

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT

FIRST SESSION

WEDNESDAY, 19 DECEMBER 2018

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

Premier	The Hon. DM Andrews, MP
Deputy Premier and Minister for Education	The Hon. JA Merlino, MP
Treasurer, Minister for Economic Development and Minister for Industrial Relations	The Hon. TH Pallas, MP
Minister for Transport Infrastructure	The Hon. JM Allan, MP
Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support	The Hon. BA Carroll, MP
Minister for Energy, Environment and Climate Change, and Minister for Solar Homes	The Hon. L D'Ambrosio, MP
Minister for Child Protection and Minister for Disability, Ageing and Carers.....	The Hon. LA Donnellan, MP
Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. MP Foley, MP
Attorney-General and Minister for Workplace Safety	The Hon. J Hennessy, MP
Minister for Public Transport and Minister for Ports and Freight	The Hon. MM Horne, MP
Special Minister of State, Minister for Priority Precincts and Minister for Aboriginal Affairs	The Hon. GW Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Suburban Development.....	The Hon. M Kairouz, MP
Minister for Health and Minister for Ambulance Services	The Hon. J Mikakos, MLC
Minister for Water and Minister for Police and Emergency Services	The Hon. LM Neville, MP
Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, and Minister for Racing.....	The Hon. MP Pakula, MP
Minister for Roads, Minister for Road Safety and the TAC, and Minister for Fishing and Boating.....	The Hon. JL Pulford, MLC
Assistant Treasurer and Minister for Veterans	The Hon. RD Scott, MP
Minister for Local Government and Minister for Small Business	The Hon. A Somyurek, MLC
Minister for Regional Development, Minister for Agriculture and Minister for Resources	The Hon. J Symes, MLC
Minister for Training and Skills, and Minister for Higher Education	The Hon. GA Tierney, MLC
Minister for Prevention of Family Violence, Minister for Women and Minister for Youth	The Hon. G Williams, MP
Minister for Planning, Minister for Housing and Minister for Multicultural Affairs	The Hon. RW Wynne, MP
Cabinet Secretary.....	Ms M Thomas, MP

**OFFICE-HOLDERS OF THE LEGISLATIVE ASSEMBLY
FIFTY-NINTH PARLIAMENT—FIRST SESSION**

Speaker

The Hon. CW BROOKS

Deputy Speaker

Ms JM EDWARDS

Acting Speakers

Ms Blandthorn, Mr J Bull, Mr Carbines, Ms Couzens, Mr Dimopoulos, Mr Edbrooke, Ms Kilkenny, Mr McGuire, Mr Richardson, Ms Spence, Ms Suleyman and Ms Ward

Leader of the Parliamentary Labor Party and Premier

The Hon. DM ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier

The Hon. JA MERLINO

Leader of the Parliamentary Liberal Party and Leader of the Opposition

The Hon. MA O'BRIEN

Deputy Leader of the Parliamentary Liberal Party

The Hon. LG McLEISH

Leader of The Nationals and Deputy Leader of the Opposition

The Hon. PL WALSH

Deputy Leader of The Nationals

Ms SM RYAN

Leader of the House

Ms JM ALLAN

Manager of Opposition Business

Mr KA WELLS

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

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

Parliamentary Services: Secretary: Mr P Lochert

MEMBERS OF THE LEGISLATIVE ASSEMBLY
FIFTY-NINTH PARLIAMENT—FIRST SESSION

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

PARTY ABBREVIATIONS

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

Legislative Assembly committees

Economy and Infrastructure Standing Committee

Ms Addison, Mr Blackwood, Ms Connolly, Mr Eren, Mr Rowswell, Ms Ryan and Ms Theophanous.

Environment and Planning Standing Committee

Mr Cheeseman, Mr Fowles, Ms Green, Mr Hamer, Mr McCurdy, Mr Morris and Mr T Smith.

Legal and Social Issues Standing Committee

Ms Couzens, Ms Kealy, Mr Newbury, Ms Settle, Ms Suleyman, Mr Tak and Mr Tilley.

Privileges Committee

Ms Allan, Mr Guy, Ms Hennessy, Mr McGuire, Mr Morris, Ms Neville, Mr Pakula, Ms Ryan and Mr Wells.

Standing Orders Committee

The Speaker, Ms Allan, Ms Edwards, Ms Halfpenny, Ms McLeish, Ms Sheed, Mr Staikos, Ms Staley and Mr Walsh.

Joint committees

Dispute Resolution Committee

Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.

Council: Mr Bourman, Mr Davis, Mr Jennings, Ms Symes and Ms Wooldridge.

Electoral Matters Committee

Assembly: Ms Blandthorn, Ms Hall, Dr Read and Ms Spence.

Council: Mr Atkinson, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell and Mr Quilty.

House Committee

Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Ms Edwards, Mr Fregon, Ms Sandell and Ms Staley.

Council: The President (*ex officio*), Mr Bourman, Mr Davis, Ms Lovell, Ms Pulford and Ms Stitt.

Integrity and Oversight Committee

Assembly: Mr Halse, Mr McGhie, Mr Rowswell, Mr Taylor and Mr Wells.

Council: Mr Grimley and Ms Shing.

Public Accounts and Estimates Committee

Assembly: Ms Blandthorn, Mr Hibbins, Mr Maas, Mr D O'Brien, Ms Richards, Mr Richardson, Mr Riordan and Ms Vallenge.

Council: Ms Stitt.

Scrutiny of Acts and Regulations Committee

Assembly: Mr Burgess, Ms Connolly and Ms Kilkenny.

Council: Mr Gepp, Mrs McArthur, Ms Patten and Ms Taylor.

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Wednesday, 19 December 2018

Opening of Parliament

OPENING OF PARLIAMENT BY COMMISSION

Proceedings commenced at 11.03 a.m. in accordance with a proclamation by the Governor dated 12 December 2018:

The Clerk: The Governor has issued the following proclamation:

I, Linda Dessau AC, Governor of the State of Victoria, acting under sections 8 and 20 of the *Constitution Act 1975* and all other powers vested in me, fix 19 December 2018 at 11.00 am as the time for the commencement and holding of the first session of the Fifty-ninth Parliament of Victoria for the dispatch of business, at Parliament House, Melbourne. The Members of the Legislative Council and the Members of the Legislative Assembly are required to attend at that time and place.

Given under my Hand and the Seal of the State of Victoria, at Melbourne, this 12th day of December 2018.

It is signed by the Honourable Linda Dessau, AC, Governor, by Her Excellency's command, and by the Premier.

The Commissioner, the Honourable Justice Christopher Maxwell, entered chamber and was conducted to chair by the Serjeant-at-Arms.

The Commissioner: Members of the Legislative Assembly, the Governor has caused a commission to be issued under the seal of the state constituting her commissioners to do in her name all that is necessary to be performed in this Parliament. This will more fully appear from the commission, which will now be read by the Clerk.

Commission for the commencement and holding of the present session of Parliament read by the Clerk.

Members

MEMBERS

Swearing in

The Commissioner: I have to announce that I have received from the Governor a commission to administer the oath or affirmation of allegiance to members of the Legislative Assembly. I will ask the Clerk to read the commission.

Commission appointing the Honourable Justice Christopher Maxwell to administer oath or affirmation of allegiance to members of the Legislative Assembly read by the Clerk.

The Clerk announced receipt of return of writ issued by the Governor for election of 88 members to serve for electoral districts set out below and endorsed to show election of following members:

District	Member
Albert Park	Martin Foley
Altona	Jill Hennessy
Bass	Jordan Crugnale
Bayswater	Jackson Taylor
Bellarine	Lisa Neville
Benambra	Bill Tilley
Bendigo East	Jacinta Allan
Bendigo West	Maree Edwards
Bentleigh	Nick Staikos

MEMBERS

District	Member
Box Hill	Paul Hamer
Brighton	James Newbury
Broadmeadows	Frank McGuire
Brunswick	Tim Read
Bulleen	Matthew Guy
Bundoora	Colin Brooks
Buninyong	Michaela Settle
Burwood	Will Fowles
Carrum	Sonya Kilkenny
Caulfield	David Southwick
Clarinda	Meng Heang Tak
Cranbourne	Pauline Richards
Croydon	David Hodgett
Dandenong	Gabrielle Williams
Eildon	Cindy McLeish
Eltham	Vicki Ward
Essendon	Danny Pearson
Euroa	Steph Ryan
Evelyn	Bridget Vallence
Ferntree Gully	Nick Wakeling
Footscray	Katie Hall
Forest Hill	Neil Angus
Frankston	Paul Edbrooke
Geelong	Christine Couzens
Gembrook	Brad Battin
Gippsland East	Tim Bull
Gippsland South	Danny O'Brien
Hastings	Neale Burgess
Hawthorn	John Ormond Kennedy
Ivanhoe	Anthony Carbines
Kew	Tim Smith
Keysborough	Martin Pakula
Kororoit	Marlene Kairouz
Lara	John Eren
Lowan	Emma Kealy
Macedon	Mary-Anne Thomas
Malvern	Michael O'Brien
Melbourne	Ellen Sandell
Melton	Stephen John McGhie
Mildura	Ali Cupper
Mill Park	Lily D'Ambrosio
Monbulk	James Merlino
Mordialloc	Tim Richardson
Mornington	David Morris
Morwell	Russell Northe
Mount Waverley	Matt Fregon
Mulgrave	Daniel Andrews
Murray Plains	Peter Walsh
Narracan	Gary Blackwood

MEMBERS

Wednesday, 19 December 2018

Legislative Assembly

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District	Member
Narre Warren North	Luke Donnellan
Narre Warren South	Gary Maas
Nepean	Chris Brayne
Niddrie	Ben Carroll
Northcote	Kat Theophanous
Oakleigh	Steve Dimopoulos
Ovens Valley	Tim McCurdy
Pascoe Vale	Lizzie Blandthorn
Polwarth	Richard Riordan
Prahran	Sam Hibbins
Preston	Robin Scott
Richmond	Richard Wynne
Ringwood	Dustin Halse
Ripon	Louise Staley
Rowville	Kim Wells
Sandringham	Brad Rowsell
Shepparton	Suzanna Sheed
South Barwon	Darren Cheeseman
South-West Coast	Roma Britnell
St Albans	Natalie Suleyman
Sunbury	Josh Bull
Sydenham	Natalie Hutchins
Tarneit	Sarah Connolly
Thomastown	Bronwyn Halfpenny
Warrandyte	Ryan Smith
Wendouree	Juliana Addison
Werribee	Tim Pallas
Williamstown	Melissa Horne
Yan Yean	Danielle Green
Yuroke	Ros Spence

The COMMISSIONER: Members of the Legislative Assembly, the Governor will attend the Parliament later this day to inform you and members of the Legislative Council of the reasons for calling this Parliament together. As it is necessary before you proceed with business that a Speaker of the Legislative Assembly be chosen, the Governor requests that you proceed to the choice of a Speaker.

The Commissioner retired from the house.

SPEAKER

Election

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (11:31): I propose that the member for Bundoora, Colin Brooks, take the chair as Speaker. The member for Bundoora is a thoroughly decent individual and a man of integrity and values, which were on display in the 58th Parliament; they will also be on display in the 59th Parliament.

Ms KAIROUZ (Kororoit—Minister for Consumer Affairs, Gaming and Liquor Regulation, Minister for Suburban Development) (11:31): It gives me great pleasure to second the motion.

The CLERK: Does the member for Bundoora accept the nomination?

Mr BROOKS (Bundoora) (11:31): I do.

The Clerk declared the honourable member for Bundoora duly elected as Speaker.

Mr Brooks conducted to chair by proposer and seconder.

The SPEAKER (11:33): I express my sincere thanks to the house for this great honour conferred on me by electing me Speaker.

Mr ANDREWS (Mulgrave—Premier) (11:33): Speaker, it is my great pleasure to congratulate you on your elevation to such high office and to reflect for just a moment on the outstanding way in which you discharged your duties during the 58th Parliament, called to serve as you were later in the term. On behalf of all members of the government we thank you for your service and we express our confidence in your impartiality and your understanding of the forms and traditions of this house. We wish you every success and every support in the administration of your significant responsibilities, not just as the Presiding Officer of this house but essentially as somebody who, for all intents and purposes, acts as a minister in terms of the administration of the precinct and all of the other elements of the administration of members' offices and all of those important functions of your role, shared as they are with the President in another place.

You and I have been colleagues and friends for many years, and again, not just on behalf of the government and all of its members but on behalf of the parliamentary Labor Party more broadly, the Labor Party and movement and personally, can I say to you I am so very pleased that you have again been chosen by this house to continue in this important role. I am confident, as we all are, that you will discharge it with the distinction that you are well-known for.

Mr M O'BRIEN (Malvern—Leader of the Opposition) (11:34): Speaker, on behalf of the Liberal-National coalition I congratulate you on your elevation to this important role as Speaker. Obviously it is one that you have served in previously, and we are pleased that the circumstances of your coming to this office this time around are a little bit more felicitous to the entire house.

As Speaker, we entrust you to be our representative for this chamber, to uphold the traditions, the rules and the integrity of this Parliament. The Labor Party has been elected to govern Victoria, and we congratulate the Premier and his party on that. But they have been elected to govern Victoria, not to rule it. That requires a Parliament that must hold the executive accountable. It requires an active opposition to question, to debate and to challenge the government. That is our role and we will perform it. It also requires a Speaker who will ensure that the rules designed to ensure the accountability of the executive to the Parliament are applied without fear or favour. Speaker, that is your role, and we look forward to you discharging it with the professionalism, the skill and the good humour which you have previously displayed. On behalf of the opposition I wish to congratulate you on your election.

The SPEAKER: Firstly, if I can just seek the indulgence of the house and make a few brief comments. I want to thank all members of this place for the great honour of being elected Speaker again. I will commit to the house to work hard to repay the trust that has been placed in me today. I do feel very privileged to have been re-elected Speaker for effectively a second term. With the indulgence of the house again I want to thank in particular my mum; my wife, Melinda; my three kids, Ally, Thomas and Emma; and all of my staff and friends for their great support in my previous role as Speaker but also, I am sure, over the future as well.

One of the great things about my wife—one of the many great things about my wife—is that she keeps me well grounded. The Leader of the Opposition made reference to my previous election in this place. It was a fiery session of Parliament that day, and I remember getting home after that day a little bit battered and bruised but chuffed at being elected Speaker. I got to the front door hoping for some consolation and congratulation, and I was very quickly reminded that I might be the Speaker of this house but I am not the speaker of that house. So it is great to have family support.

I want to welcome in particular all of the new members to this chamber. It is an exciting time to be elected to this place to represent your communities from right across the state, and I hope that you all enjoy doing that as much as I enjoy representing my own community of Bundoora, who I thank for electing me again recently.

Congratulations to the Premier and the Leader of the Opposition on their appointment to their respective roles and indeed to all ministers, shadow ministers and other office-holders on the important positions that they will hold. In particular to the Leader of the House, the Manager of Opposition Business and the respective whips, I look forward to working with you for the smooth running of the house.

Members, we have some great democratic traditions in this place and our Parliament has served us well over 162 years, but there is room for improvement. Our democracy and indeed this Parliament here in Victoria, I do not believe should be static. We need to respond to our changing society carefully, cautiously but deliberately. That should involve holding onto what works really well but also looking for new ways to improve and enhance our system of democracy. I believe we can improve our system here in Victoria by listening better to Victorians, by engaging better with them as a Parliament and by building better understanding within the Victorian community about the important work that we perform here as a Parliament. I look forward to working with all members over the next few years to do just that.

When leaving this place a few months ago, a number of respected members cited in their valedictory speeches concerns about what they perceived as a lack of trust in democracy and declining trust in democracy. The former member for Brighton, the Honourable Louise Asher, in her valedictory speech, cited research from 2014 that only 60 per cent of Australians believe that democracy is preferable to any other kind of government. That is a staggering figure and of concern to all of us who believe in parliamentary democracy. Since the member's valedictory speech just a few months ago, the Museum of Australian Democracy and the University of Canberra have released further research which was conducted this year, showing that Australian satisfaction in the way our democracy works has fallen further to 41 per cent. I acknowledge that this research is Australia-wide and not specific to Victoria, and that global trends around declining trust in institutions may play a part in those figures as well, but I think this chamber should not ignore those warning signs.

In my view, the tone of debate and the behaviour in this chamber declined over the last two or three parliaments, and I believe that this needs to change. Victorians deserve and expect better from their parliamentary representatives. At the end of one parliamentary term and at the start of a fresh Parliament, I think we need to press the reset button on the standard of parliamentary debate and behaviour. So I call on all members to adopt a thoughtful, considerate and respectful approach to debate and between each other. I would ask the house to think about sessional and standing orders that encourage better behaviour and, if need be, to enforce better behaviour, particularly during question time.

Speaking of standing orders and all things technical, can I thank our clerks here in the Assembly and the whole Assembly department, the Council department and the Department of Parliamentary Services for organising today's opening day of Parliament. It is a feat that I did not realise took so much effort until I was in this role. They are doing this at the same time as transitioning members who have not been returned and all of the new members as well, so it is a mammoth task and I do pay tribute to our parliamentary staff for their efforts.

I also want to take this opportunity to again note that our Clerk, Bridget Noonan, has become a fully fledged Clerk of the Assembly. And for the benefit of new members, she is the first woman to be appointed Clerk here in the Assembly in our Parliament's history.

Members applauded.

The SPEAKER: While I acknowledge that our system of parliamentary democracy is an adversarial one, it is also important to remember those members who unexpectedly lost their seats at

the last election, and importantly their staff. Previous experience tells us that some members adjust to election outcomes better than others. Regardless of which side of politics we are on I think it is incumbent upon all of us to check on those members and their staff to make sure that they are okay.

Finally, can I thank members again for this very important role. I will always be available for people to ask questions or make suggestions or provide ideas. I am looking forward to working with all of you this term.

Members, the house will now proceed to the election of a Deputy Speaker.

DEPUTY SPEAKER

Election

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (11:42): I am delighted to propose the member for Bendigo West, Maree Edwards, as Deputy Speaker. Maree is someone I know well as a friend and, as a fellow Bendigo representative, I am confident she will continue to do an outstanding job in that role that she did also perform in the previous Parliament.

Ms HALFPENNY (Thomastown) (11:43): I am very pleased to second the motion.

The SPEAKER: Does the member for Bendigo West accept the nomination?

Ms EDWARDS (Bendigo West) (11:43): I am honoured to accept the nomination.

The Speaker declared the member for Bendigo West duly elected as Deputy Speaker.

Mr ANDREWS (Mulgrave—Premier) (11:44): I inform the house that the Governor will be pleased to receive the Speaker in the library, Parliament House, at 1.20 p.m. today. Members who then wish to meet the Governor can assemble in the library corridor at 1.35 p.m.

The SPEAKER: Members, the house is now suspended, and I will resume the chair at 2.00 p.m. Sitting suspended 11.45 a.m. until 2.00 p.m.

The SPEAKER resumed the chair and read the prayer.

Opening of Parliament

ACKNOWLEDGEMENT OF COUNTRY

The SPEAKER (14:01): Members, we acknowledge the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their culture, their elders past, present and future and elders from other communities who may be here today.

PRESENTATION OF SPEAKER TO GOVERNOR

The SPEAKER (14:01): Order! Members, I advise that today I presented myself to the Governor as the choice of this Assembly and that she was pleased to address me in the following terms:

I have pleasure in congratulating you on your election to the high and important office of Speaker of the Legislative Assembly.

The able manner in which you have discharged the duties you have undertaken during your parliamentary career is recognised by honourable members of the Legislative Assembly who in their wisdom have selected you as their Speaker.

I have confidence that you will fulfil the duties of this distinguished office and hold fast to its traditions and customs.

The SPEAKER: Signed by the Governor.

Address to Parliament**GOVERNOR'S SPEECH**

The Usher of the Black Rod brought a message from the Governor desiring the attendance of members in the Legislative Council chamber.

Members, led by the Speaker, proceeded to the Legislative Council chamber.

Sitting suspended 2.07 p.m. until 4.01 p.m.

Announcements**COMMISSION TO ADMINISTER OATH OR AFFIRMATION TO MEMBERS**

The SPEAKER (16:01): I wish to advise the house that I have received a commission from the Governor to administer the oath or affirmation to members. It reads as such:

Acting under section 23 the *Constitution Act 1975* I authorise you, from time to time, in the Parliament Houses, Melbourne, to administer the prescribed Oath or Affirmation of allegiance to any Member of the Legislative Assembly who has not already taken and subscribed the same since his or her election to the Legislative Assembly.

Given under my hand and the Seal of Victoria on this 19th day of December 2018.

DISTINGUISHED VISITORS

The SPEAKER (16:02): Before calling for questions, I would like to acknowledge in the gallery the presence of former Speakers Maddigan and Andrianopoulos.

Members**MINISTRY**

Mr ANDREWS (Mulgrave—Premier) (16:02): I wish to inform the house of responsibilities that will be undertaken by ministers in this Parliament. In the Legislative Assembly I am responsible for the role of Premier. The member for Monbulk is the Deputy Premier and Minister for Education. The member for Werribee is the Treasurer, Minister for Economic Development and Minister for Industrial Relations. The member for Bendigo East is the Minister for Transport Infrastructure and Leader of the House.

The member for Niddrie is the Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support. The member for Mill Park is the Minister for Energy, Environment and Climate Change and Minister for Solar Homes. The member for Narre Warren North is the Minister for Child Protection and Minister for Disability, Ageing and Carers. The member for Albert Park is the Minister for Mental Health, Minister for Equality and Minister for Creative Industries.

The member for Altona is the Attorney-General and Minister for Workplace Safety. The member for Williamstown is the Minister for Public Transport and Minister for Ports and Freight. The member for Kororoit is the Minister for Consumer Affairs, Gaming and Liquor Regulation and Minister for Suburban Development. The member for Bellarine is the Minister for Water and Minister for Police and Emergency Services. The member for Keysborough is the Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, and Minister for Racing.

The member for Preston is the Assistant Treasurer and Minister for Veterans. The member for Dandenong is the Minister for Prevention of Family Violence, Minister for Women and Minister for Youth. The member for Richmond is the Minister for Planning, Minister for Housing and Minister for Multicultural Affairs. The member for Macedon is the Cabinet Secretary. The member for Thomastown is the Government Whip. The member for Bentleigh is the secretary to the parliamentary Labor Party. In the Legislative Council Gavin Jennings is the Leader of the Government, Special

Minister of State, Minister for Priority Precincts and Minister for Aboriginal Affairs. The Attorney-General will answer questions on behalf of the minister in relation to the Special Minister of State portfolio, and the Minister for Planning will answer questions on behalf of the minister in relation to the priority precincts and Aboriginal affairs portfolios.

Jaelyn Symes is Deputy Leader of the Government in the Legislative Council, Minister for Regional Development, Minister for Agriculture and Minister for Resources. The Minister for Transport Infrastructure will answer questions on behalf of the minister in relation to the regional development portfolio, the Minister for Energy, Environment and Climate Change will answer questions on behalf of the minister in relation to the agriculture portfolio and, finally, the Treasurer will answer questions in relation to the resources portfolio.

Jenny Mikakos is Minister for Health and Minister for Ambulance Services. The Minister for Mental Health will answer questions on behalf of the minister in this chamber.

Jaala Pulford is Minister for Roads, Minister for Road Safety and the TAC, and Minister for Fishing and Boating. The Minister for Transport Infrastructure will answer questions on behalf of the minister in relation to the roads and road safety and the TAC portfolios, and the Minister for Public Transport will answer questions in relation to fishing and boating.

Adem Somyurek is Minister for Local Government and Minister for Small Business. The Minister for Consumer Affairs, Gaming and Liquor Regulation will answer questions on behalf of the minister in relation to the local government portfolio, and the Minister for Jobs, Innovation and Trade will answer questions in relation to the small business portfolio.

Gayle Tierney is Minister for Training and Skills, and Minister for Higher Education. The Minister for Education will answer questions on behalf of the minister in this chamber.

Ingrid Stitt is the Government Whip in the Legislative Council. That concludes the team sheet for the government.

SHADOW MINISTRY

Mr M O'BRIEN (Malvern—Leader of the Opposition) (16:06): I am pleased to inform the house of the responsibilities and portfolio allocations for the coalition in this house and in the other place.

In this house I am the Leader of the Opposition, the Leader of the Liberal-Nationals coalition, Leader of the Liberal Party and shadow Minister for Small Business.

The member for Murray Plains is Deputy Leader of the Opposition, Deputy Leader of the Liberal-Nationals coalition, Leader of The Nationals, shadow minister for regional Victoria and decentralisation, shadow Minister for Agriculture and shadow Minister for Aboriginal Affairs.

The member for Eildon is Deputy Leader of the Liberal Party, shadow Minister for Education, shadow minister for youth affairs and shadow minister for regional cities.

The member for Euroa is Deputy Leader of The Nationals, shadow Minister for Water, shadow minister for public transport (regional) and shadow minister for gaming and liquor regulation.

The member for Forest Hill is shadow Assistant Treasurer, shadow minister for consumer affairs and shadow minister for citizenship and multicultural affairs.

The member for Gembrook is the shadow minister for emergency services, shadow Minister for Youth Justice, shadow Minister for Crime Prevention and shadow Minister for Victim Support.

The member for South-West Coast is shadow minister for rural roads and shadow Minister for Ports and Freight.

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The member for Gippsland East is shadow minister for carers and disability, shadow minister for veterans affairs, shadow Minister for Racing and shadow Minister for Fishing and Boating.

The member for Croydon is shadow Minister for Tourism, Sport and Major Events.

The member for Lowan is shadow Minister for Mental Health, shadow Minister for the Prevention of Family Violence and shadow Minister for Women.

The member for Mornington is shadow minister for environment and climate change, and shadow minister for bay protection.

The member for Warrandyte is shadow minister for energy and renewables, and shadow Minister for Resources.

The member for Kew is shadow minister for planning and heritage, shadow Minister for Local Government, shadow Minister for Housing and shadow minister for population.

The member for Caulfield is shadow minister for police, shadow minister for community safety and shadow Minister for Corrections.

The member for Ripon is shadow Treasurer and shadow Minister for Economic Development.

The member for Ferntree Gully is shadow minister for industrial relations and workplace safety, shadow Minister for Child Protection and shadow minister for ageing.

The member for Rowville is shadow Special Minister of State, shadow minister for counterterrorism and Manager of Opposition Business.

The member for Evelyn is secretary to the shadow cabinet.

I also advise that in the other place Mr Davis is the Leader of the Opposition and Leader of the Liberal Party. Mr Davis is also shadow minister for public transport (metropolitan), shadow Minister for Transport Infrastructure, shadow Minister for Equality, shadow minister for federal-state relations, shadow Minister for Priority Precincts and shadow minister for the arts.

Ms Crozier is Deputy Leader of the Opposition and Deputy Leader of the Liberal Party in the other place, shadow Minister for Health and shadow Minister for Ambulance Services.

Mr O'Donohue is shadow Attorney-General.

Mr Rich-Phillips is shadow minister for finance, shadow Minister for Roads (Metropolitan), shadow Minister for Road Safety and the TAC, and shadow minister for aviation. Ms Wooldridge is the shadow minister for innovation, jobs and trade, shadow Minister for Training and Skills, and shadow Minister for Higher Education.

I can also inform the house that the member for Benambra is the Liberal Party Whip in the Legislative Assembly, Mr Finn is the Liberal Party whip in the other place and the member for Narracan is secretary of the parliamentary Liberal Party.

GREENS LEADERSHIP

Ms SANDELL (Melbourne) (16:09): I am pleased to inform the house of the following responsibilities in the Victorian Greens party room. Samantha Ratnam in the other place will continue as Leader of the Victorian Greens. She holds the portfolios of housing, planning, gambling, social services, consumer affairs, multiculturalism, local government, industrial relations, Aboriginal affairs and animals.

I have been appointed to the role of Deputy Leader of the Victorian Greens and manager of parliamentary business. My portfolios include climate change, energy and environment, Treasury, economy and the arts. The member for Prahran will take on the portfolios of transport, education,

LGBTI equality and youth. The member for Brunswick is our party room chair and takes on the portfolios of health, sport, research and science, justice and anti-corruption.

Questions without notice

ROYAL COMMISSION INTO THE MANAGEMENT OF POLICE INFORMANTS

Mr M O'BRIEN (Malvern—Leader of the Opposition) (16:10): My question is to the Premier. Premier, you have previously agreed to implement all of the recommendations of the family violence royal commission and all of the recommendations of the proposed mental health royal commission sight unseen. I ask: will you also agree to implement all of the recommendations of the Royal Commission into Management of Police Informants?

Mr ANDREWS (Mulgrave—Premier) (16:11): I do thank the Leader of the Opposition for his question. This is a serious matter, and one where I think the appropriate response has been provided by the government. I know my honourable friend the Attorney-General has outlined the terms of reference and has made announcements in relation to the two commissioners who will conduct that important work. It is our intention to implement all the recommendations that are given to us. We think that is very important both in terms of giving us advice and clarity about how many convictions are potentially unsafe because of the way a particular human source was used, and secondly, beyond that, any advice, any instruction, that can be provided to us to ensure that culturally and in terms of the practices that are employed by Victoria Police—we will take any advice to make sure this can never happen again.

I think the Leader of the Opposition and I might find many things to argue about. On this I hope we can agree that what went on was wrong. It should not have occurred. We want to make sure that we make the changes and the reforms, that we drive a new agenda to make sure that this can never happen again.

GOVERNMENT ACHIEVEMENTS

Ms KILKENNY (Carrum) (16:12): My question is for the Premier. Can the Premier outline how the government continues to deliver for all Victorians and what has been done since the Victorian people endorsed the government's positive and optimistic plan for our state?

Mr ANDREWS (Mulgrave—Premier) (16:12): I can barely indicate how pleased I am. I do not know that I can accurately describe how pleased I am to receive a question from the honourable member for Carrum—an outstanding advocate for her community, one who was resoundingly endorsed by her local community I think with 53 per cent or so of the primary vote. That is a stunning endorsement of all that she has worked for, all that she stands for and all that she will get done in these next four years as a member of our government.

I have been asked about what has happened since the very clear verdict of the Victorian community was handed down on 24 November. I am delighted to be able to inform the honourable member for Carrum—and all members, particularly the few of them opposite—as to what has been going on since the election.

We have had a very busy time of it. For a start, we have sworn in a cabinet where 50 per cent of the membership are women. That has never before happened—a very significant development. We think that, whether it be in terms of gender or diversity as it is measured in lots of different ways, the cabinet ought to reflect the community that it serves. That is our aim, and what is more, that is what we have delivered.

Beyond that, I am very pleased to inform the honourable member for Carrum that, for instance, the north-east link contracts—that vital missing link in our road network—are out to the market as promised. The first of the two tunnel boring machines for the West Gate Tunnel—that vital second river crossing talked about for a long time but delivered by this government—is on its way and will be here in the new year. It will be under construction. It will be doing its important work in just a

matter of months. More than 100 local and global companies have put their hands up to deliver the airport rail project. That expression of interest process closed just last week, and we have seen 100 different organisations, some Australian, many from around the world—more interest than even the Metro Tunnel project, which at the time set a record itself. I think the world can see that there are things going on in Victoria—things are happening, things are getting built. Things are getting done in Victoria. The last three weeks have been as busy as the last four years. I am happy to say they will be as busy in the next four as well as we deliver our positive and optimistic plan.

I have got a very, very long list here, Speaker. I do not want to take up too much of honourable members' time, but not only is the roadheader doing its work in terms of the Metro Tunnel, digging those huge underground stations—five of them, 9 kilometres of track, taking the busiest of lines out of the city loop and creating a turn-up-and-go public transport system—we have got the first of the high-capacity metro trains out there on the rails being tested so that we can roll all 65 of those out progressively from next year. What is the local content on that train order?

Members interjecting.

Mr ANDREWS: Sixty-five per cent. They are not made—

Members interjecting.

Mr ANDREWS: Well, we care about Victorian jobs and we deliver Victorian jobs. One of the reasons why perhaps we have a 4.5 per cent unemployment rate and the strongest economy in the nation is that we actually put Victorian jobs first. I think Victorian workers can build better trains than anyone else, anywhere in the world. That is why they have got the biggest train order our state, and perhaps our nation, has ever seen. We are investing and have continued to make sure that we get on and do all that early work to deliver each and every one of the commitments that we have made.

We have received the greatest of gifts—a second term, a comprehensive endorsement of our positive and optimistic plan. At the same time, Victorians did not just vote for that plan, they made it pretty clear that the narrow, nasty, spiteful, divisive, insipid agenda offered by others was not what Victorians need and not what Victorians would support. In other words, some were comprehensively rejected.

GOVERNMENT TAXES

Mr M O'BRIEN (Malvern—Leader of the Opposition) (16:17): The Premier should have a look at some of the social media his party ran in the campaign before he starts talking about ungracious comments.

The SPEAKER: Order! Through the Chair.

Mr M O'BRIEN: My question is to the Premier. Premier, you told Victorians that you say as you do and that you do as you say. During the election campaign you told Victorians:

... the alternative is you either increase taxes, we have committed we are not doing that ...

Premier, will you do as you say and guarantee that your government will not increase taxes in this term?

Mr ANDREWS (Mulgrave—Premier) (16:18): I do thank the Leader of the Opposition for his question. It is not a new question. We have had this question before. I do not know whether the member for Bulleen asked it better than the member for Malvern, but it is not a new question. I would have thought that those opposite, who pretended to be upset when we increased coal royalties for big, greedy energy companies; I would have thought that those who pretended to be upset when we said that if you do not live in Victoria, if you are an overseas national, and you come and buy a property in Victoria, you pay no GST, you pay no income tax, so you can pay a little bit extra stamp duty; I would have thought that those opposite who complained or at least pretended to be upset about a range of

different tax changes we made would have learned an important lesson on 24 November. Clearly they have not.

Mr R Smith interjected.

The SPEAKER: The member for Warrandyte is warned.

Mr ANDREWS: The member for Warrandyte has got a lot to say.

Members interjecting.

Mr M O'Brien: On a point of order, Speaker, the Premier is debating the question. The question asked was: would he actually stick by what he said in the campaign, reported in the *Australian Financial Review* in black and white? I ask you to bring him back to answering the question, not debating it.

The SPEAKER: Order! I ask the Premier to come back to answering the question.

Mr ANDREWS: I am very pleased to—

Members interjecting.

The SPEAKER: Order! The member for Ferntree Gully is warned.

Mr ANDREWS: I think that was the member for Ferntree Gully, but just before I sat down I did hear the member for Warrandyte. I have missed the member for Warrandyte—I have—over these last few weeks and I just say to him: when they said to you that you could be in charge of the marginal seats group, I do not think they meant you should finish up in one. I do not think that is quite what they meant.

Members interjecting.

The SPEAKER: Order! The Premier will come back to the question.

Mr ANDREWS: We have laid out a fully costed, fully funded plan, and it has been endorsed in unprecedented terms by the Victorian community. I will again confirm for the Leader of the Opposition that when we say it, we mean it and then we get it done.

Mr R Smith interjected.

The SPEAKER: Order! I am going to warn the member for Warrandyte for reflecting on the Chair.

EDUCATION FUNDING

Ms SPENCE (Yuroke) (16:20): My question is to the Minister for Education. Minister, like many other outer suburban electorates, Yuroke is experiencing significant population growth. With demand for new schools and kindergartens a key part of meeting the demands of a growing population, can the minister outline to the house what steps the Andrews Labor government is taking to cater for this growth in Victoria and in my electorate of Yuroke?

Mr MERLINO (Monbulk—Minister for Education) (16:21): Thank you, I like these Dorothys. Speaker, at the outset can I congratulate you on your appointment as Speaker, and to the member for Yuroke, I thank the member for her question and her longstanding and passionate advocacy on behalf of her community, particularly when it comes to schools and kindergartens. In fact after the 2014 election, when we came into government, the very first thing that the member for Yuroke talked to me about was the need for new schools in her electorate.

In our last term we invested \$3.8 billion, upgrading 1300 existing schools and building new schools right across the state in our growth areas, in our suburbs and in our regions. Can I say, unlike those opposite, we do not say to people that the only way to have decent services and decent infrastructure

is if you leave Melbourne and head into the outer suburbs. We invest in communities wherever it is needed.

In the member for Yuroke's electorate, that means a brand-new primary school in Aitken Hill, which will be opening next year. This is one of nine brand-new schools funded and delivered by the Andrews Labor government that will open in term 1 2019, but there is so much more to do. During the election campaign I was absolutely delighted to join with the Premier, join with the now new member for Bass—a fantastic local member—to announce that a re-elected Andrews Labor government would deliver 100 new schools across Victoria over the next eight years—100. By way of contrast how many new schools did those opposite promise to build if they were elected?

Mr Andrews: How many?

Mr MERLINO: Four. Four new schools—that is it. Four new schools for all of Victoria. In this term alone we will deliver six new schools in the electorate of Yuroke alone—six new schools—Aitken Hill in 2019, Craigieburn south secondary in 2020, Greenvale North West primary and Merrifield West primary in 2021, Greenvale secondary and Kalkallo common primary school in 2022. The contrast could not be clearer.

The honourable member also asked about kindergartens. The Andrews Labor government will invest \$1.68 billion over the next decade to deliver around 785 new kindergartens and expand 170 existing services. It is part of almost \$5 billion over the next decade to deliver 15 hours of universal, three-year-old kinder. The reason why this is so important is that 90 per cent of a child's brain is developed in the first five years of their life. This is an investment under the Andrews Labor government in our second term that will transform lives.

I want to thank the people of Victoria for giving us the opportunity to see through our vision and our reform and create the Education State in Victoria. It is an honour to be given the rare privilege of being able to serve again as Minister for Education with the added responsibility of early childhood education. I want to thank again the member for her question. I look forward to working with everyone in this placed to deliver this historic investment in education only under a Labor government.

The SPEAKER: Before calling the member for Ripon I just want to acknowledge in the gallery the presence of the former member for Williamstown.

