safe services from the protective investigation stage through to the making of protection orders. The exercise of powers by principal officers of Aboriginal

agencies will also only remain in place while they are in the child's best interests, and the views of the child and their family will be centred in the decision-making processes that affect them. Accordingly, new section 18 will ensure the effective functioning of the Aboriginal Children in Aboriginal Care program and in so doing, promote the cultural rights of Aboriginal people, in particular the right to self-determination.

Clause 5 creates further principles for placement of Aboriginal children. These provisions emphasise the importance of respecting and upholding the distinct cultural rights of Aboriginal children, families and communities.

The creation of further principles for placement of Aboriginal children in my opinion promotes and does not limit the right of Aboriginal persons who hold distinct cultural rights.

Accordingly, the amendments introduced by these provisions do not limit any right to enjoyment of culture under section 19 of the Charter.

Amendments to the Children, Youth and Families Act 2005, Child Wellbeing and Safety Act 2005, Health Services Act 1988 and Public Health and Wellbeing Act 2008

Rights of Children

Statement of Recognition and associated principles

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

The amendments to the CYF Act to include a Statement of Recognition and its associated binding principles in respect of child protection and the provision of community services promote the best interests of Aboriginal children, as the Statement of Recognition expressly recognises the right to self-determination of Aboriginal children. New section 7E(2) provides that when considering the views of Aboriginal children, decision-makers must uphold their cultural rights and sustain their connections to family, community, culture and Country. This promotes the best interests of Aboriginal children by seeking to ensure they are respected and that their treatment is culturally safe and appropriate.

New functions of the Commission and enforcement of the Reportable Conduct Scheme

The changes to the CWS Act and other consequential amendments that give the Commission new functions in respect of advocacy for protected children and young people, as well as the introduction of new reportable conduct authorised officers to investigate and enforce that scheme, all seek to promote the rights of children. The amendments aim to protect vulnerable children and young people by allowing the Commission to advocate for them in certain circumstances as well as ultimately seeking to prevent child abuse and neglect through stronger enforcement of reporting requirements and the investigation and prosecution of failures in this regard.

Equality

Section 8(3) of the Charter relevantly provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. The purpose of this component of the right to equality is to ensure that all laws and policies are applied equally, and do not have a discriminatory effect.

Statement of Recognition and associated principles

The inclusion of a Statement of Recognition and associated principles in the CYF Act, the HS Act and the PHW Act seeks to promote the right to equal protection of the law without discrimination and the right to equal and effective protection against discrimination. These aspects of the Bill aim to ensure that the specific and distinct cultural needs of Aboriginal adults and children are recognised, respected and protected, and act as a bulwark against discrimination in the context of child protection, community and health and wellbeing services.

Children, Youth and Families Act 2005 – amendments relating to judicial registrars

The Bill will:

- enable the Children's Court to make rules authorising judicial registrars to exercise certain magistrates' powers, namely the *in personam* powers of a magistrate to issue warrants related to the care and protection of a child, and
- clarify that judicial registrars can exercise any power of a registrar.

The amendments will allow the Court to delegate power to issue certain warrants to judicial registrars but will not change the substantive nature of the power. The warrants may engage the right to freedom of movement (section 12), the right to privacy and reputation (section 13), and Aboriginal cultural rights (section 19(2)(a)). However, allowing judicial registrars to issue the warrants will not affect the extent to which those rights are engaged, as the existing framework of safeguards will apply. These amendments promote the right to a fair hearing (section 24), and protection of families and children (section 17).

Right to a fair hearing

Section 24(1) of the Charter provides that criminal and civil proceedings be heard by a competent, independent and impartial court or tribunal after a fair and public hearing. The right generally encompasses the established common law right of each individual to unimpeded access to courts and an implied right to a reasonably expeditious hearing.

Allowing the Court to extend certain powers of magistrates and registrars – such as the power to issue warrants – to judicial registrars will promote the right to a fair hearing by allowing the Court to operate more independently, flexibly and efficiently.

These amendments promote the Court's independence by giving the Court greater control over its internal procedures, including how matters are allocated. Allowing the Court to delegate warrant powers will support the timely resolution of warrant applications and ensure magistrates have capacity to hear more complex matters. This will better equip the Court to manage demand, including the sustained increase in warrant applications, by allocating its resources appropriately. Efficiencies created by the amendments will help the Court to ease COVID-19 related backlogs, which will improve access to the Court.

Judicial registrars possess the requisite competence, independence and impartiality to exercise the powers that may be delegated. Judicial registrars must demonstrate a level of experience and comply with ethical obligations set out in Part 7.6A of the Act. In addition, existing safeguards in the Act relating to judicial registrars will continue to apply – for example, a judicial registrar must refer a proceeding that they consider inappropriate for their determination to a magistrate (section 542J). The Act also sets out review and appeal processes for decisions of a judicial registrar (section 542K). For these reasons, the right to a fair hearing will not be limited by the amendments.

Protection of families and children

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

Allowing the Court to delegate powers to issue warrants to judicial registrars will promote children's rights to protection by ensuring vulnerable children are protected as soon as possible. As outlined with respect to the right to a fair hearing, the amendments will provide the Court with more flexibility in allocating matters, which will help to ease magistrates' workloads. This will contribute to the protection of families and children by ensuring magistrates have capacity to hear more complex matters relating to child protection in a timely manner.

Engagement of Rights

The following rights are engaged by the Bill:

- Right to privacy (s 13(a))
- Rights of children (s 17(2))
- Property rights (s 20)
- Right to freedom of expression (s 15)
- Right to the presumption of innocence (s 25(1))
- Right against self-incrimination (s 25(1)(k))

Amendment of the Children, Youth and Families Act 2005

Use and Disclosure of Information

The CYF Act permits the Secretary to authorise the principal officer of an Aboriginal agency to perform certain functions and exercise certain powers in relation to the protection of specific Aboriginal children and young people or their non-Aboriginal siblings. To enable these principal officers and their agencies to operate effectively in carrying out these authorised functions, clause 9 of the Bill inserts new section 19E into the CYF Act that sets requirements for the use and disclosure of information from the Secretary to principal officers and vice versa.

Broadly, these new provisions allow for the use and disclosure of information between the Secretary and principal officers of Aboriginal agencies if the information is necessary for the performance of a function or the exercise of a power of the principal officer under authorisation from the Secretary. New section 19E(3) also allows a principal officer to disclose to any person any information obtained by them in the course of performing a function or exercising powers if they reasonably believe that the information is necessary for the performance of those functions or exercise of those powers. These provisions will allow for principal officers to have access to information recorded by child protection practitioners in DFFH regarding their work with Aboriginal children and their families.

Clause 11 then inserts new subsection 192(4) which authorises and protects the disclosure of certain information by or to a principal officer, where they are exercising the powers or carrying out the functions of the Secretary or a protective intervener (such as the Secretary or a police officer) under a relevant authorisation.

These provisions engage the right to privacy under section 13(a) of the Charter.

Privacy

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

The new provisions will allow information regarding children and their families to flow between DFFH and Aboriginal agencies under the new provisions, and possibly to other entities where it is considered necessary for the exercise of a principal officer's powers and functions under authorisation from the Secretary. While this may interfere with the privacy rights of these children and their families, I am of the view that clauses 9 and 11 of the Bill do not limit the right to privacy, as any interference pursuant to these provisions is prescribed by legislation that is precise and accessible, and is non-arbitrary in that the provisions are reasonable and proportionate to achieving the legitimate aim of ensuring the proper functioning of the child protection system and the protection of children from abuse and neglect through the appropriate sharing of relevant information between agencies.

Authorised Officers for the Reportable Conduct Scheme – amendments to the Child Wellbeing and Safety Act 2005

In order to bolster the enforcement and compliance powers of the Commission in relation to the Reportable Conduct Scheme, clause 30 of the Bill inserts new Part 5B into the CWS Act. New section 16ZO provides for the appointment of reportable conduct authorised officers (authorised officers) by the Commission. The remaining provisions in new Part 5B relate to the powers of these authorised officers in investigating non-compliance with and potential contraventions of section 16M of the CWS Act, namely the requirement for the head of an entity to notify the Commission of a reportable allegation against an employee of the entity within the specified time frame.

New Part 5B of the CWS Act engages the right to privacy (s 13(a)), the rights of children (s 17(2)), the right to property (s 20), the right to freedom of expression (s 15), the right to the presumption of innocence (s 25(1)), and the right against self-incrimination (s 25(1)(k)). These rights are discussed below.

Privacy

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

Powers of authorised officers

Clause 30 inserts new sections 16ZR to 16ZZH into the CWS Act, which provide for a range of powers enabling authorised officers to enter and inspect premises and seize documents and items.

New section 16ZR provides that an authorised officer may enter and inspect any premises or place if they reasonably believe it is a premises or place from, or in which, an entity: (a) operates; or (b) exercises care, supervision or authority over children; or (c) provides support for an activity referred to in paragraph (a) or (b).

Authorised officers may enter such premises:

- If the authorised officer has provided notice to the occupier of the premises and they have consented to the entry for the purposes of the authorised officer monitoring compliance by the head of an entity with section 16M(1) of the CWS Act;
- pursuant to a warrant; or
- for premises that are not residential premises, without a warrant and without consent if the authorised officer reasonably believes that the head of the entity is not complying, or has not complied with the notification requirement in section 16M(1) of the CWS Act.

New section 16ZV provides that warrants can be issued by a Magistrate where there are reasonable grounds to believe that entry to the premises or place is necessary to investigate whether the head of an entity is not complying or has not complied with section 16M(1) or that documents relevant to the possible contravention of section 16M(4) may be, or within 72 hours may be, present at the premises.

Where an authorised officer enters a place or premises, they may exercise the powers specified in new sections 16ZT (in the case of entry authorised by consent), 16ZX (in the case of entry by warrant), and 16ZZ (in the case of entry without consent or warrant). These powers vary, depending on the basis on which a person's entry is authorised, but broadly include powers to search the premises or place, inspect or examine documents, make enquiries of persons at the premises or place, observe activities being conducted there, take photographs or make recordings or sketches, copy or take an extract from documents, use and operate materials at the premises or place, secure electronic equipment, request information from persons at the premises, take into or onto the premises or place any person, equipment or materials, and seize documents or things in certain circumstances.

Further, an authorised officer who has entered a place or premises by consent may request that persons at the premises or place provide reasonable assistance, to or comply with lawful directions of the authorised officer. Where the entry does not rely on consent, authorised officers have stronger powers, and may require a person to produce documents, disclose certain information, operate equipment, provide assistance or comply with lawful directions. Under new sections 16ZY and 16ZZB, it is an offence for a person to fail to provide assistance to an authorised officer without reasonable excuse, respectively in relation to entry to premises with a warrant, and entry to premises without consent or a warrant.

The powers enable significant interference with privacy, including information privacy and privacy of the home, as authorised officers may inspect both workplaces and, in limited circumstances, residences and accommodation. However, a number of safeguards apply to the exercise of such powers to ensure they are not exercised arbitrarily or unlawfully. In particular, authorised officers who enter a premises:

- must produce their identity card and inform the occupier of the purpose of the entry and their right to refuse to consent to entry or to the exercise of various powers, where the authorised officer is entering the premises by consent (new section 16ZS);
- must only enter a part of a premises in which there is accommodation or in which residential services are provided if the resident of that part of the premises consents, or if the resident is unable to consent, the resident's parent or guardian has provided consent, unless they are entering the premises under a warrant (new section 16ZR(3));
- must provide notice to a resident, parent or guardian of the purpose of entry and of the rights and the powers that the authorised officers may exercise, amongst other things, before authorised officers can enter a residential part of a premises (new section 16ZR(4));
- must only exercise powers of entry during normal business hours of the premises or during the entity's usual hours of operation (unless otherwise provided for under a warrant, or by consent) (new section 16ZR(8));
- must leave a premises or place if consent is withdrawn (unless the entry is by warrant or does not require consent) (new section 16ZR(9));
- may only exercise powers (other than under a warrant) if they reasonably believe it is necessary to do so to investigate whether a relevant entity is not complying or has not complied with section 16M(1) of the CWS Act (new ss 16ZT(3) and 16ZZ(6));
- must not secure electronic equipment for more than 24 hours (other than with consent or under a warrant, or with an extension granted by a magistrate) (new ss 16ZX and 16ZZ);
- when consent is required to exercise a power, must explain certain matters including the person's right to refuse to consent, and seek a signed acknowledgment of consent (new ss 16ZU and 16ZZA); and
- when exercising powers of entry under a warrant, must generally announce that they are authorised by warrant, give a person at the place or premises the opportunity to allow entry, and provide a copy of the warrant to the occupier (if present) (new section 16ZW).

Further, new section 16ZZR sets out a complaints process enabling a person to complain about the exercise of a power by an authorised officer under that Division or under a warrant issued under new section 16ZV to the Commission. The Commission must investigate the complaint and provide a written report to the complainant and the authorised officer, after giving the authorised officer the opportunity to comment on the proposed report.

Accordingly, a broad range of safeguards are incorporated into the Bill to ensure the powers of authorised officers may only be exercised in a reasonable and proportionate way that protects the privacy of individuals to the greatest extent possible. The powers serve the important purpose of enabling authorised officers to effectively investigate potential non-compliance with the notification requirements for heads of entities set out in section 16M of the CWS Act. This serves the broader purpose of ensuring that heads of entities are properly reporting potential child neglect or abuse, and thus promotes the safeguarding of children and their best interests more generally. This follows the Royal Commission into Institutional Responses to Child Sexual

Abuse finding that sexual abuse of children had occurred in almost every type of institution, and that institutions had largely failed to report and respond to allegations of abuse over many years and decades.

The powers are appropriately tailored to reflect the source of the authority to enter premises and exercise associated powers, with the most significant powers requiring the issue of a warrant by a magistrate. Unless a person consents to entry of a residential premises or accommodation, or unless a warrant is issued, authorised officers are restricted to entry of commercial or public premises and places, at which there is generally a lesser expectation of privacy. Further, where a person considers that powers have been exercised inappropriately, the legislation sets out a complaints process.

Accordingly, I consider that, to the extent that the authorised officer powers authorise interference with privacy rights, that interference will be lawful and non-arbitrary. To the extent that it is relevant, I also consider that any limit on the right to privacy would be reasonable and justified in accordance with section 7(2) of the Charter.

Notices to produce

Clause 30 also inserts a new section 16ZZI into the CWS Act providing that the Commission may issue a 'notice to produce' if it reasonably believes that the head of an entity is not complying with section 16M(1) of the CWS Act, requiring production of a specified document or information by the head of the entity or any other person, within not less than 14 days.

Under new section 16ZZL of the CWS Act, inserted by clause 30, the Commission may apply to the Magistrates Court for a declaration that a person has failed to comply with a notice to produce, and an order requiring the person to pay a civil penalty. The Magistrates Court must be satisfied that the person has failed to comply with the notice to produce and that the failure was unreasonable.