MINISTER FOR LOCAL GOVERNMENT

Ms STALEY (Ripon) (16:25): My question is to the Premier. In July 2015 Justice Strong made adverse findings against Minister Somyurek in relation to a number of inappropriate incidents involving his staff. One of those incidents related to physical contact with a female member of staff. At the time you stated:

'I came to the conclusion that I could not have confidence in the minister and that his position was untenable'.

Premier, despite the adverse findings from Justice Strong's investigation, which caused you to lose confidence in him, why have you now promoted this same minister back into your cabinet?

Mr ANDREWS (Mulgrave—Premier) (16:26): I thank the member for Ripon for her question. The matters that she cites are well known, well understood and have been well canvassed. I was asked a similar question just recently and I made the point that in terms of punishment or paying a price or any other construct you want to put on it, the now minister lost his job because of the findings of the report quoted by the member for Ripon. I think that is a very significant penalty to pay. I think that the minister has spent these last three and a half years becoming a better man than he has ever been, and I look—

Members interjecting.

The SPEAKER: Order! The Premier has the call.

Mr ANDREWS: Well, I would not be lecturing anybody on self-improvement or betterment if I were those opposite. The Toyota Tarago crew over here—really, you are an expert on betterment, are you? Goodness me! The minister paid a price, the minister has reflected upon his conduct, the minister has been reappointed and the minister will do an outstanding job in the portfolios allocated to him.

SOLAR HOMES PACKAGE

Ms HALFPENNY (Thomastown) (16:27): My question is to the Minister for Solar Homes. Can the minister please update the house about the action the Andrews Labor government is taking to reduce power prices for Victorians, including constituents in my electorate of Thomastown, through the Solar Homes program?

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (16:28): I thank the member for Thomastown for her question. Like all these fantastic members on this side of the house, she knows how important it is for us to have clean and affordable energy for Victorians, as do so many Victorians outside this place. Ultimately that is what matters most when we talk about affordability and clean energy.

We know of course that Jeff Kennett and the friends on the other side of the table wanted us to believe for so many years that privatisation was good for Victorians, that it was going to lead to lower prices. But we know for sure that under that scenario, under that belief prices have simply gone up while big energy companies have made record profits. In contrast our government is putting power back in the hands of Victorian families, building Victoria's solar industry, building and creating jobs and giving confidence for investment, which is seeing the boom in clean energy happening in our state and Victorians ultimately benefiting through more affordable prices. The Solar Homes program will see solar panels, batteries and solar hot water systems installed in 720 000 Victorian homes, saving Victorians an average of \$890 a year off their power bills— better in their pockets than in the hands of the big corporates that those opposite support. Resident home owners will be able to install a solar system for half price and pay the rest back through a no-interest loan. Renters will also be eligible to get solar installed, with a payment of just 25 per cent of the cost, paid back over four years, saving money off their power bills from day one.

Our government's solar homes program is already producing outstanding, successful results. We have seen more than 5000 new installations made since the program was launched back in August. We have seen over 200 applications received in the new suburb of Wollert alone. The member for Thomastown will be very excited to know that her constituents approve of and are running for this program because they know it will save them significant dollars. All members know that families have voted with their feet when it comes to affordable energy, clean energy and giving back control to them.

The program will be rolled out over 10 years, not in 10 minutes. Our commitment is to ensure that we have the highest standards in safety and quality. When it is complete, 1 million Victorian homes will be powered by the sun, saving thousands of dollars off their energy bills.

The contrast could not be starker, and I am absolutely delighted that with the government that we have—that has been returned—we will be able to deliver this program that has been so successful to date, and so many more Victorians will start to see the fantastic benefits that come with affordable energy and with having power back in their hands and a lowering of those power bills.

CLIMATE CHANGE

Ms SANDELL (Melbourne) (16:31): My question is to the Premier. Premier, on 30 November thousands of students across Victoria went on strike from school and marched past this very building. They were demanding that politicians protect them from dangerous climate change by keeping fossil fuels in the ground. Yet instead of coming up with a plan to transition out of coal, your government has extended the licence for the dirtiest coal station in Australia, Yallourn.

Premier, while your government has done some really good things on renewables, you are suspiciously silent when it comes to coal. My question is: will you hear the call of these brave young people and urgently release a plan to close Victoria's dirty coal plants and stop coalmining and burning in Victoria for good?

Mr Pearson interjected.

The SPEAKER: Order! The member for Essendon is warned.

Mr ANDREWS (Mulgrave—Premier) (16:32): I do thank the member for Melbourne for her question, and I do not want this moment to pass by. The member for Melbourne just said we have done some good things in this area.

Members interjecting.

Mr ANDREWS: No, I am very grateful for that. By industry standards that is a massive concession from the Green political party. Thank you so much for your stunning endorsement of the biggest wind and solar energy program in our nation. Not just more than—

Members interjecting.

Mr ANDREWS: We are not sort of loping around, but doing a bit more. The biggest renewable energy agenda in our nation today is in the great state of Victoria—and not because of the plans of some, who would abolish the Victorian renewable energy target (VRET), and not because of the commentary of others, who would criticise. We are making the transition that the member for Melbourne speaks about because we are investing in wind and solar, and we are not closed off to other technologies that may prove just as cost-effective and just as important in generating jobs and generating the sort of synchronous, dispatchable power that we need in the future. Batteries—

Members interjecting.

Mr ANDREWS: I can get a briefing for those opposite if they need to know about what the words 'synchronous' and 'dispatchable power' mean.

Members interjecting.

Mr ANDREWS: Goodness me! You have obviously learned a lot. Those opposite are opposed to VRET. We are taking it to 50 per cent. We are making the very transition that the member for Melbourne says she is concerned about, and what is more, I would point out to her that perhaps the transition that she is concerned about might well have occurred some time ago, or might well be closer in real terms if at a national level we had had some leadership.

Members interjecting.

Mr ANDREWS: And part of that leadership—I am not just having a go at the Morrison minority government or the Turnbull government before that or the Abbott government before that; I am also I think making a fair point that Greens representatives in the Senate decided that perfect was better than good and that if we were not going to have an absolutely perfect system, then they would scuttle the lot. You would scuttle the lot that is the preferred outcome. Whilst I will defend the member for Melbourne's right to take that sort of purist view, where everybody other than the Greens should compromise—that is the way it works; everybody other than the Greens should compromise, and I will defend your right to have that position—it does not mean I have to agree with it, and I do not.

There are some who talk about transition and there are others who get on and deliver it. I will leave it to the good judgement of the good people of this great state as to who that might be. I will give you a little hint, member for Melbourne, there are just about seven up here and then it goes all the way around there. They are the people who are making the transition—and there are 18 in the other place if you would like to count. There are others who are commentators, sadly, and nothing more.

MENTAL HEALTH ROYAL COMMISSION

Ms GREEN (Yan Yean) (16:35): My question is to the Minister for Mental Health. I ask: Minister, why was it necessary for the government to commit to a royal commission into mental health, and what steps has the government so far taken in its establishment?

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries) (16:36): I thank the honourable member for Yan Yean for her question because the member for Yan Yean, like many on this side and a fair slab on that side, knows well that the government's commitment to hold Australia's first royal commission of its type into mental health was a key platform in the recent election. It might well be some reason as to why the honourable member now enjoys a 17 per cent margin in her seat. But, of course, we know that mental health impacts in our community are real. We know that every family on every street in every suburb and every town has a direct lived experience of the impact of mental health challenges in our community. We know that our mental health system impacts on carers, it impacts on families and it impacts on patients and consumers. It has a direct role in so many of the challenges that occur in our schools, in our homelessness, in our alcohol and drug sectors and in our community support systems. We know that in our mental health system, when it comes to that community care aspect of the system, the clinical care system and the forensic mental health system, there are gaps in all of those.

We know from the lived experience of those people who tell us that that shows itself in treatment gaps, in quality gaps and in preventative care gaps. Into these gaps too many Victorians have fallen. Far too many families struggle with the challenges that our mental health system and its lack of comprehensive support provide to too many people. That is despite the fact that we have seen in the first term of the Andrews government a 180 per cent increase in funding in the mental health portfolio. This is despite the dedicated efforts of those many thousands of professionals and community care workers and those heroic carers and consumer advocates in the sector who lead the commentary and the public debate and the service delivery in this area. We know this because the truth is that one in five Australians today is living with a mental illness and almost one in two of us in the course of our lives will deal with a serious mental health illness or challenge that will require professional support.

Our system or, rather, our collection of services that fails to operate as a system was once the best in the country, particularly as we came out of the deinstitutionalisation push in the 1980s and 90s. This is no longer a claim that we can make. What we committed to up in Kyneton, with the Premier leading the contribution, was that we will deliver a royal commission into this aspect of Victoria's mental health system within 100 days of the election—and we will deliver on that promise. We are already consulting with key groups such as the Australian Medical Association, Mental Health Victoria, the Royal Australian and New Zealand College of Psychiatrists, the Australian Nursing and Midwifery Federation and a whole range of other stakeholder groups, and over coming days we will meet with carers, advocates and consumer groups. We will make sure that the terms of reference that we give to those royal commissioners ensure that we not only focus on the failings of that collection of services, that we not only hear the voice and the trauma of those people that have been let down by the system, but that we will come through that process to a solution—that we will come to a process so that we can implement and deliver on, as the Premier has indicated, every recommendation that that royal commission will make to build a better system.

This is not just a challenge for Victorians. This is a challenge for Australians, because we do not deliver the mental health services in this state in isolation from the primary care systems that the commonwealth contributes to and that all sorts of non-government organisations contribute to. This is a challenge for the nation, and this is a challenge that I am sure, when we deliver the terms of reference and the royal commission architecture, is one that the nation will look to. More importantly, we will give those royal commissioners the powers and the resources to reimagine the system and to make sure that we come up with a system that combines action around prevention of mental illness and that

it has an effective social and clinical care for people that allows them to know that when they are faced with mental health challenges they will get the support and the services that they need.

This is a transformational opportunity for Victoria to not just get our mental health system right, to not just deliver the services that hundreds of thousands of people every year look to government to deliver, but to lead the nation in a conversation about making sure that mental health is taken as importantly in our community as physical health. That is a challenge that I know we will deliver on.

FIREFIGHTER PRESUMPTIVE RIGHTS LEGISLATION

Mr WALSH (Murray Plains) (16:41): My question is to the Premier. Premier, you have already flagged that you will again try to smash up Victoria's revered CFA fire service in this new term of Parliament.

A member: You're kidding.

Mr WALSH: I am not kidding. Premier, will you act in the best interests of our dedicated volunteers and introduce presumptive rights legislation that will guarantee volunteers are treated equally to career firefighters when it comes to compensation—

Members interjecting.

The SPEAKER: Order! The member for Sunbury can leave the chamber for the period of 1 hour.

Member for Sunbury withdrew from chamber.

Mr WALSH: Premier, will you act in the best interests of our dedicated volunteers and introduce presumptive rights that will guarantee volunteers are treated equally with career firefighters when it comes to compensation for illnesses they develop as a result of keeping our communities safe?

Mr ANDREWS (Mulgrave—Premier) (16:42): I do thank the Leader of The Nationals for his question.

Mr Hodgett interjected.

Mr ANDREWS: The member for Croydon just indicated that, with the ejection of the member for Sunbury, he had won the bet. I think I have won the sweep in our office; we knew there would be one question today that just demonstrated that those opposite have learned nothing at all from the results on 24 November.

I tell you what, Speaker, call me partisan, but I will not take advice on presumptive rights legislation or cancer that is caused by firefighting from people who have for four long years denied any link between firefighting and cancer. I will not do it. Nor will I take advice on protecting those who protect us in relation to cancer and compensation from people who voted against the very thing that they are now calling for. You voted against it. You voted against it in some of the most shameful arrangements we have ever seen upstairs.

Members interjecting.

Mr ANDREWS: How did it work for you?

The SPEAKER: Order! The Premier will resume his seat.

Mr Walsh: On a point of order, Speaker, it was a very clear question to the Premier: will he guarantee presumptive rights legislation that guarantees volunteers the same rights as paid firefighters? The Premier is actually debating the question. I ask you to bring him back to actually answering that question on behalf of all the volunteers here in Victoria.

The SPEAKER: Order! I ask the Premier to come back to answering the question.

Mr ANDREWS: Those volunteers and career firefighters had to do their important work under the weight of the cutbacks made by those opposite. The hypocrisy of those opposite is boundless and obvious to all Victorians. You can run your little scare campaign for another four years if you like; we will see where it gets you. I suspect it will get you no further than the stuff you were up to for the last four years. We do not cut the CFA budget. We do not vote against presumptive rights legislation. We do not deny the link between some forms of cancer and firefighting, and when I need a big great dose of hypocrisy I will start taking advice from the likes of you.

TRANSPORT INFRASTRUCTURE

Ms WARD (Eltham) (16:45): My question is to the Minister for Transport Infrastructure. Can the minister update the house on the Andrews Labor government's pipeline of major infrastructure projects and how this is only possible as a result of the work already undertaken over the last four years?

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (16:45): Thank you, Speaker, and I would like to congratulate you on your appointment. I also thank the member for Eltham for her question and congratulate her on her appointment as the Parliamentary Secretary for Public Transport Infrastructure. You know what? She is going to be busy, along with the rest of us.

If you cast your mind back four years, four years ago the Andrews Labor government outlined a strong and ambitious public transport agenda. If you remember, we said we would get to work on the Metro Tunnel by the end of our first term. Well, we have more than just started. You can go around the city right now and see work underway at a number of different locations from South Yarra to South Kensington. This is a project that is now a year ahead of schedule.

We promised we would get rid of 20 dangerous and congested level crossings by the end of 2018. Of course 29 are now gone, and they are gone in places like Ivanhoe, Carrum, Bayswater and St Albans and in many other suburbs across metropolitan Melbourne.

We promised a train line to Mernda with two stations. Not only did we deliver three train stations in that project but it was delivered well ahead of schedule. We promised 21 new VLocity trains for the regional network. We ended up ordering 87, and we went further by undertaking a program to upgrade every single regional passenger line in Victoria. And as we heard the Premier say earlier, we went even further when it came to rolling stock. We put in an order for 65 new high-capacity metropolitan trains fit for our metropolitan network and of course being built right here in Victoria. Victorians saw for themselves that we were delivering on our promises, that we were well and truly getting it done.

I would like to share with the house a reference that one commentator made, and I will acknowledge that this individual is a highly partisan commentator when it comes to his observations on Victorian politics. His observations about the outcome of the 2018 election were that some might say that Labor's signature infrastructure initiative—the removal of dozens of level crossings around Melbourne and regional Victoria—was physical and popular proof of 'a government doing things'. Absolutely right. I think it goes without saying that we acknowledge the former president of the Liberal Party for his endorsement of our positive and optimistic plan for Victorians.

Like the former president of the Liberal Party in Victoria, Victorians saw what we were doing. They liked it, and they voted for more. And what does that more look like? Victorians voted for airport rail. They voted for another 25 level crossings to be removed. They voted for new electrified train lines to Melton and Wyndham Vale. They voted for the duplication of the Hurstbridge and Cranbourne lines. They also voted for that beautiful new Pakenham super-hub that we will be delivering as well. They voted for high-speed rail to Geelong and Ballarat and another 54 VLocity trains, and finally, they well and truly endorsed and supported the Suburban Rail Loop.

We are not going to waste a day getting on and delivering this agenda. Planning and construction is well underway on these projects. They are creating jobs. They are making communities safer. They

are getting people home sooner. These are the projects that Victorians voted for, and these are the projects that the Andrews Labor government will absolutely deliver for all Victorians.

Bills

SAFE PATIENT CARE (NURSE TO PATIENT AND MIDWIFE TO PATIENT RATIOS) AMENDMENT BILL 2018

Introduction and first reading

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries) (16:49): I move:

That I have leave to bring in a bill to amend the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 and for other purposes.

Ms KEALY (Lowan) (16:50): I ask the minister for a brief explanation of the bill.

Mr FOLEY: This is a bill that seeks to amend the current arrangements in place for nurse–patient ratios that have actually passed this chamber in the last Parliament and which seeks to do so again with a few further amendments in this Parliament as well.

Motion agreed to.

Read first time.

Mr FOLEY: I move:

That the bill be read a second time immediately.

Under standing order 61(2), I can advise the house that the other parties and independent members have been provided with a copy of the bill and a briefing in accordance with standing orders.

Mr Wells: On a point of order, Speaker, we will agree to the second reading, but we have not received a briefing on this bill. I want to clarify that point with the minister bringing in this bill. We are happy to proceed to the second reading as agreed, but we have not received a briefing on the bill.

The SPEAKER: I invite the minister to seek leave on the second reading of this bill.

Mr FOLEY: Indeed I would seek leave for the second reading, and in doing so thank the honourable member for his contribution. I have advice, but I am more than happy to ensure that that advice is delivered on forthwith to make sure that if in fact that undertaking has not been delivered that it be delivered forthwith at the earliest opportunity to ensure that the opposition parties together with the honourable independent members are given both a briefing and indeed a full copy of the bill. Having said that, I can only take what I am advised and indeed what the honourable member has put to the house as conflicts, and I will seek to resolve that conflict as soon as possible. By leave, I move:

That this bill be read a second time.

Motion agreed to.

Statement of compatibility

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries) (16:54): In accordance with the Charter of Human Rights and Responsibilities Act 2006, I table a statement of compatibility in relation to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Bill 2018.

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

Overview

The purpose of the Bill is to amend the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 (the Act) to introduce new and modify existing nurse to patient ratios and midwife to patient ratios

with which the operators of certain publicly funded health facilities must comply. The Bill also repeals a number of sections in the Act that allow for variations from ratios and changes the categorisation of certain hospitals under the Act.

Human rights issues

Human rights promoted by the Bill

The Bill promotes the following human rights protected by the Charter:

- the right to life (section 9 of the Charter);
- the right to protection of families and children (section 17 of the Charter); and
- the right to protection from cruel, inhuman or degrading treatment (section 10(b) of the Charter).

The right to life (section 9 of the Charter)

Section 9 of the Charter provides that every person has the right to life and has the right not to be arbitrarily deprived of life.

Clause 22 of the Bill will introduce nurse to patient ratios for oncology, acute stroke and haematology settings. The introduction of these new ratios will ensure the delivery of high-quality care in these areas of speciality and as a result will promote the right to life of patients in oncology, acute stroke and haematology settings.

Clauses 23, 24, 25 and 27 of the Bill will improve nurse and midwife to patient ratios applicable to palliative care inpatient units, emergency departments and special care nurseries, and improve midwife to patient ratios for birthing suites. The improvements to the ratios in these areas of speciality will ensure safe and quality patient care and as a result, will promote the right to life of the patients receiving care in these speciality settings.

Clause 5 of the Bill will introduce a new rounding methodology for ratios under the Act which in most cases will result in a higher number of nurses providing care to patients. This new rounding methodology will therefore promote safe patient care and promote the right to life of patients in public hospitals.

The protection of families and children (section 17 of the Charter)

Section 17(1) of the Charter recognises that the families are the fundamental group unit of society and that families are entitled to be protected by society and the State. Section 17(2) of the Charter provides that every child has the right, without discrimination, to protection as is in their best interests, in recognition of a child's special vulnerability because of their age.

Clauses 24 and 25 of the Bill improve nurse and midwife to patient ratios in special care nurseries and midwife to patient ratios in birthing suites. These improved ratios will ensure that babies and mothers receive a high quality of care by improving opportunities for dedicated patient care and as a result will promote the protection of families and children.

Protection from cruel, inhuman or degrading treatment (section 10(b) of the Charter)

Section 10(b) of the Charter provides that a person must not be treated or punished in a cruel, inhuman or degrading way.

The Bill's introduction of new patient ratios in specialist areas, improvement of existing ratios and introduction of a new rounding methodology for ratios all promote the right to protection from cruel, inhuman or degrading treatment by ensuring a safe and supportive environment for patients, nurses and midwives in public hospitals.

Other potential human rights invoked

The right to equality (section 8 of the Charter)

Section 8(3) of the Charter provides that every person is equal before the law and is entitled to equal protection without discrimination and has the right to equal and effective protection against discrimination.

The new nurse to patient ratios will distinguish between patients in different hospital settings. This may invoke the protected attributes of 'disability' and 'pregnancy' under the *Equal Opportunity Act 2010* and therefore engage the right to equality and non-discrimination. However, distinguishing the level of care owed to a patient based on their setting in a hospital is reasonable and justified because patients with different illnesses and conditions require varying levels of care depending upon their clinical acuity and the associated treatment necessary to appropriately manage their illness or condition.

To the extent that the Bill will not benefit persons hospitalised in settings other than those provided for in the Bill, this is reasonable and justified because these other settings are managed through evidence based clinical guidelines and industrial frameworks.

For the reasons outlined it is my view that the Bill is compatible with the Charter.

Second reading

Mr FOLEY (Albert Park—Minister for Mental Health, Minister for Equality, Minister for Creative Industries) (16:54): I move:

That this bill be now read a second time.

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

Incorporated speech as follows:

This Bill presents a significant opportunity to improve the safety and quality of patient care for all Victorians, and improve the workload arrangements for our dedicated and caring nurses and midwives.

Safety is our highest priority, and through improving nurse to patient and midwife to patient ratios, we are supporting nurses and midwives in our public hospitals and health services to deliver the best possible care.

The landmark introduction of the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act* in 2015 was a significant achievement for Victoria, as the first state in Australia to legislate minimum nurse and midwife staffing in public hospitals.

The Safe Patient Care Act has successfully protected minimum workload arrangements—creating a safe, supportive and productive environment for nurses, midwives and patients.

Now is the time to make improvements to staffing ratios to minimise any risk to patients where ratios are no longer fit for purpose and do not reflect best practice or safe staffing levels.

Nurses and midwives are an integral workforce in our health system and continue to be the most trusted profession in Australia.

There are over 50,000 nurses and midwives in our public health system committed to providing patient-centred, empathetic and individualised care. These staff are managing patients in an environment of increasing patient complexity, changing models of care and the growing demand for health services.

International and local evidence also confirms a direct relationship between workload levels, patient outcomes and nurse-reported quality of care. In addition, increasing workloads have the potential to lead to burnout, absenteeism, job dissatisfaction, attrition and poor retention.

In summary, higher staffing numbers lead to better patient outcomes, and an increasingly engaged workforce.

As such, it is now time to improve workload arrangements, create positive, healthy and productive environments and advance the health system for better patient safety.

This Bill specifies minimum staffing levels for a range of clinical settings. Updating the Safe Patient Care Act will guarantee consistency and create greater certainty around the provision of safe and high-quality patient care by ensuring that health services provide a higher number of nurses and midwives where required in more complex and specialised environments.

The Bill advances the intent of the Safe Patient Care Act and demonstrates the Andrews Government's greater focus on safe and high-quality patient care.

This Bill enhances the Act in four ways:

Firstly, the Bill improves a number of existing ratios to reflect evolving nursing and midwifery practices in response to advancing technologies, changing service models and increasing patient acuity and complexity.

Amendments to the rounding methodology will mean that, in most circumstances, nurses and midwives will no longer be required to carry an additional workload that can at times be 50 per cent greater than the specified ratio.

Ratios in palliative care, birthing suites, special care nurseries and emergency departments will also be updated to maintain their relevance and to reflect contemporary practice and community expectations. This includes updating the special care nurseries ratios to respect the skills and knowledge of our dedicated midwives.

Secondly, the Bill is creating new ratios to better manage highly complex patients in a range of clinical settings that use advanced technologies and specialised treatments.

New minimum safe staffing levels are now provided for inpatient multi-day speciality areas of haematology, oncology and acute stroke units. Managing ratios within mixed speciality wards is also clarified.

These enhancements will create statewide consistency in service provision and ensure the delivery of high quality individualised care that reflects treatment complexity.

Thirdly, as part of a continuous improvement process, the Bill removes redundant and outdated sections of the Act.

Removing the night duty formula in specified emergency departments and the local capacity to vary ratios will reduce confusion and ambiguity, and advance uniform workload management processes.

Finally, the Bill improves the overarching structural and operational functionality of the Act to deliver a contemporary and responsive regulatory instrument that reflects modern practices, and protects patient-care models for all Victorians.

The Andrews Government has committed to establishing a \$50 million Nursing and Midwifery Workforce Development Fund to support the recruitment, transition to practice and professional development of more nurses and midwives. In particular, \$10 million will be dedicated to support initiatives in rural and regional Victoria.

The vision and objectives of the Bill and Workforce Development Fund will be achieved over the next five years. Further to these improvements, the Government will continue to work with nurses, midwives and health services to introduce a future amendment Bill to ensure we have enough staff when and where they are needed most.

Every day our nurses and midwives work hard to put patients first—delivering person-centred healthcare and high-quality outcomes.

This Bill will finish what we started—improve nursing and midwifery workload arrangements for a significant and lasting impact on the provision of safe, empathetic and high-quality patient-centred care for all Victorians.

I commend the Bill to the house.

Mr WELLS (Rowville) (16:55): I move:

That the debate be adjourned.

Motion agreed to.

Ordered that debate be adjourned until Wednesday, 2 January 2019.

INTEGRITY AND ACCOUNTABILITY LEGISLATION AMENDMENT (PUBLIC INTEREST DISCLOSURES, OVERSIGHT AND INDEPENDENCE) BILL 2018

Introduction and first reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (16:55): I move:

That I have leave to bring in a bill for an act to amend the Protected Disclosure Act 2012, the Independent Broad-based Anti-corruption Commission Act 2011, the Victorian Inspectorate Act 2011, the Public Interest Monitor Act 2011, the Ombudsman Act 1973 and the Parliamentary Committees Act 2003 and make consequential amendments to other acts to make Victoria's integrity and accountability system clearer and more efficient and to otherwise improve its operation and for other purposes.

Motion agreed to.

Read first time.

Ms HENNESSY: I move:

That this bill be read a second time immediately under standing order 61(2).

I advise the house that it is my advice that a briefing has been offered up in respect of this bill and the Audit Amendment Bill 2018. I am representing the Special Minister of State in respect of these bills. If that is not the case, then I will take steps to ensure that a copy of the bill and a briefing is offered forthwith in accordance with the standing orders.

Motion agreed to.

Statement of compatibility

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (16:58): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Bill 2018.

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

Overview

The Bill makes Victoria's 'whistleblower' protection system stronger, more accessible and more effective, by amending the Protected Disclosure Act 2012 (PD Act), the Independent Broad-based Anti-corruption Commission Act 2011 (IBAC Act), the Ombudsman Act 1973 (Ombudsman Act), the Victoria Police Act 1994 (Victoria Police Act), the Victorian Inspectorate Act 2011 (VI Act), and various other Acts. Most relevantly, the Bill:

- clarifies and simplifies the pathways for making public interest disclosures;
- extends the Act's protections to 'external disclosures' (public interest disclosures made to persons and bodies outside of the Victorian integrity system) and 'misdirected disclosures' in limited circumstances;
- establishes roles under the Act for the IBAC Committee established under the Parliamentary Committees Act 2003, the Chief Municipal Inspector (CMI) appointed under the Local Government Act 1989, the Information Commissioner (IC) appointed under the Freedom of Information Act 1982 and the Racing Integrity Commissioner (RIC) appointed under the Racing Act 1958, allowing these bodies to handle and/or investigate public interest complaints; and
- simplifies confidentiality obligations that apply to people who make and handle public interest disclosures, including to allow access to support services.

The Bill further strengthens Victoria's public sector integrity and accountability system, by amending the IBAC Act, the VI Act and various other Acts. Most relevantly, the Bill:

- provides greater protection for individual rights by limiting the use of IBAC's public examinations to the most serious investigations and by enshrining procedural fairness safeguards in relation to the conduct of the public examinations;
- increases IBAC's ability to obtain information by allowing IBAC to override secrecy provisions in an investigation and preventing the Crown from asserting any privilege before IBAC in relation to all public officers (not just Victoria Police personnel);
- increases oversight of coercive powers by requiring an audio or video recording to be made of a coercive examination and provided to the Victorian Inspectorate; and
- requires complaints to the Victorian Inspectorate be made in writing.

Finally, the Bill clarifies and modernises the Ombudsman Act. Most relevantly, the Bill:

- expands the Ombudsman's jurisdiction to include publicly funded bodies;
- allows children aged between 10 and 16 years old to voluntarily appear in an investigation;
- provides the Ombudsman with greater power to share information to integrity and law enforcement bodies;
- simplifies the Ombudsman Act by referring directly to the investigation powers rather than importing them from repealed provisions of the *Evidence (Miscellaneous Provisions) Act 1958*; and
- requires or allows a relevant support or assistance person to be present at an investigation.

Human Rights Issues

The Bill will promote the protection of rights under the Charter by encouraging and facilitating the disclosure and investigation of a broader range of improper conduct in the public sector, including improper conduct that is incompatible with human rights. I consider the Bill strikes an appropriate balance between competing rights and interests, balancing for example the right to freedom of expression and to expose improper conduct, against rights to privacy and reputation. Although the Bill expands functions and powers that may limit human rights under the Charter, the Bill provides appropriate protections to promote human rights, and to appropriately safeguard rights in situations where they might be limited.

The Bill engages human rights provided for in the Charter, as follows:

PD Act reforms

Right to privacy and reputation

Section 13 of the Charter states that a person has the right not to have their privacy unlawfully or arbitrarily interfered with and the right not to have their reputation unlawfully attacked. The Bill engages this right in a number of contexts, each of which is discussed below.

The right to privacy protects a person from government interference or excessive unsolicited intervention by other individuals. However, this right can be subject to reasonable limitation under section 7(2) of the Charter. In particular, interference with privacy will not be arbitrary if it is reasonable in the circumstances and in accordance with the Charter. Any limitations of this right arising from the Bill are necessary to achieve the aims of the Bill, and are reasonable and demonstrably justifiable.

The Bill includes important safeguards where the rights to privacy and reputation may be limited. For example, the Bill provides investigating entities with the power to issue confidentiality notices over information that would be likely to prejudice a person's reputation (clauses 52, 62 and 76).

Clarifying circumstances in which a person can disclose confidential information

The Bill clarifies and broadens the circumstances in which a person can disclose confidential information relating to disclosures under the PD Act, including:

- the identity of the person who made a public interest disclosure;
- the subject matter of the public interest disclosure; and
- information that is the subject of a confidentiality notice (which may include information about the assessment or investigation of a public interest disclosure).

The Bill permits a person to disclose such information to a wider range of individuals and bodies for specified purposes (e.g. to a health practitioner or employee assistance program for the purpose of seeking support in relation to a public interest disclosure).

Allowing disclosure in this broader range of circumstances may slightly increase the risk of reputational damage to a person the subject of a public interest disclosure. However, in my opinion, any limitation of the right to reputation is reasonable and justifiable, given:

- the Bill's key objectives include clarifying and simplifying confidentiality obligations;
- the purpose of the amendment is to make it easier for people who make disclosures to access welfare and support services (which supports the right to liberty and security of person under section 21 of the Charter, by enhancing people's health and wellbeing and assisting them to feel safe and secure following a disclosure); and
- the risk to a person's reputation is limited, given the limited circumstances and purposes for which the Bill permits confidential information to be disclosed.

Clause 9

The Bill permits public interest disclosures to be made about a Public Interest Monitor and officers of the Victorian Inspectorate (in addition to the range of public officers and bodies about whom disclosures can already be made under the Act). This has the potential to cause reputational damage to these individuals. However, it remains the case that:

- an unlawful attack on another person's reputation will not be shielded by the protections in the Act (e.g. section 39 of the Act provides that protections do not apply to a person who has knowingly or recklessly made a false disclosure); and
- if the statutory requirements for making a public interest disclosure (including the requirement that disclosure is of information that shows or tends to show improper conduct or detrimental action) are not met, the discloser will not receive the protections of the Act—subject to the protections for 'misdirected disclosures' (see below).

Proposed new section 18 extends the Act's protections to 'misdirected disclosures', so that some disclosures that are not made in strict compliance with the Act's procedures will be protected. However, this will not increase the risk of reputational damage to the person the subject of the disclosure because, in addition to the safeguards outlined above, a misdirected disclosure will only be protected if:

- it is made to a body to which public interest disclosures can be made under the Act (but is not the appropriate body according to the Act's procedures); and
- the discloser honestly believed that the body was an appropriate body to receive the disclosure (i.e. the discloser did not intentionally make the disclosure to an inappropriate body).

These safeguards limit the potential for reputational damage arising from a misdirected disclosure. In my view, any limitation of the right by this amendment is justified in light of the purposes of ensuring people who try in good faith to report serious public sector wrongdoing in accordance with the Act receive the Act's protection. In addition, any limitation of the right is balanced against the right to freedom of expression by providing further support to a person who disclose inappropriate conduct.

Clause 21

The Bill protects 'external disclosures' about improper conduct or detrimental action in limited circumstances. This could include a disclosure to a journalist. An external disclosure has the potential to cause reputational damage to an individual the subject of the disclosure. However, in addition to the safeguards described above, an external disclosure will only be protected in the following limited circumstances:

- the person making the external disclosure has already made a public interest disclosure of substantially the same information in accordance with the Act (and did not make that disclosure anonymously);

- the person was notified that their original disclosure was determined to be a public interest complaint;

either:

- the person was not notified by the IBAC, the Victorian Inspectorate or the IBAC Committee about any action taken in response to the original disclosure within 6 months of that notification; or

- the investigation of the original disclosure was not completed within 12 months after the notification; and

- the person has contacted the IBAC, the Victorian Inspectorate or the IBAC Committee (as appropriate) requesting advice on the progress of the original disclosure and has not received a response within 30 days.

These safeguards limit the potential for reputational damage arising from an external disclosure. In particular, the requirement that the same information must already have been disclosed in accordance with the Act and found to be a public interest disclosure, and that the integrity system must have failed to adequately respond to the disclosure, significantly limits the risk of reputational damage.

In my opinion, any limitation of the right to reputation arising from this amendment in the limited circumstances specified is reasonable in light of the purpose of ensuring that serious public sector wrongdoing can be addressed when the ordinary system has failed to respond.

Permitting information sharing with law enforcement and integrity agencies

The Bill permits the Victorian Inspectorate, Chief Municipal Inspector, Racing Integrity Commissioner and Information Commissioner to share information about a public interest disclosure with law enforcement and integrity agencies including Victoria Police, the Director of Public Prosecutions, the Australian Federal Police, interstate police forces and the Commission for Children and Young People.

Allowing these agencies to share information may limit the right of privacy of a person involved in a public interest complaint. However, any limitation is:

- not arbitrary, as it will be prescribed by law; and

- justified by the purpose of the amendment, which is to ensure that criminal conduct and other serious wrongdoing that is reported through a public interest disclosure can be dealt with appropriately.

Right to freedom of expression

Section 15 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. Section 15 also provides that special duties and responsibilities attach to this right, and that lawful restrictions may be necessary to respect personal rights and reputations, and to protect public safety, order, health or morality.

The Bill protects the right to freedom of expression by repealing section 72 of the Act, which strictly prohibited any person from disclosing certain information about a public interest disclosure. The Bill instead includes this information in the list of specified matters in relation to which an investigating entity may issue a confidentiality notice, where required to prevent prejudice to the investigation or a person's safety, reputation or fair trial.

The Bill also broadens the range of exceptions to confidentiality obligations imposed under the Act or by way of a confidentiality notice issued by an investigating entity.

However, a number of clauses in the Bill engage the right to freedom of expression by imposing confidentiality obligations on individuals:

- clause 30 provides that, except in limited circumstances, a person to whom the IBAC Committee provides information about an assessable disclosure must keep confidential specified information about the disclosures;

- divisions 7, 9, 10 and 11 of Part 2 of the Bill limit the extent to which the IBAC Committee, CMI, IC and RIC can disclose information relating to a public interest complaint; and

proposed new sections 223BJ of the *Local Government Act 1989*, 37T of the *Racing Act 1958* and 61TJ of the *Freedom of Information Act 1982* permit the CMI, RIC and IC to issue confidentiality notices (consistent with the powers of the existing investigating entities—IBAC, the Ombudsman and the Victorian Inspectorate).

These limitations on freedom of expression are necessary to safeguard the confidentiality of information to which these persons may be privy arising from their involvement in the making or investigation of disclosures, or the performance of their duties and functions, and the exercise of their powers.

This ensures that reputations are not unfairly damaged (and therefore helps promote the right to privacy and reputation in section 14 of the Charter), protects the identities of disclosers, and protects the integrity of investigations into public interest complaints.

Right to liberty and security of person

Section 21 of the Charter provides that every person has the right to liberty and security. The Bill protects this right by including safeguards in provisions that carry the risk of endangering a person's safety. Specifically:

clause 24 clarifies a manager's ability to take action to ensure the safety of the workplace when a public interest disclosure has been made;

clause 55 provides that IBAC may only refer a public interest complaint to a new investigating entity where IBAC considers that the referral would not increase the risk to any person's health, safety or welfare;

the Bill provides investigating entities with power to issue confidentiality notices over information that would be likely to prejudice a person's safety (new section 223BJ(2)(b) of the *Local Government Act 1989*; new section 37Q(2)(b) of the *Racing Act 1968*; new section 61TG(2)(b) of the *Freedom of Information Act 1982*); and

new investigating entities are prevented from disclosing information that would put a person's safety at risk, consistent with the safeguards in the existing investigating entities' legislation (new section 223BJ of the *Local Government Act 1989*, new section 37T of the *Racing Act 1968*; new section 61TJ of the *Freedom of Information Act 1982*).

Integrity and accountability reforms

Right to privacy and reputation

Clause 111 and clause 127

The Bill amends the IBAC Act to provide that, in response to a power exercised under a search warrant or a witness summons, or during an examination, the Crown cannot assert any privilege, such as legal professional privilege or public interest immunity, and any secrecy obligations on public officers do not apply. This engages the right to privacy and reputation in section 13, as it may require persons to disclose information they would not otherwise be required to disclose. I consider that the limitation is lawful and not arbitrary, as it will be prescribed by law. In addition, any limitation on the right is reasonable and justifiable, given:

a search warrant can only be issued where it is necessary for the purposes of the investigation;

IBAC can only disclose the information it obtains in the course of an investigation in limited circumstances, such as for the performance of its legislative duties, or for the purposes of proceedings for an offence, with unauthorised disclosure subject to a penalty of 120 penalty units or 12 months imprisonment or both;

IBAC can issue confidentiality notices if it considers that disclosure of restricted matters would be likely to prejudice an investigation, the reputation of a person, or the fair trial of a person who may be charged with an offence;

the purpose of the amendment is to prevent public officers from using privilege and secrecy provisions to avoid disclosing wrongdoing, and therefore enhances IBAC's ability to hold public officers and public bodies accountable; and

the amendment does not affect a person's right against self-incrimination (which is already affected by section 144 of the *Independent Broad-based Anti-corruption Commission Act 2011*).

This limits the type of information that can be obtained, and the circumstances in which it can be disclosed, so any risk to the right to reputation is appropriately limited.

Clause 120 and 121

The Bill promotes the right to privacy and reputation in section 13 by narrowing the circumstances in which IBAC can hold public examinations, and by increasing the safeguards that protect the interests of an individual during the course of a public examination.

Currently, a public examination may be held if it is in the public interest and it will not cause unreasonable damage to a person's reputation, safety or wellbeing. The Bill further limits the circumstances in which a public examination may be held, by allowing a public examination only if it involves conduct that is serious or systemic corrupt conduct, or serious or systemic police personnel misconduct. This increases the protections for the right to privacy and reputation for individuals who are involved in IBAC investigations.

Public examinations carry a greater threat to the right to privacy and reputation than other forms of investigation. I consider any remaining limitation to the right to be reasonable, as the Bill introduces further safeguards to mitigate this risk by:

enabling a person to apply to IBAC:

for leave to cross-examine a witness;

for permission to appear before IBAC as an interested person; and

to have a public examination partly closed; and

strengthening the Victorian Inspectorate's oversight of public examinations by providing the Victorian Inspectorate with more time to consider IBAC's reasons for the decision to hold a public examination prior to holding the examination.

These safeguards enshrine IBAC's obligation to uphold procedural fairness by allowing a person to defend or contribute to any statements made about them, or to have particularly sensitive matters closed to the public, and they ensure that there is adequate oversight of public examinations to ensure they are used appropriately. I consider these amendments ensure IBAC has adequate powers to operate effectively and efficiently without unreasonably interfering with an individual's right to privacy and reputation.

Clauses 144, 145 and clause 163

The Bill inserts a new requirement for the Information Commissioner and the Ombudsman to make an audio or visual recording of an examination involving the exercise of coercive powers. The recordings must be provided to the Victorian Inspectorate for review. This amendment limits the right to privacy and reputation of that individual. However, in my opinion any limitation of the rights are reasonable, and justified by the purpose of the amendment, to enable the Victorian Inspectorate to have oversight of the exercise of coercive powers by the Information Commissioner and the Ombudsman. In addition, the requirement to record compulsory examinations helps to promote procedural fairness by having an accurate record of the examination that can be used in any future proceedings, and is consistent with the oversight provisions of other integrity and accountability bodies.

To protect and promote the privacy interests of individuals, the Bill requires that audio or video recordings provided by an entity for review by the Victorian Inspectorate must be returned to that body, or destroyed, once considered no longer necessary for the purpose of reviewing the material. This reduces the risk that the information might be used or disclosed for non-authorised purposes.

Clause 146

The *Public Interest Monitor Act 2011* contains an offence for a person who is or was a Public Interest Monitor, or a person who assists or assisted a Public Interest Monitor, to disclose information that they have obtained through their role. The Bill creates an additional exception to the offence, to permit information to be disclosed to the Victorian Inspectorate where it will assist in the performance of its duty to inspect, audit and report on relevant records held by the Public Interest Monitor, to ensure it is complying with prescribed obligations. This limits the right to privacy and may be a greater risk to reputational damage. I consider any limitation of the rights arising from this amendment are:

reasonable given the risks to reputational damage are limited, as the Victorian Inspectorate is subject to confidentiality obligations; and

justified by the purpose of the amendment, which is to promote compliance of the Public Interest Monitor with its statutory obligations.

Rights in criminal proceedings

Section 25 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. It also provides that a person is entitled, without discrimination, to a number of minimum guarantees, including that a person must be properly informed of the nature and

reason for a charge, must have adequate time to prepare a defence and communicate with a lawyer or advisor, and must be tried in person and be able to defend themselves.

Clauses 116 and 130

The Bill allows IBAC to defer a decision to investigate, refer or dismiss a complaint or notification, if another body or person is investigating the complaint or notification, the subject matter of the complaint or notification is relevant to the performance of the duties and functions of that body or person, and it is appropriate for that body or person to continue its investigation. For example, IBAC may defer a decision with regards to a complaint that involves criminal conduct which is already being investigated by Victoria Police. Although an IBAC investigation into a complaint is distinguishable from a criminal trial, deferring a decision in relation to a complaint could be seen to engage the right to be tried without unreasonable delay. To the extent that this right may apply, I consider any limitation on the right to be justified, as:

the purpose is to allow IBAC to defer an investigation to let a more appropriate body investigate the matter before taking any action;

the matter can only be deferred for up to 90 days, or when the investigation is completed, whichever is sooner, which ensures that a deferral is time limited;

IBAC can require the investigating person or body to provide information regarding the investigation and any action taken in respect of the investigation, to enable IBAC to maintain its oversight role; and

IBAC may notify a complainant that the matter has been deferred, so that they may be made aware that the matter is being addressed.

If a complaint has been deferred, and IBAC has notified the complainant, IBAC must also notify the complainant that it is an offence to disclose the content of the notification. The offence will be subject to a penalty of 60 penalty units or 6 months imprisonment or both. The confidentiality obligation limits the right to freedom of expression in section 15 of the Charter, which provides that every person has the right to impart information and ideas of all kinds. I consider any limitation of this right is a lawful restriction as permitted under section 15(3) of the Charter, as it is reasonably necessary to ensure that information relating to the deferral of the complaint that may inhibit or negatively impact IBAC or the investigating body, or the investigation into the complaint, is not disclosed.

In my opinion, the penalty for disclosing the content of the notification is reasonable, given it must be sufficiently high to deter people from ignoring the confidentiality requirement, and the person will be informed in writing that they must not disclose the information. In addition, it is consistent with other penalties under the IBAC Act for disclosing confidential information.

Right to recognition and equality before the law

Section 8 of the Charter provides that every person has the right to recognition as a person before law and the right to enjoy their human rights without discrimination. In addition, it provides that every person is equal before the law, and is entitled to protection without discrimination. The right requires a person to be protected from discrimination, and provides that measures taken to assist or advance a person who is disadvantaged because of discrimination do not constitute discrimination.

Clause 138—new section 43A inserted

The Bill provides that the Victorian Inspectorate may refuse to consider a complaint unless it is made in writing, or if it is not made in writing the complainant must provide a written statement confirming the details of the complaint. This requirement engages the right to equality before the law, as it may inhibit people with accessibility requirements, such as a person with vision impairment, from making a valid complaint to the Victorian Inspectorate.

I consider any limitation on the right to equal and effective protection against discrimination to be reasonable, given the purpose of the amendment is to ensure it is clear to the Victorian Inspectorate that a complaint is being made, and to give clarity as to the content of the complaint. To advance the interests of people with accessibility requirements, the Victorian Inspectorate is able to develop processes, such as providing a ‘talk to text’ service, to ensure people with accessibility requirements are able to make their complaint in writing. This is consistent with practices of other bodies that require complaints to be made in writing.

Ombudsman Act reforms

The reforms to the Ombudsman Act will actively promote the protection of rights under the Charter by expanding the Ombudsman’s power to consider Charter issues in enquires or investigations into administrative action. The Bill permits the Ombudsman to enquire into and investigate whether an authority gave proper consideration to a human right set out in the Charter in the process of making a decision. This builds on the Ombudsman’s existing function of enquiring into or investigating whether an administrative action by an

authority is incompatible with any of the human rights set out in the Charter. This will clarify the Ombudsman's role in relation to the Charter and encourage administrative decision makers to consider human rights.

The amendments to the Ombudsman Act promote and limit the human rights set out in the Charter in the following way.

Right to privacy and reputation

Expanding the Ombudsman's jurisdiction

The Bill expands the Ombudsman's jurisdiction to include publicly funded bodies. This will increase the number of people who are subject to the Ombudsman's coercive powers. The Bill does not create or increase the coercive powers, it merely expands the scope of people to whom the powers apply. The use of coercive powers in an investigation, such as compelling a person to disclose personal information about themselves or another person, or to produce a document or thing, may limit the right to privacy and reputation in section 13 of the Charter. However, I consider any limitation of the rights is reasonable and justifiable, given:

the coercive powers are only applied in restricted circumstances:

when necessary to enable the Ombudsman to effectively gather information to perform functions under the Ombudsman Act; and

to enhance accountability and integrity of bodies that are performing public services;

a person cannot be compelled to provide documents or give evidence that they could not be compelled to give in a proceeding before a court, including information that is self-incriminating; and

the risk to a person's reputation is limited, given the Ombudsman can only disclose information in limited circumstances.

In my opinion any limitation on rights imposed by the exercise of coercive powers is necessary to enable the Ombudsman to effectively obtain information and fulfil her functions.

In addition, the amendment aligns with the definition of a 'public authority' under the Charter in accordance with recommendation 24 of the 2015 Review of the Charter, which provided that '[t]he Ombudsman Act 1973 (Vic) make clear that the Ombudsman can consider human rights issues relating to the administrative actions of all public authorities under the Charter, except police and protective services officers'.

Clause 163

The Bill amends the Ombudsman Act to allow children aged between 10 and 16 years old to provide information on a voluntary basis to the Ombudsman or to voluntarily appear in an investigation during an enquiry. As children aged between 10 and 16 years old might be less aware of the consequences of appearing in an investigation by the Ombudsman, allowing them to contribute to investigations has the potential to impact the right to privacy and reputation of both the child and of other persons. In my opinion, any limitation is reasonable and justified as it allows children to play a role in holding public services to account where it affects their interests, while providing safeguards to promote the child's right under section 17(2) to such protection as is in his or her best interests. I consider the amendments appropriately safeguard the best interest of the child by:

requiring the Ombudsman to advise the child how the information may be used;

providing that any answer, information or evidence obtained from the child during the voluntary appearance is not admissible in evidence against the child; and

requiring a child to be accompanied by a parent, guardian or independent person.

The Bill provides that, when a parent or guardian is not available or not appropriate to accompany a child in a voluntary appearance, a child must to be accompanied by an independent person. An independent person is defined as a person nominated by or acceptable to the child—or if no person is nominated by or acceptable to the child, a person chosen by the Ombudsman who is not involved in the subject matter of the enquiry or investigation, and where practicable is:

involved in the care or supervision of the child; and

of the same gender as the child, or of the gender that the child identifies as being.

Any limitation of the right to equality by the requirement that the Ombudsman choose a person the same gender as the child is justified on the basis that this is intended to promote the best interests of the child. The intention is to ensure the child is comfortable and adequately supported by the independent person. In addition, the Ombudsman will only have to choose an independent person in limited circumstances, where one has not been nominated by the child.

The legislation currently requires people aged 16 and 17 to be accompanied by a parent, guardian or independent person when appearing before the Ombudsman. The Bill does not displace these protections, but provides a consistent definition of ‘independent person’ for the purposes of appearances before the Ombudsman by children, as outlined above.

Limiting the additional protections to children aged 10 to 16 years of age may limit the right not to be discriminated against on the basis of age. However, this limitation is justified, as it recognises the vulnerability of children and ensures that their best interests are paramount. The Bill’s staged approach to safeguards reflects the increased vulnerability of younger children participating in an Ombudsman investigation.

The Bill also simplifies the drafting of the Ombudsman Act by setting out the Ombudsman’s existing investigation powers in the Act, rather than importing them from repealed provisions of the *Evidence (Miscellaneous Provisions) Act 1958*. This includes providing that statutory or common law confidentiality obligations do not apply to prevent the disclosure of information, documents or things to the Ombudsman for the purposes of an investigation or a witness summons under the Ombudsman Act. This provision is not intended to abrogate legal professional privilege.

Allowing the Ombudsman to access confidential information may engage the right to privacy. However, any interference with the right to privacy is compatible with the Charter because any disclosure of information will be lawful and not arbitrary, given:

- the Ombudsman’s power to access confidential information will be limited by the Ombudsman’s jurisdiction to investigate maladministration by, and public interest complaints about, public sector authorities;

- the power is necessary to facilitate the efficient and convenient access to information necessary for the Ombudsman’s investigations;

- the Ombudsman Act provides a clear process under which the powers can be exercised (e.g. by issuing a witness summonses);

- a person is able to seek legal advice and be represented by a legal practitioner in relation to their rights, liabilities, obligations and privileges under the Ombudsman Act; and

- the Ombudsman can only disclose information obtained in the course of her official duties and functions in limited circumstances.

Clause 170 and others

The Bill provides the Ombudsman with greater information sharing powers, to ensure the Ombudsman can work collaboratively with the public sector to resolve complaints. The new provisions will:

- allow the Ombudsman to share information with specified integrity and law enforcement bodies, where it is relevant and appropriate; and

- require the Ombudsman to refer certain matters to other bodies for assessment, where it would be more appropriate for the matter to be dealt with by that body.

Allowing the Ombudsman to disclose or provide information to other authorities engages section 13 of the Charter, as it limits the privacy of a person involved in matters being considered by the Ombudsman, and may increase the risk of reputational damage by increasing the number of people who have access to potentially damaging information.

In my opinion any limitation is justified because:

- the instances in which the information can be referred are limited (as set out in the paragraph above); and

- the limitation is balanced against the purpose of the amendments to help to ensure public grievances are dealt with effectively, by making relevant information available to help the person or body perform their duties.

In addition, the limitation of the right to privacy is minimised due to restrictions on when information can be shared. For example, a person must consent to the sharing of any personal information.

Rights in criminal proceedings

Clause 163

The Bill simplifies the drafting of the Ombudsman Act by setting out the Ombudsman’s investigation powers in the Act rather than importing them from repealed provisions of the *Evidence (Miscellaneous Provisions) Act 1958*. The Bill provides offences, which mirror existing offences, for failing to comply with a witness

summons or failing to take an oath, make an affirmation, or answer a question when required by the Ombudsman, without a reasonable excuse.

These offences engage the right to be presumed innocent until proved guilty in section 25, as a person is guilty of an offence unless they can provide a reasonable excuse for committing the offence. I consider that the reasonable excuse exception does not limit the right, as the legal burden of proof is not shifted to the accused. Instead, the accused can point to evidence of a reasonable excuse, and the prosecution has the burden of proving the absence of the reasonable excuse.

In addition, I consider that the Bill promotes the right to be presumed innocent until proved guilty, and the right to be informed in detail of the nature and reason for the charge, as it provides clarification as to the type of conduct that might constitute a reasonable excuse. This means a person is more likely to understand the reasons in which they might fail to comply with the provisions without committing an offence, thereby helping them to comply with the law and to provide a defence if they are prosecuted for the offence.

Recognition and equality before the law

Clause 163

The Bill promotes the right to recognition and equality before the law in section 8 of the Charter, by ensuring persons who might be more vulnerable to being disadvantaged in the investigation process have support to assist them to participate fully, and to understand any potential consequences of their actions, by requiring that:

- a competent interpreter is provided if it becomes apparent that the person appearing does not have sufficient knowledge of English to understand and answer questions;
- a parent, guardian or independent person to be present if the person appearing is under 18 years old;
- an independent support person be present if the presiding officer believes the person appearing has a mental impairment, or has received medical evidence that the person has a mental impairment; and
- the Ombudsman consider a request to allow a chosen support person to be present during the appearance, to provide emotional support to the person appearing.

Conclusion

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

Second reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (16:59): I move:

That this bill be now read a second time.

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

Incorporated speech as follows:

The Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Bill 2018 was introduced into Parliament on 6 February 2018 and passed by the Legislative Assembly on 8 March 2018. However, the Bill lapsed in the Legislative Council when Parliament was prorogued before the election.

The Bill has now been reintroduced into Parliament with minor and technical updates to the commencement and transitional provisions, consistent with the Government's ongoing commitment to public sector integrity and accountability. No changes have been made to the substantive provisions of the Bill.

The Bill amends the *Independent Broad-based Anti-corruption Commission Act 2011* (**IBAC Act**), *Victorian Inspectorate Act 2011* (**VI Act**), *Public Interest Monitor Act 2012*, *Ombudsman Act 1973* (**Ombudsman Act**), *Victoria Police Act 2013*, the *Protected Disclosure Act 2012* (**Protected Disclosure Act**), the *Parliamentary Committees Act 2003* and other related legislation.

This is an extensive Bill that makes significant changes to Victoria's public sector integrity and accountability regime, building on the improvements delivered by the *Integrity and Accountability Legislation Amendment (A Stronger System) Act 2016* (**Stronger System Act**).

The Bill gives effect to the seven principles guiding the Government's integrity and accountability reforms, as follows:

Accountability: the Bill promotes responsibility for the actions and decisions of public officials and bodies by encouraging people to report wrongdoing, and ensuring serious wrongdoing is effectively investigated.

Independence: the Bill strengthens the roles of key integrity bodies and supports the investigation of serious wrongdoing by investigating entities who are independent from government influence and control.

Effectiveness: the Bill ensures that each integrity body has appropriate and proportionate powers that allow them to achieve their objectives within the system. The Bill also makes the process of disclosure, notification, assessment and investigation more streamlined and effective.

Transparency: the Bill provides clear and transparent guidance on how complaints are to be treated by the public sector and integrity bodies, and how integrity bodies are overseen by the Victorian Inspectorate.

Collaboration: the Bill will allow integrity bodies to collaborate more effectively with each other and with the public sector.

Cohesion: the Bill resolves discrepancies between integrity bodies' jurisdictions and improves referral mechanisms, which will prevent the duplication efforts between bodies and will help to ensure matters are resolved in a timely, efficient manner.

Fairness: the Bill provides additional safeguards to protect the rights, safety and welfare of people who are involved in an integrity body's investigation, to ensure that people are treated fairly and equally.

The Bill also acquits commitments that the Government made during its previous term to resolve jurisdictional issues between key integrity bodies and evaluate the Protected Disclosure Act, and builds on the reforms delivered by the Government's Stronger System Act to acquit the Government's commitment to provide Victoria with a robust and effective integrity and accountability system.

Finally, the Bill implements recommendations made by the IBAC Committee and Accountability and Oversight Committee of Parliament and addresses recommendation 18 of the Victorian Equal Opportunity and Human Rights Commission's 2015 report on sex discrimination and sexual harassment in Victoria Police.

I now turn to the Bill.

Amendments to the IBAC Act

IBAC is Victoria's principal anti-corruption agency. IBAC is responsible for preventing, exposing and investigating corrupt conduct by public bodies and public officers and misconduct by Victoria police personnel.

As part of its broad review of the integrity and accountability system, the Government explored opportunities for reform to ensure that IBAC has the tools it needs to perform its corruption fighting role, while maintaining appropriate safeguards to protect the rights and long-term interests of the people IBAC interacts with. The key reforms in the Bill that relate to IBAC will:

- improve IBAC's public examination function and enshrine key procedural fairness safeguards in legislation to better protect the rights of individuals;

- increase the effectiveness of IBAC's fact-finding powers by preventing the Crown from claiming privileges in relation to all public officers and overriding all public officers' statutory secrecy obligations; and

- improve IBAC's complaints handling by allowing IBAC to defer a decision to investigate, dismiss or refer particular complaints or notifications.

Improving IBAC's public examination function

Public examinations are a key investigative tool to allow IBAC to fulfil its primary function of exposing public sector corruption. The Government, through the Stronger System Act, made key improvements to IBAC by lowering the investigation threshold to make it easier for IBAC to investigate corrupt conduct. Following those reforms, the Government conducted extensive public consultation on the broader integrity and accountability system, including IBAC's public examination function.

The views on public examinations were diverse. However, what was abundantly clear was the need to strike an appropriate balance between the extraordinary powers of IBAC, IBAC's power to conduct public examinations and the greater potential for an IBAC investigation to unreasonably harm a person's reputation.

IBAC can currently hold a public examination if there are exceptional circumstances, it is in the public interest to hold a public examination, and a public examination would not cause unreasonable damage to a person's reputation, safety or wellbeing.

The Bill will add an additional requirement to better protect the rights and welfare of individuals. When deciding whether to hold a public examination, the Bill will require IBAC to consider on reasonable grounds that the conduct to be investigated is serious or systemic corrupt conduct or serious or systemic police personnel misconduct.

The effect of this amendment is to reserve IBAC's public examinations for the most serious investigations of major public importance, particularly in light of IBAC's improved ability to pursue all corrupt conduct as a result of the Stronger System Act. This reform strikes the appropriate balance between allowing IBAC to expose corruption through public examinations while protecting a person's rights and long-term interests. It is also consistent with the requirement for IBAC to prioritise investigation and exposure of serious or systemic corrupt conduct.

The Bill will also include legislative safeguards in relation to IBAC's public examinations to allow:

- a person to apply to IBAC for leave to cross-examine a witness;
- an interested person to apply to appear at a public examination before IBAC; and
- a person to apply to IBAC to have a public examination partly closed.

These reforms complement the existing common law requirement for IBAC to act in accordance with the principles of procedural fairness. IBAC will continue to exercise a broad discretion to regulate its own proceedings.

Further, the Bill will strengthen the Victorian Inspectorate's oversight of IBAC's power to hold a public examination by requiring IBAC to provide the Victorian Inspectorate with reasons for deciding to hold a public examination 10 business days, rather than 7 days, before a public examination is to be held. This reform implements the IBAC Committee's 2016 Report recommendation to ensure that the Victorian Inspectorate has sufficient time to oversee IBAC's decision to hold a public examination.

Increasing the effectiveness of IBAC's fact-finding powers

Privileges (including legal professional privilege and public interest immunity) and other secrecy obligations can prevent IBAC from gathering evidence when it is investigating public sector corruption. Currently, the Crown cannot claim any privilege in relation to Victoria Police personnel and only the secrecy obligations that apply to Victoria Police personnel are overridden.

The Bill will allow IBAC to override all public officers' (not just Victoria Police personnel) statutory secrecy obligations and abrogate the Crown's privileges in relation to all public officers. This will strengthen IBAC's fact-finding powers and improve the efficacy of IBAC's investigations.

Improving IBAC's ability to deal with complaints and notifications

The Bill will allow IBAC to defer its decision to investigate, dismiss or refer a complaint or notification (other than a public interest disclosure complaint) if IBAC considers that:

- the complaint or notification is being investigated by a specified person or body (e.g. the Chief Commissioner of Police);
- the subject matter of the complaint or notification is relevant to the performance of the duties and functions or the exercise of powers of that person or body; and
- it is more appropriate for that person or body to investigate the complaint or notification and it is otherwise appropriate for the person or body to continue its investigation.

IBAC will only be able to defer its decision for the duration of the person or body's investigation, or for 90 days after IBAC receives the complaint or notification, whichever occurs first.

This reform implements the IBAC Committee's 2016 Report recommendation to give IBAC greater flexibility to deal with complaints, but only in circumstances when it is appropriate to do so (e.g. complaints involving criminal conduct that Victoria Police is already investigating).

Amendments to the VI Act

The Bill amends the VI Act to:

- clarify the Victorian Inspectorate's oversight of coercive examinations by the IBAC, Ombudsman, Auditor-General, the Chief Examiner and the Information Commissioner; and
- introduce a requirement that complaints to the Victorian Inspectorate be made in writing, unless the Victorian Inspectorate determines, that the complaint may be made otherwise than in writing in the form of a written statement.

The Victorian Inspectorate was established to provide oversight of other integrity, accountability or investigatory bodies such as IBAC, Ombudsman, Auditor-General and the Chief Examiner and to ensure compliance by such bodies with their relevant legislative regimes.

The Bill clarifies the nature of the Victorian Inspectorate's oversight in relation to recordings and transcripts provided by IBAC, Ombudsman, Auditor-General and the Chief Examiner. It requires these bodies to provide

the Victorian Inspectorate with transcripts and recordings of any coercive examinations and a written report three days after the issue of a notice to produce or attend.

Clarification of the oversight of IBAC

The Bill clarifies that IBAC is required to include in its report to the Victorian Inspectorate:

the reasons for not informing a witness of the nature of the matters the witness is to be questioned about; and

if IBAC has issued an ‘immediate appearance summons’, the reasons why IBAC has abridged a notice period.

This will promote greater transparency of IBAC processes, enhance the Victorian Inspectorate’s oversight and implement the IBAC Committee Report’s recommendation.

Clarification of the oversight of the Information Commissioner

There is currently no requirement in the *Freedom of Information Act 1982* or the *Privacy and Data Protection Act 2014* for attendances to be audio or video recorded. As such, the Bill requires the Information Commissioner to ensure that an examination is audio or video recorded. This requirement is consistent with the other integrity, accountability or investigatory bodies.

The Bill also requires the Information Commissioner to provide the Victorian Inspectorate with transcripts and recordings of any coercive examinations and a written report three days after the issue of a notice to produce or attend.

Amendments to the Parliamentary Committee Act 2003

Establishment of an Integrity and Oversight Committee

Parliamentary oversight of the integrity and oversight bodies is fragmented, with responsibility distributed across the IBAC Committee, the Accountability and Oversight Committee and the Public Accounts and Estimates Committee (PAEC). The Bill streamlines the Parliamentary oversight of the integrity and accountability system by merging the IBAC Committee and the Accountability and Oversight Committee and renaming that merged committee the Integrity and Oversight Committee.

PAEC will continue to oversee matters relating to the Auditor-General’s functions (e.g. audit priorities, annual estimates) as this is consistent with its current role of investigating and reporting to Parliament on matters related to the financial management of the State.

Consolidating the IBAC Committee and the Accountability and Oversight Committee will:

create a specialist committee with expertise on IBAC, Ombudsman, Information Commissioner and the Victorian Inspectorate, which will allow the Committee to bring a more holistic approach to oversight of the integrity system;

create clearer lines of accountability to Parliament;

allow for more efficient parliamentary oversight, and help to avoid double handling of matters and fragmentation of oversight responsibilities; and

ensure that workloads between committees are better distributed.

The Integrity and Oversight Committee will have the same functions of the IBAC Committee and Accountability and Oversight Committee. There will be no loss of coverage of the issues considered by these two committees.

Providing IBAC, Ombudsman and the Victorian Inspectorate with greater budget independence

This Bill will amend the budget processes of the IBAC Commissioner, Ombudsman and Victorian Inspector to require:

the Ombudsman’s, IBAC’s and the Victorian Inspectorate’s draft budgets to be determined in consultation with the Integrity and Oversight Committee;

the Ombudsman, IBAC and the Victorian Inspectorate to prepare an annual plan to be considered in conjunction with the draft budget by the Integrity and Oversight Committee; and

the Ombudsman’s, IBAC’s and Victorian Inspectorate’s annual appropriations to be specified in the Parliament Appropriation Bill.

These reforms aim to strengthen the independence of these bodies in a manner that accords with their status as “independent officers of Parliament”.

The Ombudsman, IBAC and the Victorian Inspectorate will no longer appear under the Department of Premier and Cabinet's annual appropriation. They will be vested with full responsibility for the financial management and financial services that support their annual appropriation allocation. The reforms will strengthen their relationship with Parliament and bring their budget processes in line with other independent officers of Parliament, namely the Auditor-General and the Parliamentary Budget Officer.

The Bill will also require the Integrity and Oversight Committee to appoint an independent performance auditor to conduct a performance audit of the Ombudsman, IBAC and Victorian Inspectorate at least every four years. This reform will establish an effective performance monitoring regime to improve the overall performance of the bodies. The performance audit will identify areas of strength and improvement to maximise the utilisation of taxpayers' funds and further increase and promote the accountability of these offices. This reform will commence on 1 July 2020. Delayed commencement is required to align with the beginning of the financial year and to allow the integrity agencies to undertake the necessary preparatory work to acquit their new financial responsibilities.

Amendments to the Public Interest Monitor Act 2012

The Principal Public Interest Monitor and Deputy Public Interest Monitors (Public Interest Monitors) play a key role in protecting the public interest by testing the content and sufficiency of applications by law enforcement and integrity agencies for the use of telephone intercepts and other covert and coercive powers.

The Bill will amend the *Public Interest Monitor Act 2012* to clarify that a Public Interest Monitor or a person assisting a Public Interest Monitor may disclose confidential information to the Victorian Inspectorate in accordance with the Victorian Inspectorate's oversight functions and to a lawyer for the purpose of obtaining legal advice.

Amendments to the Ombudsman Act

The Ombudsman is a key part of the Victorian integrity system and plays an essential role in resolving complaints about the public sector.

The Ombudsman investigates maladministration by, and public interest complaints about, public sector authorities. This can include investigating individuals' complaints about their interaction with government and 'own motion' investigations into systemic issues, leading to reports and recommendations for change. The Ombudsman also investigates corrupt conduct complaints on referral from IBAC.

The Ombudsman's legislation has not undergone a significant review since its enactment in 1973. While the Ombudsman has acquired new functions in response to the changing role of government and increasing demand for accountability in public administration, some elements of the legislation have not kept pace with changes to the public sector.

Concerns about the Ombudsman Act have been raised by integrity bodies, community groups and members of the public in response to a discussion paper released by the Government in 2016, as well as by the Accountability and Oversight Committee in various reports and in the 2015 review of the *Charter for Human Rights and Responsibilities Act 2006 (Charter)*.

The Bill addresses these concerns by introducing reforms to modernise and clarify the Ombudsman's legislation. The key reforms in the Bill are:

- clarifying the objectives of the Ombudsman Act;
- providing the Ombudsman with clear jurisdiction over complaints about publicly funded services, in alignment with IBAC's jurisdiction and the coverage of the Charter;
- providing the Ombudsman with modern functions to help the Ombudsman resolve complaints and promote improved public administration, including an alternative dispute resolution function and the ability to review complaints handling practices and procedures across the public sector;
- allowing people aged 10–16 to provide information to the Ombudsman on a voluntary basis, subject to appropriate safeguards;
- allowing the Ombudsman greater flexibility to refer complaints, share information and collaborate with the public sector; and
- modernising and clarifying the provisions that establish the Ombudsman's investigation powers.

Clarifying the objectives of the Ombudsman Act

The Bill clarifies that the objectives of the Ombudsman Act are to:

- provide for the identification, investigation and exposure of maladministration, and assist in the prevention of maladministration;

assist with the identification, investigation, exposure and prevention of improper conduct and corrupt conduct;

provide a timely, efficient, effective, flexible and independent means of resolving complaints about administrative actions of authorities;

assist in improving the quality of authorities' administrative and complaints handling practices and procedures; and

facilitate the education of the Victorian community and the public sector about matters related to the Ombudsman's functions.

The reforms in the Bill are aimed at ensuring the Ombudsman Act operates effectively and achieves these objectives.

Providing the Ombudsman with jurisdiction over complaints about publicly funded services

The Bill gives the Ombudsman clear jurisdiction over bodies performing public functions on behalf of the State, including bodies that receive public funding, in line with the IBAC Act (as amended by the Bill) and the coverage of the Charter.

An effective integrity and accountability system must oversee all government services, including those delivered by the private sector on behalf of government.

Providing the Ombudsman with modern functions

The Bill provides the Ombudsman with two new functions, to help the Ombudsman resolve complaints and promote improved public administration:

allowing the Ombudsman to attempt to resolve complaints (other than public interest complaints and complaints about corrupt conduct) through mediation or conciliation; and

allowing the Ombudsman to review the complaints handling practices and procedures of authorities.

Participation in alternative dispute resolution will be voluntary for all parties.

The complaints handling practices and procedures review function will help the Ombudsman to identify systemic issues in complaints handling and proactively improve public administration in Victoria. Following a review, the Ombudsman will have the ability to make recommendations and provide education or other assistance to help authorities improve their complaints handling practices and procedures.

Allowing people aged 10 to 16 to provide information to the Ombudsman

People under the age of 16 can make complaints to the Ombudsman. However, currently, the Ombudsman Act prevents a young person from providing additional information after the complaint is made, even on a voluntary basis. This makes it difficult for the Ombudsman to investigate young people's complaints.

The Bill allows people aged 10–16 to provide information to the Ombudsman on a voluntary basis, subject to a range of safeguards in recognition of the special and vulnerable status of children.

Providing the Ombudsman with greater flexibility to refer matters, share information and collaborate with the public sector

The Bill broadens the Ombudsman's powers to refer matters to other public sector bodies for investigation. Importantly, the Bill ensures that the Ombudsman can refer matters that are made to the Ombudsman in error and fall outside the Ombudsman's jurisdiction. The Bill also allows the Ombudsman to refer matters to the body the subject of the complaint for resolution where appropriate.

The Bill allows the Ombudsman to share information with bodies to which the Ombudsman has referred a matter, and with authorities to help them improve their administrative practices and procedures. Finally, the Bill allows the Ombudsman to share personal information with an authority with the person's consent.

These changes will allow the Ombudsman to collaborate with the public sector in resolving complaints and improving the standards of public administration in Victoria.

Modernising the Ombudsman's investigation powers

The Ombudsman's investigation powers include summoning documents and people, taking evidence on oath or affirmation and entering and inspecting premises. Currently, some of the Ombudsman's powers are provided under a repealed part of the *Evidence (Miscellaneous Provisions) Act 1958*. To make the Ombudsman Act more accessible and transparent, the proposed Bill inserts new provisions providing the Ombudsman's powers in the Ombudsman Act, without substantially changing the scope or operation of the powers. The Bill also updates the service requirements for confidentiality notices, witness summonses and other documents under the Ombudsman Act.

Amendments to the Protected Disclosure Act

An effective system to protect and support people who disclose public sector wrongdoing is essential to public sector integrity and accountability. Such a system encourages people to come forward with information about corruption and other malpractice that, by its nature, would otherwise remain hidden.

The Protected Disclosure Act is intended to:

- encourage people to disclose public sector wrongdoing;
- protect people who disclose wrongdoing from penalties and reprisal; and
- provide confidentiality protections in relation to the subject matter of disclosures and the identities of people who make disclosures.

Since its introduction, a range of bodies have raised concerns that the Act is complex and overly prescriptive, and may actually deter people from making disclosures in some cases. Many of these concerns were noted in the IBAC Committee's 2017 report, *Improving Victoria's whistleblowing regime: a review of the Protected Disclosure Act 2012 (Vic) (2017 report)*. The Bill addresses these concerns and brings the Act closer into line with Australian and international best practice standards, including by:

- making the Protected Disclosure Act more accessible;
- making it easier to make a disclosure and receive the Act's protections, by protecting more disclosures and simplifying the procedures for making a disclosure;
- broadening the range of independent, expert bodies that investigate disclosures; and
- better supporting people who make disclosures, witnesses and others involved in the system.

Making the Protected Disclosure Act more accessible

The Bill changes the title of the Protected Disclosure Act to the *Public Interest Disclosures Act 2012*, in recognition of the important role that these disclosures play in ensuring the highest standards of public sector conduct. The Bill moves away from the use of the term "whistleblower", which has widely recognised pejorative connotations.

The Bill also adopts the more accessible terminology of 'public interest disclosure' and 'public interest complaint' to describe disclosures and complaints that are protected by the Protected Disclosure Act, consistent with every other Australian jurisdiction and with best practice standards.

Protecting more disclosures about serious wrongdoing

The Bill expands the range of 'improper conduct' that a person can disclose under the Protected Disclosure Act to capture all serious wrongdoing, provides for disclosures about improper conduct by a broader range of public officers and bodies, and protects disclosures to persons and bodies outside the integrity and accountability system in limited circumstances.

Expanding the range of 'improper conduct' that can be reported under the Protected Disclosure Act

The Protected Disclosure Act protects disclosures about 'improper conduct' by public sector bodies and officials.

The definition of 'improper conduct' has been widely criticised for being too narrow and for being complex and difficult for an ordinary person to apply.

The Bill broadens the types of improper conduct that a person can disclose in a public interest disclosure and simplifies the definition by:

- removing the complex and prohibitive general threshold that, to be improper conduct, wrongdoing must constitute a criminal offence or grounds for dismissal;
- more clearly setting out the categories of improper conduct in the Protected Disclosure Act; and
- including in the definition of improper conduct all serious professional misconduct and criminal conduct committed in an official capacity (instead of only corruption-related criminal offences and misconduct).

The effect of the Bill will be that a person can make a public interest disclosure about a broader range of serious public sector wrongdoing, including corrupt conduct, criminal conduct, serious professional misconduct, substantial mismanagement of public resources, and conduct involving a substantial risk to a person or the environment. Less serious or trivial complaints will be excluded, to ensure that the Act's protections only apply in appropriate circumstances.

The Bill also balances the broader definition of improper conduct by allowing a person to opt out of the Act's protections within a reasonable time after making a disclosure, and allowing IBAC, with the discloser's consent, to determine that a matter would be better dealt with outside of the public interest disclosure system.

Protecting disclosures about Public Interest Monitors, the Victorian Inspector and Inspectorate

The Bill amends the Protected Disclosure Act to allow a person to make a public interest disclosure about improper conduct by a Public Interest Monitor to the Victorian Inspectorate. The Inspectorate will assess and, where appropriate, investigate these disclosures.

The Bill also creates pathways for the making and investigation of public interest disclosures about improper conduct by the Victorian Inspector and Inspectorate officers. A person will be able to make a disclosure about the Victorian Inspector or Inspectorate officers to the Integrity and Oversight Committee of Parliament or to the Presiding Officers of Parliament.

The Integrity and Oversight Committee will play a 'clearing house' role in relation to public interest disclosures about the Victorian Inspector and Inspectorate officers—similar to the role that IBAC plays for most other public interest disclosures. When a Presiding Officer receives a disclosure that may be a public interest disclosure, they will be required to notify the matter to the Integrity and Oversight Committee for assessment. The Integrity and Oversight Committee will assess whether a disclosure that is made or notified to the Committee is a public interest disclosure and, if it is, engage an independent person to investigate. Following their investigation, the independent person will report to the Integrity and Oversight Committee, the responsible Minister and, if the disclosure is about an Inspectorate officer, the Victorian Inspector.