The above provisions authorise an interference with privacy, as notices may be issued in relation to the documents or information of any person, which may involve personal information relevant to the compliance of the head of an entity with its notification requirements under section 16M(1).

In my view, any such interferences will not be arbitrary or unlawful. The power serves the important purpose of promoting compliance with the notification requirements for reportable allegations, which aims to reduce the risk of child abuse occurring, and enabling an effective response when it does occur. It is being provided for in the context of the Royal Commission's findings of widespread failure to report such conduct. It allows the Commission to better regulate the reportable conduct scheme in a more responsive manner. This is particularly important given the broad scope and diversity of organisations required to comply with the scheme.

Importantly, clause 30 of the Bill inserts new section 16ZZP into the CWS Act, and this allows a person to seek an internal review by the Commission of a decision to give a notice to produce. This internal review mechanism is a key safeguard in ensuring that any interference with privacy in the issuance by the Commission of a notice to produce is reasonable and proportionate.

In relation to non-compliance, the Bill provides for the Commission to apply to the Magistrates Court for a declaration that the person failed to comply with a notice to produce in new section 16ZZL. The Court must be satisfied that the person failed to comply and that the non-compliance was unreasonable. Further, in determining the amount of a civil penalty, the Court must consider the impact of the civil penalty on the person and whether the non-compliance with the notice to produce was wilful or serious. This ensures that civil penalties imposed for failure to produce are not unduly harsh and adequately take into account the individual circumstances of the person on which they are imposed.

In addition, the Commission, remains subject to a range of confidentiality and information sharing restrictions in the CWS Act, the CCYP Act and the Privacy and Data Protection Act 2014 in relation to how private information is collected, handled and disclosed. These requirements impose additional safeguards to ensure that personal information collected through the notice to produce is dealt with appropriately.

I therefore consider that the notice to produce provisions are compatible with the right to privacy. However, insofar as privacy rights may be limited, I am of the view that any such limit is reasonable and proportionate in accordance with section 7(2) of the Charter.

Rights of children

As discussed above, section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child. This right recognises the special vulnerability of children, and requires states to adopt social, cultural and economic measures to protect children to foster their development and education. The scope of the right is informed by the United Nations Convention on the Rights of the Child, which requires that in all actions concerning children, the best interests of the child shall be the primary consideration.

Overall, clause 30 of the Bill and new Part 5B of the CWS Act promotes this right by improving the enforcement of and compliance with the notification requirements of the reportable conduct scheme, in order

to reduce the risk that children will be subject to neglect or abuse. However, certain provisions may limit the individual rights of particular children, as discussed below.

Disclosure of information

It is possible that the new provisions requiring persons to provide documents or information to authorised officers (under one of the provisions discussed above) may identify a child and disclose sensitive information about them. However, in my view, because the amendments are for the purpose of protecting children from abuse, they are likely to be in every child's best interest overall. In addition, safeguards are contained in the CWS Act and the CCYP Act to limit the disclosure and use of protected and sensitive information.

Accordingly, I consider that the provisions requiring the production of documents or information to authorised officers are compatible with the right of the child to such protection as is in their best interests under section 17(2) of the Charter.

Power to interview children

Pursuant to new section 16ZZD, an authorised officer is empowered to interview a child who is present on the premises when exercising powers of entry under the Bill. Before interviewing a child, the authorised officer must consider, and take all reasonable steps to mitigate, any negative effect that the interview may have on the child. The authorised officer must also consider whether the child's primary family carer should be present during the interview. However, in some circumstances, the exercise of this power may not be in the best interests of a particular child, and so may limit the rights of the child under section 17(2) of the Charter.

However, to the extent that the right may be limited by new section 16ZZD, I consider any such limit to be reasonable and proportionate for the important purpose of ensuring section 16M of the CWS Act is complied with and that reportable conduct relating to child abuse and neglect is properly notified to the Commission. While such an interview may have a negative effect on the child, the overall intention of the scheme (including the power to interview children) is to protect children from harm associated with non-compliance with section 16M. Further, the power is appropriately tailored to limit any negative effects on children, having regard to the requirements that the authorised officer consider steps to mitigate the negative effect of the interview on the child. I note that while a primary carer is not always required to be present for an interview, this is consistent with child empowerment principles, which may be undermined if there is a general requirement for a parent or independent person to be present regardless of the child's circumstances, ability, and support needs.

As information about the experience of children in relation to an entity will sometimes be essential to identifying whether the entity has complied with its statutory requirements, I consider that there is no less restrictive means reasonably available to achieve the purpose of effective regulation and enforcement in respect of the reportable conduct scheme. I therefore consider that the limit on rights is reasonable and justified in accordance with section 7(2) of the Charter.

Property rights

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 that authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

As set out above, the Bill enables authorised officers to seize documents and things in certain circumstances. Under the new CWS Act provisions, items may only be seized with a warrant or with consent. Where an item is seized, new section 16ZZF provides a process by which the owner must be given a receipt for the seized items that identifies the documents seized, sets out the name of the authorised officer, and the method for contacting them as well as the reason for the seizure.

This new provision requires that the items must be returned to their owners once they are no longer required or not later than three months after seizure, or once consent to seizure is withdrawn by the owner. An authorised officer must not hold seized items for longer than three months unless they obtain an order from a magistrate extending the period during which the item may be held (for a total extension period of no more than 12 months), or if the owner provides consent, or if the proceedings or investigation for which the item was seized remains ongoing but not resolved. The magistrate can only grant such an extension if satisfied that the extension is necessary for the purposes of an investigation into a relevant entity's compliance with section 16M of the CWS Act. Under new section 16ZZG, seized items may only be destroyed where an authorised officer is not able to return them to the owner after taking reasonable steps to do so, with the permission of a magistrate who must consider the destruction appropriate.

These powers engage the right not to be unlawfully deprived of property under section 20 of the Charter. However, as any deprivation of property associated with these provisions will be governed by a clear and accessible process set out under the legislation, any interference with property rights will be lawful, and the

right will therefore not be limited. To the extent that it is relevant, I also consider that any limit on the right would be reasonable and justifiable in accordance with section 7(2) of the Charter.

Freedom of expression

Section 15 of the Charter provides that every person has the right to hold an opinion without interference and has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. Section 15 also provides that lawful restrictions may be reasonably necessary to respect personal rights and reputations, or for the protection of national security, public order, public health or public morality.

This right may be engaged by the new section 16ZZH which stipulates that it is an offence to obstruct or impersonate an authorised officer. These provisions may engage the right to freedom of expression by limiting the kind of information that a person may impart by preventing that person from misleadingly presenting themselves as an authorised officer. However, to the extent that the right is engaged, any limitation imposed would fall within the internal limitations to the right in section 15(3), as reasonably necessary to respect the rights and reputation of other persons, or for the protection of public order. The restriction on impersonating an authorised officer enables protection of the right to privacy (by preventing people from purporting to exercise the powers of authorised officers where they are not authorised officers) and of the rights of the child (by promoting the effective monitoring and enforcement of section 16M of the CWS Act). They also protect public order by promoting the effective operation of the reportable conduct scheme. Accordingly, I consider these provisions to be compatible with the right to freedom of expression under section 15 of the Charter.

Presumption of innocence

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

'Reasonable excuse' defence

Offence provisions for failure to provide assistance to an authorised officer

The right to the presumption of innocence is engaged by various new sections 16ZY,16ZZB of the CWS Act, inserted by clause 30 of the Bill, which provide that it is an offence to fail to provide assistance to an authorised officer 'without reasonable excuse'. As these offences are summary offences, section 72 of the Criminal Procedure Act 2009 will apply to require an accused who wishes to rely on the 'reasonable excuse' exception to present or point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the excuse.

By creating 'reasonable excuse' exceptions, the offences in the Bill may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse. However, in doing so, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge (for example, why the accused failed or refused to assist an authorised officer), the burden shifts back to the prosecution who must prove the absence of a reasonable excuse beyond reasonable doubt. I note that case law has held that an evidential onus imposed on establishing an excuse or exception does not limit the Charter's right to a presumption of innocence, as such an evidentiary onus falls short of imposing any burden of persuasion on an accused.

Accordingly, I am of the view that the right to be presumed innocent under section 25(1) of the Charter is not limited by these provisions.

Compliance notices

New sections 16ZZJ and 16ZZK may engage the right to presumption of innocence as the provisions provide for the Commission to give the head of an entity a notice to comply if the Commission suspects that that head is not complying with section 16M(1)(a) or (b) of the CWS Act, that is the notification requirements of the reportable conduct scheme. The notice must state the action that the person must take to address any issues identified in the notice and the date by which such action is required to be taken. It is an offence to fail to comply with a compliance notice, by failing to take the action specified in the notice by the specified date, without reasonable excuse.

As the prosecution of a failure to comply with a compliance notice does not require proof of the commission of the underlying contravention to which the notice was issued, this may engage the right to the presumption of innocence in the Charter (s 25(1)). Additionally, a proceeding for a non-compliance offence may also require a person to respond to matters relevant to the alleged contravention, engaging section 25(2)(k) of the Charter which provides that a person cannot be compelled to testify against themselves or confess guilt. The scope of both these rights have been interpreted as extending to protect a person to circumstances prior to the issuing of a criminal charge.

However, in my view, the provision attracts adequate safeguards so as to not constitute a limit on these rights. As a preliminary point, the compliance notice scheme serves an important objective of providing the Commission with a timely and targeted mechanism for compelling a head of an entity to take necessary remedial action in response to suspected contravention of the reportable conduct notification requirement. It facilitates the immediate and direct prevention or remediation of conduct which may be putting a child at risk and may be continuing, in a way that proceeding with a prosecution for an alleged contravention is not able to do.

The Bill provides for rights to seek internal review and review by VCAT in relation for review of a decision by the Commission to give the head of an entity a reportable conduct notice to comply, which provides a person with an avenue to contest the notice where it is disputed that any alleged contravention has been committed.

Accordingly, I am satisfied the compliance notice scheme provided for in the Bill is compatible with the Charter.

Amendment of the Commission for Children and Young People Act 2012

Clause 39 of the Bill inserts new Part 4A into the CCYP Act. New section 30B sets out the new functions of the Commission to advocate for the human rights of protected children, new section 30C allows the Commission to request information, documents or records from the Department of Families, Fairness and Housing or an alternative care service, and new section 30D provides for the Commission to liaise with other entities from whom the child or young person has sought assistance to avoid unnecessary duplication. These new provisions engage the right to privacy under section 13(a) of the Charter.

Privacy

As outlined above, section 13(a) of the Charter protects the right not to have a person's right to privacy unlawfully or arbitrarily interfered with.

New functions of the Commission

New section 30B sets out the new functions of the Commission which include seeking assistance from a government department or other organisation or making representations on behalf of the protected child or young person. This might engage the right to privacy through the disclosure of information about the child.

However, I am of the view that the new functions of the Commission would not limit the right to privacy, as any interference is prescribed by clear, precise legislation that is non-arbitrary in that it is a reasonable and proportionate measure to improve the advocacy for, and protection of, vulnerable children. Indeed, the new section 30B promotes the rights of children. Accordingly, I consider that new section 30B is compatible with the Charter.

Request for information by the Commission

The Commission may request the Secretary of the Department of Families, Fairness and Housing or an out of home care service to provide information, documents or records to it under new section 30C, if the same is reasonably required for the Commission's advocacy functions under new section 30B. The Secretary or out of home care service may then disclose the relevant material if it is reasonably necessary for the performance of the Commission's advocacy functions. The disclosure of information relating to a child engages the right to privacy.

Given the information sharing under section 30C is pursuant to properly prescribed and clear legislation that is non-arbitrary in that it is a reasonable and proportionate measure to ensure that the Commission can properly carry out its advocacy functions in respect of protected children and young people, and in so doing promote their rights, I am of the view that the right to privacy is not limited by new section 30C.

Avoiding unnecessary duplication

New section 30D provides that if the Commission becomes aware that a protected child or young person has sought assistance from another entity, the Commission must liaise with that other entity to avoid the unnecessary duplication of assistance to the protected child or young person and to facilitate coordination and expedition of that assistance. Given this would necessarily require the sharing of information relating to children by these entities, new section 30D engages the right to privacy.

However, I consider that any interference with privacy does not limit the right under the Charter, as the same would occur pursuant to precise and accessible legislation that is reasonable and proportionate to achieve the aim of avoiding duplication and wastage of public resources in respect of child protection, and ultimately the promotion of the rights of vulnerable children more broadly.

The Hon. Lizzie Blandthorn MP
Minister for Child Protection and Family Services
Minister for Disability, Ageing and Carers

Second reading

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:44): I would like to draw to the attention of the house that the bill was amended in the Assembly. The context and policy intent of this bill includes that authorised Aboriginal agencies can make applications related to permanent care orders in relation to children already authorised to those agencies.

For the benefit of the house I will briefly explain the nature of the two minor amendments to clause 7 of the bill. The house amendments clarify that section 18 of the Children, Youth and Families Act 2005 reflects the intent of the bill and progresses towards full Aboriginal self-determination by clarifying the ability for authorised Aboriginal agencies to make applications for the full suite of intended orders. This will clarify that authorised Aboriginal agencies do not have to return authorisation of Aboriginal children to the secretary of the department to make applications related to permanent care orders.

I move:

That the bill be now read a second time.

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

The Bill reflects and acts on the Government's commitment to Aboriginal self-determination and progressing this through a range of mechanisms, including by legislative reform. The Bill proposes amendments to embed recognition of Aboriginal self-determination across child protection and health. It also makes technical amendments to improve the operation of four other key regulatory schemes.

Evidence given to the Yoorrook Justice Commission hearing in December 2022 brought into sharp focus the community's concerns about the over-representation of Aboriginal children in the child protection system and the extent of children being removed from the care of their family. In an immediate response to this evidence, the Premier made a public commitment to work with the Minister and First Nations communities to devise a new child protection system to address these issues.

This Bill includes proposals that represent very significant steps in progressing self-determination for Aboriginal communities. Steps that we can take now to improve the system as part of first stages of an overhaul to allow greater Aboriginal-led service delivery and improve outcomes for Aboriginal children, young people and communities, as we progress towards treaty.

Victoria is committed to meeting the National Agreement on Closing the Gap target to reduce the rate of over-representation of Aboriginal children in care by 45 per cent by 2031. This commitment is underpinned by the 2018 *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* that established a landmark partnership between the Aboriginal community, government and the child and family services sector to achieve better outcomes for Aboriginal children and young people. At the heart of Wungurilwil Gapgapduir is a commitment to the reduction of the over-representation of Aboriginal children in child protection and alternative care. This will be achieved by enabling the advancement of Aboriginal models of care and transferring decision making for Aboriginal children to Aboriginal community-controlled organisations. This Bill is an essential part of achieving that vision.