Protecting 'external disclosures' about improper conduct in limited circumstances

The Bill protects a person who discloses improper conduct to a body or person outside of the Victorian integrity system (e.g. a journalist) in limited circumstances. This will bring the Act into line with Australian and international best practice standards.

The Bill will extend the Act's protections against liability, detrimental action and defamation action to a person who discloses improper conduct to any person or body where the person has previously made a public interest complaint in accordance with the Act and the integrity system has failed to respond to that complaint. Currently, a person who makes a disclosure in these circumstances (e.g. a person who complains to their local Member of Parliament that their disclosure has not been investigated after 12 months) could be subject to civil or criminal penalties, disciplinary action or defamation action for making that complaint.

It is appropriate to only protect a person in relation to an external disclosure in limited circumstances, given the risk that a disclosure to a body or person outside of the integrity system could damage a person's rights or reputation, or compromise an integrity body's investigation.

Simplifying procedures

The Bill simplifies and clarifies the key steps that a disclosure must work through to receive the Act's protections.

Making it easier to make a disclosure

Part 2 of the Protected Disclosure Act sets out the procedures that a person must follow when making a disclosure to receive the Act's protections. The Bill replaces the whole of Part 2 to provide more and simpler pathways for making a disclosure under the Act. The new Part 2 takes a flexible, 'no wrong door' approach, helping to ensure that genuine disclosures are identified and assessed under the Act rather than excluded because of non-compliance with complex procedures.

New Part 2 includes provisions allowing more disclosures to be made to the Ombudsman and the Victorian Inspectorate. It is still intended that IBAC will be the primary receiving entity for public interest disclosures. However, the Bill permits a broader range of disclosures to be made to the Ombudsman and Victorian Inspectorate to provide as many pathways as possible for a person to disclose improper conduct.

The effect of these reforms will be that more disclosures make their way into the system and are notified to the correct body for assessment, referral and investigation. These reforms address criticism that the Act's prescriptive disclosure procedures frustrate and deter people who may wish to report improper conduct.

Clarifying when disclosures must be notified for assessment

The Bill clarifies that a body need only refer a disclosure to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as appropriate) for assessment under the Protected Disclosure Act if it appears to involve improper conduct or detrimental action taken in reprisal for making a public interest disclosure. This will simplify the process for notifying disclosures for assessment.

This will particularly assist the Chief Commissioner of Police in determining when to notify complaints by police personnel about other police personnel for assessment under the Act. Previously, the Act required the Chief Commissioner of Police to notify any police-on-police misconduct complaint to IBAC for assessment. This has caused significant delay and prevented Victoria Police from dealing effectively with complaints, many of which did not relate to improper conduct or detrimental action (e.g. complaints that concerned

isolated or less serious workplace issues). The changes in the Bill will allow the Chief Commissioner to deal with these less serious complaints under normal police misconduct processes.

Broadening the range of investigating entities

Ensuring that complaints about public sector improper conduct are independently and impartially investigated by expert integrity bodies encourages people to report wrongdoing, ensures that wrongdoing is exposed and adequately addressed, and increases public confidence in the integrity and accountability system.

Currently, public interest complaints can be investigated by IBAC, the Ombudsman, the Victorian Inspectorate and Victoria Police. The Bill expands this range of bodies to allow appropriate public interest complaints to be investigated by the Chief Municipal Inspector, the Victorian Information Commissioner and the Racing Integrity Commissioner. This reform will help to ensure that complaints are efficiently and effectively investigated by the most appropriate integrity body.

Better supporting disclosers

Simplifying confidentiality obligations and ensuring confidentiality obligations do not prevent a person from seeking support

The Protected Disclosure Act imposes strict confidentiality obligations on disclosers and people who receive disclosures. The confidentiality obligations are intended to protect disclosers' identities, individuals' rights and reputations, and the integrity of any investigation. However, the obligations are complex, overlapping and overly restrictive, with inconsistent exceptions.

The Bill streamlines and clarifies confidentiality obligations under the Protected Disclosure Act and related Acts by:

- removing a blanket prohibition on the disclosure of procedural advice about the progress of a disclosure under the Act (e.g. the fact that a disclosure has been notified to IBAC for assessment);
- providing investigating entities with flexibility to prohibit disclosure of procedural advice where appropriate (as is already the case for more substantial information about the subject matter of the disclosure); and
- providing clear and consistent exceptions to confidentiality obligations under the Act and related Acts.

The Bill also provides exceptions to confidentiality notices to allow disclosers and others involved in a disclosure to share confidential information for the purpose of:

- seeking support from medical practitioners, confidential employee assistance programs and trade unions;
- making a workers' compensation claim to WorkSafe Victoria; and
- making an application to the Fair Work Commission and related legal proceedings

The Bill also allows receiving entities to provide confidential information to these people and bodies, with the discloser's consent, to help support the discloser.

Providing clear, consistent rules around disclosing confidential information will better support disclosers and others involved in a disclosure under the Protected Disclosure Act (e.g. witnesses), while still protecting disclosers, individuals' rights and reputations, and any investigation.

Protecting a discloser against legal costs awards when seeking compensation under the Act

A discloser can seek compensation under section 47 of the Protected Disclosure Act for injury, loss or damage suffered in reprisal for having made a public interest disclosure. However, the risk of having legal costs awarded against them if their claim were unsuccessful may deter people from seeking compensation for detrimental action or from making a disclosure in the first place.

To ensure that people are not deterred from reporting improper conduct by the risk of having legal costs awarded against them, the Bill provides that, where a discloser seeks damages from a person who has taken detrimental action against them under section 47, the discloser will not pay costs unless:

- the discloser's claim was vexatious; or
- the discloser did not conduct the litigation reasonably.

This reform implements recommendation 17 of the IBAC Committee's 2017 report.

Conclusion

This Bill significantly improves the integrity, oversight and whistleblower protection system in Victoria.

The Bill improves IBAC's public examination function by requiring IBAC to consider whether corrupt conduct is serious or systemic before it holds a public examination, and providing additional safeguards. This reform will better protect the rights and welfare of individuals while preserving the use of public examinations for matters of major public importance.

Additionally, the Bill clarifies and enhances the Victorian Inspectorate's oversight functions and parliamentary oversight of the integrity and accountability system. The improvements made will promote greater compliance and understanding of processes by integrity bodies and the public of the oversight framework.

The Bill also significantly improves the legislation that governs the Victorian Ombudsman, who plays an essential role in raising the standards of our public administration and supporting our community by providing an accessible and effective avenue for complaints about government services. The Bill provides the Ombudsman with modern functions that will facilitate collaboration with the public sector and empower the Ombudsman to resolve complaints efficiently, flexibly and effectively.

The Bill makes it easier to report wrongdoing in the public sector and better supports people who do so. It is essential to public sector integrity that people who are aware of wrongdoing feel safe and supported in coming forward with information, and know that their complaint will be effectively and impartially investigated. This Bill recognises that people who report wrongdoing often serve the public interest ahead of their own interests. The reforms in the Bill will help to ensure those people are supported and have their voices heard.

The Bill represents a big step forward in providing Victoria with a robust and effective public sector integrity and accountability system.

I commend the Bill to the house.

Mr WELLS (Rowville) (16:59): I move:

That the debate be now adjourned.

Motion agreed to.

Ordered that debate be adjourned until Wednesday, 2 January 2019.

AUDIT AMENDMENT BILL 2018

Introduction and first reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (16:59): I move:

That I have leave to bring in a bill for an act to re-enact with amendments certain provisions of the Audit Act 1994 and to extend and modernise the duties, powers and functions of the Auditor-General and the Victorian Auditor-General's Office, to clarify the rights and obligations of entities audited by the Auditor-General, to consequentially amend certain other acts and for other purposes.

Mr WELLS (Rowville) (17:00): I ask the minister for a brief explanation of the Audit Amendment Bill 2018.

Ms HENNESSY: The bill's key reforms, as I said in the introduction, involve modernising the Audit Act to make it more accessible, more effective and more efficient for the Victorian Auditor-General's Office and audited entities. It also allows the Auditor-General to conduct assurance reviews of authorities in targeted and low-risk contexts and report to Parliament on those reviews. It also strengthens and modernises the Auditor-General's information-gathering and disclosure powers.

Motion agreed to.

Read first time.

Ms HENNESSY: I move:

That this bill be read a second time immediately under standing order 61(2).

I also advise, as I have in respect of other bills, that it is my advice that a briefing and a copy of the bill has been offered. If that is not the case, then I will ensure that occurs forthwith.

Motion agreed to.

Statement of compatibility

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:02): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Audit Amendment Bill 2018.

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

OVERVIEW OF THE BILL

The Bill improves the Audit Act to ensure that the Auditor-General can effectively audit the expenditure of public funds and performance of public sector activities, while setting out clear, effective rights and obligations for audited entities.

The Bill achieves this by restructuring and modernising the Audit Act to make it more accessible, effective and efficient for the Victorian Auditor-General's Office (**VAGO**) and audited entities, and addressing concerns about the Audit Act raised by the Auditor-General, VAGO and other stakeholders.

Most relevantly, the Bill:

- strengthens and modernises the Auditor-General's information gathering powers, including providing the Auditor-General with the power to enter and inspect premises for the purposes of an audit, subject to appropriate safeguards;

- facilitates more effective information sharing between the Auditor-General and other integrity bodies, Auditors-General from other jurisdictions, and other relevant stakeholders;

- clarifies reporting requirements and gives the Auditor-General greater discretion to share reports; and

- clarifies the Auditor-General's "follow the dollar" powers, which enable the Auditor-General to audit the use of public funds given to an associated entity or other non-government entity by a public body.

HUMAN RIGHTS ISSUES

The proposed Bill engages the following human rights provided for in the Charter.

Right to privacy and reputation

Section 13 of the Charter states that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with and the right not to have their reputation unlawfully attacked.

The right to privacy protects a person from government interference or excessive unsolicited intervention by other individuals. However, this right can be subject to reasonable limitation under section 7(2) of the Charter. In particular, interference with privacy will not be arbitrary if it is reasonable in the circumstances and in accordance with the Charter.

The Bill engages the right to privacy to the extent that:

- information subject to an audit or assurance review may contain personal information; and
- premises connected to an audit or assurance review may also be residential.

The Bill engages the right to freedom from unlawful attack on reputation in relation to the Auditor-General's reporting and information sharing powers and obligations, to the extent that the information reported or shared contains personal information.

As will be explained below, any limitations of this right arising from the Bill are necessary to achieve the aims of the Bill, and are reasonable and demonstrably justifiable.

Power to require information, documents and attendances

The Bill modernises and strengthens the Auditor-General's power to call for information, documents and attendances for purposes relevant to the performance of their functions under the Audit Act.

The power to compel information may only be used for the purposes of carrying out the functions of the Auditor-General. This includes performance audits and assurance reviews of public bodies, which may involve associated entities and other non-government entities, financial audits of public bodies and the examination of bodies that receive public funds.

The right to privacy is engaged to the extent that information or documents a person is required to provide to the Auditor-General may contain personal information. However, I consider that the limitation is lawful and not arbitrary as it will have a clear and precise legislative basis, and it serves the public interest by facilitating efficient and convenient access to information necessary for the performance of the Auditor-General's

functions. Furthermore, it is reasonable and justifiable on the basis that there are safeguards to protect against arbitrary interference. These include:

- a person may be legally represented in relation to an attendance in accordance with an information gathering notice; and

- oversight by the Victorian Inspectorate (the Auditor-General is required to provide a written report to the Victorian Inspectorate within three days of serving the information gathering notice).

This interference is also not arbitrary, in that all formal requests for information, documents and attendances need to comply with the specified requirements, including notice and service requirements, in the Audit Act.

Power to enter and inspect premises for the purposes of an audit

New section 41 of the Bill empowers the Auditor-General to verify documentation through on-site inspection and observation of premises of public bodies and associated entities whose premises are used solely or predominantly to provide public services or that contain State property, for the purposes of an audit.

The ability of the Auditor-General and authorised persons to effectively perform their statutory functions depends on their ability to access and inspect premises that are subject to an audit. In particular, to comply with Australian auditing standards, the Auditor-General may need to verify documentation through on-site inspection and observation, and may not be able to rely on documentary evidence alone.

The right to privacy is engaged to the extent that the Auditor-General may need to access premises during an audit that are also used for residential purposes (e.g. non-government organisations that own or occupy premises for the provision of residential care services).

The statutory power to enter and inspect is itself limited in scope, which reduces the likelihood and extent of the interference with a person's privacy. This power is only exercisable as a last resort, where the Auditor-General is not able to access the information by consent or the relevant information cannot be obtained through the Auditor-General's power to require information or attendance. The power cannot be used for assurance reviews, VAGO's annual planning and annual reporting functions, or the Auditor-General's functions and powers under other Acts.

The Bill also establishes safeguards designed to ensure that any interference is not unreasonable or arbitrary:

- Notice requirements attached to this power enable persons residing in the premises to be aware of and have time to object to the Auditor-General's access and inspection of the premises.

- The Auditor-General and authorised officers are required to observe procedural fairness obligations when exercising their power of entry and inspection. For example, the Auditor-General or authorised person must provide proof of their identity if requested by the owner or occupier of the premises, and must only conduct inspections at reasonable times and after reasonable written notice.

- The Auditor-General, an authorised person or a VAGO officer is required to take reasonable steps to protect the privacy of any person temporarily or permanently residing at the premises.

- The Auditor-General must also provide a written report to the Victorian Inspectorate within three business days after an entry notice is served, which enables oversight of the Auditor-Generals' exercise of this power and its interference with the right to privacy.

In my opinion, any limitation of the right to privacy arising from this amendment in the limited circumstances specified is reasonable in light of the purpose of conducting efficient and effective performance audits.

Reporting

New section 64(2), inserted by clause 9 of the Bill, enables the Auditor-General to include comments or opinions about a person named in a report and who is an officer or an employee in a public body or an associated entity. This section reflects the current discretion in the Audit Act. The discretion engages the right to privacy and reputation, as it could enable the publication of sensitive and adverse information about a person, exposing them to public disparagement and potential harm to their livelihood or career.

Given the gravity of this potential interference, it is intended to only be used in the most serious of cases, where it is in the public interest to call out a particular person's conduct.

I consider that the limitation is lawful and not arbitrary as it will be prescribed by law. The Auditor-General may only include in a report adverse comments or opinions about a person if it is relevant to the subject matter of the report and it is in the public interest to do so (new section 63). This test limits what may be said about a person in a public report, and places a high onus on the Auditor-General to prove the necessity of including the information and the person's name in the report.

The Bill safeguards against unreasonable interference by requiring the Auditor-General to consult with any public body, associated entity or other non-government entity on proposed reports that relate to the body or

entity under new section 57. If the Auditor-General intends to include adverse comments or opinions about an individual named in the report, the public body or associated entity must give the person a reasonable opportunity to respond to the adverse material (new section 64(2)). This enables any information published to be corrected for accuracy and relevance, which may reduce the impact or interference in the person's privacy and reputation.

In limited cases where the Auditor-General includes a comment or opinion in a report that may be adverse to a named person because it is relevant and its inclusion is in the public interest, the safeguard under new section 64 promotes procedural fairness by providing the person an opportunity to defend or contribute to any statements made about them, and seek appropriate advice to manage any consequences of the publication. I consider that this balances the public interest and the right to privacy and reputation, while ensuring that any interference is limited, appropriate and reasonable.

Information sharing

New sections 67 and 68, inserted by clause 9 of the Bill, enable the Auditor-General to provide or disclose information to a specified person or body, and collaborate with Auditors-General from other Australian jurisdictions. Currently, the Auditor-General can only share information with a limited range of persons or bodies and only under specific circumstances. Enabling the Auditor-General to share information engages with the right to privacy and reputation, as it may capture personal information acquired in the course of the Auditor-General's functions or duties, and may increase the risk of reputational damage by increasing the number of persons who can access that information.

However, I consider that this limitation is:

- not arbitrary, as it will be prescribed by law; and
- justified by the purpose of the amendment, which is to facilitate information sharing with other Auditors-General if the Auditor-General considers that it is in the public interest to do so.

The Bill provides a safeguard on information sharing, to reduce the risk of interference with the right to privacy and reputation. New section 68(4)(b) prohibits the Auditor-General from sharing information of a business, commercial or financial nature which, if disclosed, would be likely to unreasonably expose a person, public body or associated entity to any material disadvantage. The Auditor-General may only provide or disclose information to other Auditors-General where it is in the public interest to do so, and if the information has not already been published, it must not be disclosed or published by the recipient unless required for the performance of their functions or duties. In addition, the Auditor-General must report on sharing of information under new section 68 in the relevant audit or assurance review report, or in the next annual report. I consider that this adequately constrains the amount and type of information shared, which ensures that any limitation of the right is not arbitrary and the information is published appropriately.

Audio or visual recording of attendances

The Bill modernises the current requirement for attendances to be audio or video recorded. The recordings must be provided to the Victorian Inspectorate for review.

This engages the right to privacy and reputation insofar as a person's likeness and/or voice is captured in the recording. I consider this limitation to be justified to ensure that a person is afforded procedural fairness and their right to a fair trial is upheld. Further, the Auditor-General or a VAGO officer is obliged to deliver to the person, destroy or delete the recording when it ceases to be reasonably necessary for the purpose for which it was produced. This reduces the risk that the information contained in the recording could be disclosed for an unauthorised purpose.

Right to freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds. Section 15 also provides that lawful restrictions may be reasonably necessary to respect personal rights and reputations.

The Bill provides for a number of offences that limit to an extent a person's right to freedom of expression by imposing confidentiality obligations on persons who may be performing certain functions in relation to an audit or review or may otherwise be handling information subject to an audit or review:

New section 70 prohibits and imposes penalties upon persons making improper use of, or providing or disclosing any information acquired by the person by reason of, or in the course of, their performance of their functions under the Audit Act.

New section 71 creates an offence for a person to make unauthorised disclosures or provide confidential information outside the permitted use under the Audit Act.

In my opinion, these limitations are necessary to safeguard the confidentiality of information collected by the Auditor-General, which may contain personal information or may cause a person reputational damage. This also promotes the right to privacy and reputation under section 14 of the Charter, as well as protecting the integrity of audit and review information. I consider that these offences appropriately balance the need to protect a person's right to privacy and reputation, with the limitation to a person's freedom of expression in the manner authorised by section 15(3)(a) of the Charter.

Presumption of innocence

Section 25(1) provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

Reverse onus provisions

The Bill provides for a number of offences that place an evidential onus the accused person to offer evidence of their innocence. The Bill modernises these existing offences to align them with the revised scope of the Auditor-Generals' information gathering powers:

New section 51 provides that a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to comply with the notice.

New section 52 provides that a person who is duly served with an entry notice must not, without reasonable excuse, refuse or fail to comply with the notice.

New section 53(1) provides that a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to take an oath or make an affirmation when required to do so.

New section 53(2) provides that a person who is duly served with an information gathering notice must not, without reasonable excuse, refuse or fail to answer a question that the person is required to answer by the Auditor-General or an authorised person.

These offences engage the right to be presumed innocent, as a person will not be guilty of an offence if they can provide a reasonable excuse. This exception does not limit the right to be presumed innocent because it is an evidential onus only. If the accused can identify or provide evidence of a reasonable excuse for contravening the section, the prosecution has the burden of proving the absence of a reasonable excuse.

It is not intended that these offences operate as strict liability offences.

Furthermore, these offences are not arbitrary, as they are necessary to ensure and encourage compliance with the Auditor-General's information gathering powers.

In my opinion, these provisions are unlikely to limit a person's presumption of innocence.

Reporting

The Bill promotes the right to be presumed innocent by entrenching prohibitions on the publication of certain kinds of information in the Auditor-General's report. New section 64(1), inserted by clause 9, prohibits the Auditor-General from including in a report under the Audit Act or any other Act:

any information that the Auditor-General considers would prejudice any criminal proceedings or criminal investigation, or any IBAC or Victorian Inspectorate investigations (subsection (1)(a));

a finding or opinion that a person is guilty of or has committed, is committing or is about to commit an offence (subsection (1)(b)); or

a recommendation that a person be, or an opinion that a specified person should be, prosecuted for an offence (subsection (1)(c)).

These prohibitions also promote the right to privacy and reputation, insofar as they prevent personal information in relation to criminal proceedings or investigations, or the potential commission of an offence, from being included in a report.

Right to recognition and equality before the law, and right to protection of children

Section 8 of the Charter provides that every person is equal before the law and has the right to equal and effective protection against discrimination. 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.

The Bill promotes sections 8 and 17(2) of the Charter by providing specific protections and safeguards for vulnerable persons (including children, the elderly and persons with a cognitive impairment or a disability) and requiring the Auditor-General to develop protocols for interacting with vulnerable persons. These safeguards recognise that the Auditor-General and VAGO officers may interact with vulnerable persons in

the course of performing their functions, and certain adjustments will need to be made to ensure the fair and proper performance of their functions and powers.

Right to a fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This right encompasses the procedural fairness of a decision (*Knight v Wise* [2014] VSC 76).

The Bill entrenches a number of procedural fairness obligations. For example, new section 31 enables persons to be legally represented in relation to an attendance or an information gathering notice. Moreover, the requirement for attendances to be audio or video recorded in new section 34(1) ensures that accurate records of attendances are kept for use in future proceedings.

Right to freedom of movement

Section 12 of the Charter establishes a right of freedom of movement according to which every person lawfully within Victoria has the right to move freely within Victoria.

New section 27 of the Bill authorises the Auditor-General or an authorised person to compel a person to attend at a specified time and place to give evidence or answer questions before the Auditor-General or authorised person. This power to compel attendance limits the right to freedom of movement, insofar as it restricts an individual's freedom of movement in Victoria. However, I consider this limitation is reasonable and justifiable as it is necessary for the Auditor-General or authorised person to have access to all relevant information to properly carry out their functions under the Audit Act. Additionally, this limitation is relatively minor in nature, given that a person's movement will only be restricted for a limited amount of time. Furthermore, the Auditor-General is required to report to the Victorian Inspectorate on the issue of a notice requiring a person to attend, and this provision is subject to the Inspectorate's complaint and own motion investigation jurisdiction.

CONCLUSION

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

Second reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:03): I move:

That this bill be now read a second time.

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

Incorporated speech as follows:

The purpose of this Bill is to strengthen and clarify the Auditor-General's duties, powers and functions, to improve transparency and accountability in the expenditure of public funds. The reforms in this Bill were first introduced into Parliament on 12 December 2017, but lapsed when Parliament was prorogued before the election. This Bill reintroduces substantially the same reforms, consistent with the Government's ongoing commitment to public sector integrity and accountability.

The Auditor-General is a key part of the integrity and accountability system in Victoria. The Auditor-General's role is to ensure that public funds are expended efficiently, effectively and in accordance with the law. In recent times, the Auditor-General's role has expanded to include performance audits to assess results and outcomes of public sector activities.

The Auditor-General's legislation has been amended many times since it was introduced in 1994. This has resulted in an Audit Act that is outdated, difficult to navigate and operationally challenging.

The Bill is a significant rewrite of the Audit Act and is part of the Government's suite of integrity and accountability reforms. The Bill addresses concerns about the Audit Act by:

- modernising and restructuring the Audit Act to make it more accessible, effective and efficient;
- clarifying and modernising the functions and powers of the Auditor-General and VAGO to ensure appropriate oversight of the public sector and publicly funded services;
- improving the consistency of the Auditor-General's jurisdiction with other integrity bodies; and
- making it clear when disclosing confidential information is and is not authorised.

This Bill gives effect to the seven principles guiding the Government's integrity and accountability reforms, as follows:

Accountability: the Bill promotes and improves public sector accountability for the use of public funds to achieve government policy objectives.

Independence: the Bill preserves the independence of the Auditor-General as an officer of Parliament, which facilitates robust and thorough audits and reviews that are free from government influence.

Effectiveness: the Bill ensures that the Auditor-General has effective and clear powers that are proportionate to the Audit Act's objectives within the integrity and accountability system.

Transparency: the Bill provides clear and accessible guidance on how the Auditor-General and VAGO are to perform their powers and functions to audit the use of public funds.

Collaboration: the Bill will facilitate more effective information sharing between the Auditor-General and the other integrity bodies, Auditors-General from other jurisdictions, and other relevant stakeholders.

Cohesion: the Bill complements the broader reforms to Victoria's integrity and accountability system, ensuring that the Auditor-General can collaborate with other integrity bodies in the performance of his or her functions.

Fairness: the Bill includes a number of safeguards to protect the rights of persons who may be compelled to give information or an attendance under the Audit Act, or who may reside at audited premises, to ensure that people are treated fairly and equally.

In addition, the Bill acquits the Government's commitment to the former Auditor-General to rewrite the Audit Act, and will make a significant contribution to enhancing public confidence and understanding of how public bodies are audited.

I now turn to the Bill.

Clarifying the Auditor-General's jurisdiction

An effective Auditor-General requires a comprehensive and clear mandate to examine all public sector bodies, including private sector bodies performing public functions. The Bill includes a new definition of "public body" which makes the Auditor-General's mandate clearer, but without changing its scope.

Modernising and strengthening the Auditor-General's functions

New power to conduct assurance reviews of public bodies

Australian auditing standards provide for two types of assurance engagements:

"reasonable assurance engagements", commonly known as "audits", for which the Audit Act currently provides in relation to public bodies; and

"limited assurance engagements", commonly known as "reviews".

Audit conclusions represent a high (but not absolute) level of assurance, whereas review conclusions reflect a greater level of acceptable risk. Because of this, reviews are more limited in scope than audits, and therefore provide a more targeted, flexible, speedy and economical basis for review.

The Bill provides the Auditor-General discretion to conduct assurance reviews of a public body's financial statements or performance. This discretion does not replace or detract from the Auditor-General's existing audit functions.

It is intended that assurance reviews are to be used for more targeted, smaller scale, time sensitive or lower risk engagements. This discretion would enable the Auditor-General to, for example, efficiently review specific operational matters, or follow up on compliance with previous audit recommendations or referrals from other integrity bodies.

Given that assurance reviews are more streamlined, public bodies will not be consulted prior to an assurance review. However, the Bill provides a number of safeguards, including:

requiring the Auditor-General to perform assurance reviews in accordance with Australian auditing standards and report to the Public Accounts and Estimates Committee quarterly on any assurance reviews; and

prohibiting the Auditor-General from exercising the proposed power to enter and inspect premises for an assurance review.

Clarifying the Auditor-General's follow the dollar powers

In 2016, the Government provided the Auditor-General with the power to “follow the dollar”. This power enables the Auditor-General to effectively audit the use of public funds to deliver public services.

The Bill simplifies and restates the “follow the dollar” powers more transparently within the Audit Act’s revised structure, while ensuring that existing safeguards continue to apply. For example, the Auditor-General is prevented from publishing information in an audit report that could unfairly damage the commercial interests of a provider.

To further enhance transparency, the Bill requires the Auditor-General to include the reasons for conducting an audit or assurance review involving an associated entity in the relevant audit or assurance review report.

Information gathering powers and duties*Strengthening and clarifying the Auditor-General's power to require information or attendance*

The Auditor-General’s current powers to require a person to produce documents or to give evidence are not accompanied by clear procedural fairness requirements. The Bill clarifies that the Auditor-General may only gather evidence that is relevant to the function he or she is performing. The Bill requires certain requirements to be met before the Auditor-General, a Deputy Auditor-General or senior VAGO officer authorised by the Auditor-General may use coercive evidence gathering powers. For example, the Auditor-General or authorised person must issue a written notice to a person or body, and serve the notice at least five business days before using these powers. The Auditor-General will also be required to report to the Victorian Inspectorate when issuing an information gathering notice. The Bill does not affect the ability of the Auditor-General or a VAGO officer to informally request information or documents by consent.

The Bill also requires VAGO to destroy or return any audit documents that are no longer required for audit purposes. This will afford greater protection to confidential information and better align with similar provisions in other integrity legislation.

A clear statutory power to enter and inspect premises for the purposes of an audit

VAGO currently relies on consent to access premises. However, it has occasionally been refused access, undermining the Auditor-General’s capacity to conduct efficient and effective financial and performance audits. To meet high evidentiary thresholds for audits under auditing standards, the Auditor-General sometimes needs to be able to directly observe, inspect and verify an entity’s operations and processes.

The Bill gives the Auditor-General the power to enter and inspect premises of public bodies for any audit. It also allows the Auditor-General to access the premises of associated entities whose premises are used wholly or predominantly to provide public services or that contain State property, during the performance audit of a public body.

The power is intended to be used as a last resort, where access is denied or the relevant information cannot be obtained through the Auditor-General’s power to require information or attendance. The Bill also provides safeguards to minimise any risks that may arise from the use of this power, including:

- safeguards to protect the privacy of occupiers and to minimise disruption to the operations of the public body or associated entity and occupiers on the premises;
- requiring the Auditor-General to develop and follow appropriate protocols for interacting with vulnerable persons on site; and
- requiring the Auditor-General to report to the Victorian Inspectorate on the exercise of the power.

Clarifying that the Auditor-General may override confidentiality obligations under contract

The Bill extends the Auditor-General’s existing power to override confidentiality obligations to include obligations under contract, subject to appropriate safeguards. This reform aims to address situations where the public interest in enabling the Auditor-General to effectively perform his or her functions may take precedence over the public interest protected by confidentiality obligations.

To protect people from legal action, the Bill provides that a person is not subject to any civil or disciplinary proceedings because the person provides the information to the Auditor-General in accordance with the Audit Act.

Information sharing and reporting

Currently, the Audit Act lacks a coherent and transparent information sharing regime, which is essential for the Auditor-General to effectively and efficiently interact with other integrity bodies.

The Bill responds to this concern by expanding the range of bodies and persons with whom the Auditor-General can share information to include Ministers, public bodies, statutory officeholders, integrity

bodies, law enforcement agencies, prosecutorial bodies and associated entities. Recipients will be restricted from disclosing information, except in appropriate circumstances, e.g. where a public servant needs to brief their Minister on an audit report.

The Auditor-General will not be permitted to share information that is subject to Cabinet confidentiality or where disclosure is prohibited by legislation.

The Bill also facilitates better information sharing and collaboration with other Auditors-General, subject to appropriate limitations on this discretion. The Bill strengthens the Auditor-General's ability to share proposed reports with a person or body with a special interest in the report, and to allow them to make submissions, and modernises other reporting requirements and discretions.

Audits of the Auditor-General and VAGO

The Bill clarifies the financial and performance audit arrangements for VAGO. It will require annual financial audits of VAGO as is the current practice, and performance audits of VAGO at least once every four years, instead of once every three years as is currently the case. Less frequent performance audits will reduce the administrative burden on VAGO. PAEC will continue to appoint independent auditors to conduct these audits.

The Bill will provide PAEC with greater flexibility to appoint VAGO's auditors, but will ensure that persons with potential conflicts of interest cannot be appointed.

Conclusion

The Auditor-General and VAGO play a key role in the Victorian integrity and accountability system. This Bill makes it easier for public sector bodies and associated entities to comply with their obligations under the Audit Act and gives the Auditor-General and VAGO the tools they need to carry out their functions into the future. This will ensure that Victorians can continue to have confidence in the accountability of public administration in this State.

I commend the Bill to the house.

Mr WELLS (Rowville) (17:03): I move:

That the debate be now adjourned.

Motion agreed to.

Ordered that debate be adjourned until Wednesday, 2 January 2019.

GUARDIANSHIP AND ADMINISTRATION BILL 2018

Introduction and first reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:03): I move:

That I have leave to bring in a bill for an act to re-enact with amendments the law relating to guardianship and administration, to repeal the Guardianship and Administration Act 1986, and to amend consequentially various other acts and for other purposes.

Mr SOUTHWICK (Caulfield) (17:04): I ask the Attorney-General for a brief explanation of the bill.

Ms HENNESSY: I thank the member for Caulfield for his request for a brief explanation. Essentially the guardianship and administration reforms stem from a Victorian Law Reform Commission report of some two years ago. They essentially modernise guardianship and administration with a more contemporary understanding of disability. They also involve bringing people with a disability to have joint decision-making capacity. The bill also seeks to modernise guardianship and administration with respect to medical treatment powers along the lines that we saw in the previous Parliament under the medical treatment planning and decisions legislation. It essentially picks up many of the recommendations that the Victorian Law Reform Commission recommended some two years ago.

Motion agreed to.

Read first time.

Ms HENNESSY: By leave, I move:

That this bill be read a second time immediately under standing order 61(2).

I can advise the house that the other parties and Independent members have been provided with a copy of this bill and a briefing in accordance with the standing orders.

Motion agreed to.

Statement of compatibility

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:06): In accordance with the Charter of Human Rights and Responsibilities Act 2006, I table a statement of compatibility in relation to the Guardianship and Administration Bill 2018.

In my opinion, the Guardianship and Administration Bill 2018, as introduced to the Legislative Assembly, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Guardianship and Administration Bill 2018 repeals the *Guardianship and Administration Act 1986* (GA Act), re-enacts with amendments the law relating to guardianship and administration, and amends various other Acts.

The Bill provides a legislative scheme in relation to guardianship and administration by: continuing the office of the Public Advocate and providing for the appointment of a Public Advocate; enabling certain persons with disability to have a supportive guardian, supportive administrator, guardian or administrator appointed in specified circumstances; enabling an administrator to be appointed for certain missing persons; improving processes at the Victorian Civil and Administrative Tribunal (VCAT) in relation to guardianship and administration applications; and providing a process for VCAT to consent to special medical procedures on behalf of persons incapable of giving consent to those procedures.

The Bill aims to provide a solution to the challenges posed when a person with disability lacks decision-making capacity in relation to certain matters. In such circumstances, the Bill enables a guardian or an administrator to be appointed by VCAT, in order to promote the person's personal and social wellbeing. The Bill contains many safeguards, which protect the rights of persons affected by the Bill. Importantly, the Bill expressly provides that provisions of the Bill and powers, functions and duties conferred or imposed by the Bill are to be interpreted to adopt the way which is the least restrictive of a person's ability to decide and act, and so that a person is given all the possible support to enable that person to exercise their decision-making capacity (clause 8). In addition, the Bill provides that a person making a decision for a represented person must have regard to the following key principles: the decision-maker should give all practicable and appropriate effect to the person's will and preferences, if known; if the person's will and preferences are unknown, the person should give effect to what the represented person would likely want, based on all the information available; the person should act in a way which promotes the represented person's personal and social wellbeing; and the represented person's will and preferences should only be overridden if it is necessary to do so to prevent serious harm to the represented person (clause 9). The principles in clauses 8 and 9 broadly reflect the paradigm shift signalled in the United Nations Convention on the Rights of Persons with Disabilities, ratified by Australia in July 2008. That Convention views persons with disability not as 'objects' of charity, medical treatment and social protection; but rather as 'subjects' with human rights to recognise people with disability as persons before the law and their right to make decisions for themselves.

The Bill also enables VCAT to appoint a supportive guardian or supportive administrator as an alternative to, or in addition to, a guardian or administrator where VCAT determines that a person would be able to exercise decision-making capacity in relation to certain matters with appropriate support (clause 87). A person for whom a supportive guardian or supportive administrator is appointed is called a 'supported person'. While it may be the case that a legislative framework based entirely on supported decision-making would be a less restrictive alternative to permitting any form of substitute decision-making, in my view, such a regime would not achieve the purpose of this Bill in relation to persons that have extremely limited decision-making capacity. I consider that the framework in the Bill is preferable, as it maintains the decision-making capacity of supported persons and represented persons where possible, but also addresses the situation where a substituted decision-maker is required.

Human rights protected by the Charter that are relevant to the BillGuardianship and administration orders

Part 3 of the Bill allows for a person to apply to VCAT for a guardianship or an administration order in relation to a person with disability who is of or over 18 years old (clauses 22, 23). Clause 3 of the Bill defines 'disability' as a neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia. VCAT may make a guardianship or administration order where satisfied of various factors (set out below).

A guardianship order may confer on a guardian a range of powers in relation to a 'personal matter' of a represented person, including powers to determine: where the represented person lives; with whom the represented person associates; and whether the represented person works (clauses 3, 38(1)(a)). A guardianship order may also confer on a guardian the power to undertake legal proceedings on behalf of the represented person in relation to a specified personal matter (clause 40). An administration order may confer on an administrator power to make decisions in relation to particular 'financial matters' specified in the order (clauses 3, 46). There are many financial powers that may be conferred on an administrator, including: selling any property (clause 52(g)); paying debts (clause 52(i)); and paying for the maintenance of the represented person and represented person's dependents (clause 52(n)). An administrator may also continue the represented person's investments (clause 48), undertake legal proceedings on behalf of the represented person in relation to a specified financial matter (clause 51) and make a gift of the represented person's property in certain circumstances (clause 47).

The authority of a guardian or an administrator is such that their acts have effect as if taken by the represented person with the relevant decision-making capacity (clauses 38(3), 46(4)). A represented person is taken to be incapable of dealing with, transferring, alienating or charging their money or property without the order of VCAT or the written consent of the administrator, and any such dealing by any represented person is void and of no effect (clause 75).

Clause 30 of the Bill sets out the circumstances in which VCAT may make a guardianship order or an administration order. Clause 30 (and other related provisions in Part 3 of the Bill) engages various rights under the Charter as set out below.

Right to equality (section 8)

Section 8(1) of the Charter provides that every person has the right to recognition as a person before the law. Section 8(3) of the Charter relevantly provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination in relation to a person means discrimination within the meaning of the *Equal Opportunity Act 2010* on the basis of an attribute set out in section 6 of that Act. This includes discrimination on the basis of a disability. Section 8 of that Act provides that direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

The Bill is directed towards people with disability. Clause 30 of the Bill will have the effect of empowering another person to exercise decision-making powers in relation to a person with disability (referred to as the 'represented persons'). The provisions in Part 3 may consequently affect the capacity of represented persons to make legally effective decisions for themselves in important areas of their life. To the extent that the Bill treats persons with disability unfavourably because of their disability by potentially restricting their personal autonomy, the Bill will be discriminatory in its effect, and its operation as a whole will limit the right to equality.

However, a guardianship or administration order may only be made in limited circumstances. VCAT must be satisfied that: because of the person's disability, the person does not have decision-making capacity with respect to the personal or financial matters in relation to which the guardianship or administration order is sought; the person needs a guardian or administrator; and the appointment would promote the person's social and personal wellbeing (clause 30). For the purposes of determining whether a person 'needs' a guardian or administrator, VCAT must consider: the will and preferences of the person; whether the decisions in relation to the personal or financial matters for which the order is sought may be made more suitably by informal means or through negotiation or mediation; the wishes of any primary carer or relative of the proposed represented person, or other person with a direct interest in the application; and the desirability of preserving existing family relationships or other relationships that are important to the person (clause 31). Such requirements may promote other human rights under the Charter, such as the right to privacy in section 13, the right to freedom of association in section 16 and the right to protection of families and children in section 17.

A party to an application may apply to VCAT for a rehearing of an application and VCAT must conduct a reassessment of orders made under the Bill within specified time frames (Part 7). In addition, VCAT must adhere to the general principles and be satisfied that the order is the least restrictive alternative possible in

relation to the person's ability to decide and act (clause 8). In my view, these factors mean that any limit on the right to equality arising from the making of a guardianship or administration order will be kept to the minimum extent necessary to achieve the purpose of the Bill.

In addition, a person will only be subject to a guardianship or administration order if VCAT makes such an order following a hearing. The proposed represented person must be present at the hearing unless VCAT is satisfied that the person does not wish to attend or their presence is impracticable or unreasonable despite any arrangements VCAT may make (clause 29). Additionally, the process for the making of guardianship and administration orders is designed to promote the participation of the proposed represented person and ensure that VCAT has regard to their will and preferences. In making a guardianship or administration order, it was held in *PJB v Melbourne Health, State Trustees Limited* [2011] VSC 327 that VCAT will be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights.

Once an order is made, the Bill also places restrictions on the powers of guardians and administrators. The power to make decisions in relation to a number of highly personal matters may not be conferred on a guardian or an administrator, such as decisions in relation to making a will, voting, marriage, and the care and wellbeing of any child (clauses 39, 53). A guardian and an administrator are subject to the decision-making principles (clause 9 referred to above) as well as obligations to: act as an advocate for the represented person; encourage and assist the represented person to develop the person's decision-making capacity; act in such a way so to protect the represented person from neglect, abuse or exploitation; act honestly, diligently and in good faith; exercise reasonable skill and care; not use the position for profit; avoid acting if there are conflicts of interest; and not disclose confidential information (clauses 41, 55). An administrator must also keep accurate records and accounts of all dealings and transactions (clause 59) and ensure that their personal property is kept separate from the property of the represented person (clause 60). Importantly, an administrator must not enter into a transaction in which there is, or may be, a conflict between the duty of the administrator to the represented person and the interests of the administrator unless the transaction has been authorised by VCAT (clauses 57, 58). Clause 61 provides VCAT may appoint a person to examine or audit accounts of all dealings and transactions relating to financial matters specified in the order.

Finally, Division 2 of Part 7 of the Bill requires VCAT to conduct a reassessment of guardianship orders and administrations orders within 12 months after making the order and then at least once within each 3 year period after making the order unless VCAT orders otherwise (clause 159(1) and (2)). VCAT may also conduct a reassessment at any time on its own initiative or on the application of any person (159(3)). As part of the reassessment, VCAT must consider whether the guardian or administrator has complied with their duties set out in clauses 41 and 55 (described above).

In my view, to the extent that the making of a guardianship or administration order limits the right to equality, any such limitation is demonstrably justifiable and constitutes the minimum interference necessary to enable persons with limited decision-making capacity to participate in society and enjoy personal and social wellbeing.

As mentioned, any appointment or order under the Bill, including orders for guardianship and administration, can only take effect when a person is aged 18 years or over. Such differentiation on the basis of age also engages the right to equality. However, in my view, this age limitation does not limit the right to equality. The age threshold in the Bill recognises that if substitute decision-making is required for a person under 18, the young person's parents generally have this power and responsibility. The Family Law Act 1975 provides that, usually, each of the parents of a child who is not 18 has parental responsibility for the child. "Parental responsibility" is defined as "all of the duties, powers, responsibilities and authority which, by law, parents have in relation to children."

Right to freedom of movement (section 12), the right to freedom of expression (section 15) and the right to freedom of association (section 16)

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and to leave it and has the freedom to choose where to live, which includes a right not to be forced to move from or to a particular location.

Section 15 of the Charter provides that every person has the right to hold an opinion without interference and the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, pursuant to section 15(2). However, section 15(3) provides that the right to freedom of expression may be lawfully restricted in a range of circumstances, including where it is reasonably necessary to do so to respect the rights and reputation of other persons.

Section 16(2) of the Charter provides that every person has the right to freedom of association with others.

A power conferred on a guardian in relation to a personal matter (as defined in the Bill), such as the power to determine a represented person's residence and place of employment, education or training, is relevant to the freedom of movement under section 12 of the Charter. Other human rights, such as the right to freedom of

expression under section 15 of the Charter and the right to freedom of association under section 16(2) of the Charter, may also be relevant and/or limited depending on the nature of the order made by VCAT appointing the guardian as well as the manner in which the guardian exercises the power. For example, the right to freedom of association may be relevant to a guardianship order that allows a guardian to make decisions regarding access to the represented person by certain people.

However, in my opinion, the obligations on a guardian in relation to the exercise of their powers (outlined above) prevent any powers conferred by a guardianship order from operating in a manner that unreasonably or unjustifiably limits human rights. Importantly, VCAT may only confer decision-making power on a guardian in relation to certain personal matters specified in the order if it is satisfied that it will promote the represented person's personal and social wellbeing (clause 30(2)(c)). For these reasons, I consider that any limitation of section 12 of the Charter and other Charter rights discussed above imposed by the Bill is reasonable and justifiable.

Right to privacy, family or home (section 13)

Section 13 of the Charter relevantly provides that all persons have the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference with privacy will be lawful if it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary if it is not capricious, unpredictable or unjust.

The right not have one's privacy, family or home unlawfully or arbitrarily interfered with is relevant to the power conferred on a guardian in relation to personal matters and the power conferred on an administrator in relation to financial matters. For example, a decision that a person must reside in a particular place or a decision to sell a represented person's family home or a decision as to whether a represented person works or undertakes education or training may interfere with a person's right to family and home. In addition, a guardian or an administrator may be empowered to receive and disclose certain personal information about the represented person in order to make and implement decisions.

The safeguards outlined above in relation to the duties imposed on guardians and administrators ensure that the powers of a guardian and an administrator, if exercised in accordance with the Bill, will not unlawfully or arbitrarily interfere with a person's right to privacy, family life or home. In addition, the disclosure and use of personal information by a guardian or administrator is for a defined purpose and there is a specific duty not to disclose confidential information unless authorised to do so under the guardianship or administration order or by law (clauses 41(1)(i), 55(i)). Furthermore, where the Public Advocate has been appointed to act as guardian, clause 20 provides that it is an offence for the Public Advocate (and Public Advocate employees) to disclose information relating to the affairs of an individual acquired in the performance of a function or duty or the exercise of a power under the Act other than in limited, prescribed circumstances. For this reason, the right in section 13 of the Charter is not limited as any interference will not be arbitrary or unlawful.

Protection of families (section 17)

Section 17(1) of the Charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the State.

The power conferred on a guardian in relation to personal matters and the power conferred on an administrator in relation to financial matters may limit the right to protection of families. For example, a guardian's decision about where a represented person resides or an administrator's decision to sell a represented person's family home may result in a person not being able to live with their family. The right to protection of children will also be relevant where the guardianship and administration orders affect a child's relationship with a represented person, particularly where that person is the parent.

However, I consider that any limitation on the right of families to protection which may arise due to a represented person being separated from their family will be reasonable, proportionate and demonstrably justifiable within the meaning of section 7(2) of the Charter, given the decision-making principles (clause 9) and other duties and limitations imposed on guardians and administrators that are outlined above. In particular, under the decision-making principles, a guardian or administrator could only make a decision that would have the effect of separating a person from their family after considering the represented person's will and preferences. A represented person's will and preferences can only be overridden if necessary to prevent serious harm to the represented person or to another person. If a guardian or administrator are unable to determine the represented person's will and preferences, they must consult the represented person's close family and carers and act in a manner which promotes the represented person's personal and social wellbeing.

Right to property (section 20)

Section 20 of the Charter provides that a person must not be deprived of his or her property other than in accordance with law. This right is not limited where there is a law which 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.

International jurisprudence supports a view that a 'deprivation of property' may not be confined to situations of forced transfer of title or ownership, but could include any substantial restriction on a person's control, use or enjoyment of their property.

The power conferred on an administrator to make decisions in relation to specified financial matters is relevant to the right contained in section 20 of the Charter. The exercise of complete and exclusive management and control of a person's property by an administrator may constitute the de facto deprivation of a person's property. As described above, clause 75 of the Bill restricts the ability of the represented person to deal with their own property to the extent that it is under the control of an administrator. However, the safeguards outlined above ensure that, if the powers of an administrator are exercised in accordance with the Bill, any de facto deprivation of a person's property (if occurs at all) will only in accordance with law that is clear and certain and does not operate arbitrarily. For this reason, the right in section 20 of the Charter is not limited.

Clause 74 provides that an administrator may sell all personal effects of a person who is no longer a represented person that are in the possession of the administrator and unclaimed for 2 years after the date on which the person ceased to be a represented person. There is a similar provision in relation to the personal effects of a person who is no longer a missing person (clause 135). The sale must occur after public notice and is provided for by law that is clear and precise in its application. Accordingly, the right in section 20 of the Charter is not limited.

Administration (missing person) orders

Right to equality (section 8)

Part 5 of the Bill provides for an additional category of administration orders in relation to missing persons. A person may apply to VCAT for an administration (missing person) order for a missing person who is of or over the age of 18 (clause 99). VCAT may make an order in relation to the financial affairs of a missing person if it is satisfied that: the person is a missing person who usually resides in Victoria; while the person is missing there is, or is likely to be, a need for a decision to be made in relation to the person's financial matters; and the order would promote the missing person's personal and social wellbeing while the person is missing (clause 105). An administrator appointed by VCAT under Part 5 has one or more of the powers conferred by Division 3 of Part 5 as specified by VCAT (clause 110). These powers generally mirror those in Part 3 in relation to administration orders, such as a general power to make decisions about those financial matters specified in the order and a power to continue investments (clauses 110, 111). An administrator for a missing person must also abide by the duties referred to in Division 4 of Part 5. The duties are based on Part 3, Division 7 of the Bill and include the obligations to: act as an advocate for the represented person; act honestly, diligently and in good faith, exercise reasonable skill and care; not use the position for profit; avoid conflicts of interest; and not disclose confidential information. Clause 122 also provides VCAT may appoint a person to examine or audit accounts of all dealings and transactions relating to financial matters specified in the order.

Division 5 of Part 5 provides other protections, such as a requirement that an administrator must notify VCAT in writing without delay when the administrator becomes aware that the missing person is alive, or that the missing person has died (clause 124). Additionally, an administration (missing person) order continues in effect for the period not exceeding 2 years as specified in the order (unless the order is revoked earlier).

For the reasons discussed above in relation to administration orders and the conferral of powers on administrators, any limitation of human rights caused by the above clauses will be reasonable and justifiable within the meaning of section 7(2) of the Charter. Also, as discussed above in relation to guardianship and administration orders, in my view, the age limitation of 18 or above does not limit the right to equality.

Special medical procedures

Part 6 of the Bill concerns the carrying out of 'special medical procedures', which is defined in clause 3 as 'any procedure that will have the effect of rendering a person permanently infertile; terminating pregnancy; removal of tissue for purposes of transplantation to another person; or any medical or dental treatment that is prescribed by the regulations to be a special medical procedure for the purposes of Part 6.'

Part 6 applies to 'patients'. Clause 3 defines a 'patient' as 'a person with disability who is of or over the age of 18 years and does not have decision-making capacity in relation to giving consent to the carrying out of a special medical procedure, regardless of whether the person is a 'represented person' as defined in the Bill.

The right to equality (section 8)

Part 6 may also limit the right to equality to the extent that it treats persons with disability differently on the basis that they do not have decision-making capacity to consent to a special medical procedure (refer to ZEH (Guardianship) [2015] VCAT 2051).

Part 6 contains many safeguards. In particular, any such procedure must be authorised by VCAT (unless the patient has given an instructional directive regarding the carrying out of the procedure under the *Medical Treatment Planning and Decisions Act 2016* (MTPD Act)). It is an offence for a registered practitioner to carry out a special medical procedure without the consent of VCAT (or the medical treatment decision-maker if VCAT has provided this person with authority to consent to the continuation of the procedure or a further special medical procedure of a similar nature to the procedure that was originally authorised) (clause 147).

VCAT may only consent to the carrying out of a special medical procedure if satisfied that: the patient has not given an instructional directive under the MTPD Act regarding the carrying out of the procedure; the patient does not have decision-making capacity in relation to giving consent; the patient is not likely to have decision-making capacity in relation to giving consent within a reasonable time; and the patient would consent to the carrying out of the special medical procedure if the patient had decision-making capacity (clause 145(1)). In order to be satisfied that the patient would consent to the carrying out of the procedure if the patient had decision-making capacity, VCAT must consider: any relevant values directive under the MTPD Act and any other relevant preferences that the patient has expressed and the circumstances in which those preferences were expressed (clause 145(2)(a) and (b)). If VCAT cannot identify any relevant values directive or other preferences, VCAT must give consideration to the patient's values, whether expressed other than by way of a values directive or inferred from the patient's life (clause 145(2)(c)). VCAT must also consider the effects and consequences of the procedure and whether there are any alternatives and consult the patient's nearest relative (clause 145(2)(d)). If it is not possible to ascertain or apply the patient's preferences or values, VCAT must only consent to the procedure if: VCAT is satisfied that the procedure would promote the personal and social wellbeing of the patient, having regard to the need to respect the patient's individuality; and VCAT has considered the likely effects and consequences of the procedure; and whether there are any alternatives that would better promote the patient's personal and social wellbeing (clause 145(3)).

I consider that the limitation on the right to equality under Part 6 constitutes the minimum interference necessary to enable persons without capacity to consent to a special medical procedure in order to receive appropriate and necessary medical care that would promote their personal and social wellbeing, and as such, any limitation of the right to equality will be reasonable and justifiable within the meaning of section 7(2) of the Charter.

As with other orders under the Bill, Part 6 only applies to a person who is 18 years or above. Such differentiation on the basis of age also engages the right to equality. In my view, the age limitation of 18 or above in relation to special medical procedure applications does not limit the right to equality. In accordance with the High Court decision in Marion's Case (*Department of Health and Community Services v JWB and SMB* [1992] HCA 15), court authorisation is required before a special medical procedure can be undertaken on a child.

Right not to be subject to medical treatment without consent (section 10)

Section 10(c) of the Charter provides that a person must not be subjected to medical experimentation or treatment without his or her full, free and informed consent. Part 6 of the Bill enables VCAT to authorise a special medical procedure to be carried out in certain circumstances without the consent of a patient. To that extent, some clauses in Part 6 of the Bill limit the right in section 10(c) of the Charter.

The right to be free from being subject to medical treatment without consent is an important right in the Charter, given the way in which any such treatment without consent significantly undermines the personal autonomy of individuals and the freedom of such individuals to choose whether or not they are subjected to a particular medical procedure. However, the right can be subject to reasonable limitations in accordance with section 7(2) of the Charter.

In this case, the necessity to enable VCAT to authorise a special medical procedure arises from the inability of the persons concerned to consent to such a procedure. In my view, the inability of persons to provide consent should not preclude persons from undergoing a necessary special medical procedure that may improve the patient's quality of life. Given the numerous safeguards in Part 6 (outlined above), including the many factors VCAT must consider in forming the reasonable opinion that the patient would consent if they had decision-making capacity, and the fact that a special medical procedure must promote the personal and social wellbeing of the relevant patient, I consider that any limitation of the right not to be subject to medical treatment without consent will be reasonable and justifiable within the meaning of section 7(2) of the Charter.

Special powers in relation to proposed represented persons

Clause 43 confers special powers on the Public Advocate or another specified person in relation to a person in respect of whom an application for guardianship order under the Bill has been made (proposed represented person). If VCAT has received information on oath that the proposed represented person is being unlawfully detained against their will or is likely to suffer serious damage to their health or wellbeing unless immediate

action is taken, VCAT may by order empower the Public Advocate or some other specified person to visit the person in the company of a police officer for the purpose of preparing a report to VCAT. A police officer may use such force as is reasonably necessary to enter the premises (clause 43(4)).

Clause 43(3) provides that if, after receiving a report from the Public Advocate, VCAT is satisfied that the person is being unlawfully detained or is likely to suffer serious damage, VCAT may make an order enabling the person to be taken to a specified place for assessment and placement until the application for the guardianship order is heard.

Right to freedom of movement (section 12), right to liberty (section 21)

Clause 43 of the Bill may limit a person's right to freedom of movement and freedom to choose where to live under section 12 of the Charter where the person has been removed from their place of residence and held in an alternative residence against their will until the hearing of the application for the guardianship or administration order. If the person is restrained from leaving the alternative residence, clause 43 is relevant to a person's right to liberty and security under section 21 of the Charter. However, any such deprivation will not be arbitrary given the process for VCAT authorisation described above, and, in my view, this power will not limit section 21 of the Charter. Furthermore, given the limited circumstances in which a person may be removed from their residence and the safeguards outlined above, I do not consider that clause 43 of the Bill unreasonably or unjustifiably limits the right to freedom of movement in section 12 of the Charter. Finally, the Public Advocate must adhere to the general principles in the Bill (clause 8) and will also be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights.

Right to privacy, family or home (section 13)

Clause 43 provides for the entry to residential premises and the removal of a person from their place of residence, which may interfere with the right to privacy, family and home of that person and any other person residing in the premises. The right to privacy is broad in scope and is said to encompass a person's personal and social sphere. This includes their personal security/bodily integrity, which would be engaged by the forcible removal of a person to be taken to a specified place. The right to property may also be engaged as the use of force interferes with a person's enjoyment of real property, and may involve property damage (e.g. breaking down doors).

However, the Bill provides that entry to premises and any subsequent transfer may only occur in limited circumstances, namely by order of VCAT and based on evidence on oath regarding the unlawful detention of a person or serious imminent damage to the person. In the absence of a power to visit a proposed represented person, the Public Advocate and VCAT would be unable to ascertain the conditions of the person's detention and accommodation which may be relevant to determining whether to make the relevant guardianship or administration order under the Bill. The power to remove a person may be authorised by VCAT in very limited circumstances, namely where VCAT is satisfied that a person is being unlawfully detained against their will or is likely to suffer serious damage to their health or wellbeing unless immediate action is taken. Accordingly, for these reasons, I consider that any interference with the right to privacy would be neither unlawful nor arbitrary and therefore not limit section 13 of the Charter.

Order for represented person to comply with of guardian's decision

Clause 45 of the Bill provides that VCAT may make an order authorising a guardian or other specified person to take specified measures or actions to ensure that the represented person complies with the guardian's decisions in the exercise of the guardian's powers and duties under the guardianship order.

Right to freedom of movement (section 12), right to privacy, family or home (section 13), the right to freedom of expression (clause 15), right to freedom of association (section 16)

Clause 45 may limit a represented person's right to freedom of movement under section 12 of the Charter to the extent that it may authorise a guardian or other specified person to use physical or non-physical measures to force a represented person to comply with a guardian's decision, such as a change in accommodation. A guardian may also be authorised to take measures such as enforcing a curfew, preventing certain persons from visiting the represented person, or imposing rules regarding the person's diet or dress. Other human rights, such as the right to freedom of association under section 16 of the Charter and the right to liberty under section 21 of the Charter, may also be relevant and/or limited depending on the nature of the order made by VCAT under clause 45.

The measures outlined in clause 45 may also engage the right to home and privacy, which is said to encompass the right to individual identity and personal development, to establish and develop meaningful social relations. The right to freedom of expression may also be engaged by regulating the person's dress.

However, in addition to the safeguards outlined above in respect of the duties imposed on a guardian, the Bill provides for oversight of the exercise of the power to enforce compliance by providing that VCAT must

authorise a person to take 'specified measures' and must hold a hearing to reassess an order made under clause 45 as soon as practicable after the making of that order, but within 42 days (clause 45(2)). In my view, any limitation of section 12 of the Charter and other Charter rights discussed above imposed by clause 45 is reasonable and justifiable.

Supportive guardianship orders and supportive administration orders

Part 4 of the Bill provides that VCAT may make a supportive guardianship order or supportive administration order in relation to a person with disability, subject to a number of requirements (clause 87). A person in relation to whom a supportive guardianship order or supportive administration order is made is referred to as 'the supported person'. The role of the supportive guardian is to support a supported person in making and giving effect to decisions in relation to any personal matters specified in the order. The role of the supportive administrator is to support a supported person in making and giving effect to decisions in relation to any financial matters specified in the order. The Bill provides that VCAT may only confer a power on a supportive guardian or supportive administrator if it is satisfied that the power will ensure that the supportive guardian or supportive administrator can give practicable and appropriate support to the supported person to enable that person to have decision-making capacity in relation to the relevant personal matter or financial matters (clause 90(2)).

Right to privacy, family or home (section 13)

A supportive guardian and a supportive administrator have certain powers under clauses 91 and 92 of the Bill to collect and disclose personal information of a supported person, which are relevant to the right to privacy in section 13 of the Charter. However, in my view, clause 91 does not limit the right to privacy as the collection of personal information by the supportive guardian or supportive administrator is permitted for a defined, limited purpose, namely information that is relevant to a supported decision and may be lawfully collected by the supported person. Similarly, a supportive guardian or a supportive administrator may only disclose personal information under clause 91 for the purpose of enabling the supportive guardian or supportive administrator to carry out their role, for any legal proceedings under the Bill or for any other lawful reason. Under clause 92 a supportive guardian or supportive administrator may only communicate information about the supported person for the purpose of supporting the person to make or communicate a decision. These limitations on the collection and disclosure of personal information ensure that any interference with the supported person's right to privacy will be neither unlawful nor arbitrary. Furthermore, the purpose of clauses 91 and 92 is to enable a supportive guardian or a supportive administrator to effectively support a supported person to make a relevant decision. For these reasons, in my view, the clauses do not limit the right to privacy.

Powers of the Public Advocate

The Public Advocate has a range of powers under the Bill to obtain information from persons and, in some circumstances, to enter premises. These powers are contained in clause 16(1)(i) and 17.

Right to privacy, family or home (section 13)

Clauses 16 and 17 are relevant to the right to privacy to the extent that a person is required to provide personal information to the Public Advocate and where the Public Advocate may enter residential premises.

The purpose of these clauses is to ensure that the Public Advocate can carry out its functions under the Bill of investigating complaints or allegations relating to persons under guardianship or in need of guardianship, and its function of making representations on behalf of, or acting for, persons with disability. As noted above, the Public Advocate will be subject to section 38 of the Charter and, accordingly, must give proper consideration to, and act compatibly with, human rights. The clauses are precise in their application and are appropriately confined to ensure that any interference with privacy is limited. The powers to obtain information under clause 16 are limited to an investigation or a report prepared by the Public Advocate. The power of entry to premises in clause 17 is limited to the premises of an institution, which is defined in clause 17(7) to include a disability service provider, a residential service, residential institution or residential treatment facility within the meaning of the *Disability Act 2006*, a designated public hospital within the meaning of the *Health Services Act 1988*, a mental health service provider within the meaning of the *Mental Health Act 2014* or a supported residential service within the meaning of the *Supported Residential Services (Private Proprietors) Act 2010*. Under clause 17, the Public Advocate is not authorised to inspect a person's medical records or personnel records, which may contain more sensitive personal information, without the person's consent. For these reasons, in my view, the clauses do not limit the right to privacy.

Right against compelled self-incrimination (sections 24(1) and 25(2)(k))

Clause 17 also allows the Public Advocate to undertake inspections in relation to certain accommodation and treatment facilities, and make enquiries relating to the admission, care, detention, treatment or control of any person who is a resident of those premises or who is receiving any service from the institution. Clause 17(5)

provides that it is an offence for a person in charge, or a member of the staff or management, to refuse or fail to give full and true answers to the best of that person's knowledge to any questions asked by the Public Advocate in the performance or exercise of any power, function or duty under clause 17. The maximum penalty is 25 penalty units.

Clause 17 is based on section 18A of the GA Act. Like existing section 18A, clause 17 does not contain an express exception for self-incrimination. However, in my view, the clause does not purport to abrogate the privilege against self-incrimination. While the refusal or failure to give full and true answers to any questions asked by the Public Advocate in the performance or exercise of any power, function or duty under clause 17 is an offence, the principle of legality should operate to ensure that clause 17 will be interpreted narrowly, so as not to abrogate the privilege against self-incrimination at common law.

The privilege against self-incrimination is a 'basic and substantive common law right' that is governed by the principle of legality.⁽¹⁾ The principle of legality governs the relations between Parliament, the executive and the courts and is a 'working hypothesis' that guides the interpretation of statutory language.⁽²⁾ According to that principle, courts will not impute to the legislature an intention to abrogate or curtail fundamental rights or freedoms unless such an intention is clearly manifested by unambiguous language, and any ambiguity will be resolved by a court in favour of the protection of those fundamental rights.⁽³⁾

Because clause 17 does not compel self-incrimination, the rights in sections 25(2)(k) and 24(1) of the Charter are not limited by clause 17 of the Bill.

Further support for this proposition is provided by section 32 of the Charter, which requires that, so far as it is possible to do so consistently with their purpose, all statutory provisions must be interpreted in a way that is consistent with human rights. In my view, a court would choose to interpret any ambiguity in the wording of clause 17 in favour of protection of the right against self-incrimination. The Public Advocate, as a public authority, would also be required to act compatibly with the Charter in undertaking inspections under clause 17.

Withholding of information held by an administrator

Clause 73 allows an administrator to apply to VCAT for an order that a book, account, notice or document in the custody of the administrator relating to a person who is no longer a represented person may be withheld. There is a similar provision in relation to an administrator for a person who is no longer a missing person (clause 134).

Right to privacy, family or home (section 13), right to freedom of expression (section 15)

Clauses 73 and 134 are relevant to the right to privacy and the right to freedom of expression (which includes the freedom to seek and receive information) to the extent that a former represented person or former missing person may not be able to access information relating to themselves. However, VCAT may only make such an order where it would be in the interests of the person who is no longer a represented person or a missing person for part of their financial affairs to remain confidential or where the book, account, notice or other document contains confidential information about a third party. Accordingly, I consider that any interference with the right to privacy would be neither unlawful nor arbitrary and therefore not limit section 13 of the Charter. Given that section 15(3) of the Charter provides for lawful restrictions necessary to respect the right and reputation of other persons, in my view, clauses 73 and 134 do not limit the right to freedom of expression.

Clauses 73 and 134 may also promote the right to privacy to the extent that confidential or sensitive information about a third party is withheld or where a third party is denied access to confidential or sensitive information about the former represented person or former missing person.

Access to documents

Clause 214 of the Bill will insert a new clause 37A into Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) that provides that a person may make an application to the principal register that any documents lodged in relation to a proceeding under the Bill not be disclosed to a specified person or class of person. New section 37A(2) provides that the application must be determined fairly and according to the merits of the application.

Right to freedom of expression (section 15)

New clause 37A of Schedule 1 to the VCAT Act will potentially operate to limit the right to receive information under section 15(2) of the Charter. However, in my view, the restriction falls within the internal limitation in section 15(3) of the Charter, as it is necessary to protect the rights of others, including the right to privacy and reputation.

Hearings for guardianship and administration proceedings

The Bill sets out the procedural requirements for applications and hearings to determine whether an order should be made for guardianship, administration, administration (missing person), supportive guardianship,

supportive administration, and in relation to rehearings and reassessments. These provisions can be found in Part 3, Part 4, Part 5 and Part 7. Clauses 24, 81, 100 and 160 set out the matters to be included in an application and includes the names of anyone who has a direct interest in an application. Clauses 25, 82, 101 and 161 sets out who are the parties to a proceeding and allows VCAT to add additional parties. Clause 26, 83, 102 and 162 sets out who is entitled to notice of an application, which includes the parties, the spouse or domestic partner, the primary carer, and any other person VCAT determines to have a direct interest in the application. As discussed above, clause 29 provides that the proposed represented person must attend a hearing in relation to an application for guardianship or administration unless VCAT is satisfied that the person does not wish to attend or attendance would be impracticable or unreasonable, despite any arrangement VCAT may make. There are similar provisions in relation to Part 4 (supportive guardianship orders and supportive administration orders) and Part 7 (rehearings and reassessments).

Clause 37(1) of Schedule 1 of the VCAT Act provides that, unless VCAT orders otherwise, a person must not publish or broadcast any report of a proceeding under the GA Act that identifies or could lead to the identification of a party to the proceeding. Clause 213 of the Bill applies this provision to proceedings under the Bill.

Right to protection of families (section 17) and cultural rights (section 19)

Under clauses 26, 83 and 102, the following people are entitled to notice of an application for guardianship, administration, supportive guardianship or supportive administration, as well as subsequent hearings and orders:

- any party to a proceeding;
- the spouse or domestic partner of the person, if any;
- the primary carer of the person, if any;
- any person referred to in the application as having a direct interest in the application;
- in the case of an application for a guardianship order, the Public Advocate if no one is proposed as a guardian; and
- any other person VCAT directs be given notice.

Clauses 24(e), 81(e) and 100(d) require the name and contact details of any person who has a direct interest in the application to be included in the application. A legislative note after these provisions makes it clear that the phrase ‘persons having a direct interest’ is intended to encompass, amongst others, the proposed represented person’s relatives.

Clause 3 of the Bill defines ‘relative’ to include: a spouse or domestic partner; a child; a parent; a step-parent; a sibling; a step-sibling; a grandparent; a grandchild; an uncle or aunt; and a nephew or niece. This definition is consistent with the definition of ‘relative’ used in other aligned legislation, including the *Powers of Attorney Act 2014*.

Although the definition of ‘relative’ does not specifically refer to Aboriginal kinship relationships, the Bill encompasses a broad concept of personal relationship where the term ‘relative’ is used, and provides flexibility for VCAT to consider a range of relationships that might be appropriate in the particular circumstances. For example, certain provisions refer to a ‘close friend’, as well as a relative (i.e. clauses 9(b), 47, 57, 118). ‘Close friend’ of a person is defined in the Bill as another person who has a close personal relationship with the first person and a personal interest in the first person’s welfare’. Other provisions that refer to a relative also provide VCAT with the discretion to consider a person with a ‘direct interest’ or ‘special interest’ in the matter (for example, clauses 31(c) and 183 of the Bill).

When compared to the existing GA Act, clauses 26, 83, 102 promote both the right to protection of families in section 17(1) of the Charter, and the right of an ‘Aboriginal person ... to maintain their kinship ties’ set out in section 19(2)(c) of the Charter. The current notice provisions in the GA Act, which require notice to be given to a proposed represented person’s ‘nearest’ relative, do not afford VCAT any discretion to consider whether the ‘nearest’ relative has a close or continuing relationship with the person, or any substantive interest in the application.

In contrast, clauses 26, 83 and 102 do not limit notice being given to one family member but allow VCAT to consider a broader range of relationships that are relevant and important to the proposed represented person or proposed supported person, including extended family and close friends. This discretion will also enable VCAT to accommodate the broader understanding of Aboriginal kinship networks.

Right to a fair hearing (section 24)

Section 24(1) of the Charter provides, relevantly, that a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair hearing also encompasses the established common law right that each

individual has unimpeded access to the courts and tribunals of a state. The right is limited if a person is precluded from having effective access to a court or tribunal, in that they are barred from properly presenting their case.

The Bill enhances the fair hearing right by including provisions ensuring participation of represented persons and other people who are relevantly involved in hearings. However, under clause 37 of Schedule 1 of the VCAT Act, guardianship and administration hearings are confidential. In my view, the confidentiality requirement for proceedings under the Bill does not impose any limits on the right to a fair and public hearing under section 24(1) of the Charter as it recognises the particular, sensitive nature of the proceedings. It is generally in the interests of the people involved for such hearings to be closed, in order to respect their right to privacy. In addition, VCAT has the discretion to order that the proceedings not be confidential if it is in the public interest to do so. Finally, section 24(2) of the Charter provides that a court or tribunal may exclude the media, persons, and the general public if permitted to do so by a law other than the Charter and section 8 of the *Open Courts Act 2013* provides that other laws restricting or prohibiting publication are not affected by that Act.

Reassessments on the papers

As discussed above, the Bill requires VCAT to conduct a reassessment of all appointments under the Bill within 12 months after making the order and then at least once within each 3 year period after making the order unless VCAT orders otherwise (clause 159(1) and (2)). VCAT may also conduct a reassessment at any time on its own initiative or on the application of any person (159(3)). Clause 164 allows VCAT to conduct a reassessment on the papers where the reassessment is on its own initiative and it does not propose to amend, vary or replace the relevant order. Before conducting a reassessment on the papers, VCAT must take reasonable steps to contact the represented person or supported person and ascertain whether they would like VCAT to conduct a hearing (clause 164(2)). VCAT is also required to provide a notice to the parties informing them that they have 14 days after the date of the notice to request a hearing (clause 164(4)). If any of the parties request a hearing in the prescribed timeframe, VCAT must give the parties 7 days' notice of the hearing (164(5)).

Right to a fair hearing (section 24)

Clause 164 is relevant to the right to a fair hearing as a reassessment without a hearing may not allow the represented person to properly present their case to VCAT regarding the operation of the order. However, given that a reassessment may only be conducted on the papers in limited circumstances (i.e. where VCAT does not propose any changes to the existing order) and the fact that the represented person or other party to the proceeding must be notified and can request a hearing, in my view, the right to a fair hearing is not limited.

Liability of guardians and administrators and the State

Clause 45(3) provides that the guardian or person specified in the order is not liable for any liability relating to action taken pursuant to the order of VCAT under clause 45(1) in certain circumstances. The person must have taken the action in the belief that it would promote the personal and social wellbeing of the represented person, and that it was reasonable to take the action in the circumstances.

Clause 181 provides that the Supreme Court or VCAT may order a guardian or administrator to compensate the represented person for a loss caused by the guardian or administrator when acting as guardian or administrator. However, clause 182 provides that if the Supreme Court or VCAT considers that a guardian or administrator is or may be personally liable for a contravention of the provisions of the Bill, acted honestly and reasonably and ought fairly to be excused for the contravention, the Supreme Court or VCAT may relieve the guardian or administrator from all or part of that personal liability.

Clause 186 provides that no compensation is payable by the State in relation to any damage, loss or injury sustained by a person by reason of an act or omission of a guardian or an administrator under this Act.

Right to a fair hearing (section 24)

In my view, to the extent that the right to a fair hearing is limited by the above clauses, such limits are reasonable and justifiable under section 7(2) of the Charter. The immunity from liability in clause 45(3) is important as it allows a guardian to take specified measures to enforce their authority in accordance with a VCAT order to ensure the personal and social wellbeing of the represented person.

In addition, while certain recourse to a court may be limited or removed by the above clauses, other recourse remains available in each case. Anyone can apply to VCAT for a reassessment of the order appointing the guardian or administrator at any time and the Supreme Court and VCAT may only relieve a guardian or administrator from liability to pay compensation for losses caused by their decisions where they have acted honestly and reasonably. In addition, general law remedies remain available to aggrieved parties through the courts.

I also consider that it is appropriate that no compensation is payable by the State in relation to the actions of guardians or administrators, as any such liability should instead rest with the guardian or administrator if they did not perform their duty in accordance with the order and the requirements of the Bill.

THE HON JILL HENNESSY MP
Attorney-General

Second reading

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:07): I move:

That this bill be now read a second time.

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

Incorporated speech as follows:

I note that the Bill is substantially the same as the Bill that was introduced in the last session of Parliament but that lapsed upon dissolution of the last Parliament. Apart from the commencement date and minor technical changes, the Bill has not been changed from the Bill introduced in the last session.

Background

When it was passed in 1986, the then named Guardianship and Administration Board Act was a visionary piece of legislation, which took Victoria from a nineteenth century approach to guardianship and administration to modern guardianship in a single step. The new Act was part of a suite of Acts that overhauled Victoria's laws for dealing with mental health and disability services.

The new Act implemented the recommendations of the Cocks Committee on Rights and Protective Legislation for Intellectually Handicapped Persons by establishing a system of limited guardianship and administration appointments for people with disability, made and monitored by a tribunal, the Guardianship and Administration Board. The new Act also created an independent advocate for people with disability, the Public Advocate, who could also be a guardian of last resort.

Times and attitudes change and now it is necessary to replace the 1986 Act with a law that reflects a contemporary understanding of decision-making capacity and disability, and recognises the rights of people with a decision-making impairment and the responsibilities of those who interact with such people – carers, health and accommodation providers, and the courts and tribunals. The challenges have shifted from de-institutionalising the many people whose disability was treated as a condition best managed behind secure walls, to managing the increasing numbers of people living in the community who lose their capacity through the onset of dementia or an acquired brain injury.

Australian legislation increasingly seeks to fully recognise the dignity, equality and autonomy of people with disability, whose fundamental rights have been enshrined in the United Nations Convention on the Rights of Persons with Disabilities. Australia was an original signatory to the Convention in 2008. This Bill draws on the Convention, and also on the 2012 Report of the Victorian Law Reform Commission on Guardianship, the 2015 Report of the Australian Law Reform Commission on Equality, Capacity and Disability in Commonwealth Laws, and recent Victorian legislation, such as the *Powers of Attorney Act 2014* (POA Act), the *Mental Health Act 2014* and the *Medical Treatment Planning and Decisions Act 2016* (MTPD Act). The Government has sought to align the concepts and terminology in this Bill as much as possible with these other Acts to promote consistent approaches and understanding of the rights, responsibilities and functions in relation to substitute decision-making that are articulated in these pieces of legislation.