This Bill also supports the Victorian Aboriginal Affairs Framework, through the Government working in partnership with Aboriginal people to meet the goal that Aboriginal children are raised by Aboriginal families. In particular, the Bill advances the objectives of:

- Eliminating the over-representation of Aboriginal children and young people in care,
- Increasing Aboriginal care, guardianship and management of Aboriginal children and young people in care, and
- Increasing family reunification for Aboriginal children and young people in care.

In the health sector, the Bill progresses a major priority of the Aboriginal Health and Wellbeing Partnership Forum by enshrining commitments to Aboriginal self-determination in our health legislation. This also progresses the Government's commitment to Aboriginal self-determination as set out in the *Victorian Government Self-Determination Reform Framework*.

Through the Bill, this Parliament will specifically acknowledge Victoria's Treaty process and our shared aspiration to achieve increased autonomy and Aboriginal decision-making. This includes greater control of planning, funding and administration of services, including through self-determined Aboriginal representative

bodies established through Treaty. Through this, the Government will make clear our commitment to Treaty and the reform work currently underway.

To achieve these goals, the Bill focuses on the following key objectives:

i. Embedding the Victorian Government's commitment to Aboriginal self-determination in the legislative framework for children and families services, and providing critical enablers to support Aboriginal-led models of care. This commitment is given effect through three sets of provisions in the *Children Youth and Families Act 2005*:
    a. providing for an Aboriginal Statement of Recognition and an accompanying set of binding principles to guide decision making regarding Aboriginal children,
    b. expressly including all five elements underpinning the intent of the Aboriginal Child Placement Principle, namely: prevention; participation; partnership; placement; and connection
    c. strengthening provisions to enable the effective functioning of the Aboriginal Children in Aboriginal Care program, including enabling authorisation of Aboriginal-led organisations to undertake investigations, respond to Therapeutic Treatment Reports and access information through the department's client data base, and
    d. removing outdated and offensive terminology from the Act.
ii. Advancing Aboriginal self-determination to improve health outcomes and the delivery of health services, recognising the key role of the Aboriginal health sector in the delivery of Aboriginal health services, and supporting healing, acknowledging trauma and providing a foundation for future reform, and removing outdated terminology from the *Public Health and Wellbeing Act 2008*,
iii. Ensuring the Commission for Children and Young People can advocate for children and young people and support them in understanding and exercising their right to raise issues of concern,
iv. Amending the Reportable Conduct Scheme to address critical regulatory gaps impacting on the effectiveness of the scheme,
v. Providing necessary transitional provisions to support the new Social Services Regulator and the Worker and Carer Exclusion Scheme, and
vi. Enabling the Children's Court of Victoria to make rules that delegate certain powers of a registrar or magistrate to a Judicial Registrar.

As well as advancing these objectives, the Bill makes technical and clarifying amendments to make sure our laws operate as effectively as possible.

I will deal with each policy within the Bill in turn.

Introducing an Aboriginal Statement of Recognition and accompanying binding principles

The evidence is clear that the single biggest factor in improving health and social outcomes is self-determination. Self-determination and self-management for Aboriginal people must be progressed in order to achieve improved outcomes for children and families. We also need to strengthen provisions that uphold the importance of culture for the safety of all Aboriginal children. We recognise that Aboriginal people are best placed to lead and inform responses for Aboriginal children and families and that Aboriginal people have the strengths and the right to lead change for their children. Where an Aboriginal child and their family require additional support, their community will be best placed to identify and address their needs, and our systems need to enable this to occur at the earliest possible opportunity. All decisions regarding Aboriginal children and their families need to be guided by deep understanding of the centrality of culture, community and Country to health and wellbeing.

The Statement of Recognition and accompanying binding principles in the *Children, Youth and Families Act 2005* are a critical commitment to enacting self-determination for Aboriginal communities.

We know, through the impact of colonisation and its disconnect from Aboriginal culture, that Aboriginal children are 22 times more likely than non-Aboriginal children to be in out of home care. By guiding decision-makers through the Statement of Recognition principles, the Bill aims to support Aboriginal children and their families to maintain their culture, community connections and connection to Country, and break the intergenerational trauma that past policies have created and contributed to.

The journey to develop the Statement of Recognition included co-design with the Aboriginal children and families sector and prioritised acknowledgement of past wrongs. The intent of the Statement is to lead from the front by acknowledging the injustices of the past so we can collectively walk and work together towards a brighter future for all Aboriginal people, for all Aboriginal children and for all Victorians.

These binding principles are a critical part of transforming our system to be culturally responsive; trauma-informed, and one that supports and enables Aboriginal self-determination. It is only through rebalancing power, resources and responsibilities that we can work in partnership to decrease the over-representation of Aboriginal children in the child protection and care system.

Critically, the principles enact policy into practice and guide decision making by supporting all decision-makers to approach their decisions through an Aboriginal lens. This approach is essential to protect and connect Aboriginal children to culture, family and Country. I believe we all share this vision for strong Aboriginal children and families and a commitment to working together to achieve it.

The Government commits to work with key Aboriginal stakeholders, including those registered under the *Children, Youth and Families Act 2005* as well as legal stakeholders, in the implementation planning to develop policy and practice guidance to effectively implement the Statement of Recognition, binding recognition principles and the Aboriginal child placement principle into meaningful practice across the child protection system.

Embedding all five elements of the Aboriginal Child Placement Principle

Currently, section 13 of the *Children, Youth and Families Act 2005* describes matters to be considered when placing an Aboriginal child in care. This has the effect of placement being incorrectly considered as the sole, or most important, principle.

This Bill amends the Act to expressly include all five elements underpinning the intent of the Aboriginal Child Placement Principle, namely: prevention; participation; partnership; placement; and connection. This addition gives prominence to the Principle and clarifies that it is to be applied to all decision-making regarding Aboriginal children, not just in relation to a placement decision.

The five elements of these non-binding principles are intended to support decision makers to adopt an Aboriginal lens regarding the placement of an Aboriginal child in care. In this way, the principles are guiding in nature and do not purport to interfere with existing decision-making powers.

Importantly, the best interests of the child remain paramount as set out in the *Children, Youth and Families Act 2005*. The Aboriginal Child Placement Principle is therefore expressed to be subject to section 10 of the *Children, Youth and Families Act 2005*.

Enabling the effective functioning of the Aboriginal Children in Aboriginal Care program, progress the investigations pilot, and improve information sharing

We know that when Aboriginal people make decisions for their own people, they do better in life. For this reason, the Bill provides critical enabling functions that support the expansion of the nation-leading Aboriginal Children in Aboriginal Care program.

Through the Aboriginal Children in Aboriginal Care program, Aboriginal agencies are making decisions and providing culturally grounded support for Aboriginal families. This program is self-determination in action and is delivering better outcomes for those families.

The Bill broadens the authorisations for Aboriginal agencies under the Aboriginal Children in Aboriginal Care program, allowing agencies to be authorised for any specified child protection functions following receipt and classification of a report. This will allow Aboriginal agencies to undertake investigations of allegations of child abuse and neglect about Aboriginal children and young people, engaging those families and connecting them to the supports they need to address protective concerns. By providing an Aboriginal response to child protection reports, delivered by Aboriginal agencies, there is potential to reduce the need for further child protection intervention and reduce the number of Aboriginal children entering care.

The Bill also expands the circumstances where an authorisation may be made, to include where an Aboriginal child is subject to a therapeutic treatment order or therapeutic treatment placement order.

The Bill amends information sharing provisions for Aboriginal Children in Aboriginal Care, allowing the Secretary to disclose, and provide access to all child protection records and those currently held in the child protection Client Relationship Information System to Aboriginal agencies authorised under section 18 of the *Children, Youth and Families Act 2005*. This is consistent with child protection practice and addresses the risk of the emergence of a two-tiered child protection system should child protection practitioners employed by the department have greater access to information that may be relevant to a child's safety and wellbeing than an authorised agency. The key issue is that if someone is making decisions about the safety and wellbeing of a child or young person, regardless of whether they are a public servant or an employee of an Aboriginal agency, they need access to all information recorded that is relevant to that child. This Bill provides that access.

Removing outdated language from the Children, Youth and Families Act 2005

The *Children, Youth and Families Act 2005* currently has a definition of 'Aboriginal person' which uses an outdated and offensive term in it. We have moved on from the time when this definition was drafted so the Bill replaces the term with 'Aboriginal person'.

From a legislative perspective, this provision is a relatively simple change. However, the Government believes it is an important step in modernising our legislation.

Introducing a Statement of Recognition and non-binding principles for the health sector

The Bill amends the *Health Services Act 1988* and the *Public Health and Wellbeing Act 2008* to include a Statement of Recognition and accompanying non-binding principles.

The Statement of Recognition acknowledges past wrongs and mistreatment within the health system, the strength of Aboriginal people, culture, kinship and communities in the face of historic and ongoing injustices and the essential role of Aboriginal Community Controlled Health Organisations in meeting the health, wellbeing and care needs of Aboriginal people in Victoria.

The accompanying principles reinforce the Victorian Government's commitment to Aboriginal self-determination in health and acknowledge the importance of culturally safe and appropriately resourced services to meet the health and wellbeing needs of Aboriginal people in Victoria.

Both the Statement of Recognition and principles have been developed in close partnership with the Aboriginal Health and Wellbeing Partnership Forum. The amendments ensure that, for the first time, the *Health Services Act 1988* and *Public Health and Wellbeing Act 2008* acknowledge the importance of Aboriginal self-determination in improving the health and wellbeing of Aboriginal Victorians. We are also seeking to action the Statement of Recognition and Principles in the implementation of the *Mental Health and Wellbeing Act 2022*.

These amendments closely align with the priorities of the Aboriginal Health and Wellbeing Partnership Forum and the guiding principles of both the Victorian Government Self-Determination Reform Framework and Closing the Gap Agreement.

Together, the Statement of Recognition and principles represent an important step in reforming the health system to strengthen Aboriginal self-determination and lay the foundation for future reforms which continue to embed Aboriginal self-determination across health and wellbeing services in Victoria.

Similar to amendments in the *Children, Youth and Families Act 2005*, the Bill also removes outdated and offensive terminology from the *Public Health and Wellbeing Act 2008*.

Amendments to the Reportable Conduct Scheme

Victoria's Reportable Conduct Scheme was introduced in response to recommendations of the 2013 'Betrayal of Trust' report from the Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations.

The Scheme protects children from abuse and misconduct in entities that exercise care, supervision and authority over children. The Commission for Children and Young People (Commission) has oversight of the Scheme, which commenced in phases from 1 July 2017.

The intent of the Scheme is to require entities to respond to certain serious – reportable – allegations against its employees, including volunteers and contractors. The *Child Wellbeing and Safety Act 2005* includes a wide definition of employee to capture a person regardless of their employment status.

To ensure the Commission can fulfill its critical oversight role, the Act requires that the Commission is notified of every allegation of reportable conduct. Failing to notify the Commission is an offence.

This Bill introduces amendments to enable the Scheme to operate as intended and ensure the original policy intent is reflected.

The Bill proposes amendments to the definition of 'employee' for the purpose of the Scheme, to clarify that the Scheme also applies to labour hire arrangements, secondments and independent contractors.

This will mean that, for example, relief teachers, nurses and youth justice workers in custodial settings, that are contracted through labour hire or similar arrangements will be covered by the Scheme. It recognises that the risks to children are the same for non-labour hire staff, who are already captured by the Scheme.

The Bill includes an amendment to clarify that the Commission and Victoria Police can commence proceedings under the Act. It also includes amendments to enable the Commission to monitor and enforce compliance with the requirement for entities to notify the Commission about reportable allegations, including:

- Extending the timeframe to three years for commencing proceedings in relation to non-compliance with the requirement to notify the Commission about a reportable allegation, and

- Providing the Commission with a suite of contemporary powers to enable the Commission to monitor and enforce compliance with the requirement to notify the Commission about a reportable allegation.

The powers are modelled on similar provisions in the *Child Wellbeing and Safety Act 2005* for regulators to monitor and enforce compliance with the Child Safe Standards.

The amendments in the Bill will ensure that reportable conduct can be responded to regardless of a person's employment status, and that possible non-compliance with the requirement to notify the Commission about a reportable allegation can be appropriately investigated and enforced. The amendments will help to protect children from the risk of abuse and mistreatment, making organisations safer for children.

Amendments to the Social Services regulatory scheme

The *Social Services Regulation Act 2021* established a new Worker and Carer Exclusion Scheme to ensure that individuals who pose a serious risk of harm to children and young people are excluded from the social services sector. The scheme replaces and strengthens existing arrangements regulating workers and carers in out-of-home care, currently administered by the Suitability Panel.

The amendments in the Bill enable the Suitability Panel to continue to deal with transitional matters. That is, to make determinations about matters that are before it prior to the new scheme commencing, once the new scheme takes effect.

Advocacy function for the Commission for Children and Young People

Victorian children and young people in care do not currently have access to an independent, child and young person-friendly body that can act on their behalf and is responsive to their concerns, respectful, culturally inclusive, and trauma-informed.

The amendments in this Bill will empower the Commission for Children and Young People to advocate for children and young people in the child protection and out-of-home care systems, as well as those who were in those systems in the previous six months, to have their issues raised and resolved either directly with government agencies and non-government service providers or referred to a relevant complaints body where necessary. The amendments are intended to support another person, such as a parent, guardian or peer, to seek assistance and advocacy from the Commission on behalf of those children and young people unable to raise their issues themselves.

The Bill includes amendments to ensure adequate information sharing between the Commission for Children and Young People and government agencies and non-government service providers to allow the Commission to obtain information it needs for its advocacy function from the department and alternative care providers.

The proposed function will also enable the Commission for Children and Young People to advocate on behalf of young care leavers aged up to 21 years who are accessing services through the Home Stretch and Better Futures programs. This is consistent with the Government's commitment to these landmark programs and implementing policy, legislative and systems enablers that enable all young people transitioning from care to thrive.

Enabling the Children's Court Rules to delegate powers to a Judicial Registrar

Judicial registrars play a crucial role in the smooth and efficient running of the courts, helping the judiciary to manage their workload and performing key administrative and judicial tasks. In 2021, the Victorian Government's Justice Recovery Plan established four new judicial registrar positions in the Children's Court, to help the Court respond to the effects of the COVID-19 pandemic.

The amendments in this Bill will support those earlier reforms by:

i. allowing the Children's Court to authorise judicial registrars to exercise the *in personam* powers of magistrates under the *Children, Youth and Families Act 2005* to issue search and protect orders or warrants, and

ii. clarify that a judicial registrar can exercise any powers of a registrar under the *Children, Youth and Families Act 2005*, or any other Act or the rules of court.

These reforms will help the Children's Court to manage applications for search warrants to locate children and place them in emergency care. The reforms will also provide greater flexibility for courts to manage administrative tasks, which will particularly assist in regional areas where administrative flexibility is required.

In summary, the Bill makes significant progress on embedding Aboriginal self-determination in the laws of our State. It also makes a number of changes to increase the effectiveness of Victoria's legislative system.