Recognising rights

There is an ongoing discussion about how the balance should be struck between recognising the rights of people with disability to make their own decisions, and ensuring that there are effective mechanisms for protection when protection is needed. Some advocates and organisations emphasise that a person's will and preferences should be given priority in all but very limited circumstances. Others are concerned that the barriers to protective action by VCAT or a guardian or administrator should not be so high as to render such action unavailable when it is needed, despite a represented person's will and preferences.

The Bill strikes this balance by recognising the need to support people with disability to make, participate in and implement decisions that affect their lives, and otherwise providing that a person's will and preferences should direct decisions affecting the person as far as possible. Before making any guardianship or administration appointment, VCAT must consider whether a person can make their own decisions if provided with support, or whether decisions could be made by informal means. VCAT can still appoint a guardian or administrator where needed and where this will promote a person's personal and social wellbeing, however

such appointments must be tailored to the person's individual circumstances and regularly reviewed. Once appointed, guardians and administrators must give effect to a represented person's will and preferences where possible, but can override the will and preferences where the person would otherwise be at risk of serious harm.

The Government believes that this is the best approach to promoting the rights of people with disability, while ensuring their safety and welfare. It is a significant departure from the notion of decision-making in the 'best interests' of people with disability, which will enhance their autonomy, dignity and equality.

Key provisions

The Bill will replace the 1986 Act with a new Act that provides for a more modern framework for the appointment of a guardian or administrator and further statutory recognition of supported decision-making.

Decision-making capacity

The concept of decision-making capacity is central to the new legislation.

The Bill defines decision-making capacity and recognises that a person had decision-making capacity if the person can make decisions with support. The definition includes provisions to assist with the assessment of a person's decision-making capacity. A person is presumed to have decision-making capacity unless there is evidence to the contrary.

The definition of decision-making capacity is intended to promote each person's right to recognition and equality before the law, and prevent arbitrary and unnecessary intrusions on the right to make decisions that affect their life. The definition is intended to prevent unnecessary appointments of guardians and administrators. VCAT will not be able to appoint a guardian or administrator simply because a person has a disability, or because someone else thinks that the person is making unwise decisions.

The definition of decision-making capacity is the same definition that has been enacted in both the POA Act and MTPD Act.

Supported decision-making

Supported decision-making is an emerging concept that underpins the United Nations Convention on the Rights of Persons with Disabilities and has been recently used in Victorian laws such as the POA Act, the Mental Health Act and the MTPD Act. Supported decision-making signifies a shift from the traditionally held view that decision-making capacity is an absolute concept. It recognises the reality that a person can experience partial or fluctuating capacity and that capacity can depend on the nature of the particular decisions and the context in which they are made.

The Bill recognises supported decision-making by allowing VCAT to appoint a supportive guardian or administrator. Like supportive attorneys under the POA Act, and support persons under the MTPD Act, a supportive guardian or administrator will not make decisions for a person but will be empowered to support the person to make and give effect to their own decisions. Often support in decision-making comes from family members and trusted carers, and the ability to appoint a supportive guardian or administrator acknowledges these relationships of support, while ensuring that the person with disability retains their right to make decisions.

While a person who has capacity to make their own decision with support would be able to appoint a supportive attorney under the POA Act, it will nevertheless be useful for VCAT to be able to appoint a supportive guardian or administrator in some circumstances. These include, for example, where VCAT decides in a proceeding that while a guardianship order is unnecessary, appointing a supportive guardian would assist the person in making and communicating their decisions. Alternatively, a person may seek a supportive appointment in circumstances where their capacity to make decisions with support is questioned.

VCAT appointments of guardians and administrators

The Bill retains the important role of VCAT in making guardianship and administration orders in relation to adults but ensures that an order is proportional and tailored to the person's individual circumstances. The basis for an order must be that:

- the person, because of a disability, does not have decision-making capacity in relation to a personal matter, in the case of a guardianship order, or in relation to a financial matter, in the case of an administration order. As already noted, a person will have decision-making capacity if they can make decisions with support. While a guardianship or administration order will not be needed in such a case, a supportive appointment might be appropriate;
- the person is in need of a guardian or administrator. As part of this consideration, VCAT must consider whether decisions could be made by informal means or through negotiation, mediation or similar means; and

- the order will promote the person's personal and social wellbeing.

The Bill makes improvements to VCAT processes when dealing with guardianship and administration applications, including by:

- clarifying provisions regarding who should be notified about an application. This includes providing notice to those with a direct interest in the application, such as a person's primary carer, relatives or close friend;
- ensuring greater participation of the proposed represented person wherever possible in the application and hearing process. VCAT must consider the person's support needs as part of its processes, and should not hold a hearing without the person's participation unless satisfied that the person does not wish to participate, or any support needs cannot be reasonably accommodated. VCAT is able to conduct a hearing in a variety of ways, including by using telephones, video links or any other system of telecommunication; and
- requiring VCAT to consider the desirability of appointing as a guardian or administrator a person who is a relative of the proposed represented person, or who has a personal relationship with the person, rather than appointing a person with no such relationship;
- enabling a current guardian or administrator, or relative of a represented person, to formally file a document with VCAT that states their wishes for future decision-making appointments.

As is currently the case, the Bill requires VCAT to conduct a reassessment of a guardianship or administration order within 12 months after making the order, unless VCAT orders otherwise, and in any case, at least once within each three year period. As part of the reassessment process, VCAT must consider whether the guardian or administrator has acted in accordance with the principles and duties under the Act.

The Bill also retains the power for VCAT to appoint an administrator to make decisions in relation to a financial matter or matters of a person who is missing.

For the first time, the Bill allows for the enforcement through VCAT of decisions of guardians and administrators against third parties.

The Public Advocate

Under the Bill, the Public Advocate will continue as an independent statutory office that promotes the rights and interests of people with disability. VCAT will continue to have the power to appoint the Public Advocate as a person's guardian where there is no-one else available or suitable for appointment.

I take this opportunity to commend the Public Advocate and her staff, and the volunteers who participate in the different programs co-ordinated by the Public Advocate, for their dedication to the work that they undertake for people with disability in Victoria. Their care and commitment to their clients is outstanding. They greatly enhance the lives of Victorians with disability, especially those who lack decision-making capacity.

The Bill includes provisions to improve the operations of the Office of the Public Advocate (OPA), including by:

- clarifying the confidentiality requirements of OPA staff when performing statutory functions;
- requiring the Public Advocate to prepare an annual report of OPA's functions, which will be tabled in Parliament by the Attorney-General. This change will clarify and formalise the currently opaque arrangements under which the Public Advocate's annual report is tabled; and
- allowing the Public Advocate to delegate powers and duties as a guardian, or as an enduring attorney, to a member of staff at OPA.

Other matters

The Bill will come into operation on a day or days to be proclaimed, or otherwise on 1 March 2020. The default commencement date of 1 March 2020 is intended to allow for a reasonable implementation period of approximately 12 months from the estimated date of passage of the Bill. Such an implementation period is reasonable given that the Bill represents the most significant change to guardianship and administration laws in over 30 years.

The Bill includes a dispute resolution process for guardians and administrators who are appointed for the same represented person. The Bill requires a guardian and administrator for the same represented person to consult each other where their decisions overlap, but, unless otherwise agreed or determined by VCAT, the decisions of the guardian prevail over those of an administrator.

Consistent with the POA Act, the Bill allows the Supreme Court or VCAT to order a guardian or administrator to compensate a person for a loss caused by the guardian or administrator contravening the Act. It also creates new offences that will penalise a guardian or administrator who dishonestly uses their appointment to gain a

financial advantage for themselves or another person or to cause loss to the represented person or another person.

The Bill retains the provisions that allow VCAT to consent to a special medical procedure where a patient does not have decision-making capacity to consent to that procedure. A special medical procedure includes: any procedure that will, or is likely to, result in rendering the patient permanently infertile; a termination of a pregnancy; or any removal of tissue for transplantation to another person. The Bill ensures that the approach taken by VCAT in these matters is consistent with the making of medical treatment decisions under the MTPD Act. In particular, the Bill requires VCAT to be satisfied that the patient would consent to the procedure if the patient had decision-making capacity, taking into account any valid and relevant values directive of the patient and any other relevant preferences or values of the patient. If VCAT is unable to ascertain the patient's preferences or values, VCAT may consent to the procedure if satisfied that it will promote the personal and social wellbeing of the patient.

Future issues

There are a small number of Victorian Law Reform Commission recommendations where further work and consideration is required. These include: the feasibility of an online register of appointments of guardians, administrators and enduring attorneys; the Public Advocate's investigation functions; merits review of guardians' and administrators' decisions; and the support framework for 17-year-olds with disability that affects decision-making capacity.

The full implementation of the National Disability Insurance Scheme might also affect the operation of Victoria's guardianship and administration laws. Its impacts will be closely monitored by the Government.

I note that the broader issue of elder abuse is the subject of a report by the Australian Law Reform Commission and that its recommendations are currently being considered by the ministerial Council of Attorneys-General. It is likely that those discussions will lead to further reforms in respect of elder abuse, which will of course be relevant to the position of senior Victorians who have guardians, administrators or enduring attorneys looking after their personal or financial affairs.

In conclusion, I would like to thank all those individuals and organisations who contributed so thoughtfully to the Victorian Law Reform Commission's Guardianship Report, and to the development of this legislation. This is a sensitive and complex area of the law where a range of positions is reasonably held by many people of all types of ability and interest, including people who dedicate themselves to supporting people with disability and improving the policy and service frameworks with which they engage.

This Bill represents a milestone in the way that Victoria upholds the rights and meets the needs of people with disability whose decision-making capacity is impaired. It moves away from the old 'best interests' principle that underpinned a paternalistic approach to disability, to a position of promoting the dignity, equality and autonomy of people living with disability, while retaining the safeguards necessary for them to most fully realise their potential.

I commend the Bill to the house.

Mr WELLS (Rowville) (17:07): I move:

That the debate be now adjourned.

Motion agreed to.

Ordered that debate be adjourned until Wednesday, 2 January 2019.

- (1) *X7 v Australian Crime Commission (2013)* 248 CLR 92 [104]
- (2) *Electrolux Home Products Pty Ltd v AWU (2004)* 221 CLR 309, 329 (Gleeson CJ)
- (3) *Coco v The Queen (1994)* 179 CLR 427, 437 (Mason CJ, Brennan, Gaudron and McHugh JJ)

FAIR WORK (COMMONWEALTH POWERS) AMENDMENT BILL 2018

Introduction and first reading

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (17:08): I move:

That I have leave to bring in a bill for an act to amend the Fair Work (Commonwealth Powers) Act 2009 and for other purposes.

Mr WAKELING (Ferntree Gully) (17:08): I ask the minister for a brief explanation of the bill.

Mr PALLAS: I thank the member for Ferntree Gully for his inquiry, and I can indicate to him that the bill refers certain workplace relations matters to the commonwealth Parliament to facilitate the application of the Fair Work Act 2009 of the commonwealth to certain public and private sector employers in Victoria.

Motion agreed to.

Read first time.

Mr PALLAS: I move:

That this bill be read a second time tomorrow.

Motion agreed to.

TRANSPORT LEGISLATION AMENDMENT (BETTER ROADS VICTORIA AND OTHER AMENDMENTS) BILL 2018

Introduction and first reading

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (17:09): I move:

That I have leave to bring in a bill for an act to amend the Business Franchise (Petroleum Products) Act 1979, the Commercial Passenger Vehicle Industry Act 2017, the Heavy Vehicle National Law Application Act 2013, the Major Transport Projects Facilitation Act 2009, the Road Safety Act 1986, the Transport (Compliance and Miscellaneous) Act 1983, the Transport Integration Act 2010, to make consequential amendments to other acts and for other purposes.

Ms BRITNELL (South-West Coast) (17:09): I ask the minister for a brief explanation of the bill.

Ms ALLAN: This bill is largely consistent with a piece of legislation that lapsed at the end of the 58th Parliament. It is bringing together a range of reforms in the regulatory space across both the road and public transport portfolios. The member will find that a lot of the information, as I said, is similar to that about the previous bill in the previous Parliament.

Motion agreed to.

Read first time.

Ms ALLAN: I move:

That this bill be read a second time tomorrow.

Motion agreed to.

EQUAL OPPORTUNITY AMENDMENT (EQUALITY IN SCHOOLS) BILL 2018

Introduction

Mr HIBBINS (Pahran) (17:10): I move:

That I have leave to bring in a bill for an act to amend the Equal Opportunity Act 2010 to provide that particular provisions of that act do not permit religious schools to discriminate against certain persons on the basis of sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity.

House divided on motion:

Ayes, 6

Cupper, Ms
Hibbins, Mr

Northe, Mr
Read, Dr

Sandell, Ms
Sheed, Ms

Noes, 79

Addison, Ms
Allan, Ms

Green, Ms
Halfpenny, Ms

Richards, Ms
Richardson, Mr

Andrews, Mr	Hall, Ms	Riordan, Mr
Angus, Mr	Halse, Mr	Rowswell, Mr
Battin, Mr	Hamer, Mr	Ryan, Ms
Blackwood, Mr	Hennessy, Ms	Scott, Mr
Blandthorn, Ms	Hodgett, Mr	Settle, Ms
Brayne, Mr	Horne, Ms	Smith, Mr R
Britnell, Ms	Hutchins, Ms	Smith, Mr T
Bull, Mr J	Kairouz, Ms	Southwick, Mr
Bull, Mr T	Kealy, Ms	Spence, Ms
Burgess, Mr	Kennedy, Mr	Staikos, Mr
Carbines, Mr	Kilkenny, Ms	Staley, Ms
Carroll, Mr	Maas, Mr	Suleyman, Ms
Cheeseman, Mr	McCurdy, Mr	Tak, Mr
Connolly, Ms	McGhie, Mr	Taylor, Mr
Couzens, Ms	McGuire, Mr	Theophanous, Ms
Crugnale, Ms	McLeish, Ms	Thomas, Ms
D'Ambrosio, Ms	Merlino, Mr	Tilley, Mr
Dimopoulos, Mr	Morris, Mr	Vallence, Ms
Donnellan, Mr	Neville, Ms	Wakeling, Mr
Edbrooke, Mr	Newbury, Mr	Walsh, Mr
Edwards, Ms	O'Brien, Mr M	Ward, Ms
Eren, Mr	Pakula, Mr	Wells, Mr
Foley, Mr	Pallas, Mr	Williams, Ms
Fowles, Mr	Pearson, Mr	Wynne, Mr
Fregon, Mr		

Motion defeated.

Business of the house

NOTICES OF MOTION

Notices of motion given.

Documents

JUDICIAL COLLEGE OF VICTORIA

Report 2017–18

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:24): By leave, I table the Judicial College of Victoria report 2017–18.

OFFICE OF THE PUBLIC ADVOCATE

Report 2017–18

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:24): By leave, I table the Office of the Public Advocate report 2017–18.

Ordered to be published.

VICTORIA LAW FOUNDATION

Report 2017–18

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:24): By leave, I table the Victoria Law Foundation report 2017–18.

VISIT VICTORIA*Report 2017–18*

Mr PAKULA (Keysborough—Minister for Jobs, Innovation and Trade, Minister for Tourism, Sport and Major Events, Minister for Racing) (17:24): By leave, I table the Visit Victoria report 2017–18.

COUNTY COURT OF VICTORIA*Report 2016–17*

Ms HENNESSY (Altona—Attorney General, Minister for Workplace Safety) (17:25): By command of the Governor, I present the report of the County Court of Victoria for 2016–17, and I move:

That the report be tabled.

Motion agreed to.

DOCUMENTS**Tabled by Clerk:**

Adult Parole Board—Report 2017–18

Alpine Health—Report 2017–18

Ambulance Victoria—Report 2017–18

Auditor-General:

Report on the Annual Financial Report of the State of Victoria: 2017–18—Ordered to be published

Results of 2017–18 Audits: Local Government—Ordered to be published

Australian Health Practitioner Regulation Agency—Report 2017–18

Bairnsdale Regional Health Service—Report 2017–18

Barwon Health—Report 2017–18

Beaufort and Skipton Health Service—Report 2017–18

Beechworth Health Service—Report 2017–18

Boort District Health—Report 2017–18

Calvary Health Care Bethlehem Ltd—Report 2017–18

Castlemaine Health—Report 2017–18 (two documents)

Central Gippsland Health Service—Report 2017–18

Climate Change Act 2017—Victorian Greenhouse Gas Emissions Report 2018

Cobram District Health—Report 2017–18

Colac Area Health—Report 2017–18

Coroners Court of Victoria—Report 2017–18

Corryong Health—Report 2017–18 (two documents)

Country Fire Authority—Report 2017–18

Court Services Victoria—Report 2017–18

Development Victoria—Report 2017–18

Disability Services Commissioner—Report 2017–18

Duties Act 2000:

Report 1 January to 30 June 2018 of Foreign Purchaser Additional Duty Exemptions under s 3E

Reports 2017–18 of exemptions and refunds under ss 250B and 250DD (two documents)

East Wimmera Health Service—Report 2017–18

- EastLink Project Act 2004*—EastLink Fourth Amending Deed
- Economic Development, Jobs, Transport and Resources, Department of—Report 2017–18
- Edenhope and District Memorial Hospital—Report 2017–18
- Emerald Tourist Railway Board—Report 2017–18
- Emergency Services Telecommunications Authority—Report 2017–18
- Energy Safe Victoria—Report 2017–18
- Environment Protection Act 1970*—Orders under s 18D (two orders)
- Environment Protection Authority—Report 2017–18
- Fed Square Pty Ltd—Report 2017–18
- Financial Management Act 1994*:
- Budget Update 2018–19
- Report from the Attorney-General that she had received the Report 2017–18 of the Judicial College of Victoria
- Reports from the Minister for Agriculture that she had received the reports 2017–18 of the:
- Greater Sunraysia Pest Free Area Industry Development Committee
 - Murray Valley Wine Grape Industry Development Committee
- Report from the Minister for Energy, Environment and Climate Change that she had received the Report 2017–18 of the Commissioner for Environmental Sustainability
- Reports from the Minister for Planning that he had received the reports 2017–18 of the:
- Architects Registration Board of Victoria
 - Heritage Council of Victoria
 - Surveyors Registration Board of Victoria
- Game Management Authority—Report 2017–18
- Gippsland Southern Health Service—Report 2017–18
- Greyhound Racing Victoria—Report 2017–18
- Health and Human Services, Department of—Report 2017–18
- Health Practitioner Regulation National Law (Victoria) Act 2009*—Report 2017–18 of the National Health Practitioner Ombudsman and Privacy Commissioner
- Hepburn Health Service—Report 2017–18
- Heywood Rural Health Service—Report 2017–18
- Independent Broad-based Anti-corruption Commission—Report 2017–18—Ordered to be published
- Inglewood and Districts Health Service—Report 2017–18
- Interpretation of Legislation Act 1984*:
- Notices under s 32(3)(a)(iii) in relation to:
 - State Environment Protection Policy (Waters) (*Gazette G47, 22 November 2018*)
 - Statutory Rule 149 (*Gazette G46, 15 November 2018*)
 - Variation of Waste Management Policy (Solid Fuel Heating) (*Gazette G43, 25 October 2018*)
 - Notices under s 32(4)(a)(iii) in relation to Statutory Rules 166/2008, 37/2011, 132/2012, 22/2017 (*Gazette G41, 11 October 2018*)
- Judicial Commission of Victoria—Report 2017–18
- Kerang District Health—Report 2017–18
- Kooweerup Regional Health Service—Report 2017–18 (two documents)
- Kyabram District Health Service—Report 2017–18
- Kyneton District Health Service—Report 2017–18
- Land Acquisition and Compensation Act 1986*—Certificate under s 7

Land Tax Act 2005—Report 2017–18 of Land Tax Absentee Owner Surcharge Exemptions under ss 3B and 3BA

Latrobe Regional Hospital—Report 2017–18

Liquor Control Reform Act 1998—Report 2017–18 under s 148R

Lorne Community Hospital—Report 2017–18 (two documents)

Maldon Hospital—Report 2017–18 (two documents)

Mallee Track Health and Community Service—Report 2017–18

Mansfield District Hospital—Report 2017–18

Melbourne City Link Act 1995:

Deed of Lease (Western Link Upgrade)—WLU Company Lease

Deed of Lease (Western Link Upgrade)—WLU Trust Concurrent Lease

Melbourne Convention and Exhibition Trust—Report 2017–18

Melbourne Market Authority—Report 2017–18

Members of Parliament (Register of Interests) Act 1978—Cumulative Summary of Returns as at 30 September 2018—Ordered to be published

Mental Health Complaints Commissioner—Report 2017–18

Metropolitan Fire and Emergency Services Board—Report 2017–18

Metropolitan Waste and Resource Recovery Group—Report 2017–18

Moyne Health Services—Report 2017–18

Nathalia District Hospital—Report 2017–18

National Health Funding Pool, Administrator of—Report 2017–18

National Rail Safety Regulator, Office of—Report 2017–18

Ombudsman:

Investigation into allegations of improper conduct by officers at Goulburn Murray Water—Ordered to be published

Investigation into the imprisonment of a woman found unfit to stand trial—Ordered to be published

Omeo District Health—Report 2017–18

Parks Victoria—Report 2017–18

Parliamentary Committees Act 2003:

Government response to the Environment, Natural Resources and Regional Development Committee's Report on the Inquiry into the management, governance and use of environmental water

Government response to the Family and Community Development Committee's Report on the Inquiry into perinatal services

Planning and Environment Act 1987—Notices of approval of amendments to the following Planning Schemes:

Alpine Resorts—GC113

Banyule—C116, C123

Bass Coast—GC111

Baw Baw—C113, C130, GC111

Benalla—C36

Boroondara—C268 Part 1, C283, C300, C301, C302

Brimbank—C188 Part 1, GC96, GC110

Buloke—C36

Campaspe—C110

Cardinia—C243, GC96, GC103

Casey—C232, GC96, GC100, GC103

Colac Otway—GC113
Corangamite—GC113
Darebin—C164, C165
East Gippsland—C139, C147, GC111
Frankston—C111
French Island and Sandstone Island—GC111
Glen Eira—C149, GC96
Glenelg—C92, GC113
Golden Plains—C75 Part 1
Greater Bendigo—C234, GC110
Greater Dandenong—C208, GC96, GC103, GC110
Greater Geelong—C343, C359 Part 1, C378, C385
Greater Shepparton—C204
Hepburn—C72
Hobsons Bay—C88, C112, C122, GC110
Horsham—C75
Hume—C217, C218, C221, C224, C229, C232, GC96
Kingston—C176, GC96, GC110
Knox—C142, C160, C165
Latrobe—C104, C111, C112, GC111
Maribyrnong—C151, C152, GC96
Maroondah—C96, C97, C104, C117
Melbourne—C301, C304, C327, C341, C345, C346, GC81
Melton—C171, C191, GC96
Mildura—C100 Part 1
Mitchell—C117 Part 2, GC108
Monash—C140, C144, C147, GC96, GC103
Moonee Valley—C148, C186, C196, C197, C198, C199
Moorabool—C79, C81
Moreland—C160, C175
Mornington—C250
Mount Alexander—C84, C85, C86
Moynes—GC113
Murrindindi—GC100
Port Phillip—C122, C149, C151, GC81
Pyrenees—C43
Queenscliffe—GC113
South Gippsland—GC111
Southern Grampians—C36, GC113
Stonnington—C223, C270, C277, C284, GC96, GC103
Swan Hill—GC100
Victoria Planning Provisions—VC147, VC149, VC150, VC152, VC153, VC154, VC155
Wangaratta—GC100
Warrnambool—GC113

- Wellington—C104, GC111
- Whitehorse—C194
- Whittlesea—C113, C212, C221, C231, GC96, GC100, GC108, GC110
- Wyndham—C222, GC110
- Yarra—C188, C232, C236, C244, C248, C249, C250, GC96
- Yarra Ranges—C142, C169, C179, C180
- Post Sentence Authority—Report 2017–18
- Professional Standards Council of Victoria—Report 2017–18 (two documents)
- Public Prosecutions, Office of—Report 2017–18
- Queen Elizabeth Centre—Report 2017–18
- Recreational Fishing Licence Trust Account—Report 2017–18 on the disbursement of revenue
- Regional Development Victoria—Report 2017–18
- Rochester and Elmore District Health Service—Report 2017–18
- Royal Children’s Hospital—Report 2017–18
- Rural Northwest Health—Report 2017–18
- Sentencing Advisory Council—Report 2017–18
- South Gippsland Hospital—Report 2017–18
- State Sport Centres Trust—Report 2017–18
- State Trustees Ltd—Report 2017–18
- Statutory Rules under the following Acts:
- Building Act 1993*—SRs 149, 180
 - Children, Youth and Families Act 2005*—SRs 147, 169, 185, 186
 - County Court Act 1958*—SRs 170, 172
 - Crimes (Controlled Operations) Act 2004*—SR 160
 - Criminal Procedure Act 2009*—SR 186
 - Dangerous Goods Act 1985*—SR 155
 - Drugs, Poisons and Controlled Substances Act 1981*—SR 178
 - Environment Protection Act 1970*—SR 146
 - Family Violence Protection Act 2008*—SRs 136, 161, 169, 182
 - Gas Safety Act 1997*—SRs 140, 141
 - Health Practitioner Regulation National Law (Victoria) Act 2009*—SR 166
 - Heavy Vehicle National Law Application Act 2013*—SR 165
 - Labour Hire Licensing Act 2018*—SR 179
 - Liquor Control Reform Act 1998*—SR 153
 - Livestock Disease Control Act 1994*—SR 171
 - Magistrates’ Court Act 1989*—SRs 151, 158, 159, 167, 182
 - Major Crime (Investigative Powers) Act 2004*—SR 173
 - Metropolitan Fire Brigades Act 1958*—SR 163
 - National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018*—SR 138
 - Oaths and Affirmations Act 2018*—SR 152
 - Occupational Health and Safety Act 2004*—SR 176
 - Owners Corporations Act 2006*—SR 154
 - Planning the Environment Act 1987*—SR 156
 - Prevention of Cruelty to Animals Act 1986*—SR 144

Public Administration Act 2004—SR 143
Public Health and Wellbeing Act 2008—SR 148
Public Interest Monitor Act 2011—SR 184
Retirement Villages Act 1986—SR 188
Road Safety Act 1986—SR 181
Sentencing Act 1991—SR 162
Service Victoria Act 2018—SR 192
Subordinate Legislation Act 1994—SRs 137, 139, 191
Supreme Court Act 1986—SRs 135, 168
Surveillance Devices Act 1999—SR 174
Survey Co-ordination Act 1958—SR 190
Surveying Act 2004—SR 189
Terrorism (Community Protection) Act 2003—SR 183
Transport Accident Act 1986—SR 177
Transport (Compliance and Miscellaneous) Act 1983—SRs 150, 157
Victorian Civil and Administrative Tribunal Act 1998—SR 187
Victorian Energy Efficiency Target Act 2007—SRs 145, 175
Voluntary Assisted Dying Act 2017—SR 142
Wildlife Act 1975—SR 164

Subordinate Legislation Act 1994:

Documents under s 15 in relation to:

Occupational Health and Safety Act 2004—Orders approving:

- Compliance code: Managing asbestos in workplaces
- Compliance code: Prevention of falls in general construction
- Compliance code: Prevention of falls in housing construction
- Compliance code: Removing asbestos in workplaces

Professional Standards Act 2003—The Law Society of New South Wales Professional Standards Scheme

Statutory Rules 117, 122, 123, 124, 125, 126, 127, 128, 129, 135, 136, 138, 139, 140, 141, 142, 143, 144, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 167, 168, 169, 170, 171, 172, 173, 174, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192

Documents under s 16B in relation to:

Catchment and Land Protection Act 1994—Amendment of the declaration of the feral or wild population of the cat as an established pest animal on specified crown land

Child Wellbeing and Safety Act 2005—Child Safe Standards

City of Greater Geelong Act 1993—Greater Geelong City Council—Mayoral and Deputy Mayoral Allowances—Alteration

City of Melbourne Act 2001—Melbourne City Council—Lord Mayoral, Deputy Lord Mayoral and Councillor Allowances—Alteration

Domestic Animals Act 1994—Amendment of Business Code of Practice—Code of Practice for the Operation of Pet Shops

Electricity Safety Act 1998—Exemption orders under s 120W (three orders)

Family Violence Protection Act 2008—Family Violence Risk Assessment and Risk Management Framework

Gambling Regulation Act 2003—Ministerial direction—Self exclusion programs

Legal Profession Uniform Law Application Act 2014—Practitioner Remuneration Order 2019

Meat Industry Act 1993:

Determining categories and fixing fees for game meat processing facility licences

Fixing fees for approval of game meat field harvesters

Service Victoria Act 2018—Identity Verification Standards 2018

Wildlife Act 1975—Declaration of the dingo to be unprotected wildlife

Sustainability Victoria—Report 2017–18

Tallangatta Health Service—Report 2017–18

Taxi Services Commission—Report 2017–18

Terang and Mortlake Health Service—Report 2017–18

Trust for Nature (Victoria)—Report 2017–18

Tweddle Child and Family Health Service—Report 2017–18 (two documents)

V/Line Corporation—Report 2017–18

VicForests—Report 2017–18

Victoria Legal Aid—Report 2017–18

Victoria State Emergency Service Authority—Report 2017–18

Victoria's Mental Health Services—Report 2017–18

Victorian Building Authority—Report 2017–18

Victorian Civil and Administrative Tribunal—Report 2017–18

Victorian Environmental Assessment Council—Report 2017–18

Victorian Environmental Assessment Council Act 2001—Statement in relation to an amended government response to the Victorian Environmental Assessment Council's Final Report on the River Red Gum Forests Investigation

Victorian Equal Opportunity and Human Rights Commission—Report 2017–18—Ordered to be published

Victorian Fisheries Authority—Report 2017–18

Victorian Health Promotion Foundation—Report 2017–18

Victorian Inspectorate—Special report—Welfare of witnesses in IBAC investigations—Ordered to be published

Victorian Institute of Forensic Medicine—Report 2017–18

Victorian Law Reform Commission—Report 2017–18—Ordered to be published

Victorian Multicultural Commission—Report 2017–18

Victorian Plantations Corporation—Report 2017–18

VITS LanguageLoop—Report 2017–18

West Gippsland Healthcare Group—Report 2017–18

Western District Health Service—Report 2017–18

Witness Protection Act 1991—Report 2017–18 under s 20R

Yarram and District Health Service—Report 2017–18

Yarrowonga Health—Report 2017–18

Yea and District Memorial Hospital—Report 2017–18

Zoological Parks and Gardens Board—Report 2017–18.

Business of the house**ADJOURNMENT**

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (17:28):
I move:

That the house, at its rising, adjourns until Tuesday, 5 February 2019, at 12 noon.

Motion agreed to.

Committees**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE***Membership*

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure) (17:29):
By leave, I move:

That Mr Burgess, Ms Connolly and Ms Kilkenny be members of the Scrutiny of Acts and Regulations Committee.

Motion agreed to.

Address to Parliament**GOVERNOR'S SPEECH***Address-in-reply*

The SPEAKER (17:29): Members, I report that today the house attended the Legislative Council chamber, where the Governor was pleased to make a speech to both houses of Parliament. I have obtained a copy for the Assembly's records. The speech is available on the tabled documents website.

Mr BRAYNE (Nepean) (17:30): I move:

That the following address, in reply to the speech of Her Excellency the Governor to both houses of Parliament, be agreed to by this house:

Governor:

We, the Legislative Assembly of Victoria assembled in Parliament, wish to express our loyalty to our Sovereign and to thank you for the speech which you have made to the Parliament.

Thank you, Speaker. Thanks also to the Premier, Deputy Premier, ministers, members of the Parliament on both sides and the Leader of the Opposition as well. I think some media were here, and I thank also my family and friends.

I want to begin by acknowledging the traditional owners of the land on which we meet, as well as the traditional owners of the land of the Mornington Peninsula, and pay my respects to their elders both past and present. I do this not because I have to or feel any sense of obligation to but because it is right to acknowledge that this country did not begin 200 years ago but has been the home of many for thousands of years.

I want to also pay tribute to the former member for Nepean, Martin Dixon. Martin had been the local member for the last 22 years, and his love of and commitment to the Mornington Peninsula is evident in his longstanding service.

I am extremely humbled, shocked, excited, overwhelmed but above all ecstatic to be standing here in the Parliament of Victoria as the member for Nepean. It was an unexpected victory for many reasons.

The part of the Mornington Peninsula that I am now so lucky to represent has been held by the Labor Party only once before—from 1982 to 1986—for four years out of the last 100 years. If history was not enough proof, then the betting odds certainly contribute to the feeling of a shock victory. The

Liberal campaign in Nepean was on \$1.01 and I was on \$16. But the most telling sign that I seemed unlikely to win came on election night when ABC election analyst Antony Green called the election in Nepean for Labor and said, 'What do I know about Chris Brayne? I have no notes on Chris Brayne. No notes'.

It is right therefore to acknowledge my Liberal opponent, Russell Joseph. Russell did run a really solid, fair and respectful campaign. I decided immediately after being preselected that I would never make any mention of Russell in a nasty or partisan manner. The people of the Mornington Peninsula have zero time for political games, and I certainly never wanted to degrade someone as a way of making the case for my being elected. I was raised with the notion that you should never push someone down to pull yourself up. This was made easier given Russell is such a decent bloke. I know that whatever he chooses to do in the future he will show the same dedication to values and to the Mornington Peninsula that he showed throughout the campaign.

This dedication to the Mornington Peninsula is fairly easy for those living on the peninsula. We know how lucky we have got it. I should know: I was raised entirely on the Mornington Peninsula. I went to Flinders Christian Community College in Tyabb, Victoria, a school which provided such a safe and nurturing environment and had such a handle on the serious challenges of bullying, drugs and emotional neglect that it could then afford to pick up on when your shirt was hanging out, when your top button was not done up or when you committed the ultimate sin of not sitting down while Bruce the bus driver was driving.

During my final years of high school I was fortunate enough to visit Indonesia as an exchange student, staying with a Muslim family who spoke little English and attending school there at SMA Tirtonirmolo in Yogyakarta. There I was blessed to experience for the first time Indonesian culture and meet so many incredible people, a culture that is so different to Australia's with a population of people so naturally warm, friendly and excited about meeting Australians. I have remained close with the organisation which oversaw my exchange, the Australian Indonesian Association of Victoria, a not for profit which works tirelessly to build up more young Australians' knowledge of Indonesia and which has the ongoing goal of fostering close Indonesian-Australian relations, something I wholeheartedly support. Indonesia is our second closest neighbour geographically and is even closer than New Zealand and I fear we as a nation are squandering our opportunity to have a truly deep and meaningful relationship with this beautiful country.

Since finishing university studies I have pursued a few different opportunities. I have done some work experience in some political offices. I was placed as a camp counsellor at Camp Saginaw in Oxford, Pennsylvania, in the summer of 2016. And, yes, I also worked at the Dromana Drive-In.

A member interjected.

Mr BRAYNE: Good one! Last year, though, I was extraordinarily blessed to do an internship at the Carter Center, which I had incorrectly assumed would be the highlight of my young adult life, until now I guess. The Carter Center was founded by former US President Jimmy Carter and former First Lady Rosalynn Carter. I was placed in the democracy program, which oversees election observation missions throughout the world, ensuring elections are transparent, fair and conducted impartially. During my time there I was ever so fortunate to meet the 39th President on many occasions, including on Thanksgiving when, during the Thanksgiving lunch, I was offered by one of my supervisors, Story Evans, the chance to sit at her table. When I went to sit down I looked to my left and saw President Carter seated eating his turkey. I remember saying, 'Oh, Mr President, is there someone else sitting here?', to which he responded jokingly, 'No, we saved it for you'. All of the interns were granted a personal photo with the President and the First Lady, which President Carter would later address and sign. Now, if any of you want to see the photo, please—and I mean genuinely—please do not hesitate to ask, because I will not hesitate to show you all.

Everyone in this room entered politics for different reasons. There was probably a period of time, a moment, when you decided to care about something bigger than yourself, there was an issue that needed to be tackled or you realised that this is a country worth fighting for. My interest in politics built up at a vulnerable time of my life. We all go through hardship. My hardship was losing my mum from breast cancer at the age of 11, and my family's core was shaken. My dad, the strongest person I have ever known, was struggling. My grades began to slip, my behaviour became more erratic and attention seeking and the value I placed on life was less. Then I saw a documentary called *An Inconvenient Truth* starring someone I had never heard of before, some guy called Al Gore. As I watched, I learned of his journey and I absorbed his passion. Here was a man passionate about an issue, committed to a higher purpose and championing a cause for our planet and its ecosystem. If he could be this passionate, maybe I could be too. I took on his purpose and gave myself one.

About two years later Kevin Rudd decided to run and run hard on climate change, and I knew which party cared about our environment. Rudd was absolutely right when he said that climate change is the moral challenge of our time. He should never have been shamed by others for saying it, because it is a moral challenge when you have to decide whether our climate, our biosphere and our humanity should be placed at risk for short-term profiteering by corporations and greedy individuals. Whether we should care about polluting our sea and our land and destroying habitat is a moral challenge. We have one planet. It is a moral challenge because we have to choose whether to continue this way, and nothing will stop us except ourselves. They are my morals and they are the morals of the Andrews government to care about our planet and to act on climate change.

Our natural environment is something the people of the Mornington Peninsula care deeply about. When you are raised next to the ocean and when you are raised next to state parks, even the hardest of hearts cares about the fairy penguins. I must have the only electorate office that is over the road from a beach.

I ran in my hometown, in the place I have lived and breathed my entire life, because I was a supporter of the Andrews government and desperately wanted it to be re-elected. Despite being a Labor member for many years and a Labor supporter for more before that, no government in as many years has been as efficient as this one, offered up as many hardworking ministers as this one and been led by such an experienced and competent Premier as this one. It seemed quite reasonable to run as the Labor candidate for Nepean even if it was unwinnable, because Labor had a good track record to run on in this state and I wanted this state's booming economy and record investment in infrastructure and services to be felt on our Mornington Peninsula. Now it will be.