Most importantly, this Bill represents a very tangible step towards empowering and supporting Victoria's Aboriginal community to improve outcomes for children and families and improve the health of the community.

I commend the Bill to the house.

Georgie CROZIER (Southern Metropolitan) (17:45): I move, on behalf of my colleague Dr Bach:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Heritage Amendment Bill 2023

Introduction and first reading

The PRESIDENT (17:45): We have got another message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Heritage Act 2017** to provide for exclusion determinations and to make other amendments to improve the operation of the Act and for other purposes'.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:46): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Lizzie BLANDTHORN: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:46): 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 Heritage Amendment Bill 2023.

In my opinion, the Heritage Amendment Bill 2023 (**Bill**), as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill will amend the *Heritage Act 2017* to:

- modernise requirements in relation to notices, the publication and inspection of documents and hearings under the Heritage Act;
- provide for the making of exclusion determinations; and
- make general amendments to improve the operation of the Heritage Act.

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

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

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

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

Privacy and reputation

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

Information privacy

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

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

Powers of entry

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

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

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

Freedom of expression

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

Access to information

Clause 78 of the Bill inserts new section 254F in the Heritage Act, which provides that the Heritage Council or the Executive Director of Heritage Victoria is not required to make a document, the Heritage Register or the Heritage Inventory available on request if it is not reasonably practicable to do so as a result of an emergency or serious risk to public health in respect of which an emergency declaration has been made. While this amendment engages the right to freedom of expression, which includes the right to receive information, any interference will be minimal as many documents (including the Heritage Register and the Heritage Inventory) will continue to be accessible electronically. Further, I consider that the exception in section 15(3) of the Charter will apply to the provision, as a lawful restriction that is reasonably necessary to respect the rights of other persons and for the protection of public health.

Access to hearings

Section 248 of the Heritage Act provides that Heritage Council hearings, on whether a place or object is to be included in the Heritage Register, are to be conducted publicly. Clause 81 of the Bill amends this provision to enable the Heritage Council to close a hearing, or part of a hearing, to the public if a person making a submission objects to doing so publicly and the Heritage Council is satisfied that the submission is of a

confidential nature. By impeding a person's access to information, this provision engages the right to freedom of expression.

However, the right of a person to receive information is not absolute. These measures strike an appropriate balance between making submissions publicly available and ensuring that the Heritage Council has access to all relevant information on which to base its decision. Accordingly, I consider that clause 81 of the Bill is compatible with the right to freedom of expression under the Charter. I note that, to the extent that a hearing of the Heritage Council may be a civil proceeding under section 24 of the Charter, the right to a fair hearing will also be engaged. However, the right will not be limited because section 24(2) of the Charter provides that members of the public may be excluded from a hearing if permitted under legislation, as would be the case here.

Clause 81 of the Bill also inserts new section 248A in the Heritage Act to allow Heritage Council hearings to be conducted by audio link or audio visual link, as an alternative to in-person hearings. New section 248A provides that a hearing that is conducted in this manner must be made available to the public either while the hearing is being held or as soon as reasonably practicable afterwards. If a person or their representative do not attend the hearing, the Heritage Council may make a determination or recommendations without hearing from them. The purpose of this amendment is to provide the Heritage Council with greater flexibility in conducting proceedings and, in turn, better equip it to continue to perform its legislative functions and obligations. While these provisions have the potential to engage a number of rights under the Charter, including the rights to equality, freedom of expression, participation in public life and a fair hearing, any limitation on these rights will be reasonable and demonstrably justified. The option to conduct hearings by audio link or audio visual link provides an alternative mechanism to facilitate the hearing process; however under section 249 of the Heritage Act, the Heritage Council will still be bound by the rules of natural justice and required to consider all written submissions made pursuant to section 44 of the Heritage Act.

I therefore consider that the amendments made by Part 6 of the Bill will be compatible with the Charter right to freedom of expression because any limitation on that right is not arbitrary and is reasonable and justified.

Cultural rights

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

Part 7 of the Bill inserts new section 36A into the Heritage Act to enable a prescribed person or body to apply to the Executive Director of Heritage Victoria for an exclusion determination that a place or object, or part of a place or object, not be included in the Heritage Register. If the Executive Director makes an exclusion determination, it prohibits that place or object (or part thereof) from being considered for inclusion in the Heritage Register for five years following the determination.

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

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

The Hon. Harriet Shing MP
Minister for Water
Minister for Regional Development
Minister for Commonwealth Games Legacy
Minister for Equality

Second reading

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:46): I move:

That the bill be now read a second time.

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

The Victorian Government is committed to delivering an efficient, practical, and effective heritage system for Victoria.

Legislative changes

The Bill will amend the *Heritage Act 2017*. These legislative amendments will create the following reforms:

- Provide for online access to heritage documents and notices and Heritage Council hearings; and
- Allow for applications to exclude places and objects from the Victorian Heritage Register; and
- Clarify and improve the operation of the Heritage Act.

Notices, publication and inspection of documents and hearings

The Bill removes the requirement to make physical documents available on request in Department offices during an emergency or where there is serious risk to public health.

The Bill modernises the legislation and increases public visibility of Heritage Act processes by allowing online access to key documents and notices via the Heritage Victoria or Heritage Council websites.

Public access to Heritage Council hearings will also be enhanced by the new provisions outlining the process for hearings to be held using audio or visual links.

The amendments also require searchable versions of the Victorian Heritage Register and Heritage Inventory to be made available online.

Amendments in relation to the exclusion of places and objects from the Victorian Heritage Register

Government agencies tasked with delivering major transport projects in Victoria have sought greater certainty on their obligations under the Heritage Act. Agencies have sought a way of establishing the heritage significance of any place or object affected by a major project early in the planning stages. Under current legislation, there is a significant risk that major transport projects will be disrupted or delayed by the receipt of a new nomination from a third party after works have started.

The Bill will create greater certainty for these projects. This is achieved by allowing agencies to apply to the Executive Director of Heritage Victoria to exclude a place or object from the Victorian Heritage Register. Applications are likely to be made where there was some possibility that a place or object have some heritage value or where this remains unclear.

If the Executive Director is completely satisfied that the place or object does not and will not meet the threshold for inclusion in the Victorian Heritage Register, the exclusion application would be granted. If the place or object does have potential for inclusion, it would become a nomination for inclusion and be progressed accordingly. Either way, the process will allow the significance of the heritage place or object to be established and taken into account in the planning stages of a project.

If an exclusion is granted, new nominations for that place or object will not be considered for five years unless significant new information is provided. This gives agencies the certainty required to plan projects and to provide appropriately for any heritage that is identified before works on a major project begin.

The robustness of the decision-making process is supported by allowing the Heritage Council to receive requests to review any decision within the first 28 days.

General Amendments to the *Heritage Act 2017*

The Bill will improve Heritage Act processes. Key changes relate to the processes for issuing heritage permits, consents for archaeological sites, and entering places and objects into the Victorian Register. The amendments:

- Allow the Executive Director of Heritage Victoria to initiate permit amendments with owner consent where this will result in a better heritage outcome.
- Allow applicants to make minor permit amendment requests without paying a fee.
- Allow permit exemptions to be revoked if they do not reflect best heritage practice.
- Require permits to be issued in 45 business days rather than 60 days, eliminating issue of decision-making timeframes including weekends and public holidays.
- Allow the Heritage Council to delegate power to the Executive Director to remove archaeological sites from the Heritage Inventory.
- Add a 20-day statutory timeframe for decisions on consents, and decisions on whether to include a site in the Victorian Heritage Inventory.

- Align consent process with existing permit provisions, including allowing applications for consent amendments, and consent exemptions.
- Reinstate a requirement to notify the Executive Director of Heritage Victoria of an intention to carry out an archaeological survey and the requirement to submit a survey report within 6 months.
- Ensure nominations to add land or objects integral to a place are subject to the same provisions as other nominations.
- Require the Heritage Council to provide reasons for decisions on whether to include a place or object in the Victorian Heritage Register.

The Bill also introduces several practical changes. These include:

- Ensuring the Heritage Council will be able to call on funds set aside as a security measure, for example a bank guarantee, to ensure compliance with permit conditions.
- Ensuring that, where places have multiple owners, only those directly affected by Heritage Act processes need to be involved.
- Preventing people from being guilty of an offence when acting in accordance with a notice or order served on them.

I commend the Bill to the house.

Georgie CROZIER (Southern Metropolitan) (17:47): On behalf of my colleague Mr Davis, I move:

That debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Committees

Select Committee on Victoria's Recreational Native Bird Hunting Arrangements

Establishment

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (17:47): I move:

That:

(1) a select committee of nine members be established to inquire into, consider and report by 31 August 2023 on Victoria's recreational native bird hunting arrangements, including but not limited to:

(a) the operation of annual native bird hunting seasons;

(b) arrangements in other Australian jurisdictions;

(c) their environmental sustainability and impact on amenity;

(d) their social and economic impact;

(2) the committee will consist of three members from the government nominated by the Leader of the Government in the Legislative Council, three members from the Liberal–National coalition nominated by the Leader of the Opposition in the Legislative Council and three members from among the remaining members in the Council;

(3) the members will be appointed by lodgement of the names with the President no later than 10 March 2023;

(4) the first meeting of the committee will be held within one week of members' names being lodged with the President; and

(5) the committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

Thank you very much for the opportunity to talk today to the establishment of this select committee. As I said, the select committee is principally inquiring into recreational native bird hunting across the state. This is an issue that I acknowledge has become increasingly contested in this state. I, like many other members in this place, continue to receive a flood of correspondence from many people in my community who are opposed to recreational native bird hunting, and of course I continue to receive representation from those who support recreational native bird hunting.

My views on this issue are well known. I do not need convincing and I am certainly not for turning. My view is that I believe native waterbird hunting should be banned, but I do believe that, given the hotly contested positions on this issue, an inquiry is an important aspect of coming to a decision. An inquiry gives everybody the opportunity to voice their opinions. As I am sure many members in this place would concede, opinions are often voiced on both sides of the argument through inboxes and various other means of representation to us. Certainly this is an issue where it is important that we do have a thorough process, and a select committee is an appropriate way in which to provide a vehicle for those voices to be heard.

Indeed in 2019 at a Victorian Labor Party state conference I moved a motion, seconded by the member for Melton in the other place, calling for a review of the government's position on duck hunting, and that motion was endorsed by a large majority of the conference. Despite my personal disappointment regarding the announcement of the season for 2023, I am very pleased that post COVID and post emergencies and other important issues that have been at the forefront of government priorities since I moved that motion back in 2019 at an ALP conference this inquiry is indeed happening now and both sides of the argument in relation to the hunting of native waterbirds can and will be heard.

In relation to the terms of reference of the committee – the things that the committee has been asked to consider – I would just like to make a few points. In relation to the operation of the annual native bird hunting seasons, I would note that Victoria's recreational duck-hunting season, as I think was canvassed by others in this place yesterday, is managed by the Game Management Authority. The authority is in theory responsible for promoting sustainability and responsibility in game hunting, and it is responsible for delivering programs to improve responsible hunting across the state in conjunction with its partner agencies. The authority oversees the game species, seasonal bag limits and dates to ensure that the conservation status of any game species is not threatened. The GMA is also responsible for compliance, and as I have previously said as a member of the other place, I do believe that the Game Management Authority has to be conflicted at its core when it is required to provide for recreational hunting of native birds while also claiming to ensure their protection. I do think that the role of the GMA is one that this committee should give due consideration to – whether or not the same body can be responsible for both providing for hunting and also ensuring the protection of the animals at the same time.

This year the Game Management Authority has announced that the duck-hunting season will commence at 8 am on Wednesday 26 April to 30 minutes after sunset on Tuesday 30 May and has capped a bag limit of four birds per day per hunter. The 2023 season is notably two months shorter than the 2022 season. The Game Management Authority has outlined that this season's game ducks are the grey teal, the chestnut teal, mountain duck, pink-eared duck, Pacific black duck and wood duck. Although the list of game ducks limits the species permitted to hunt, in practice the evidence tells us that it becomes hard for hunters to differentiate between the species, and this has raised ethical concerns as to whether the species outlined by the Game Management Authority are the only ducks being targeted by hunters. I believe these concerns are backed up by what I understand is the GMA's own research that shows that up to 80 per cent of shooters and hunters that undertook the waterfowl identification test in December 2020 failed the test. I do think that in giving consideration to the operation of the season and the licensing of duck hunters for the so-called sport there does need to be due consideration given to the way in which the season is set, the way in which shooters are licensed and the way in which shooters are tested. The evidence that the GMA and others have already collected and certainly any further evidence that can come to light may show indeed whether or not shooters are abiding by these regulations or whether it becomes a lottery wheel in many respects out there on the wetlands as to which birds and indeed which animals more broadly can in fact avoid the bullet that might be headed in their direction, whether they are one of those species or otherwise.

In relation to the arrangements in other Australian jurisdictions, I think this is an important aspect of this inquiry. Victoria is one of only four states in Australia where recreational hunting is permitted. As in Victoria, Tasmania, South Australia and the Northern Territory have recreational duck-hunting

seasons. Each of these four states have slightly varying versions of game duck hunting regulations. Each year the state authorities are responsible for determining species, dates and bag limits. Tasmania's regulation permits recreational duck hunting to occur during the season. This year their season will run from 11 March to 12 June with a bag limit of 10 ducks. Their game species are one less than Victoria's, including the black duck, grey teal, chestnut teal, mountain duck and wood duck. South Australia opens on 18 March 2023 to 25 June, and they have permitted a bag limit of eight ducks per day and have listed grey teal, chestnut teal, Pacific black duck, Australian shelduck and maned duck as this season's game ducks. The Northern Territory regulation permits hunting to occur on private and public land within season and applies bag limits. The 2023 season dates and rules have not been announced.

It is important to note that recreational duck hunting was banned in Western Australia in 1990, in New South Wales in 1995 and in Queensland in 2005. It should further be noted that duck hunting is only permitted in New South Wales under the guidelines of the game bird management program. Through this program licensed volunteers can help landholders manage the impacts of native game birds over their agricultural lands, and native game bird hunting can only occur on these private properties where it will contribute positively to farm and regional productivity and economy. The program has limited the native game ducks authorised for hunting to 10 species. I think this is an important point to consider when we look at the allowance of private hunting in New South Wales and in fact the way in which ducks are viewed and can be viewed as a pest in New South Wales in relation to agriculture and in relation to rice fields. New South Wales has a far greater existence of rice fields, where ducks are often considered a public pest. I do not think to draw a direct comparison between private hunting in New South Wales and the possibility of private hunting in Victoria. It should not be viewed as a direct comparison, and I would urge that in consideration of the terms of reference of the committee that that issue be thoroughly explored and a genuine comparison of like for like be conducted.

I would also say that in giving consideration to jurisdictional arrangements, and in particular giving consideration to any hybrid models where some private hunting is allowed, there should be given due concern for public safety. Often in talking about this particular issue I speak to my aunty, who has a property outside of Bairnsdale, not far from the Ramsar wetlands, with a big dam on it. There are often ducks on it that get shot at as people are driving towards the Ramsar wetlands, including when she happens to be down yabbying at the dam with her grandchildren, so I do think that public safety issues around any allowance of private hunting also need to be adequately considered. It is very easy to just say, 'Allow private hunting and not public.' I would also say that when comparing Victoria's duck-hunting arrangements to other jurisdictions, it can be seen that this is definitely a policy area in which our government has and indeed this Parliament and this committee have significant room for reconsideration.

I want to speak to the term of reference in relation to environmental sustainability and impact on amenity. This is a particularly important issue in the context of climate change, and the environmental sustainability of native bird hunting must be looked at in the broader context of climate and the consequent risk to the future biodiversity of Victoria. The CSIRO in 2021 revealed that the significant changes in the cycles of the El Niño southern oscillation have been an important factor in the recent stagnation and decrease in the harvest rate of game birds and this directly impacts upon bird population levels as a cycle as it reduces vital food and water resources, whilst research compiled between 2004 and 2017 by BirdLife International sourced from Australian academic journals and the CSIRO indicates fire patterns in Australia threaten 17 of Australia's 52 vulnerable, endangered and critically endangered bird species.

There is a limited range of datasets regarding Victoria's game duck populations, and I think this is something that the committee should give due consideration to. However, the most reliable, expansive and long-running survey, the annual Eastern Australian Waterbird Aerial Survey, shows a continued trend of decline in bird numbers over recent years, whilst the October 2022 annual summary report revealed that total population abundance of the number of species breeding in the wetland area index

continues to show significant declines despite two successive La Niña years with record-breaking rainfall. And although the 2022 total waterbirds abundance increased from 2021, it remained significantly below the long-term average, accounting for the 11th lowest in the last 40 years. The 2022 report also revealed population numbers for the majority of duck species surveyed were well below long-term averages, and indeed six out of eight species continued to show significant long-term declines. Not only did the report outline the declining population abundance, but it also highlighted a decrease in breeding among a number of the surveyed species. Around 96 per cent of the total breeding recorded consisted of only five of eight species – straw-necked ibis, Australian pelican, royal spoonbill, whiskered tern and egret.

It should also be considered what the impact of a hunting season is on other bird populations, and a report published by the Arthur Rylah Institute for Environmental Research and the Victorian Department of Environment, Land, Water and Planning has revealed that duck-hunting season, sadly, has adverse impacts on other bird populations too. The hunting of six species of native duck takes place on wetlands that are also home to many other animal species, as I mentioned earlier on. Many other birds and many other animals get caught up in the duck-hunting season. The potential adverse effects have been listed as reduced feeding and resting opportunities, abandonment of nests or young due to the close presence of hunters and reduced habitat availability resulting from the temporary abandonment of a wetland due to disturbance.

In considering the term of reference in relation to social and economic impact it is important to note that this inquiry does call for there to be given due consideration to the social and welfare impacts in relation to animal welfare. As I said in my inaugural speech in the other place, and indeed as Pope John Paul II is reported to have said:

> … animals possess a soul and men must love and feel solidarity with our smaller brethren.

At the time that I was first elected to the other place we came into government having committed to outlawing puppy farms, and that was an important step forward in the animal welfare agenda, but there was definitely a lot more that needed to be done, and it remains needing to be done, to protect our finned, feathered and furry friends. All animals, big or small, deserve our care and respect, and indeed the government's own research confirms that the wellbeing of animals is a high priority for our community as a whole. That is why the Daniel Andrews Labor government developed the *Animal Welfare Action Plan*, which both recognises the sentience of animals and promotes their wellbeing, and it is the first of its kind in Australia. The plan itself outlines that animals experience feelings and emotions such as fear and pain, both of which are feelings our ducks and other native waterbirds and animals are exposed to during open hunting seasons. An important consideration in looking at the social impacts of duck hunting is animal welfare and animal cruelty. The RSPCA reports that every year many thousands of ducks are shot in Australian wetlands in the name of sport, some killed outright and many left crippled or wounded and left to die within a few hours or days.

Another significant consideration is the importance of consulting with First Nations people about hunting generally and, for the consideration of this committee, hunting in relation to ducks. It is important that that voice and those organisations that have expressed views on behalf of the First People who they represent have an opportunity to participate in this inquiry.

Currently the regulation surrounding duck hunting for recreational purposes in Victoria in my view does not align with the values outlined in the *Animal Welfare Action Plan* that this government has been so proud to support. In my view there is much consideration to be given as to the consistency of duck hunting with the priorities of the Parliament. In relation to the economic impacts of duck hunting, it can be argued that licensed game hunters make a contribution to Victoria's economy through a range of hunting purchases, including equipment, accommodation, meals and fuel, but it can also be argued on the other hand that there will be a not insignificant monetary impact if duck hunting and native waterbird hunting is to be banned. There are certainly economic positives out of that and opportunities to actually grow our economy. A report published in June 2020 by the Department of Jobs, Precincts

and Regions outlined the economic contribution of recreational hunting as $356 million, which represents 0.1 per cent of Victoria's gross state product. It seems that of this only $65 million of GSP is a product of duck hunting. On the other hand, it can be said that there are not insignificant opportunities for growth in tourism and local economies if duck hunting is to be banned, so I think there are due considerations on both sides of that argument that can be considered by this committee.

In conclusion, my views on this issue are well known and were blatantly obvious as I talked to this motion in and of itself, but I do think that this select committee, despite the disappointment of many with the announcement of the duck-hunting season, is a positive step forward to give an opportunity for the voices in relation to the pros and cons of recreational native waterbird hunting in our state to be considered by this Parliament and ultimately by government. I commend this motion and hope that it is supported by this chamber with a view to giving every voice in this conversation a parliamentary process through which it can be heard and moving forward the conversation from one where we are all, from both sides of the argument, routinely lobbied about this issue to one where we can have a parliamentary and government conversation about what is in the best interests of Victoria going forward.

Melina BATH (Eastern Victoria) (18:06): Well, what an interesting conversation the minister has just had with the house. This is supposed to be an inquiry to look into the Victorian recreational native bird hunting arrangements, but clearly we have heard a speech on the banning, the cessation, of duck hunting in Victoria. Why don't we just cut to the chase, Minister? Why don't we just cut to the chase and bring in the legislation? It is an absolute charade. This is a charade, this inquiry. This is a charade, and the Nationals and the Liberals will be opposing this motion before the house.

Minister, we heard you talk about Pope John Paul, His Excellency, all of that. You may as well provide your resignation to the Labor Party and join the Animal Justice Party (AJP), because what we have just heard is the total cessation of all livestock, all management of animals, and birds for that matter, and this is a foregone conclusion from your point. You are not even attempting to be impartial about a motion before the house. What I will say is that it is very clear that the Andrews government has had conversations – and I will keep it on the light – with the Greens and with the Animal Justice Party, and we are going to have a stacked inquiry. We can already see the composition of that.

This inquiry is going to waste taxpayers money and it is going to ignore the science that is regularly before the Andrews government via the Game Management Authority and the work that they have done on the sustainability of duck hunting. It is going to give paltry lip-service to the testimonies of hunter-conservationists, hunter-environmentalists, hunters who spend hours, weeks, days and years on wetlands transforming them from arid wastelands, and I will go to Heart Morass in detail later on. They have made conservation efforts with habitat restoration over decades, and they are going to be given paltry lip-service on that: 'Well done, go away.' Then at the end of this inquiry we are going to see the chair feeling 'compelled', and I am using quotation marks, by the weight of so-called 'evidence', quotation marks, to recommend the cessation of recreational hunting. That is what this inquiry will bring back, and we do not agree with a foregone conclusion and a waste of taxpayers money to do it. I guess what it does do is it gives the people you are needing – you have got 15 members in this Parliament; you need some extra bodies to get you across the line for the next four years – a run out, and that is what this inquiry will do.

I want to take the opportunity to refute much but not all – I will not take all the time – of the false and misleading propaganda that we hear and that we have heard. Let us look at the science. We have heard before from the minister that recreational hunting is highly regulated. We have got the Game Management Authority, and this government amended the GMA legislation some few years ago; it had the opportunity to do exactly what the minister wants to do right now. It could have stopped that. But it probably did some polling – and it is probably some of that very expensive polling that the Premier loves to use taxpayers money for – and thought, 'Look, we can't just stop it right now; we'd better do a bit more research and have an inquiry and let various people have the conversations,' because there are probably voters in some electorates that they want to try and somehow appease.

People will not have the wool pulled over their eyes – and I am assuming we are still allowed to shear sheep in the process. What I really feel needs to be understood – and I have heard it before on radio a number of times that we are one of the last pariah states because there is no longer any hunting in the other states, 'There's no longer hunting in New South Wales,' 'Western Australia banned it before I was born,' I heard from the member for AJP the other day. It is as if there are no ducks killed in New South Wales or in WA. It is misleading, and it is unfair.

We have an adaptive harvest model. That was agreed through this government. It was agreed with the previous ministers in this place to look at the best way for outcomes to keep a harvest, and I say 'harvest' because people often use the word 'shooting'. Well, it is not a sport; this is a tradition that has gone on for decades and decades and decades. It is a harvest, and those members who do that, the fraternity that goes out and hunts in the correct season, are legislated to have to take those ducks that they killed home and use that meat, and they do. It is a table response. They must be able to do that, and they do. We hear this, and we heard it just then, 'Oh, we're worried about the behaviour of hunters,' and it just gets stuck in my throat in relation to this. It is controlled by the wildlife act of 2012. We see daily limits on harvest. We have seen that in the past it could have been for three months but now it is down to five weeks and a four-bag limit.

In terms of what we hear about hunter compliance, let me look at that. We see we have got these people making sort of rash commentary about this. Well, let us look at the data that is actually from the GMA. We can see the 2022 GMA results: 641 patrols; 216 individual wetlands, and there are about that many across the state; more than 1200 game licence holders were checked; 970 hunter bags were checked; and one hunter was found to have a bag in excess by one duck. So if we are looking at the mathematical statistics around that, let us round that up and we are in the area of 99.98 per cent compliance. Yet we have the Premier coming out being dodgy with those comments that he makes in the public, casting aspersions on a law-abiding fraternity. Well, the statistics do not lie, and that is what these are saying. I find that I get the right just to go off on a gambit on what is said in the media. Now, with Raf on *Drive* on 24 February, the member for Animal Justice said:

> But in terms of the birds that have been taken off the shooting list this year, we just don't think that's progress at all, because shooters have shown themselves to be lawless year after year …

The next quote:

> … they go out there and make it just an absolute bloodbath on our native wildlife.

Well, if that is something that is accepted by the government, those sorts of statements, it is totally misrepresenting the facts, and it is totally misrepresenting law-abiding citizens who want to continue their pursuit after many, many years.

Talking about the wetlands, the Game Management Authority collects, and before its incarnation licences were used to purchase what basically was semi-arid or poor-quality land to be used for state game reserves. The one in my electorate that I have been to, Heart Morass, is an amazing story of wetland regeneration. We saw back in about 2006 – and there are photos and evidence to prove this – that it was somebody's turnout paddock. It was salt ridden, it was dry, it had flooded and there was no life there of any note. It was taken over, there was a trust set up and then over the past almost two decades we have seen volunteer conservationists, duck hunters and others regenerate that land with thousands and thousands of conservation hours and with their manpower and womanpower. Now not only have we had a variety of waterfowl come back, of a flourishing nature – and I have been down there on a number of occasions – but new species that were not in that area are back and in that region. And we see people coming and doing studies on various types of other waterfowl, insects, frogs, small marsupials and mammals, so we see regeneration.

This is what this inquiry let be known: if you take those licences away and you take the right of law-abiding duck hunters away and they are not allowed to do this, do you think they are going to go out and continue? They will have a very bitter taste in their mouths. If they cannot practise their tradition

and their pursuit for a short period of time, they are not going to provide that conservation effort for 12 months of the year, which they do now. I thank them for it. In fact I think Pud Howard – Gary Howard – recently won an award for his efforts in conservation and has been recognised by his community, and we thank him for it. I think it may have even been in the Australia Day honours list.

The minister spoke about the economic benefits. If we listen to the government, the whole creation of tourism will be the panacea for all of the industries that the Andrews Labor government is shutting down. We value our tourism industry. The Andrews government locked us out of country Victoria for almost two years, and our tourist industry was on its knees. They are still struggling to get back, if they survived. And now apparently everything will turn to tourism. Well, the economic flowthrough both direct and indirect from hunting has been investigated and reported by the government's own department – the name has changed, but at the time it was the Department of Jobs, Precincts and Regions – and by RMCG, an environmental and agricultural consultancy, back in June 2020. This report states to government:

> The gross contribution to GSP from recreational hunting by game licence holders in Victoria in 2019 was $356M. This is made up of $160M of direct contribution and $196M in flow-on economic activity.

If we look directly at the duck hunters and the contributions they make – teasing that out a little bit more – 23,000 hunters contribute $65 million annually to the state's economy and provide in the vicinity of 600 full-time jobs. What we also know is that the majority of those jobs and that economic activity – almost 70 per cent – is located in regional Victoria, and boy do we need some survival strategies in regional Victoria.

The minister is right. I have been written to by a number of both the pro- and anti-duck-hunting fraternity. There was one gentleman who wrote to me – I happened to be in the office; my office is in Traralgon – Steve Asmussen from the Aussie Disposals in Traralgon. I took the opportunity to walk down and respond directly, and he said over the last two years he has been shut down and shut down and shut down. He had employed a number of young people in the area, which was fantastic, but he basically broke down because this sort of indecision and shortening of seasons when there has been high rainfall and favourable conditions is absolutely attacking his bottom line and his ability to survive in business. He sells waders, boots, ammunition, carry bags et cetera, but he is saying he had to indent – so, forward buy, as you do if you are in small business. With that very short notice that we had you cannot then go and order. He has ordered, and he looks at losing $30,000 because of this reduced season. What he also said – and this is so true for so many of those duck-hunting fraternities – is that it is not just about the hunting. It is also about, for those people, having a family pursuit, experiencing nature, looking around at the work that they have completed in the last 12 months and bonding with their family and friends but still having an ethical way of dispatching the birds for their table as required by law.

I will conclude in a moment, but the whole idea is that the GMA provide information to the government on the sustainability and on the facts and the recommendations for the minister. I am aware that this hunting season should have been extended because of good numbers, and the fact is that the minister basically ignored them and made her own decisions, rather than listening to the science, rather than looking at the science. Indeed there are multiparty wounding recommendations for improving outcomes for birds in terms of animal welfare. There was a strategy and a plan, and it had the RSPCA. It had Sporting Shooters Association of Australia, Field and Game Australia and others there. They put the recommendations to the now Minister for Outdoor Recreation. But then, over five months ago, they put them to Minister Tierney, and they sat on somebody's desk. If this government was actually responsive and really cared about animal welfare, why didn't it look at those joint recommendations, which could have seemed to be opposing, but in actual fact we know that the hunting fraternity want good outcomes in terms of animal welfare. It could have actually taken those recommendations and been using them. It could have dealt with them and be incorporating them right now into regulations. The fact is that it is crying poor, this government, about bird outcomes, yet it has not done anything about it. It is sitting on its hands.