I also want to take this opportunity to make a comment on the recent state election, because though there are many good people in both parties, there are passionate debates around the many issues facing Australia. It is important to note then that not one problem we face can be solved through division. Indeed I will never support any proposal for a solution that seeks to make reference to or punish certain sectors of our society. One of the issues regularly canvassed throughout the campaign was crime. Yes, crime is an ongoing challenge for any society, and that is why we have got more police on the beat than ever before, but it is how we handle issues like crime that define our country, our state, our values. I will never be a part of any solution that seeks to divide our community, to divide our country. We can only solve problems together, and this applies to every challenge our country faces going forward.

With the distinction of being the youngest member of the Victorian Parliament, for the next four years I will also be representing a group of people who on paper have never had it so good but who in reality are experiencing unprecedented challenges, hardship and fears about their future. If you can believe it, the Mornington Peninsula is actually becoming more youthful. I have heard too many stories of young people based on our peninsula who have tragically taken their lives. We must tackle this head-on.

There are so many people to thank for the campaign. Obviously I want to just give a collective thank you to everyone who contributed their time and efforts to campaign for Labor and for me, even when

the odds seemed so slim. As well, there have been many people in my personal life who have supported me over the years. I, like everyone, am the product of many people and many experiences, and I hope that people who have been in my life for many years will see their impact in my decision-making over the next few years.

At the start of the speech I said the victory was unexpected. At the end of this speech I say to you all that, though unexpected, this opportunity will not be wasted. Every minute I am in this position will be dedicated to the Mornington Peninsula, to being in a sense an ambassador for the people of Nepean and the community I love and am now so blessed to represent for the next four years. Thank you all.

Members applauded.

The DEPUTY SPEAKER: I acknowledge in the gallery the former member for Brighton.

Ms HORNE (Williamstown—Minister for Ports and Freight, Minister for Public Transport) (17:47): I am pleased to second the motion. Deputy Speaker, it is a great honour and privilege to be standing here today having been elected as the 16th member for the electorate of Williamstown. Given that this is my first speech in Parliament, I would like to acknowledge the traditional owners of the land on which Parliament House stands as well as the land that covers my electorate, the Kulin nation, and pay my respects to elders past, present and emerging. I also want to take this opportunity to congratulate the Deputy Speaker on her election.

I am lucky to be following in the footsteps of previous members for Williamstown who have made significant contributions to the state of Victoria: Joan Kirner, Steve Bracks, and a man I am honoured to call my friend, Wade Noonan.

When I joined the Labor Party more than 20 years ago, I did not imagine for a minute that I would be standing here today representing the people of Williamstown. I grew up in a family that taught me the importance of fighting for what is fair, a fight that my dad fought every day as the federal member for Paterson in the 1990s. His tireless advocacy for constituents taught me that you need to stand up and find solutions to issues that you may not have anticipated. I still remember Dad working with Carmen Lawrence, then the Minister for Human Services and Health, to change surrogacy laws. One of his former students from when he was a schoolteacher had become a quadriplegic in a car accident. Dad brought her down to Canberra and she was on the floor of the Parliament when the legislation was introduced that allowed her to have the beautiful family that she has today.

It is this ethic of working for change and making a difference for people that shaped my decision to enter Parliament. That is why I joined the Labor Party, because it is a party that stands for what is fair. It is a party that gives people who most need it a chance to succeed and it is a party that governs, because governing is what it is all about. It is the opportunity to effect change and to continue to deliver for people in the west. This is particularly apparent in the policy area of education. Both my mum and dad were public high school teachers, and I believe that access to good public education is the most critical role that the state can play in creating an equal footing for all members of our community.

My partner and I moved to the inner west nearly 20 years ago. It is our home and where we raise our two boys. It is a great community and one that I am proud to be part of. I was the president of the local community group SKY High for many years. Our group was formed to lobby for a new public high school in Yarraville following the closure and sell-off of a public high school under the Kennett government. After years of our campaigning, holding rallies and working with local members Marsha Thomson and Wade Noonan, this Labor government is now delivering what will be the most innovative way of learning, through the Footscray Learning Precinct.

The Footscray Learning Precinct is testament to how Labor governments listen to local communities and deliver, and I would like to thank the Minister for Education for his support. This will provide the inner west with access to innovative learning opportunities for people at every single stage of their lives. I would like to thank the SKY High community for never giving up the fight to see additional

public high school places in the inner west. I would like to thank Wade and Marsha for their determination to see this become a reality.

The other policy area that I am passionate about—and I must thank my friend and former colleague, the Premier, for his faith in allocating me the portfolio—is transport. Fifteen years ago I fell in love with the complexities and challenges associated with moving people and goods around the transport network when I was the director of public affairs in the then Department of Transport. More recently, as the director of communications for the Level Crossing Removal Authority, I helped shape the community engagement for delivering the most transformational project and one that has been the hallmark of this government. I feel I have enormous opportunity to further build on the successes of the work that the former Minister for Public Transport did in the first term of the Andrews Labor government with their massive infrastructure agenda. We just kept creating thousands of jobs across the state.

Many of these jobs are in my home suburb of Williamstown, where we have a rich industrial history. We manufactured the first trains in Victoria, and we are manufacturing the latest trains in Victoria with the high-capacity Metro trains. Workers in Williamstown have built trains, they have built ships and they have built cars. We have been a community that has thrived on manufacturing but we have also been a community that has seen significant change as companies have closed and moved.

I believe we are on the pathway to recreating that innovative manufacturing hub once again in the west, to provide the opportunities for our next generation of workers through investing in their skills and providing the right environment for innovation. We have got Australia's largest science museum right in the heart of the electorate. We have the Footscray Learning Precinct with its focus on STEM learning. We have the Newport rail academy that is training workers for the massive pipeline of rail infrastructure works that this government is delivering.

However, much of the legacy of the past has impacted the livability of our local community, and there are challenges there. My focus will be on improving lives in the local community. I will continue the work of the previous Labor government to find ways to get more trucks off our streets; to work with industry to create clean, high-tech jobs close to home; and most importantly, to improve air quality in the inner west. We have the policy settings and have started the work not only to deliver the jobs of the future but to improve the livability of our local community, and this is my commitment to the people of Williamstown. There are many people who have put their faith in me to achieve this, and there are many people who have helped me along the way. It is humbling and an honour, and I will try every day to live up to their expectations.

There are a number of people who deserve a special thanks for their hard work in my campaign and their friendship, support and advice along this incredible journey: my campaign director, Sacha Fenton, and my campaign team, all of whom were women—Claire Rowe, Pam Mulready, Marsha Thomson and Stacey Lynne. Thank you.

To a number of community groups who opened their arms to me and welcomed me into their community, including the leadership at the Newport mosque, Joe Attard at the Maltese association, the Williamstown CYMS Football Club and the Williamstown Seagulls, who have awarded me with their first-ever number one female ticketholder honour, thank you all.

To Wade Noonan, whose selflessness, grace and wisdom taught me much; to my family, who have tolerated an absent partner and mother in the interests of wanting to improve social justice and a better community, thank you. And finally thank you to the voters of Williamstown, who overwhelmingly endorsed the positive policies of the most progressive government in Australia.

What my experience in politics has taught me is that minor parties come and go, with variations of posturing from keeping the bastards honest through to government's neglect of our community, but it is only Labor governments that deliver for the people of the western suburbs. That is what I intend to do, and it is great to get started now.

Members applauded.

Mr ROWSWELL (Sandringham) (18:00): I rise this evening for the first time in this place and, in doing so, wish to firstly remember those who have served our nation in conflict and in war. One hundred years later just last month, we remembered the events of 11 November 1918, when four years of brutal conflict ended. Almost 62 000 Australians died fighting for our freedom and in service of our nation during the Great War. They were sent to battle by the leaders of our nation, who served and deliberated in this very chamber. Those brave men and women knew what sacrifice was. They left the comfort of their homes and the embrace of their families to fight for a greater good. May their spirit in some way inspire us and may their service resonate with us as we seek to serve the members of our community.

The Sandringham community that I have the great fortune and privilege to represent in this place is a community built by volunteers, not by accident but rather through dedication and commitment. It is a community made up of people from every walk of life, with a rich tapestry of life experience. It is a community that nurtures those most in need, welcomes people from every corner of the globe and helps our most vulnerable. It is a community where the private sector have an opportunity to thrive and develop expertise to take on the world. And it is a community that I love and a place where my wife, Kate, and I have chosen to raise our daughter, Abigail.

Yes, Sandringham is where I grew up, but it is now a community where I have chosen to live. I was born at the Sandringham Hospital and educated at Stella Maris Catholic Primary School in Beaumaris and at St Bede's College in Mentone in the Lasallian tradition. I am proudly the product of the community I now represent. I am proudly a lifelong local.

The community that I love is defined by its tree-lined streets, its parks, its nature reserves and its magnificent coastline. From parts of Hampton, through Sandringham, Black Rock, Beaumaris and Mentone and into Cheltenham and Highett, the neighbourhood character and heritage of the Sandringham district is worth defending and fighting for. The Heidelberg School recognised just how significant our area was in the late 1800s. Records held in the National Gallery of Victoria tell us that in the summer of 1886–87 Tom Roberts and Fred McCubbin rented a cottage in Mentone. They chose the quieter Mentone and nearby Beaumaris as the site for their artists' camp rather than Brighton, which became very crowded in the summer months. The artists first encountered 19-year-old Arthur Streeton sketching on the beach at Ricketts Point. Roberts recalled:

He was standing out on the wet rocks, painting there, and I saw that his work was full of light and air. We asked him to join us and that was the beginning of a long and delightful association.

Streeton later remembered the cottage on the cliffs above Beaumaris that the artists rented. He said:

In spite of the heat ... we had a great time here ... On Sundays we took a billy and chops and tomatoes down to a beautiful little bay which was full of fossils, where we camped for the day. We returned home during the evening through groves of exquisite tea-trees. The sea serene, the cliffs of Sandringham flushed with the afterglow.

Our community today are the custodians of our natural environment. We are charged with a significant responsibility to be thoughtful stewards of our natural resources. Custodianship, stewardship and conservation are at the heart of the Liberal Party. In my own electorate of Sandringham I am proud of the party's local environmental record, achieved together with our local community.

During the course of the last few months the question I have perhaps been asked most is, 'Why would you want to be a politician?'. Indeed it is a fair question to ask. In my view, at its heart public service is a vocation, not a job: a vocation that is underpinned by a deep desire to serve other people and to make our communities a better place, a vocation that seeks to treat others with dignity and respect and where one walks alongside individuals and families, encouraging them to be the very best they can be, because when individuals thrive families are stronger and when families are stronger our entire community benefits.

Family is important to me. Family is the cornerstone of our nation's future social stability. My late father, Leslie Thomas Rowswell, was born in the United Kingdom in 1920 and came to Australia at the age of five. He grew up in St Kilda during the Great Depression. He served Australia on the beaches and in the jungles of Papua New Guinea during World War II. He worked hard, and in every sense he was a generous man.

My mother, Josephine, was born in India in 1947, the year of independence. In her mid-20s she migrated to Australia, arriving at Essendon Airport. She worked four, sometimes five, jobs to sustain herself and provide for her family. She taught me hard work, selflessness and generosity. Perhaps more important than anything, both of my parents shared with me the gift of faith.

Growing up in Beaumaris, my twin brother Brendan and I worked in local small businesses. At an early age we had the opportunity to learn what it was to work hard and earn a wage. We also learned the freedom that comes with that—the opportunity to pay for my first car and overseas trip with the savings that I had worked hard for. At an early age we understood the dignity of work and the opportunities that employment provides. The dignity of work is something that is often spoken about in an abstract way, but for those who truly know its value having a job is life-changing. It is the private sector and small business that generate jobs, not the public sector. For that reason governments have a responsibility to unshackle private enterprises from the unnecessary burdens that they experience.

Let me be clear: payroll tax is a tax on employment. It is a bad tax that prevents enterprising individuals from expanding their business horizons. It is a barrier to more people being employed. It should always be the aspiration of the Liberal Party, in opposition or government, for the payroll tax in this state to be zero. When Robert Menzies founded the Liberal Party he did so in the belief that our party would be the party of enterprise and of the individual. There is no greater barrier to employment and the dignity of work than the burden of taxes and over-regulation.

Just as families are expected to live within their means, so should government. That is why we must have a debt ceiling in Victoria to avoid ripping off future generations. The Parliament should set a limit on Victoria's net debt of no more than 6 per cent of gross state product. This would help to preserve the state's AAA credit rating and ensure that intergenerational theft is significantly restrained. It is just not right to say that we pay some and our kids pay some. That is a reckless attitude, an irresponsible attitude, an arrogant attitude. We must not be reckless with our spending. We must not mortgage my daughter's and her children's future. If there is no parliamentary oversight, governments will continue to spend taxpayer money as if there were no consequences for doing so.

It is true to say that our state's future rests in the hands of its citizens—their individual aspirations, talents and endeavours—but I say our state's future rests in the hands of young people. As the youngest member of the Liberal Party party room, I say to people my age and younger: you may hear people referring to you as the leaders of the future. I say to you: they are wrong. You are not tomorrow's leaders; you are the leaders that we need today. If you have an idea, if you have a passion, even if you think it is beyond reach, seek counsel and pursue it. Engage in the contest of ideas. Debate, gain valuable life experience, critically think, be bold, be courageous and defend the values that you hold dear.

It is true that schools are much more than bricks and mortar, but when school buildings, such as those at Sandringham College and Mentone Girls Secondary College in my electorate, are riddled with asbestos and collapsing, something is seriously wrong. Similar to Infrastructure Victoria, we urgently need to establish school infrastructure Victoria as an independent statutory authority which provides expert advice and guides decision-making on Victoria's school infrastructure needs and priorities. The list of school infrastructure requirements needs to be proposed on a needs basis and subject to independent audit because the aspirations of students and school communities across our state are far too important for politics.

I wish to pay tribute to the former member for Sandringham, Murray Thompson, who served our community with dedication and distinction for 26 years. I also wish to acknowledge his wife, Theana,

and his children for their steadfastness in supporting Murray during his years of service. In his valedictory speech Murray referred to Charles La Trobe, the first Lieutenant-Governor of Victoria, extensively. As Murray mentioned in his speech, when La Trobe arrived in Melbourne in 1839, his address included the following words:

... I pray God, to whom I look for strength and power ... that I may be enabled through his grace to know my duty, and to do my duty, diligently, temperately and fearlessly.

This evening I echo La Trobe's invocation for my own service as the member for Sandringham.

I wish to acknowledge and thank my family: my wife, Kate, and our daughter, Abigail; my mother, Josephine; my brother, Brendan, and his wife, Sara; and my parents-in-law, Kevin and Noreen.

I thank those who have offered me personal and professional counsel, including the Honourable Rod Kemp, the Honourable Michael Ronaldson, the Honourable David Johnston, the Honourable Kevin Andrews, the Honourable Tony Abbott, Senator James Paterson, former Senator Helen Kroger, Brian Loughnane and Nick Demiris.

I thank my new party room colleagues for their warm and generous welcome. I am grateful to the Leader of the Opposition for the opportunity to serve in his first shadow ministry. As the shadow assistant minister for education, I look forward to supporting our deputy leader and shadow education minister, the member for Eildon.

I thank the teams I have worked with at St Bede's College, Catholic Education Melbourne and Raytheon Australia.

I thank those local branch members and supporters, many of whom are in the gallery here this evening. I especially thank electorate chair Jennifer O'Brien and campaign operations manager John Matheson.

Finally, and most importantly, I thank the electors of the Sandringham district for the opportunity to serve them and advocate for them in this place. I say to them: I will relentlessly campaign for the investment and infrastructure needed in our community for the benefit of future generations. In the four years ahead I look forward to working with all of my colleagues, and with the community, to develop key policies that reflect our core values: opportunity, reward for effort, the rule of law, environmental stewardship, a strong economy, a cohesive society, protecting the vulnerable and limited but effective government.

Members applauded.

Mr FOWLES (Burwood) (18:21): Victoria: our home, my home. The conscience, the soul and the intellect of the nation. The place where progressive hearts beat true. Like so many Victorian families, mine has a diverse history. It includes farmers and bankers, teachers and nurses, librarians and doctors, theologians and auctioneers. It also includes the usual spread of faiths, genders, sexualities, dietary requirements and abilities to adequately operate a mobile telephone. It is principally Western European in origin—mainly Irish, evidenced by the love of a song, a pint, a laugh, a chat and a cry. In composing this speech I have reflected upon my origins and my journey to this moment and this place. Those reflections were principally about family—that grounding, loving, maddening, enabling, supporting, uplifting bunch of humans, part destined, part chosen and part created, who all give up a great deal to support us in this life.

Some of my family have stood here before. My maternal grandmother's grandfather, Thomas Livingston, was elected to this house for the seat of Gippsland South in 1902 after a career as a teacher and a journalist. He advocated for better pay and conditions for state school teachers and was a whip and cabinet secretary in the Murray government of 1909 to 1912. Then, as a minister in the Watt and Peacock governments during the course of the First World War, he established the precursor to the State Electricity Commission of Victoria and protected native forest from overeager millers. While we

have some views that align, he was also a Freemason and a temperance advocate, and on those measures at least we could not be more different.

My paternal grandmother's great-grandfather served in the other place at around the same time. Joseph Henry Abbott was, like Livingston, a migrant-cum-journalist. In 1858 he co-founded a newspaper, the *Diggers Advocate*, which was described as 'the champion of the diggers in the opposition to the licence fee'. In 1889, after an earlier unsuccessful attempt, he was elected to the Legislative Council for Northern Province. Abbott was a strong supporter of federation, saying in 1892 that it was one of the greatest objects which the Parliament of Victoria could set itself to accomplish. He was also a tireless supporter of women's suffrage against the sort of stiff opposition then expected in the other place.

Both Abbott and Livingston received the attention of my great-great-grandfather and another journalist, David Hewitt Maling from the *Argus*. Maling wrote that Abbott would 'take you by the button and hold you for an hour or 2 hours, and you will never feel the slightest inclination to snip off the button, but in the house he is usually as solemn as a funeral on a wet day'. That Maling had been married to Abbott's daughter for eight years when he penned this characterisation can only have made for an awkward Christmas. Now, over 100 years later, a descendant of Abbott, Livingston and Maling stands in this house proudly giving his first address with many fellow descendants watching on.

My extremely clever choice of forebears has meant that I have always had a roof over my head. Sadly, that is not a universal experience in Australia. I simply do not accept that a city and a state and a nation as wealthy as ours should have such high levels of homelessness and housing stress. The knock-on effects of this social malaise are enormous in health services, the justice system, mental health, family violence and drug abuse. It is incumbent upon us all to work towards a society that ensures a basic level of decency and fairness, including meeting the most primal needs: food and shelter. Food for the hungry, shelter for the homeless. It sounds simple but the evidence of the difficulty in delivering on this can be found by looking no further than the streets outside this Parliament.

When a woman flees an abusive partner with her three young kids she should have somewhere safe to go. When the veteran of armed conflict serving in Australia's interests and at Australia's behest succumbs to the crippling effects of PTSD he should not find himself unable to secure even a room in a boarding house. When the teenage victim of sexual abuse finally gets moved on from her best mate's couch she should not find herself under a bridge where her first 48 hours include assault, theft and an initiation into crystal methamphetamine. These are real stories. They are the stories of people who feel embarrassed and ashamed about their circumstances rather than supported and cared for.

The outcomes are binary. With housing in place the delivery of social services, counselling, psychological support, financial support and health services becomes so much easier. Without it, however, the mission is almost impossible. People in a daily scrap for survival have no capacity to address underlying health problems or secure employment or continue their education, and the cycle of disadvantage will just continue until our social compact breaks and our democracy itself begins to fray. A significant investment in housing can stop the spiral and work to mitigate against costs in the health and justice systems.

Labor's housing policy at this election was not particularly ambitious, but at least we had one. Under a federal Labor government there will again be a housing minister because Labor believes in it. We believe in the dignity of work, the importance of education and the social imperative of ensuring that everyone can be fed, clothed and sheltered. Those beliefs are why Labor has been the dominant political force in this state since 1982. We have produced leadership and policies which have put our great state at the heart of economic growth and social progress. We have led the fight to end discrimination against minorities and women. We have removed government from people's bedrooms, secured passage of the treaty legislation and enshrined one vote, one value in the upper house. We have cemented Victoria's advantages—advantages not derived from natural resources but from nation-leading infrastructure and education and health care.

I am blessed to have lived through this period of prosperity and social progress. But there have been mistakes too. Like the Whitlams, ‘I wish, I wish I knew the right words to blow up the pokies and drag them away’. In Brimbank, where unemployment is the second highest in the state, over \$380 000 is lost every day on poker machines. In wealthy Boroondara, which intersects my electorate, it is \$56 000. These insidious devices strike into the heart of the very communities we should be protecting and nurturing, not exploiting. It is time for an honest conversation about removing the reliance on regressive measures like gaming machine revenue, removing barriers to jobs growth and contemplating whether intergenerational wealth transfer ought to be part of the state’s revenue base. We must work always towards a system that is fairer. A government that does not enable fair economic progress is a government doomed to fail. We have done better in Victoria at sharing our dividends and have evaded the growth of the Trumpist lunatic fringe, but the insidious growth of inequity will always, if allowed to go unchecked, provide a climate in which those voices can thrive.

Fairness is, of course, core business for the broader labour movement. Unions and working people being at the decision table with Labor has been the foundation of our success, because it roots the needs of our voters in our party. The union movement has been the great enabler of the social advances we have made through its energy, its optimism and its sheer organisational prowess. Michael Cooney in his book *The Gillard Project* said that, ‘When Australia turns up to the big debates, it’s the unions that book the room’—and he is right. Through the principled and determined leadership of fine people like Luke Hilakari and Will Stracke, we are seeing the aspirations of working Victorians again at the centre of political life, and not just on economic matters. The marriage equality campaign was supported right across the trade union movement. Unions recognise that their members are interested in more than just better pay and conditions. They want a society that is fairer and more decent and prouder of its diversity. Unions keep Labor grounded in reality, shining a light on privilege and unequal opportunity in the process.

I am acutely conscious of the great privilege and opportunity I have enjoyed in my life. I have had the support of a strong family and a first-class education and have been the beneficiary of the irrational biases that still attach to being male and white and middle class. One only needs to glance around an airline members lounge or a city restaurant at lunchtime on Friday or the boardrooms of corporate Australia or the gender composition of that opposition area over there to see that we remain an unequal society. Being a successful man in an equal world does not mean parading the fact that you have a mother or sisters or daughters like it is some grand achievement, rather than an accident of genetics, and it does not mean claiming that a love of women somehow equates to removing the gender blinkers from your eyes.

But neither should we pretend there are not differences: 20 per cent of all women say they have experienced sexual violence and every week in Australia a woman is murdered by a current or former partner. At the same time, one in five Australian boys will experience depression before the age of 18, while suicide is the leading cause of death for all men under 25. As a society we need to think harder and longer about the gender stereotypes we perpetuate, whether consciously or unconsciously, and we need to ensure that we successfully teach boys that respect for women is paramount. That extends, of course, to respect for all difference: in gender, sexuality, ability, race and religion. Hannah Gadsby in her breathtaking, scintillating and brave show *Nanette* said that violent homophobia is what happens ‘when you soak one child in shame and give permission to another to hate’. We need less hate. We need more love. That starts with respect.

And as parliamentarians we should set the standard. The vast majority of members of Parliament, irrespective of party affiliation, are decent, well-meaning and hardworking women and men who are trying to do their best for their communities. But the actions of the dishonest few, amplified by a voracious and unrelenting media, have soured the relationship between representatives and the represented. We have a duty to try and repair that reputation by engaging in more substance and less spin, by listening and not shouting, by treating our opponents first as people and by not abusing the sacred trust given to us to work for the greater good and not for personal and political gain. Only

through principled behaviour and disciplined debate will this generation of public leaders win back the trust of the citizens we represent.

I would like to acknowledge a number of people who have made special contributions to my passage here. To the mighty women and men who are fellow alumni of the Monash Student Association (MSA) and the ALP club: Christina Dickinson, Ozan Ibrism, Tanja Kovac, David Imber, Jacqui Cameron, Luke Hilakari, Mel McGrath, Matt Rocks, Mat Hilakari, Laura Smythe, Chris King and Katie Hall; to the lawyer who advised us with humility and integrity, Tony Lang; as well as the campus legends I first knew only by reputation and who are now known to me as the Premier, the Attorney-General, the federal member for Bruce and the member for Wendouree.

To my wonderful campaign team: Gavin Ryan, who in a not very different set of circumstances could, quite rightly, be standing here in my place; Erik Locke, one of the nation's best political communicators and a friend of extraordinary generosity; Claire March, an innovative and talented political professional with a mighty future in front of her; and Glenn Donahoo, another MSA alumnus, who as campaign manager could not have worked harder for the cause.

To my colleague and friend, the member for Richmond, for all of his guidance, advice and support over many years. To my political mentors and heroes for their wise counsel and words of encouragement: Steve Bracks and Maxine Morand. To the Australian Republic Movement, which gave me my start and an awesome political apprenticeship, particularly through Senator Marise Payne, Allison Henry and Richard Fidler. And to the Melbourne Cricket Club (MCC) for its patience with the over-confident 27-year-old who arrived both unelected and uninvited but who enjoyed nine brilliant years learning from some of the greatest minds in business, government and sport, especially Jane Nathan, Karen Wood, Charles Sitch and Stephen Gough. Also to John Cain for his special interest and scholarly insights into my contribution at both the MCC and the Melbourne and Olympic Parks Trust. To one of my predecessors in Burwood, the ever-helpful, tireless and still hugely popular Bob Stensholt. His is a fine legacy as a local member that I will struggle to surpass but nonetheless hope to emulate. To my immediate predecessor, Graham Watt, for the gracious way in which he held himself in defeat and for working hard, always, for our community. To the people of Burwood, for putting your faith in me.

To my friends, who have stuck with me on this journey, even when it was difficult—I love you. To my extended family—the very large tribe of cousins and aunts and uncles and in-laws, some of whom are no longer with us but whose legacy of love remains—I love you. To my grandmother, Granna, 88 and going strong, and here today—I love you. To my brothers and their partners: Matt and Luise, Jim and Jay, and Jack and Elise—I love you. To my parents, Joan and David—mum and dad—I love you. To my wife, Jessica, and my children, Molly, Hugo and Angus—you are the centre of my universe. I love you.

My favourite Victorian memories come from lots of places. For me Victoria is the feeling of the crisp air as you walk across Yarra Park to the G, bathed in the golden sunlight of an immaculate autumn afternoon, followed by the muted roar of the crowd outside the ground and the picture-perfect piece of greenery within. It is the rhythmic rumble of the surf in Bridgewater Bay that hits deep in the chest, the shining white froth followed by endless blue and the taste of salt spray on sandy lips. It is the trickle of a stream in the Dandenong Ranges, with both the light and the sound softened by the towering ferns above and the leaf litter below. And it is the intriguing hum of the eucalypts on a baking hot day in a part of the world which is variously described as the Loddon Murray, the High Country or central Victoria—but which actually always was and always will be Taungurung country.

Victoria is that incredible roar during the last bar of the national anthem on grand final day, it is the profound silence at the shrine that follows the last post on Anzac Day and it is the universally recognised ding-ding of the trams as they rattle up Bourke Street.

Home is indeed where the heart is, and my heart is here, in the best place in the world—Victoria.

Members applauded.

The SPEAKER: Order! I remind people in the gallery about not taking photos in the chamber. Before calling the next member, I welcome to the gallery the President of the Australian Senate, Senator Scott Ryan.

Ms VALLENCE (Evelyn) (18:41): Today I rise in this chamber for the first time as the very humble yet proud member for Evelyn. I would like to extend my gratitude to the people of Evelyn, who have placed their trust in me to represent them. I will always honour that trust. To them I say this: I will always listen to you and work hard for you, locally in our community and here in Parliament. You deserve nothing less.

I am the 16th member for Evelyn since it was first proclaimed a district 159 years ago. I am also the third woman to hold the seat. In fact women have represented Evelyn for the last 19 years straight. It is a tradition that I hope continues. I wish to pay tribute to and thank the former member, Christine Fyffe, also formerly a Speaker of this house, for a fine contribution to public life and for representing the people of Evelyn with distinction the Evelyn electorate is in a magnificent part of Victoria. The growing outer eastern suburbs of Mount Evelyn Mooroolbark, Lilydale and Chirnside Park, where new homes are being built next to established ones, are home to commuters, tradies, small business owners and entrepreneurs, who all want to fulfil their dreams and provide the best for their children. In this area over the forthcoming decade we will see massive population growth, with around 10 000 new residents expected at just one location, the Lilydale quarry. This will present significant challenges in this area for infrastructure, which is already struggling to keep pace with local congestion.

Further east is the famous Yarra Valley, and in the communities of Wandin, Silvan, Seville, Gruyere, Coldstream and Yering family farming businesses have flourished for generations to produce some of Victoria's—indeed some of the world's—finest fruit, vegetables, flowers and wine. Agribusinesses in the Yarra Valley have diversified and innovated, with many running successful tourism enterprises contributing significantly to our local economy, creating jobs and competing successfully in export markets. More than anything, what binds the people in Evelyn, from the suburbs to the farmlands, from generation to generation, is aspiration and a deep sense of community.

The Wurundjeri people were first here, and their strong cultural heritage still enriches our community today. European pioneering families established themselves in the Yarra Valley from the 1930s, pursuing gold, carving out productive agricultural lands and developing industries. Today it is young families, renting but desperate to own their first home or those who have purchased or built their first home, motivated to provide the best for their children; older residents who have worked hard and made sacrifices, wanting comfort and security in retirement; and farmers and small business owners who are being innovative, taking risks and creating jobs.

Evelyn people are hardworking, thrifty and self-reliant, and they relish opportunity. They are aspirational. They live liberal values, and the Liberal Party will always stand up for them. Aspiration is manifest in a free economy that offers the best way of creating wealth and prosperity. Economic prosperity fosters harmonious and peaceful communities. In a time when governments seem to be bloated and seeking to centralise control, we should take a moment to remind ourselves that there is a whole sphere of life outside government.

Community organisations are the place of shared experience and voluntary commitment. Volunteerism is beyond government. It is personal responsibility; it is community. It is the CFA brigades, the Victoria State Emergency Service, the scouts and guides, community houses, opportunity shops, churches, homelessness shelters and local sporting clubs, from the canteen to the coaches boxes; school councils, historical societies, Rotary and Lions clubs, the Country Women's Association, Landcare and RSLs. Organisations such as these epitomise the community and volunteer spirit essential to the future of outer suburban and rural communities like Evelyn, and I will always defend the volunteer. Economic individualism and a strong community volunteer spirit have enabled

everyday residents in Evelyn to seize opportunity and taste their dreams as they see fit. However, opportunity and prosperity are at risk when governments extend themselves beyond their limits.

In the early 1990s our country suffered the worst recession since the Great Depression. GDP sank, unemployment rose, revenue collapsed and welfare payments surged. This was all felt particularly deeply here in Victoria, where a disproportionate share of the financial failure occurred. State institutions were on the brink of collapse and employment plummeted at a far greater rate than anywhere else in Australia. I saw the collateral damage of this firsthand at home. My father was made redundant and my brother, who had just completed his TAFE course, was unable to find work at that time, and many Victorian families faced the same pressures. It was a stark example of governments that did not care about debt and which, while seeking to increase their control, lost control altogether. The vulnerable in society, who they claimed they would care more about, were left more vulnerable. I was 13 years old when the former Premier, Jeffrey Kennett, came into power and I observed the determination and ambition of his government to set our state on a course to reduce government debt and rejuvenate our economy. Listening to and learning about all these things through my teenage years was made all the easier because my mum seemed to have the radio tuned to 3LO 24 hours a day, seven days a week.

There were many strong women in my life, My mother and grandmothers were early inspirations for me. Still today I am in awe of both my grandmothers, Margaret Rosina and Mary, who raised five and six children respectively without the luxuries of modern life: washing machines, disposable nappies, helping husbands. Rosie was just 17 when she had my mum, Elizabeth. Mum, being the eldest of five children, is a hard worker, an avid learner and an independent thinker. Through necessity and to help her parents, Mum had to leave school and enter the workforce aged 14. She would head off to work after sorting out the cows, plucking the chooks and helping to get her younger siblings in order. Not only did my mum eventually go back to school in her 20s to complete form 6 English, but much later in life she completed tertiary qualifications in viticulture. Mum, together with Dad, instilled in my two brothers and me the values of hard work, respect and love. These values, together with the course of events in Victoria in the 1990s, ignited my interest in enterprise and politics.

I attended the University of Melbourne to study commerce and arts, but some say I attended just to join the Melbourne University Liberal Club, an institution steeped in a long and proud tradition of advancing the cause of liberalism. Utterly discontent with being forced to pay a compulsory fee to the student union—unaffordable for most young people who were struggling to pay for transport costs, books, food and, in many cases, accommodation—I actively contributed to the campaign for voluntary student unionism.

University was where I fought my first battles for the contest of ideas with Labor and the extreme left. As Liberal students we fought for freedoms—a free economy, freedom of speech, freedom of association. I became the president of the Melbourne University Liberal Club, being only the fourth woman to have done so at that time.

Lifelong friendships were forged in the Liberal student committee movement, and I thank my friends for supporting me always—the Leader of the Opposition; the President of the Senate, the Honourable Scott Ryan; the Honourable Kelly O'Dwyer; Jon Mant; Scott Pearce; John Snaden; Stewart Maiden, QC; Brygyda Maiden; and Andrew Bell.

Life changes quickly after university. I married Ben, started my career, got a mortgage and, more importantly than anything else, became mum to my two beautiful boys. Having children gave a new perspective and a desire to be more active in our local community and to help them fulfil their potential.

I come to this Parliament directly from industry, after having worked as a senior procurement professional in the automotive manufacturing and retail sectors for over 16 years in Australian, Asian and global markets. It is why I am delighted to have been appointed to the industry portfolio, as well as being appointed shadow cabinet secretary, and I look forward to supporting Victorian businesses to

meet the challenges of today and the future, to be innovative and competitive, domestically and internationally, and to help drive Victoria's economic growth and jobs. I want to defend our free economy and help shape Victoria's future, to leave it in a better condition than the way in which we find it today for our children and for theirs.

Before I conclude I want to pay tribute to trailblazing women of the Liberal tradition who were the first-ever women in Australia and Victoria to be elected to public office. Just like Edith Cowan, who in 1921 was Australia's first female parliamentarian, elected as the member for West Perth in the Parliament of Western Australia, I will focus on advancing the causes of women, children and the vulnerable, whilst having an unequivocal commitment to being responsible to my local electorate. And like Lady Millie Peacock, the first woman member elected to this place, as the member for Allandale, demonstrating, as the *Age* newspaper wrote on 14 November 1933:

... another step has been won in the woman's fight for complete freedom and equality.

In 2018 I reckon we have still got a fair way to go.

I am a Liberal woman who holds Liberal values dear. There are many other Victorian women who also live Liberal values and rightly demand that the Liberal Party deliver diversity, contemporary representation and leadership in Parliament, and I will work hard and do all I can to ensure that those women also feel represented and help enable them to pursue opportunities in public life.

Now, to be able to stand in this chamber can only be accomplished with the support of many generous people. I particularly want to pay tribute to the truly awesome contribution and support from my campaign manager and friend, Byron Hodgkinson. Also I would like to make special note of the support of Liberal volunteers and friends who went above and beyond—Ben Zerbe, Judy and Howard Carter, Paul Molluso, Geoff and Maggie Hawthorn, Carl and Mary Nolet, Peter Falconer, Warwick and Paulette Bisley, Aaron Violi, Rex McConachy and Gwen Corbett. I thank the electorate conference chairman, Peter Manders, and his executive committee for their wonderful support.

To the Speaker of the House of Representatives, the Honourable Tony Smith, I thank you for your friendship, advice and for always being there. And to the many who gave friendship and support along the way—former candidate for Monbulk, John Schurink; the Honourable Edward O'Donohue; the member for Croydon; Senator James Paterson; Fiona Ogilvy-O'Donnell; Sean Armistead; Annemarie Manders; Katherine Forrest; Rochelle Pattison; and Scott Minehane.

Not least I thank all of my family, particularly my parents, Elizabeth and Brian Penny, and parents-in-law, Anne and Gerry Vallence, who give us love and immense support; my two gorgeous sons, also key campaign advisers, Rory and Emanuel, who are so very loving and understanding, and who I simply could not be without; and my fabulous husband, my best friend, Ben Vallence—I love you and thank you with all my heart. I thank the chamber for its indulgence.

Members applauded.

Mr TAYLOR (Bayswater) (18:59): Speaker, congratulations on your appointment. I would first like to start by acknowledging the traditional owners of this land and I pay my respects to their elders past and present. Just as Hugh Jackman is the *Boy from Oz*, I am the boy from Dandenong from humble beginnings who is a long way from home, who stands before you as Bayswater's proud member. It is a profound moment in the life of a 26-year-old, nerves wavering, to deliver my inaugural speech in front of my parliamentary colleagues and those nearest and dearest to me. The moment is certainly not lost on me.

I would first like to congratulate the Premier on a campaign for the ages, one where not a single minute was wasted, and one where Victorians felt heard and valued. Under his leadership, Victoria is and always has been the place to be. Most importantly I owe my being here to the amazing people of the Bayswater district. You have given me the opportunity of a lifetime to be your representative and voice in this Parliament of ours and to be part of this Andrews Labor government. As I begin to allow myself

to take stock of this moment and as the dust settles, I can assure you that not once nor will I ever take for granted the gravity of this position you have bestowed upon me. You have placed in me your trust to be your voice inside and outside this building, and I will not let you down.

I am honoured to represent Bayswater, which covers the suburbs of all Bayswater, Heathmont, Kilsyth South, the Basin, parts of Bayswater North, Boronia, Ringwood and Wantirna. The district is unique in that it has a stunning regional feel with views of the rolling foothills and is a matter of 30 minutes from the CBD. It is surrounded by beauty at every turn and characterised by its leafy-green vibe and its friendly, welcoming and diverse community. The area is home to substantial jobs precincts, has major health precincts right on its doorstep and is littered with shopping strips at every corner. I am a proud resident of Wantirna and I would not have it any other way.