I get very concerned when small numbers of voters vote in one-policy groups and then those policy groups are negotiating with the government to bring the outcomes that they want and our communities, particularly our regional communities, suffer. The science around accessibility and understanding duck hunting and population species is certainly improving, and we want it to evolve and improve all of the time. Hunter compliance is at a high. It is at an absolute high. What many people are actually concerned about is that 10-metre distance – that protesters can come onto wetlands and actually be 10 metres from a hunter. They are very concerned. I have been speaking with many hunters, and they are concerned that that will actually compromise human safety. That is where I think the protesters are reckless in their decisions and their attitudes, particularly on those hunting grounds.

We have a regulated, high-compliance, ethical duck-hunting season and pursuit. We need it to continue for economics, for mental health and for traditions in our state, and the Liberals and Nationals will be opposing this motion today.

Georgie PURCELL (Northern Victoria) (18:25): That certainly was an interesting fairytale from the opposition, and I have to say I am flattered that Ms Bath is following me so closely. I truly hope that these conservationists will continue their important work when they are no longer able to shoot the animals that they claim to conserve.

I rise today to speak in support of this motion to establish a select committee to examine the future of Victoria's duck-hunting arrangements. However, from here I will refer to it for what it actually is: recreational native duck shooting. While I support this motion, it is long overdue. This government has long been privy to the evidence. For years we have presented data on non-compliance, animal cruelty and the prevalent public sentiment against duck shooting – the same data that resulted in outright bans in New South Wales and Queensland decades ago and in Western Australia before I was even born. Inquiries should be established where the pathway forward is not clear and all of the information is not apparent, and to the majority of Victorians a ban on duck shooting is as clear as our undisturbed waterways on a summer's day and as apparent as the daily sunrise over a peaceful wetland without the slaughter of our native waterbirds.

I note that limiting the 2023 duck season to five weeks with a bag limit of four birds per day still equates to 80,000 dead birds. This assumes that shooters play by the rules, yet every year they show that they simply do not. For 10 years I have joined volunteers on the wetlands. This year will be my 11th and I hope it will be my last. The behaviour we have all seen is atrocious. There is nothing that will ever let us forget the opening weekend of the duck-shooting season in 2017. It was one of the most traumatic experiences of my entire life. Non-compliance was the order of the day for the shooters. Rescuers, as usual, far outnumbered the Game Management Authority, who stood back, were bewildered and had absolutely no control of the situation in front of them. I spent sunrise to sunset trudging across the Koorangie marshes in Kerang. We covered kilometres but continuously had to make our way back because our pillowcases, backpacks and even our pockets were full of dead and dying birds. As the sun set our collective hearts all broke as we knew there were more birds out there suffering. We knew that because we could hear them, but we could no longer locate them in the darkness, and at this point in the day the Game Management Authority had packed up and gone home hours ago.

The following year an independent report found non-compliance by shooters to be commonplace and widespread. Back then the Game Management Authority was already perceived to be incapable of oversight, including by members of its own staff. Five years have passed, and I can assure you that nothing has changed. Earlier this year when the Premier signalled at non-compliance by shooters when questioned about the future of duck shooting in Victoria, shooters were quick to respond that only one shooter was fined on the opening weekend of the last duck-shooting season. This is not because shooters were not breaking the law, it is because we have an authority that is more interested in penalising rescuers. With the help of Animals Australia this year we provided some 70 pages of evidence regarding shooter non-compliance, all of which had already previously been reported to the

Game Management Authority. The vast majority of those reports, with evidence such as photos, locations and videos, were never even investigated.

Business interrupted pursuant to standing orders.

Lee TARLAMIS: I move:

That the meal break scheduled for this day pursuant to standing order 4.01(3) be suspended.

Motion agreed to.

Georgie PURCELL: In fact the Game Management Authority has the impossible task of monitoring Victoria's 25,000 wetlands that span across our state with just a handful of officers. But even when the evidence is literally handed to them by volunteers they fail to act. It is no wonder that individuals leave the Game Management Authority to join other organisations and then publicly oppose duck shooting, now, is it. Just last month, prior to this government making a decision to have a 2023 duck-shooting season, an experienced vet who was appointed by this government to the Game Management Authority board specifically to oversee animal welfare concerns left before her term on the Game Management Authority was even over, joining the Australian Veterinary Association instead. As their new spokesperson she was quick to say:

> As veterinarians, our goal is to protect the health and welfare of animals.
>
> Hunting ducks with shotguns often results in non-fatal injuries, where the birds are hit with the outer cluster of pellets, but not retrieved.
>
> This results in an ethical animal-welfare problem, as the bird may live for a number of weeks with a crippling injury, receiving no veterinary treatment.
>
> We are calling on the Government to take swift action and follow the suite of other states and territories that have banned duck hunting altogether.

The terms of this inquiry are broad, yet the evidence for banning duck shooting will, as always, be clear. A disappointed collective of volunteers and organisations that have stood for years for what is right, stood steadfast in the face of shooters, will show up once again, like they have shown up for our precious native birds year after year, decade after decade. We do not need to scramble to get paid experts to specifically represent this cause at the inquiry, as shooting organisations are currently fundraising for, because it will speak for itself. Each and every individual involved in saving ducks on those wetlands, nursing wounded ducks back to health, cleaning up the beer cans and the shells year after year are our experts.

A shooter called my office last week in a predictably threatening manner, and a few minutes into our conversation he said, 'Wow, you really know your stuff.' Yeah, mate. I do. I have been doing this for 11 years now, and I know that the Game Management Authority recently conducted a general knowledge test and that less than 5 per cent of shooters passed. I know that in that test 80 per cent of shooters could not tell the difference between game and protected species and that 86 per cent were unaware of the risk they posed to human safety. I know that the 2013 massacre at Box Flat saw over 800 waterbirds killed and left to rot; 104 of those were freckled ducks, one of the rarest waterbirds in the entire world. Swans and whistling kites were also on the list because, as the shooters say, if it flies, it dies. I know that the Liberal government at the time hid the report into these wildlife slayings away under lock and key, where it lives to this day, because it had even more damning evidence than we already have. I know that shooting spray pellet bullets into flocks of birds results in up to 33 per cent being wounded instead of killed, and I know that the failure to retrieve these birds means they suffer from horrific injuries for days and even weeks until they die. I know that when recreational duck shooting is banned in Victoria, shooters will seek to exploit loopholes in order to continue shooting.

Soon this committee will officially know all of this and so much more. I am confident that this government will ensure that the inquiry is fair, reasonable and robust. We have faith the government will finally ban duck shooting after this process with all of the information before them – I mean, why would you do anything else? In a parliamentary inquiry, just like on the wetlands, there is simply

nowhere left to hide. I am confident that this inquiry will finally draw a line in the sand and that Victoria will join other states on the right side of history so that we can get back to enjoying our wonderful wetlands in a manner that is kind and environmentally sensitive. I support this motion because, although it is too late and so many birds will suffer this year, I will always support pathways to positive change and I will simply never stop giving a duck.

Bev McARTHUR (Western Victoria) (18:35): I rise to oppose this motion by the government. It is breathtaking in its audacity. We have just been debating a bill where we have taken away the rights of people in Victoria to opt out of having their health records made public, yet the government has come in here and the same minister, who totally denies Victorians the right to opt out of their health records, has now put forward a motion, which is clearly, as Ms Bath has said, a total farce.

There is a predetermined outcome for this committee of inquiry. And as for Ms Purcell suggesting it is going to be fair, reasonable and robust – what an absolute joke. It is completely stacked. We have got three members of the Labor Party, three members of the crossbench and three members of the coalition. You cannot tell me it is going to be anything like fair, reasonable and robust. Sure, we will have these people trying to put a case in a committee of inquiry that is absolutely farcical. You ought to be ashamed of yourselves. You have voted to make sure Victorians have no rights in relation to their health records; you actually care more about ducks. No surprise, though – you can see why the government got that bill through. Look who voted with the government to put that bill through and look what happened a few minutes later. There is certainly quid pro quo here.

I want to talk about the great things that happen with recreational shooters. In my electorate in Connewarre there is a fantastic wetlands area where Field and Game Australia, the Geelong branch, do an amazing job. They have built nest boxes and henhouses and introduced modelling of avian migration strategies, population dynamics and conservation strategies with Deakin University. They actually do research on bird populations, and they help to multiply the population. They benefit the community and the birdlife via scientific research and volunteer effort, not ideology. I wonder, Minister, Ms Purcell or the Greens, who are going to obviously support this motion, how often have you been out on the wetlands doing some volunteer work? How long have you been trudging through the water, making sure the bird boxes are all working?

A member interjected.

Bev McARTHUR: All you do is go out and protest. You do not do anything practical. You are not there to do the hard yards. Minister, I bet you have never been out trying to save the wetlands or develop them. The benefit to the community and the birdlife via scientific research is enormous. They support the breeding ground of 230 bird species, of which only seven or 3 per cent are listed for hunting. So 230 bird species are being encouraged to breed in that area. You will shut this down. Their nesting boxes provide homes for magnificent birds, including rainbow lorikeets –

A member interjected.

Bev McARTHUR: Why would they keep doing it? You do not go out there and help. They also help eastern rosellas, red-rumped parrots and many others, as well as the black swans nesting in the rehabilitated wetlands.

Lizzie Blandthorn interjected.

Bev McARTHUR: Minister, have you got something to say? You've said it – too much really.

Just to tell you a bit about what the Geelong Field and Game branch have done, they took on one of the largest projects in southern Victoria, which involved digging kilometres of channels and regulating structures to bring water from the Barwon River across a swamp system that was otherwise isolated whilst restoring the natural flows of the wetlands and river. The members constructed Baenschs Lane wetland, which is over 200 acres in area – which was a shell grit wasteland and is now a highly productive wetland system – over 40 years ago. The Geelong Field and Game organisation has in

excess of 800 members, and they come from all walks of life. They are of all ages and from all backgrounds. They are wonderful people who care about the environment and the conservation of wetlands and also bird species. The Reedy Lake story is another case in point, where Field and Game members in 1979 were witness to the decline of the Reedy Lake complex and they set about one of the biggest freshwater projects in southern Victoria to restore those wetlands. It was invaded by carp, and they have eradicated that. They do an outstanding job. These are people that support duck hunting, but they support absolutely the conservation of birdlife in all its forms and other animal life. Also they do an amazing job in education. The Connewarre Wetland Centre has continued to host the Bug Blitz program, funded by the Hugh DT Williamson Foundation, which provides exceptional education opportunities for students, and I know they take students from deprived low socio-economic areas who had no idea what bugs exist in the water and that that is what the birds feed on. They spend hours with them educating them. It is a fantastic foundation, and Geelong Field and Game do the work to help them.

There is a huge economic benefit also that is provided by the duck-hunting fraternity and should not go unnoticed. The *Economic Contribution of Recreational Hunting in Victoria: Final Report*, completed for the Department of Jobs, Precincts and Regions by RMCG in June 2020, states:

> The gross economic contribution measures the footprint of recreational hunting by game licence holders in the regional and Victorian economies in terms of Gross State Product (GSP), Gross Regional Product (GRP) and employment. GSP and GRP are the regional equivalents of Gross Domestic Product, which is commonly used to measure the size of the national economy. The gross contribution to GSP from recreational hunting by game licence holders in Victoria in 2019 was $356M. This is made up of $160M of direct contribution and $196M in flow-on economic activity.

This is important, and in rural areas where duck hunters go it is a major economic benefit in towns.

Melina Bath interjected.

Bev McARTHUR: Yes. Minister, we know what your position is on this. It is extremely biased. There is no way you are putting forward a committee of inquiry that is in any way transparent or fair to start with. You have a predetermined outcome, as Ms Bath said. You may as well have just introduced legislation to ban duck hunting. You may as well have done that instead of going through this farce of having a committee of inquiry which is actually going to serve no purpose in reality because the votes are cast. But we will do all we can to make sure that the real story comes out and that this traditional activity is maintained in rural and regional Victoria.

You are all from inside the tram tracks of Melbourne and you do not know what goes on. Where is Cesar Melhem? If only he was still here. He would be supporting us on this; it is a shame he is gone. Unfortunately, you put him in an unwinnable spot on the ticket and he lost his seat. What a tragedy. Now we are in this situation where you are going to make sure that this committee of inquiry comes up with a report to ban duck hunting. We will have the Animal Justice Party making sure they vote with the government ad nauseam on every activity in return for this great benefit of making sure this committee of inquiry comes up with this predetermined outcome, which is banning duck hunting, no less.

I do not support this motion and nobody else should either, because it is a ridiculous proposition and we can see exactly what the intention is and we can see exactly how votes are going to be cast in this way. Do not worry about the people of Victoria and their human rights, just let us make sure that ducks have got more rights than the people of Victoria!

Jeff BOURMAN (Eastern Victoria) (18:45): I am not going to reprosecute what the Liberals and the Nationals have said. I have said it so many times in this place that I think people would just fall asleep. But needless to say, I agree with them.

I will not say this whole thing has come about as a surprise, but how this has rolled in the house has been pretty ordinary. It is extremely inappropriate in my view to have a minister who is so openly

opposed to, in this instance, the practice of duck hunting lead and be the only speaker on this issue. Unless it is a conscience issue, what I am hearing is what is possibly – probably – the government's stance on this. In which case, why are we doing this?

The minister's contribution – I am just going to sum it up – was a grab bag of prejudices and misinformation. I am not going to go through it. Animal Justice's was – I mean, we have heard it before; I am not going to bother with that. I am just going to finish off with what I heard in a press conference this morning – it may not be an exact quote: 'It is not leadership to do what is popular at the time, it is leadership to do what is right.' I might remind the government that its own science supports my stance. This stinks of a fit-up, and I am not going to support it.

Katherine COPSEY (Southern Metropolitan) (18:46): The Greens support this motion to establish a select committee on Victoria's recreational native bird hunting arrangements. However, while movement on this issue is welcome, we are disappointed that the government has chosen to go through this process of establishing a committee to tell us what we already know – that the cruel practice of duck shooting is not in line with the values of the Victorian community, that it creates immeasurable harm to our native duck population and that duck hunting should be banned once and for all, as it has been in several other states already.

The Greens and many hardworking animal welfare groups and passionate community members were dismayed by this government's decision to announce that the 2023 duck season would go ahead in the face of intense opposition. Year after year we have seen the government green-light the season despite growing community opposition. Polling undertaken by the RSPCA has shown that the majority of Victorians do not support duck shooting. The number of ducks who suffer from this so-called recreational activity is shocking. The head of the RSPCA stated recently that even though the length of this season has been reduced compared to previous seasons, as Ms Purcell has observed, they estimate that a staggering 87,000 birds will be killed, with 35,000 additionally wounded and left to die. Shame.

The Greens share the community's concern about our native waterbird population. Research has shown that native species populations are dwindling in relation to available habitat and six out of eight game duck species are in long-term decline. Choosing to allow a duck-hunting season to commence this year when data suggests our native waterbird population is already struggling is beyond comprehension. I look forward to the committee hearing evidence on these issues in the course of its inquiry.

We also need to look ahead to the further impacts that a change in climate is going to have and understand how that is going to impact native waterbird habitat and therefore native waterbird numbers. We then need to understand what happens if we are overlaying a duck-hunting season on top of this to determine whether duck populations can be sustained. I hope the committee will explore this to its fullest extent. We need to make sure that the native waterbird population is not just surviving but thriving in what is an uncertain environmental future.

The Greens also note that Victoria is seriously lagging behind other states in outlawing this violent and damaging practice. Western Australia ended duck hunting in 1990, with New South Wales following suit in 1995 and Queensland in 2005. We believe it is well past time that we caught up and acted in line with community expectations and the rest of the country.

We hope that this committee will shine a light on the darkest corners of this barbaric practice to give the Victorian public a fuller understanding of the reality of how duck hunting operates in our state. We know that native waterbirds are suffering and being left to die in horrific circumstances and that many other protected birds are getting caught up in the crosshairs. It is clear that the current regime of regulation is not up to scratch, and we hope that the committee will consider both the effectiveness of our current regulatory system and whether indeed regulation can be effective at all to police a practice that seems rife with bad behaviour and rule breaking. We look forward to the committee's work, and I hope that we will look forward to the end of duck hunting for good.

David LIMBRICK (South-Eastern Metropolitan) (18:50): A number of years ago, when my boys were much younger, we went up to the Grampians and we stopped at the Aboriginal culture centre there. I think it is in Hamilton. There was an Aboriginal man who was explaining to the audience – mostly kids, but lots of adults too, their mums and dads – about their culture. Primarily he was talking about hunting, and he was teaching the kids how they hunted different animals with boomerangs and spears and stuff like this. Of course the kids asked all sorts of interesting questions. One of my boys asked, 'What's your favourite animal to hunt?' and he said kangaroo, because that is the most delicious apparently. The man said that he travels around the nation hunting, and he goes up to the Northern Territory and hunts crocodiles apparently. Of course the kids asked, 'What do you hunt a crocodile with? Which spear do you use?' The man said, 'Don't be stupid, I use a gun', which the kids were very entertained by.

The reason I bring this up is that hunting is part of being human. We have done this ever since forever, and Australia has the oldest living hunting culture in the world. People deride duck hunting. They say these people are cruel or whatever. I have spoken to lots of duck hunters, and mostly the impression that I get from duck hunters is that they are carrying on the practice that has been carried out since humans were human, usually of men – it is usually men that do it – to go out and collect food for their families. I spoke to one man recently; he does deer hunting, not duck hunting, but I think he occasionally hunts ducks. He goes out and collects lots of food for his family, and he said that it works out very economically for him because he freezes the food and does all this stuff.

Hunting is not something I do. I have tried to do fishing. I make the joke that I am a vegan fisherman because I never catch anything. That said, I am not inclined to point the finger at people who have been doing something that humans have been doing ever since the dawn of man and to say that they are cruel for doing that. I think that maybe we need to stop and think a bit about what we are actually saying here, because what is the next step? Are we going to be banning fishing? I know the Animal Justice Party do not like fishing either. Are we going to be banning deer hunting? We actually have to get rid of some of the deer because there are too many of them. They are not native, like rabbits and all these other animals.

We need to look at what it is to be human and whether we are really going to go down the path of saying, 'We're new humans now. We're not going to do this anymore,' because we look at these hunter-gatherer cultures and think that they that are lesser than us and we are going to say that we are better than that and we are not going to do it anymore, we are going to ban it. I just think that this is wrong and we need to really stop and think about what we are doing here, because it is a really dangerous thing.

I was going to support this committee creation. Rather naively I thought that it was going to be a legitimate and good-faith thing, but after hearing the minister's speech I am very, very much less convinced of that, because it is clear that there is an agenda here. Nonetheless this committee is going to have to look at something which is clearly very controversial and divisive. There are clearly going to be a lot of submissions, both for and against, I would imagine, as has been indicated by everyone here. In fact I imagine people here will be organising some of those submissions. It is going to have to look at a lot of scientific evidence, and I know that there is a lot of science here, looking at the numbers and all sorts of information. I am not convinced about the date set for this inquiry – 31 August. I am not convinced that a thorough investigation can be done by this committee in that sort of time frame, which is why I am moving an amendment to shift that time frame to 31 October 2023. I move:

> That in paragraph (1), omit '31 August 2023' and insert '31 October 2023' in its place.

If the government really wants this to be a genuine inquiry and not just a sham, and if we are going to go to the trouble of setting up this inquiry and this committee, it is going to take time to do that. If it is going to be some really short, sharp thing that is just going to give the government an excuse to come through with the legislation, I agree with Ms Bath: why not just bring forward the legislation if that is what they are going to do? Anyway, I have moved that amendment. We will see what people think

about that, but my view on this is: we should think very carefully before prohibiting cultural activities that have been happening for a very long time.

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (18:55): I would just like to respond to some of the characterisations of my own position in moving this motion and also some of the aspersions that have been put on my own perspective in relation to this motion. As I said at the outset, my personal views on this issue are very well known and they have been publicly reported on many an occasion. It would have been disingenuous of me to have stood up here and moved this motion and not declared those personal opinions. What I would say is that a parliamentary inquiry is set up by this chamber. The members of that inquiry are reflective of the people elected to this chamber, and the people elected to this chamber are reflective of the community. I would hope that what comes out of this inquiry is a decision that is reflective of the community position. I do not think anybody in this chamber should be afraid of that. That is exactly what we are all here to do.

I also take offence at the suggestion I am just an inner-city leftie. It is not something I have often been accused of. I am someone who grew up in the Yarra Valley. My dad came from Bendigo, my aunty lives in Benalla and my other one lives in Bairnsdale, just near the Ramsar wetlands in Gippsland that Ms Bath referred to. Indeed as a member of the Public Accounts and Estimates Committee (PAEC), we did an inquiry into the Auditor-General's report *Meeting Obligations to Protect Ramsar Wetlands*. Mr Danny O'Brien in the other place took us to some of the very places that you were speaking about, Ms Bath. It was certainly encouraging to see the work that was being done in those places in relation to biodiversity. Coming from my own personal perspective, which I have, as I said, been well known for and which I put on the record again today, I would argue that that biodiversity should be protected. As well as being cultivated, it should be protected. But these will be factors for this committee to consider. From where I sit, I will not be a member of that committee.

I would also just like to say that in my contribution, despite my own personal views on this issue, which are obviously well known and well canvassed and which I have again referred to today, I did talk about things such as the tensions within the Game Management Authority and the roles and responsibilities of the GMA. I also spoke in relation to the economy. There are two sides of that argument; let us have that consideration. I have one view about that personally, but, as I said, the role of this committee is reflective of this chamber and reflective of the people that we represent in the community. It is their job to look at this and to consider both sides of the economic argument, and I am sure they will do that.

Mr Limbrick, just in relation to your contribution, in particular in relation to First Nations voices, I made a point of saying that I think it is extremely important that our First Nations voice is included in this conversation and that we do due consultation with the Indigenous organisations in our community. They have views about this, and I specifically mentioned that for a reason. I do agree with you that that is a very important consideration to which we should give due consideration.

I do reject, though, the slippery slope argument. The terms of reference of this committee are very clear, and I was at pains to go through each of them and explain what I thought were the issues that those terms of reference would consider. The hunting and shooting of other animals was not a consideration in those terms of reference. So I do not support Mr Limbrick's amendment. I think there is ample time to give due consideration to the many and varied issues. I do think it will be a committee that has a lot of hard work ahead of it in a relatively short space of time. But, Mr Limbrick, when I look at some of the work that we managed to do in PAEC last term in a very short space of time, I am sure that the committee will very ably undertake that task, and I look forward to the recommendations of the committee.

Melina Bath: On a point of order, President, is there an opportunity to speak to the amendment?

The PRESIDENT: I remember I set a precedent. Yes, you can.

Melina BATH (Eastern Victoria) (19:00): We will be supporting 31 October as the date, and I concur with Mr Limbrick's position. I have been on many committees in the last eight years, and I know that they virtually always run over time. If you are going to do this committee justice, and we have heard the minister talk about the variety of and the need for expansive views – unless you want to curb this, and that then goes to the contention that I raised in the substantive debate – you will need to extend this. So I support the extension.

Jeff BOURMAN (Eastern Victoria) (19:00): I will be quick. I support the extension too. If the government really wants to pretend that this is not just a fit-up, it is going to need to do this, because it is very unlikely we are going to get to it by the end of August.

Council divided on amendment:

Ayes (15): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

Noes (20): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Amendment negatived.

Council divided on motion:

Ayes (20): Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

Noes (15): Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

Motion agreed to.

Adjournment

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (19:12): I move:

That the house do now adjourn.

Level crossing removals

Joe McCRACKEN (Western Victoria) (19:12): (96) My adjournment matter is for the Minister for Transport and Infrastructure and relates to the Level Crossing Removal Project. The action I seek is for the minister to roll out level crossing removal on the Ararat and Maryborough lines in the Ripon electorate instead of focusing on metro Melbourne. Ararat actually has a level crossing on none other than the Western Highway, one of the largest highways in the country. I do not think that we would tolerate a level crossing on the Monash, would we, so why do we tolerate it on the Western Highway? Trucks, cars, buses, motorbikes and probably, I do not know, tuktuks – everything – go down there, and the worst part is it is the entrance to Ararat itself where this level crossing is. Maryborough also has to deal with the same issue. Inkerman Street, Railway Street, which turns into Lean Street, McClure Street and Tullaroop Road could all have their level crossings removed. None have been. I look forward to the minister's consideration of level crossing removals in country areas, not just in Melbourne.

Creative industries

John BERGER (Southern Metropolitan) (19:14): (97) My adjournment is to the Minister for Creative Industries in the other place Steve Dimopoulos. For many years our state has been the cultural hub of Australia. We are, as the Premier is fond to say, the cultural capital of Australia. This reputation was solidified thanks to the massive investments of the Victorian budget in 2020 and 2021. We have the most vibrant music scene. We have culture and local artists from the garage to the local pub.

Recently I had the honour of attending the Alexander McQueen exhibition at the National Gallery of Victoria. Our art galleries are among the best in the world. In the City of Port Phillip there is the Carlisle Street Arts Space, or CSAS. This is in St Kilda town hall and has a range of visual art exhibitions. There is the Jewish Museum of Australia, which presents a mixture of art, culture and learning for people to come together to understand and experience Jewish life. In the City of Boroondara I will soon visit the *Romancing the Streetscape* exhibition at the town hall, which celebrates the streetscapes and buildings of our beautiful city, and the Boroondara Creative Network, which is a free event held every two months which supports the local creative community network to share and create in the Hawthorn Arts Centre. And the City of Stonnington has commissioned a significant number of murals that contribute to the city's culture, including *Untitled* by Be Free; *Spring Parrots* by Minna Leunig; and *A Day at the Market* by Paul Sonsie.

But art and culture are more than just aesthetically pleasing. In fact one in 11 jobs in Victoria are from creative industries and are particularly vital to my own Southern Metropolitan Region. I think of the Linden New Art gallery, the Palais, Memo Music Hall, the Victorian Pride Centre, the Espy, NICA – the National Institute of Circus Arts – the Melbourne Recital Centre and the Victorian College of the Arts. They help bring meaning to the lives of our constituents. I hope that one day we can recognise the benefits that art can and does bring to help those suffering with the scourge of mental health issues.

Clearly, we are the nation's cultural capital. The Andrews Labor government has committed $1.7 billion to the Melbourne arts precinct, a project that will fundamentally transform the cultural precinct from Federation Square through to the NGV and beyond. This project will include the establishment of The Fox: NGV Contemporary, Australia's newest contemporary art gallery, a world-class gallery right in the heart of Melbourne. When fully functional, the precinct will spur tourism from both interstate and overseas. Its creation will give families a new home to enjoy and explore. As the member for Southern Metropolitan Melbourne, I will be proud to have this incredible project in my electorate. So my question to the Minister for Creative Industries is: what other creative art projects is the government supporting the development of in my electorate of Southern Metro Melbourne?

Poker machines

Evan MULHOLLAND (Northern Metropolitan) (19:17): (98) My adjournment is directed to the Minister for Casino, Gaming and Liquor Regulation, and I urgently seek that the minister allow the forfeiture of 10 poker machine entitlements from the Glenroy RSL and allow those entitlements to be forgiven. I note that last month the Premier, I think quite rightly, gave an indication of gambling reform, describing gambling addiction as a real problem and a wicked problem. But how are we meant to take the Premier's comments as anything but hollow when the Andrews government itself is addicted to pokies revenue?

In 2015 the Glenroy RSL in my electorate decided to obtain 10 additional poker machine entitlements on top of the 40 they already have, still under the average. This received approval from the gaming commission. However, Moreland City Council took the RSL to VCAT. The RSL won at VCAT. It was then appealed by the council in the Supreme Court and was sent back to VCAT, where the permit for the 10 additional entitlements was rejected. The RSL is now in a position where the department and the minister's office have advised the RSL must pay $470,000, almost half a million dollars, for 10 poker machine entitlements they cannot even use through no fault of their own. The Victorian Gambling and Casino Control Commission even wrote to the RSL in an aggressive letter advising them to use it or lose it.

The Glenroy RSL plays an important role in supporting defence veterans and their families. The COVID-19 pandemic caused a massive hit to this community-minded RSL. The Glenroy RSL employs over 40 staff, has over 2000 members and supports a multitude of community groups in the north, such as Rotary, Probus, Lions Club, Glenroy Specialist School, Penola Saints Netball Club and Pascoe Vale Girls College, amongst many others. Altona, Darebin, Glenroy and Pascoe Vale are all in similar situations to the Glenroy RSL. This is a sorry saga. Perhaps the minister sees some sense – I hope. Perhaps those higher up are preventing her from making the right decision. The action I seek from the minister is to have a heart and reverse this stubborn decision. I call on the minister to make a decision to allow these entitlements to be surrendered without payment to allow them to further support veterans and their dependants, along with the local communities where they reside.

Transport infrastructure

Katherine COPSEY (Southern Metropolitan) (19:19): (99) Today my adjournment matter is for the Minister for Transport and Infrastructure, and the action I seek is for this government to commit to lifting spending on active transport from the current 1 per cent of capital transport funding in the budget to the Greens' proposed 10 to 20 per cent. Since the end of January we have seen the tragic death of four cyclists on both city and regional roads in Victoria. The most recent occurred just yesterday morning in my region of Southern Metro.