I grew up in Dandenong with my mother, Erin Taylor, and my father, David Pearson, and with two siblings—one older, Joshua Taylor, and one younger, Oscar Taylor. I, of course, being the middle child, was in a constant struggle for attention and have constantly been reminded throughout my life that I definitely suffer from middle-child syndrome. Growing up in Dandenong, however, was not always easy. My family lived from week to week. We could not afford many of the luxuries of life. As a child I would ask, ‘Why not me?’. This certainly was not unique to my family. There are many people out there struggling, wanting to have their own corner of the world they can be proud of. Each and every day there are families out there making difficult decisions about how to make ends meet and to ensure they can get their kids to school. There are families like this in the Bayswater district, feeling suffocated by the daily machinations of life and worrying how they will make it through to Friday, let alone next year, as my family did. We need to be ensuring that our families, and especially those in lower socio-economic areas, are given every opportunity to thrive.

I certainly do not have all the answers, but one of the great opportunities provided to me was an amazing public education that helped guide me. As a young boy I remember the guidance and care shown in particular by David Crozier, Lynne Greenlees and Anne Pereira, who were amazing educators at Dandenong Primary School. They knew all too well the reality of my home life. I grew up in a family home where I was witness to situations that I would not wish upon any child. Family violence was a weekly occurrence, and as a result members of Victoria Police were regular visitors. In addition to this my mother suffered from severe depressive and bipolar disorder throughout her adult life, spending stints in hospital. I remember the constant ups and downs, my mother having the entire house in darkness for months on end and watching her struggle through her mental health illness. It was ultimately her children who were her main support through the years.

Of course all of this was known by the Dandenong Primary staff. Aside from a short time where I was at another school for a number of months when I was placed in foster care, they were everything a child needed them to be. It was through them, through the gift of an education and through the creation of a role that had never previously existed in a play that was well into production so I could become Frank Fox, that I flourished, eventually gaining much-needed confidence. These years in school were formative for me. I could have been so many other things and could have allowed myself to easily feel that life was all too difficult, but through the great privilege that I and others have had in our first-class education system, I was able to walk a different path in life, as it gave me purpose and real direction when all else appeared hopeless.

This is a real reality we and many others in Bayswater still live today. I promise to be a fierce advocate when it comes to improving the lives of young people, especially through investment in education. This is why I am so proud to be a part of this government, which invests record amounts in the future of young people, giving them the best start in life. Let me be only one example of just how powerful that can be.

It is a reality that my family struggled through social issues like family violence, substance abuse and mental health. So too does our state and the area of Bayswater. It deeply saddens me that many parts of Bayswater have the highest rates of family violence incidents in the eastern metro area, that

1321 adult Bayswater residents will experience a severe mental illness every year and that 45 per cent of residents will experience a mental health episode in their lifetime.

While these are merely numbers, behind each and every one of them lies a person, a family, a community. People are suffering, our LGBTIQ community attempt to commit suicide at rates of up to six times that of the general population, women are being killed by their current or former partners weekly and a lot of people are doing it extremely tough, not always getting the help they need. Many of them do not feel comfortable to even begin talking about what it is that they are experiencing. I will be a member of Parliament that not only talks the talk but walks the walk on these issues, as this Labor government has been doing.

I was so proud to watch from my lounge room the announcement about the Royal Commission into Family Violence and then again when it was announced that every single one of the 227 recommendations would be implemented. I saw that and thought, this is a government which is about people. It listens and it works to change the lives of others for the better. While I do not profess to be a beacon of all wisdom and understanding of these real issues, I have seen it in my personal life as a former member of Victoria Police and as local councillor. The numbers and stories are stark and form part of what is a sad truth about this state and this country. This government is now also in the process of delivering a royal commission into mental health, which is simply a game changer. It is one of the most important issues heard when speaking to people across the electorate, as everybody is touched by mental health in one way or another. It can take a lot to admit that you do not have all the answers, and being someone who has been witness to it—now being part of the revolution—moves me, inspires me and emboldens me to play my part to make a real difference.

Throughout my life I have always been someone that gained joy from changing the lives of others for the better. At the age of 19 I joined this great Labor Party because it believes in the same values that I hold dear—a belief in strong health and education systems, a fair go and decent-paying jobs. It is a party of the great union movement, a party which embraces people from all walks of life regardless of age, gender, ethnicity, religion or culture and a party which has a resolute commitment to justice and equality for all. I am so proud to hold these values, and I will fight to see them protected.

I owe a great deal of thanks to the members of Victoria Police, where I recently finished serving to be here today. I am so proud of all members and the work that they do. I know personally the tragic situations that members face on a daily basis. It is one of the most difficult jobs to do, and I hold a great deal of respect for all of you and thank you for allowing me to serve. I also wish to acknowledge and thank the work of all my friends in the emergency services that I worked alongside, from the CFA, MFB, Victoria State Emergency Service and Ambulance Victoria. Our community owes you all a great deal for keeping us safe and doing what it is that you do, which is going each day into the unknown. I have seen the heavy toll that this work takes on those involved, and can I say how proud I am that this government is introducing provisional support for emergency services workers for mental health support. I have seen colleagues struggle, I have seen them lost for hope, and I can tell you now: this will save lives. This is a government which I am proud supports our emergency services workers and our nurses and midwives, because they deserve it and absolutely need it.

I have also been privileged to serve as a councillor in the City of Knox, where I had great opportunities to work side by side with members of the community. One in particular I would like to acknowledge is a local Bayswater resident, Michael Ward. I met Michael and his family at a citizenship ceremony back in 2017, and some months later he picked up the phone and told me that he wanted to walk from Adelaide to Melbourne to raise awareness around the issue of youth suicide. I immediately said I would do everything I could, which included joining him for a day for 40 kilometres on his arduous journey. He ended up raising \$60 000 and played his role in continuing to take away the stigma which still exists around mental health and the issue of suicide. Michael is one example of the many great community persons in Bayswater. I thank my community in Collier ward, the CEO and my councillor colleagues for enabling me to work with that community.

I now want to take a moment to thank the former member for Bayswater, the Honourable Heidi Victoria, who represented the area with honour and humility, and I acknowledge and thank her for her 12 years of service to the community. I wish her the best of success into the future.

In my life there have been many people along the way who have had an impact on me, and it is those people I wish to thank.

To my great friends, the boys from Dandy high, where I went to school, Jack Main, Shane Pacarada and Josh Denholm: thanks for being my best mates and for always being my go-tos.

To my father, David: we have had a rough road at times, but you have always done your absolute best to support me.

To my two brothers, Oscar and Josh: you are such brilliant people, and I am proud of both of you and could not have done this without your love and subtle—and at times not so subtle—sibling rivalry throughout the years. We have been through a lot, but I know we will always be there for one another.

To my grandparents, who have often been my quasi parents: you have always been there, even during difficult times. You are both brilliant, you are two people that I look up to and you are seated right behind me.

To my beautiful partner, Amy Stephenson: well, what can I say? Thanks for putting up with me. Amy is, you could say, not that interested in politics. She has been an amazing support to me, and I promise to put aside some date nights. I might even let her pick *The Bachelor* for us to watch.

To all my friends and family: it has been a long road and I am sorry for no doubt on many occasions espousing my political opinions in many circles. Thanks for supporting me in what I love, and in turn I will always do the same for each and every one of you.

And to my mother, Erin: Mum passed away over two years ago and before that tragically suffered an acquired brain injury, which left her with no speech or mobility and me as one of her carers. We were best friends. Despite my challenging childhood, my mother was my fiercest advocate. Nobody ever dared to get between Mum and her boys. She was the bear by name and the bear by trade. She is my inspiration, she was my everything, and she did not get everything right, but nor does any parent.

I wish so much that she had been here to see this as I know she would be so proud. Before Mum suddenly passed away there were two things she knew for sure: her boys when they walked into the room—her face would light up—and how to sing along to Fleetwood Mac and Beatles classics. Thank you, Mum, for giving me a chance and for always believing in me. I love you very much.

To the true believers on the campaign: you put your heart and soul into seeing us be successful in Bayswater, because you believe in what this Labor government stands for and you know what it will deliver. I thank each of you. A special thanks to James Gan and Adam Abramovich, who were my campaign managers and, importantly, friends. Thank you.

To my La Trobe friends, Simon Curtis, who taught me at Dandy high not so long ago, Declan High, Aidan Wright, Bill Brindle and Kasuni Mendis: you are such phenomenal people, and I would not be here without your guidance along the way.

Thank you to all my new colleagues, who have been so gracious in their support, and in particular member for Dandenong, the member for Oakleigh and the Honourable Shaun Leane, MP, for your amazing support and kindness in what has been a roller-coaster ride for the last few weeks.

I am determined to get to work now, as now is the time to roll up my sleeves and work hard each and every day for our great community, because they deserve nothing less. I will be a fierce advocate for the community and will work with them to deliver on priorities around health and education, and having a greater focus on mental health, family violence and youth issues, as well as being a strong voice for local transport projects.

I am also aware of the reality that there are many who did not vote for me nor Labor. Be assured that I will be a member of Parliament who works for all of you. And I promise this: even if we cannot agree, I will listen.

We each have opportunities in our lives to make a real difference, and here in the halls of Parliament I will not waste a single moment nor take for granted the role I have been given: the honour of being your voice and your humble member for Bayswater. Thank you.

Members applauded.

The SPEAKER: Order! I ask honourable members to resume their seats. Before calling the new member for Brighton I would like to recognise in the gallery the former member for Brighton, Louise Asher.

Mr NEWBURY (Brighton) (19:18): A few short weeks ago the Labor Party was resoundingly re-elected. As a Liberal member in this place I am part of a party that now only holds one quarter of the seats in this chamber, a party that has only been in government for one quarter of the last 20 years. The Liberal Party should be under no illusion: on election day the electorate delivered the strongest possible message. I say to the electorate directly tonight: I have heard you. They will not accept anything but a clear vision for this great state, and Liberal-leaning voters who cast their severe judgement at the ballot box determined that the Liberal Party needs to reset and modernise. We must reconnect with the community and become a strong voice for mainstream Victorians again.

I joined the Liberal Party almost 20 years ago. When I joined, Jeff Kennett was Premier and John Howard was Prime Minister. Both leaders had clear plans for our nation's future. Their plans were based on strong Liberal values that delivered prosperity to our nation. They sought to empower people by enshrining freedom of choice. They sought to ensure that people who worked hard were rewarded, and they embedded an ethos that encouraged enterprise. I joined the Liberal Party because I identified with those values. In essence my journey over the last 20 years has been one guided by and advocating for those values.

I am 40 years old. I am married to Suzanne, who has shared most of this journey with me, and she is here this evening. Suzanne and I are blessed with two beautiful daughters. Although my daughters are hopefully tucked up in bed, I want them to know that I am in this place to make sure that Parliament delivers them and our community a better future.

Suzanne and her family migrated to Australia from Ecuador. They came to Australia with the dream of starting a small business, working hard and providing what we as parents all aspire to: giving our children a better life. My father and mother-in-law started their small business and found success. Australia offered them the opportunity to realise their dreams. My family have built small businesses too. My grandfathers were both small businessmen, one a dentist, as is my own father. Both opened sole-practitioner practices and worked hard to provide for their families. Suzanne and I have settled our family near Church Street in the heart of my electorate.

Professionally, I have worked in both the private sector and the public sector. In the private sector I worked at the board level in the financial services industry as a group company secretary. I worked for the peak body representing financial institutions on credit-related matters. I think having business-based skills is essential because it teaches you that the private sector knows how to innovate if government gets out of its way. In the public sector I have worked at the highest levels of state and federal government. That experience has reinforced my view that the state Parliament's job is to be more than middle management. We are not simply service administrators. As parliamentarians we must be brave enough to have ideas and strong enough to debate them. As a Liberal parliamentarian I am committed to offering ideas and generating debate. Despite the Liberal Party needing reform, I strongly believe that at its best my party has delivered for Australians better than any other party. We

owe it to Victorians to rebuild the party into one that offers a vision for the future that our community connects with, a vision that caters for the growth of one new person in this state every 3½ minutes.

Victoria is growing faster than anywhere else in Australia. Within about 10 years Melbourne will have outgrown Sydney and will be the most populous capital city in Australia. A forward-thinking Liberal Party has the right philosophical framework to steward Victoria's growth but only if the party reconnects with the community and offers policy that has depth and consistency and is contemporary. Today's Liberal Party must use its voice to answer the policy challenges of tomorrow. My generation does not have the same capacity to accumulate asset wealth as the generations before us. For some the dream of home ownership is now only a dream, and many are finding economic independence out of reach. Labor has recognised these changes in economic demographics- but Labor has mistakenly sought to solve them with interventionist wealth-redistributing policy and pork-barrelling, not creating the economy of the 21st century.

Unless the Liberal Party recognises this economic challenge and becomes a voice for this generation, aspirational Victorians may be swayed by Labor's hip pocket promises. My fear is that, left unaddressed, aspirational Australians may become focused on what governments can give them rather than what they can create for themselves, and unfortunately we have seen a growing tendency of voters to turf out governments that are prudent budget managers. To avoid this our party must remember that sound economic management must always take place for the benefit of people. The danger is that Labor's policy approach is predicated upon interventionist government that is overly reliant on increasing tax receipts even when there are signs that the economy will not remain rosy forever. Labor's profligate spending, which only creates a debt burden for our children, is one of the reasons they will always have the broadest possible migration policy and encourage unchecked property development—because both grow the tax base. To counter this approach the Liberal Party must develop policy that shifts the goalposts. We must unashamedly release policy that rewards hard work and we must reassess previously released policies like the federal superannuation reforms, which have not only done the opposite but have broken the trust of Liberal voters.

There are almost 600 000 small businesses in this state. They are the human face of our economy—the shopkeepers, the tradespeople, the healthcare workers, the farmers and all those other people who have taken a risk and are looking for government to create an environment that rewards their hard work. The Liberal Party has historically been the voice of Australian small business, because we understand that when policy rewards enterprise, businesses, the economy and, most importantly, the community flourish. We understand that regulation needs to be smarter, whilst those on the other side of the chamber are predisposed to overregulate. We are steadfast in our belief that taxes should always be lower and fairer, whilst the first instinct of those opposite is to put their hand in your pocket. And we as Liberals have been at the forefront of workplace reform, because we know that an employee and employer are best placed to agree upon their workplace arrangements.

Over recent years we have had a softer voice in representing small business. The Liberal Party owes it to the families that are behind these businesses to find our voice again, which is why I was so heartened to see our new leader take responsibility for this important portfolio. I know that he will be a strong voice for the small business constituency. I also thank him for the opportunity he has given me, as a new member, in appointing me as a shadow assistant minister. Labor have unprecedented power, and this assistant ministry will play a role in holding the government to account. For our party to reset, we must not only look to the economy but we must also be a voice for issues that are of concern to our broad-minded community.

One of the ways for the Liberal Party to modernise is for it to accept that modern Victoria has a growing conscience for community and the natural environment. Despite decreasing rates of community participation, Victorians are more community minded than ever before. The Liberal Party has an opportunity to show leadership by devolving decision-making back to a community level, because residents know their local communities best. When a 12-hectare golf course closed at Elsternwick

Park North in my community, I spoke out and advocated for the space to be converted into an environmental wetland of regional significance, a place for the community, a place for wildlife and a place that will help mitigate the risk of flooding in Elwood. The community was deeply engaged in the decision and overwhelmingly supported the conversion.

The protection of our natural environment must also extend to animal welfare. For three months each year duck hunters, who represent half of 1 per cent of Victorians, kill and bag up to 10 ducks per day. Though hunters are required to carry out ducks killed, hundreds of birds, including endangered species supposedly protected from being shot, are found dead during the season. Victoria's natural environment and wildlife are unique parts of this state's identity, and a modern Liberal Party must speak out on behalf of the promotion and preservation of them.

A vibrant and growing Victoria will have many other challenges—challenges like ensuring that infrastructure, services, fresh air and water keep pace with our growth. A number of those issues will be complicated by the ageing population and managing the cohesiveness of an increasingly diverse community.

I love my community of Brighton, Brighton East, Elwood and Hampton. I felt that when our former member announced her intention to retire Brighton deserved a new member with an equally strong voice. Brighton is one of only three electorates to have existed continuously since 1856, and it is the only one to have never been held by the Labor Party. I am proud to have been elected as a Liberal member and to continue that unbroken tradition, though election night did set a few pulses racing, including that of former Premier Bracks, who giddily declared that Labor had won the seat and a little prematurely offered the Labor candidate advice on how to get re-elected in four years time.

In the last 160 years Brighton has been represented by some of our finest Victorians. Weston Bate, in his *A History of Brighton*, noted 'few towns can have had such distinguished representation' as Brighton has had. It has delivered a Speaker and two premiers. One of those premiers was the colourful Tommy Bent, who set pulses racing when he defeated George Higinbotham in what some described as an accident. In fact at the declaration of the polls the local newspaper editor described 'the almost incredulous look of surprise which took possession of the crowd'. I will let you in on a little secret: there was an incredulous look of surprise on the faces of the Brighton crowd on 24 November too.

More recently Brighton has been served by Alan Stockdale, arguably the best modern-day Treasurer our state has had. I also want to pay tribute to my dear friend, a former deputy leader and the outgoing member for Brighton, Louise Asher. I often feel that we are kindred spirits and we share similar values and characteristics. In her achievements both in Parliament and in the Liberal Party Louise is a giant. Louise has taught me, more than anything else, that a member of Parliament's role is to be a voice for their constituency. By electing us, our community has chosen us to speak out and advocate on their behalf. It is a sacred trust they have placed upon each of us, and by supporting their Liberal candidate they have put in Parliament a representative who will be a standard-bearer for the values of the party they voted for.

One of the biggest issues that my community has asked me to raise in this place is that the services and infrastructure are out of date and need attention. In one school the bathroom facilities are so bad that the younger children are too scared to use them, and sadly, though the coalition committed to installing a proper pedestrian crossing on Glen Huntly Road to keep Elwood schoolchildren safe, the government is going to install a speed sign. Our children also lack the futureproofed infrastructure they need, with a number of schools waiting for funding to redevelop outdated infrastructure or build facilities that can cope with the ever-growing school population.

Futureproofing is one of the reasons the coalition committed to invest in new netball facilities in Bayside that could be accessed by children from surrounding municipalities who are currently locked out. Again, sadly, Labor did not match that commitment. At one of our train stations the gap to step into the train is so high that users have fallen and gashed their legs, and near to that same station one

resident has spent six months trying to have graffiti removed while the government and the private train operator handball the problem between them.

Since my preselection I have also been very vocal on inappropriate development. It is not that I am against development, but I am against inappropriate development in my community. One of the solutions is to introduce mandatory height limits so that developers, council and the community know where the goal posts are. Over the next four years we will see the result of Labor's planning free-for-all. The government has targeted Hampton as a hotspot for densification, developers are eyeing off the once-quiet streets of Brighton and Elwood is overwhelmed with planning applications aiming to build apartment blocks on every square inch of space. If we keep going down this path, our communities will lose their village feel.

I stand before you a product of my family, and I am only here because of my community and the Liberal Party. I thank them all, especially my second family, the Brighton Liberal Party. I note that my dear friend Jean Hawkins is here with my mother tonight. Few know how many people are part of the journey that brings us into this place. I am excited about the future of this great state, with our best days in front of us. I am humbled to be in this place—a voice for my community—and I am humbled to be the 14th person to have been elected by the Brighton community since 1856. I intend to be a strong voice in this Parliament. Thank you.

Members applauded.

Debate interrupted.

Announcements

RETIREMENT OF PARLIAMENTARY OFFICER

The SPEAKER (19:35): Before calling the minister at the table, I do want to just say a few quick words about a member of our Hansard team who will no longer be with us in the new year—Patrick Spillane, who has been at the Parliament for some 17 years. Patrick has been a diligent servant of the Parliament, one of the fantastic people who work out of our Hansard department. He is retiring up to Castlemaine, and we wish him very well in the next phase of his life. Well done, Patrick.

Address to Parliament

GOVERNOR'S SPEECH

Address-in-reply

Debate resumed.

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (19:36): I move:

That the debate be now adjourned.

Motion agreed to.

Ordered that debate be adjourned until tomorrow.

Business of the house

POSTPONEMENT

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (19:36): I move:

That the consideration of remaining business be postponed.

Motion agreed to.

Adjournment

The SPEAKER: The question is:

That the house now adjourns.

MCMAHONS CREEK PEDESTRIAN BRIDGE

Ms McLEISH (Eildon) (19:37): (14) My adjournment matter is for the Minister for Road Safety and the TAC in the other place, and it concerns VicRoads's removal of the pedestrian bridge adjacent to Woods Point Road at McMahons Creek in the Upper Yarra. The action I seek is for the minister to direct VicRoads to immediately reinstate the footbridge, which is an important access point for local residents, especially school students walking to the bus stop. This really needs to be rectified prior to the start of the 2019 school year. In July 2017 VicRoads demolished the pedestrian bridge crossing McMahons Creek following a detailed inspection and determination that it was unsafe. This left only one path for children to take to get to the bus stop. It meant walking around a blind corner in an 80-kilometre-an-hour zone on the main road. This was 18 months ago. I note that I wrote to the former minister for roads about this issue in August 2017. The minister informed me at the time that two temporary bus stops had been installed for students, with the road's speed limit being reduced to 60 kilometres an hour. This was not good enough because the bridge was still required. Since that time, however, the speed limit has changed back to 80 kilometres an hour. In August this year I again wrote to the minister about these developments, but he did not provide a response. In November I attended a community meeting hosted by residents of McMahons Creek and Reefton who raised their concerns over the government's failure to keep pedestrians, and more importantly their children, safe. I support their call for the project to be reinstated, as does the Yarra Ranges Shire Council. All councillors recently voted to take further action to lobby VicRoads and the government on this point.

VicRoads has indicated that the proposal has been referred to their 2019–20 budget for consideration. However, the Upper Yarra Reservoir upgrade next year will lead to increased road traffic by an extra two trucks per hour for six months of next year and the year after that. This project needs to go forward now.

The solutions can be simple. I have seen a footbridge in Numurkah that would be an easy fix. I have seen rail bridges that had not failed but had just been replaced. They could be used to go across this road. In the last term the government showed a complete disregard for the safety of school students in the Upper Yarra on our roads, as evidenced by the four years it took to announce electronic 40-kilometre speed signs at Woori Yallock Primary School. I hope the new minister will show greater interest in the safety of pedestrians, especially school students in rural areas like McMahons Creek, by taking immediate action.

FLEMINGTON EDUCATION PLAN

Mr PEARSON (Essendon) (19:39): (15) Thank you, Speaker. To begin, I would like to congratulate you on your reappointment as Speaker. I will endeavour in the course of the 59th Parliament not to test your patience during question time in the way I tested it during the 58th Parliament.

I direct my adjournment matter to the Minister for Education, and the action I seek is for the minister to facilitate a meeting between me, his office and his department to discuss the Flemington education plan. The Flemington education plan was funded in the May budget of this year, and it is a vitally important initiative for my community owing to the rate of population growth at schools like Mount Alexander College. I would therefore welcome the opportunity to develop a detailed understanding from the department of the work that has been undertaken to date.

MORNINGTON PENINSULA PLANNING

Mr MORRIS (Mornington) (19:40): (16) Thank you, Speaker, and can I also add my congratulations on your return to the chair.

I raise a matter for the Minister for Planning. By way of background, the minister has appointed an advisory committee under section 151 of the Planning and Environment Act 1987 to provide advice on the proposed initial establishment of a number of stores for the German Kaufland company. One of the sites being investigated by the committee is at 1158 Nepean Highway, Mornington. The committee has been asked to provide a written report to the minister on a number of matters, particularly on whether the site proposed is an appropriate location. That action has the effect of sidelining local councils at each of the locations, but particularly the Mornington Peninsula shire. The action I am seeking from the minister is that he abandon this committee process and return the responsibility for handling the necessary site-specific rezoning at Mornington to the Mornington Peninsula shire.

The site is on the northern boundary of the Mornington urban area, so it is directly opposite the green wedge. It is the main gateway to Mornington. The site is located in an established parkland industrial area, and since the 1970s all buildings have been required to be set back 90 metres from Nepean Highway. That has had the effect of creating a very pleasant treed area, albeit in an industrial area. The land is not zoned for retail use, and indeed it is quite a distance from established retail areas. The current zoning does permit the land to be used for shops but only to a maximum of 1800 square metres. Interestingly, the proposed main tenant has claimed in an advertisement that has been published in local newspapers this month that the total store area will be 4000 square metres. However, when I add up the various areas on the plans that are currently on the committee's website, I get a total of 6700 square metres, so significantly larger. Then there is basement and rooftop parking as well.

Speaker, as you would know, ministerial rezonings are not that common. The last one that occurred in my electorate was when Justin Madden rezoned the industrial land for the Masters development. We all know how badly that ended. Perhaps if the shire had been allowed to actually deal with that application, Masters may still be trading. This application is a gross overdevelopment, it is on the wrong site and it simply does not stack up.

The minister has sidelined the council and he has effectively blocked any serious local input because he knows our councillors will stand up for our community. So I call on the minister to abandon his hand-picked committee and to allow the Mornington Peninsula shire and the Mornington community to consider this application on its merits.

MENTAL HEALTH IN SCHOOLS PROGRAM

Ms GREEN (Yan Yean) (19:43): (17) My adjournment matter this evening is for the attention of the Minister for Education, and the action that I seek is for him to provide clarity on how my electorate will benefit from the Andrews Labor government's commitment to provide mental health professionals in schools. Two of the schools in my electorate during our last term were the beneficiaries of doctors in schools, being at Whittlesea and Wallan. I saw firsthand how that assisted those schools and particularly as those communities were in areas of medical workforce shortage. But the additional challenge that my electorate has, particularly for young people, is that so many of them in schools are from families or communities that were affected by Australia's worst disaster, the Black Saturday fires. We are coming up to the 10th anniversary of those fires, and in talking to young people, particularly those who were casting their vote for the first time at this election and were recent school graduates, they were really heartened and told me how much of a difference this would make for young people in schools.

At the Whittlesea show where I had a stall during the election campaign I met GLBTIQ young people. I met young people who were in gender transition, and they told me how important it is for them to have mental health support when they go through difficult things like this. I know my own son, my elder son, Blake, came out to me at age 14. He was well supported by his school community and then went on to become a peer mentor. But he has said to me what a fantastic announcement this government is making.

We just heard a most magnificent inaugural speech from the member for Bayswater. He talked about his experience as a young person having to look after a parent with mental illness. I too had that experience when I was growing up. I want to congratulate the member for Bayswater on such a moving, moving speech. It was one of the best speeches that I have ever heard, and I think it reinforces why we need to have mental health professionals in schools. He mentioned the importance of schools and how that got him through difficult times. I think this will be even better along the way, and I want to commend the minister for this action. I think this, together with the royal commission into mental health, will be great for our young people in our schools in Victoria.

OVENS VALLEY FLOOD DAMAGE

Mr McCURDY (Ovens Valley) (19:46): (18) Thank you, Speaker. Can I also add my congratulations to you on being reappointed the Speaker of the 59th Parliament.

My adjournment is to the Minister for Agriculture in the other place, and the action I seek is that the minister assist our flood-affected communities. I refer to the communities of Everton, Everton Upper, Tarrawingee, Boralma, Springhurst and various other farming communities just out of Wangaratta. Last week they received an unprecedented storm in that region, and some places had 250 millimetres drop overnight. This deluge has in turn caused short-term significant flooding in some of the centres mentioned, particularly the township of Tarrawingee, where some homes suffered significant over-the-floor flooding and some storm damage. Farmers have also been significantly affected with hundreds of kilometres of fencing that has been ruined or has simply just disappeared. The lack of boundary fencing is causing concerns for wandering stock, and internal fencing losses will make it very difficult for these farming families, who are already facing difficult scenarios primarily due to the dry season, to farm their properties properly.

I call on the Minister for Agriculture in the other place to immediately offer financial support for fencing solutions to give hope to these farmers that support is on its way. Cash is tight in these communities, and many have significant clean-ups in sheds, cattle yards and some homes from this unpredictable event. However, the most significant financial cost will be replacing fences for these farmers, and I seek the minister's support.

REVITALISING BROADMEADOWS

Mr McGUIRE (Broadmeadows) (19:47): (19) Congratulations on your re-election, Speaker. My adjournment request is to the Minister for Suburban Development. The action I seek is a response to the report Revitalising Broadmeadows. This is the integrated plan that defined priorities for the designated capital of Melbourne's north, a region predicted to grow soon to the population size of Adelaide.

The Broadmeadows Revitalisation Board, which I had the privilege to chair, identified and prioritised key initiatives ranging from redevelopment of the Broadmeadows station, which the Andrews government has defined as a super-hub in Australia's largest infrastructure project, the \$50 billion Suburban Rail Loop. Other initiatives include expanding the heart of this proud, resilient community by supporting the redevelopment of the Broadmeadows metropolitan activity centre and a range of projects to create new jobs. Pursuing a city deal for Melbourne's north and west adds the overarching architecture. It aggregates assets and develops opportunities anchored on two \$15 billion nation-defining projects: the long-awaited rail link to Melbourne Airport and the missing link in Melbourne's road network, the north-east link.

The board's plan also provides opportunities for affordable housing. Renewing urban housing is not just important, but it is a timely imperative. Employment initiatives include creating new jobs, linking people with jobs and building individuals' skills and aspirations. This is an issue that is imperative for this community. It also looks at how we can aggregate these assets and build for the future. It is only 16 kilometres from the heart of the city. It has blue-chip infrastructure with two train lines in and a spur into the Ford site. I understand Ford must be very close to making a decision on who their preferred

partner is to redevelop half of that site, which is effectively the size of a suburb. It would be fantastic to have an industry and innovation hub there to develop jobs. Then we have the international curfew-free airport just at the back door, and we have Sydney Road and the widened Tullamarine Freeway.

This is an opportunity, particularly as we have just come from the ALP national conference, where the strategy was 'a fair go for all'. I was able to initiate a resolution there that the Australian government—if Labor wins under Bill Shorten—will reinvest particularly into these communities. I think it is absolutely important to drive economic growth, new industries and new jobs for the future. It will also have a great social benefit in a whole range of ways. It is not only the right thing to do; it is the smart thing to do, it would help with economic and cultural development and we could use this as a pilot project to show how it can be done.

WATER RESEARCH INSTITUTE

Ms SHEED (Shepparton) (19:50): (20) Speaker, congratulations on your election today as Speaker. My adjournment is for the Minister for Water, and the action I seek is that she establish a research body to advance an evidence-based evaluation of water resource management in regional areas. Water management and evaluation in Victoria has undergone a significant transformation in recent years as a result of both Victorian government water reforms and the implementation of the Murray-Darling Basin plan. However, there has been a sharp decline in contestable Australian research and development for water research funding, estimated at \$60 million prior to 2012 compared to \$10 million in 2018, creating a significant risk in terms of Victoria's capacity to respond to current and future water challenges. We have seen some extraordinary challenges in recent times as a result of the rollout of the Murray-Darling Basin plan, particularly in my electorate and along the Murray and the Darling rivers. We do at times see groups of scientists—such as the Wentworth Group—performing a strong advocacy role, and I am really concerned about the need for us to have a truly independent water research institute within Victoria. It is something that we really do not have at the moment. So while the Victorian government does work to take a lead in balancing the environmental water needs in the community, there is a recognised need for further investment in cross-disciplinary evidence-based research. There is also a need to improve communication of environmental outcomes and ongoing challenges in a meaningful way to the communities affected by water recovery and for those further afield.

There has been a lot of talk recently about how environmental water is being used. Is it being usefully used? Is it being delivered to where it needs to be delivered? We see the slumping of banks now along the Goulburn River. We see problems with the Barmah Choke. We have seen the fourth flooding of the Barmah forest in one year. It was never the outcome we wanted to see. There are a lot of challenges associated with inter-valley transfers of water and environmental flows on the back of those deliveries of water down the river that are now creating another set of problems. So while we started out to try and solve a whole lot of environmental problems further down, we are now actually creating some because of these challenges in our own areas. Victoria does need to look to what is happening in our regions and in our state rivers and put together, with Melbourne University and other stakeholders who have shown an interest, a water research body.

PARKDALE SECONDARY COLLEGE

Mr RICHARDSON (Mordialloc) (19:53): (21) It is a pleasure to rise tonight in the adjournment debate and put a matter to the Minister for Education. The action I seek is for the minister to join me at Parkdale Secondary College to get an update and to plan out their future building works. Victoria is in a great phase at the moment. The transformational phase of education in our state is giving students—nearing 1 million now—and their more than 2200 schools the transformational power of a quality education. We on this side know just how important that is for the hope and prosperity of the individual, for our great state and for our nation.

What we have seen in Mordialloc is that investment. That commitment over four years to invest in education has seen that transformational power. We believe that no student can be left behind—ever. Whether it is Yarrabah School, which is being built from the ground up, or whether it is the very successful Parkdale and Mordialloc secondary colleges, which are experiencing multiple stages of investment, these schools matter. Every school matters and every student in Victoria, the Education State, deserves to get ahead. This investment at Parkdale Secondary College is effectively the final stage in their journey, and the now near 1800 students deserve that final investment.

When we think about what the Education State means it is not just a slogan on a numberplate; it is about transforming the outcomes and lives of Victorians, no matter their circumstances, across this great state. I am so proud to now serve in this Parliament as the Parliamentary Secretary for Schools. It is an honour to be able to work with the Deputy Premier, the Minister for Education, who has literally gone to hundreds and hundreds of schools, met those communities and seen the transformational power of investing in schools and in education. In my community this has been profound, and it will continue under a Labor government into the future. In conclusion, I ask the Minister for Education to visit Parkdale Secondary College and talk about their future building needs and what transformational power that will have for us.

CAULFIELD ELECTORATE LEVEL CROSSINGS

Mr SOUTHWICK (Caulfield) (19:56): (22) Thank you, Speaker—and if I could also just indulge and congratulate you on your re-election as Speaker. I raise tonight an important matter for the Minister for Public Transport. The matter I wish to raise is regarding both the Glen Huntly Road and the Neerim Road level crossings, and the action I seek is that the minister match the election commitment that we had at the last election, and that is to have these level crossings removed in this term of government, by 2022, and also that these removals be rail under road and not sky rail.

During the last election there were commitments made regarding these level crossings by both sides. It is something I have been advocating for since 2010, when the Glen Huntly Road and Neerim Road level crossings were both left off the list of the top 50 level crossings. I know the Glen Huntly Road level crossing was highlighted by VicRoads as one of the most dangerous level crossings in the state, and it had been left off the list. I am pleased that both parties went to the election with a commitment to have those level crossings removed, but I do note that it is very important that the removal of these level crossings, which are a bugbear of the community throughout my electorate of Caulfield, is done in a timely fashion and that this government is committed to doing them within the time frame of 2022 and to doing road under rail and certainly not sky rail.

MENTAL HEALTH IN SCHOOLS PROGRAM

Mr TAYLOR (Bayswater) (19:57): (23) I wish to raise a matter for the Minister for Education. The action I seek is for the minister to visit Bayswater Secondary College to discuss with the school community the benefits of employing mental health professionals in secondary schools.

We all know someone who has been touched by mental health issues. Many of us have had personal experiences. My community is no different. In my electorate every year 1321 adults will experience a severe mental illness, and 45 per cent of people will experience a mental health episode in their lifetime. The statistics are just as confronting when we look at young people. One in seven Victorians between the ages of four and 17 are estimated to have a mental health issue. As the Premier put it, if there is an assembly of 700 kids, on average 100 of them need support for mental health issues, and we know that there is a higher prevalence in secondary schools.

Mental health is a priority of mine, and I am incredibly proud that it is also a priority of this government. We are already in the process of delivering a royal commission into mental health, which is an absolute game changer. I was also very proud of our announcement that every government secondary school student in Victoria will have access to mental health support.

The Mental Health in Schools program will allow schools across Victoria to employ over 190 qualified mental health professionals, such as counsellors, youth workers or psychologists. Every government secondary school will receive one in five days a week of support for a mental health professional. But we know we do not just need to treat mental health issues; we also need to prevent them arising in the first place. That is why I was really pleased that part of the role of these mental health professionals will be leading prevention activities and equipping school staff for the necessary skills to manage student mental health. This will help develop coordinated responses to mental health issues in schools and ensure a broader approach to student wellbeing. It is so important that young people have access to mental health support services—both treatment services and early intervention support.

I thank the minister for this vital program and look forward to him visiting Bayswater Secondary College to discuss the benefits of this program for local students.

RESPONSES

Mr CARROLL (Niddrie—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (19:59): There were a number of matters raised tonight. The Deputy Leader of the Opposition and member for Eildon raised a matter for the Minister for Roads concerning Woods Point Road near McMahons Creek. The member for Essendon raised a matter for the Minister for Education concerning the Flemington education plan. The member for Mornington raised a planning matter for the Minister for Planning concerning overdevelopment at 1158 Nepean Highway, Mornington. The member for Yan Yean raised a matter for the Minister for Education concerning the Mental Health in Schools program. The member for Ovens Valley raised a matter for the Minister for Agriculture in the other place concerning flood-affected communities within the member's electorate.

The member for Broadmeadows raised a matter for the Minister for Suburban Development concerning a response to the Revitalising Broadmeadows action plan that he has devised. The Independent member for Shepparton raised a matter for the Minister for Water concerning the need for research and an evidence-based body for water management in regional Victoria. The member for Mordialloc raised the Education State for the Minister for Education concerning Parkdale Secondary College and the need for planning and capital works. The member for Caulfield raised a matter for the Minister for Public Transport concerning the grade separations at Glen Huntly Road and Neerim Road level crossings. The member for Bayswater also raised a matter for the Minister for Education concerning the Mental Health in Schools program, with a focus on prevention and coordination. I will pass all these matters on.

The SPEAKER: I wish all members and staff a very merry Christmas, a relaxing break and a safe return next year. The house is now adjourned.

House adjourned 8.02 p.m. until Tuesday, 5 February 2019.