It is unacceptable that in Australia a cyclist is killed every nine days and 20 hospital beds are needed every day to care for injured riders. We need the government to reassess its priorities and start taking the health and safety of cyclists seriously. Continuing to prioritise new toll roads at the expense of protected bike lanes and active transport infrastructure is not good enough. We hope that this current government will finally listen to the community and calls from the Greens to hold a parliamentary inquiry into road safety for cyclists.

At the end of February I joined several hundred dedicated and passionate cyclists at the Critical Mass protest, raising awareness about rider safety and bike infrastructure in our state. We rode from the State Library to Footscray along Kensington Road and Dynon Road, both of which are notoriously dangerous for cyclists. My thanks to Critical Mass and BikeWest for their continued advocacy on this issue. I look forward to pedalling hard with you all to get the safe infrastructure you and our fellow Victorian cyclists deserve.

One such project that BikeWest has been championing, which would have a significant positive impact for the community, is that of a bike lane along Hopkins and Barkly streets in Footscray. The existing infrastructure along Dynon Road and across Hopetoun Bridge is a protected bidirectional lane which abruptly stops at Joseph Road, and this essentially renders the path useless as a connection to Footscray and further west. Extending this bike lane would provide an invaluable link for the west, enabling people to safely and confidently cycle between the city and Melbourne's western suburbs.

More than two-thirds of people in Victoria want to walk and ride their bikes more, but we do not have enough safe bike lanes, footpaths and crossings to enable people to take up the option. So Victoria really needs increased funding for this infrastructure without delay.

Better infrastructure is even more urgent for people living with disabilities. Wheelchair users and those with other accessibility needs face massive challenges in navigating our streets during their day-to-day lives. Increased funding for accessible, walkable and bicycle-friendly neighbourhoods will cut emissions, improve safety and make it easier for people to get around. I do ask the minister to commit to lifting spending on active and sustainable transport from the current 1 per cent of capital transport funding in the budget to the Greens' proposed 10 to 20 per cent.

Social housing

Wendy LOVELL (Northern Victoria) (19:22): (100) My adjournment matter is directed to the Minister for Housing, and the action that I seek is for the minister to ensure that the lists of Victorians

waiting for social housing and priority social housing are published quarterly, as has been the normal practice, and for the minister to provide additional funding to invest in the construction of more social housing properties in Greater Shepparton. There is no doubt that the number of Victorians waiting on the social housing waiting list and the priority social housing list has exploded over the life of the Andrews government. Since September 2014 the number of applications on the social housing waiting list has increased by 59 per cent to 55,043 households waiting for social housing. Even worse, the number of applications on the priority social housing waiting list has exploded by 20,776 applications, from 9900 in September 2014 to 30,766 families in June 2022, an increase of 208 per cent.

There are two things we must remember about these figures. Firstly, the numbers are not individuals but households or families, so the number of actual people waiting for social housing is much more. Secondly, the most recent figures are from June 2022, as this government is now hiding the true extent of Victoria's housing crisis. Waiting lists for social housing have always been published quarterly, but true to form the Andrews Labor government has failed to publish data for the past two quarters, September 2022 and December 2022. In Greater Shepparton what we do know is that on 30 June last year 2433 applicants had listed Greater Shepparton as a preferred location and that 1362 of those applicants had priority status. While these figures are disturbing, the reality will be so much worse once an additional eight months of data is added in, particularly as it would include the October 2022 flood event, which displaced so many families. In fact the first families displaced in Shepparton during the flood were many of Shepparton's homeless population that were camping on the local river flats.

The latest data published for social housing properties in June 2021 reveals that at that point Greater Shepparton had 1653 social housing properties. With these homes all tenanted, the prospects of those languishing on the waiting list gaining a home are getting slimmer and slimmer. Again, this data is being hidden, as it is usually published as additional data to the department annual report but the website for the June 2022 annual report still says this data is coming sometime soon – do not hold your breath. The Andrews Labor government is failing Greater Shepparton's most vulnerable families, many of whom are sleeping rough.

Corrections system

Bev McARTHUR (Western Victoria) (19:25): (101) My adjournment matter is for the Minister for Corrections and regards yesterday's disturbing *Herald Sun* report on multiple violent incidents this week at the maximum-security Barwon Prison, including assaults which caused hospitalisation. These have been serious attacks, with officers suffering head injuries and requiring immediate hospital treatment. On Monday this week four were injured when violence broke out in the prison's Grevillea unit, while Saturday saw three separate assaults on officers.

On the first day of this Parliament I asked the minister about the increased number of emergency management days awarded to prisoners. The suggestion is that more days have been awarded to deal with staffing shortages. The minister's reply seems to deny this. He wrote:

> A certain level of staffing is essential and if available staff numbers fall below the requirement on a particular day the prison must prioritise fundamental operations to maintain prison security and provide for prisoners' basic needs. This may impact prisoner's ability to move as freely as they routinely would but not result in a lockdown. Other times a lockdown may be required restricting a person to their accommodation.

The Community and Public Sector Union have blamed this recent upsurge in violence on staff shortages, leading to prisoner lockdowns and in turn to greater anger, hostility and dangerous attacks. Union spokesman Julian Kennelly said to the *Herald Sun* the prisoners are:

> … becoming more and more hostile because of the extended cell hours. More and more cell hours leads to extra angst …

The system seems to be in crisis. The statistics suggest so. The *Herald Sun*'s sources suggest so also. The union spokesman confirmed it, and tragically the violent assaults on hardworking and dedicated prison officers merely trying to do their jobs show it beyond doubt.

The action I seek, Minister, is a full breakdown of the statistics surrounding this issue, which will demonstrate conclusively whether there is a link between emergency management days, staff shortages and attacks on corrections services workers. I am asking for the number of emergency management days awarded to inmates in Barwon Prison this year, and in the same period, how many assaults have been recorded on prison staff, how many days to date this year Barwon Prison has operated at below planned staffing levels and how many shifts have gone unfilled.

Community health services

Sarah MANSFIELD (Western Victoria) (19:28): (102) Two weeks ago I was pleased to join members of our community health sector to launch the Community Health First campaign. They are calling on the government both to strengthen our existing community health network and to use their expertise to shape wider health system reform. We heard from consumers and service providers about the importance of community health and the role the sector can play in ensuring Victorians have access to integrated and affordable health care. Community health organisations provide services to more than half a million Victorians each year across metropolitan, rural and regional areas. The model of care they deliver targets the root cause of health inequalities. It keeps people out of hospital by intervening early and providing care as a team.

These vital health services have persevered despite years of underinvestment from successive governments. This week I saw up close what underinvestment in community health looks like when I visited Cohealth in Collingwood with my colleague Gabrielle de Vietri, the member for Richmond in the other place. I was shocked at what I saw. Not only is the building no longer fit for purpose, it is actually falling apart. There are wide gaps in the walls that mean confidential conversations between clinicians and their patients can be heard in the tearoom. Parts of the site even had to be shut down last year due to leaks in the ceiling. Cohealth told me that despite repeated applications for funding to upgrade the premises, they have been knocked back. This shameful situation can be seen across community health organisations in Victoria.

In addition to this, community health deliver services far in excess of what they are funded for. As they are committed to the most vulnerable in their communities, they stretch their funds to the absolute thinnest of margins to deliver holistic care that should be the gold standard everywhere. The funding agreement between states and the Commonwealth makes it clear that community health is a Victorian state government responsibility. The action I am seeking from the Minister for Health is to guarantee that funding for community health services will be increased in this budget so their facilities can be made safe and fit for purpose and so that essential health services can continue to be delivered to people in need across the state.

Peter MacCallum Cancer Centre

Georgie CROZIER (Southern Metropolitan) (19:30): (103) My adjournment matter this evening is for the attention of the Minister for Health, and it is in relation to the MRIs at Peter MacCallum Cancer Centre. Now, as we know the Metro Tunnel project is going right underneath there, and there has been some concern for quite some time that electromagnetic interference from the underground trains in the Metro Tunnel works will affect the operation of the MRIs, the magnetic resonance imaging machines, and some other sensitive machines that are operating out of Peter MacCallum. Of course they do tremendous work in treating patients with cancer. As a result of these Metro Tunnel works the MRIs have had to be moved off site and into the Royal Melbourne and the Royal Women's, and patients are going to have to go and have treatment there. This was confirmed back in May last year. The Minister for Transport and Infrastructure Jacinta Allan at the time said that the underground trains would disrupt the work of the MRI machines.

I have had correspondence from an oncologist this week who is very concerned that her colleagues that work at Peter Mac are hearing that in fact the removal of the machines is not going to be for a temporary time, as was first suggested, but could be of a more permanent nature because of the works and because of how long they are taking. I did assure them. I said, 'Look, I think it is just temporary

while the works are going on.' The action I seek from the minister is to provide an updated scheduling of the works and give a time frame of how long the disruption will be and how long patients will have to be going to other hospital sites to get their very vital MRI scans for the management and treatment of their cancer.

Government performance

Renee HEATH (Eastern Victoria) (19:32): (104) For almost two years Victorians were forced to submit to so-called expert advice that kept us locked up, masked, separated, vaccine mandated and more. People lost their jobs if they did not comply. If you went to a funeral to mourn the loss of a loved one, you risked getting arrested. Why? It was all because of so-called expert advice. On 30 January 2022 the Premier said:

> You know what's mandatory? Following the advice of experts.

Well, Mr Andrews, if that is the case, how come you are not following the advice of experts now? Let me give you a few examples. Integrity – Commissioner Redlich gave advice on the Integrity and Oversight Committee. He said:

> We are plainly dissatisfied with the way in which the Parliamentary Committee operated, particularly in the last 12 months.

Primarily, he wanted to change the composition of the committee:

> … so that it no longer has a majority of members who are members of the party in government, and that the chair of the Committee is not from the party in government.

This expert advice – ignored. On bail reform – on 9 February there was another headline, 'Bail reform ignored'. The Andrews Labor government has ignored comprehensive reforms to Victoria's criminal justice system, and despite being legally required to respond to this within three months, one year on the status is: expert advice ignored.

On 15 February this year the Law Institute of Victoria gave expert advice on the Health Legislation Amendment (Information Sharing) Bill 2023. Ms Wolff said:

> Patient autonomy must be front of mind in any health legislation being put forward by government to protect patients' rights. The implementation of an opt-out scheme would place choice back in the patients' hands about the healthcare they receive in the Victorian public health system.

Today this expert advice was once again ignored. So do the Andrews government take advice from experts, or do they more see their role as advising experts? The action that I seek is that the Minister for Health adopt advice given by experts such as the Law Institute of Victoria on the Health Legislation Amendment (Information Sharing) Bill 2023 in order to protect fundamental human rights of all Victorians. It is clear that Victorians cannot trust the government to take advice from experts, because if it does not match what they want to do it will be ignored.

Social housing

Trung LUU (Western Metropolitan) (19:35): (105) My adjournment matter is for the Minister for Housing. The action I seek is for the Andrews Labor government to allocate appropriate funds for emergency housing in the west to accommodate the shortfall on the social housing waiting list. Could the minister please enlighten us on the significant problem where the lack of housing has reached an all-time high, as we are experiencing an increase in homelessness and continue to experience it in the west. Rental vacancies are at their lowest ever, and rents are so high that 50 per cent of renters in the west are under financial stress. No house in the west is affordable for someone on Newstart or youth allowance. Currently, there are 14,000 social housing properties in the west but 17,000 people are on the waiting list. This is a large shortfall, and this number continues to grow. Melton and Wyndham Vale, which are in my electorate, are growing faster than anywhere else in Melbourne. Nearly one-quarter of people experiencing homelessness in Victoria are in Melbourne's west. Statistics show that

in 2021–22 homelessness services in Melbourne's west assisted nearly 20,000 people. Nearly half of those seeking assistance have experienced family violence.

Minister, housing is a basic human right. There is an overwhelming amount of vacant government land just sitting idle. This could be easily used to build affordable housing. So could the government please stop ignoring the situation we are in. We are in the depths of a crisis. People are sleeping rough, and there seems to be no end in sight. Minister, the action I am seeking is not unreasonable, so could the Andrews Labor please allocate funds for emergency housing in the west to accommodate the shortfall on the waiting list and provide what is basically a human necessity.

Duck hunting

Melina BATH (Eastern Victoria) (19:37): (106) My adjournment matter is for the Minister for Outdoor Recreation in the other place. The action I seek from the minister is that she respond in writing and in doing so outline any of the government's modelling on the economic impacts of a reduced duck season for 2023 to a five-week period. In doing so, would she also include in that the LGAs of Baw Baw, Wellington, Latrobe City Council and East Gippsland in the Eastern Victoria Region and include in that what the government intends to do in relation to supporting the livelihoods of those small business operators, such as camping shops, hunting supply shops and others affected by a downturn in another season of recreational hunting for ducks.

I raised in the debate that we had earlier in relation to the inquiry into hunting a gentleman whose name is Steve Asmussen. Steve is a lovely, wonderful family person who owns the Aussie Disposals in Traralgon. He was quite at his wits' end. As a small business proprietor he works six days a week. He does employ and certainly wants to continue employing staff, whether it be on a casual or a permanent basis. But if these sorts of reduced hunting seasons are going to continue – he indents, he forward purchases a vast range of equipment in terms of waders and boots and clothing and decoys and ammunition and carry bags and camping gear of all sorts – he said to me that he feels it is somewhere between $20,000 and $30,000 that he will lose in terms of the stock that is sitting on his shelf that will not be sold. He cannot pivot and order when the announcement comes out, and it is absolutely gut-wrenching for these sorts of small business people. Indeed he said that we have been through such a lot in the last three years with COVID and being locked down. He said that the whole fraternity does not go away just to hunt and take those ducks away for the table – that they do this as mental health support, to be with friends and family, to be in nature. There is the pressure of having to work six days a week at least, because he will not be able to have those employees because of the $20,000 to $30,000 shortfall. I would like to minister to explain what the government is actually going to do to support these small businesses.

Responses

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (19:40): Mr McCracken has raised a matter for the Minister for Transport and Infrastructure; Mr Berger has raised a matter for the Minister for Creative Industries; Mr Mulholland has raised a matter for the Minister for Casino, Gaming and Liquor Regulation; Ms Copsey has raised a matter for the Minister for Transport and Infrastructure; Ms Lovell has raised a matter for the Minister for Housing, as has Mr Luu; Mrs McArthur has raised a matter for the Minister for Corrections; Dr Mansfield has raised a matter for the Minister for Health; Mrs Crozier has raised a matter for the Minister for Health; Dr Heath raised a matter for the Minister for Health; and Ms Bath has raised a matter for the Minister for Outdoor Recreation. I will pass them on to them for a response.

The PRESIDENT: The house stands adjourned.

House adjourned 7:41 pm.