



# LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS

### No. 87 — Wednesday, 9 December 2020

*Proof Version*

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- 1 The President took the Chair at 9.34 a.m., read the Prayer and made an Acknowledgement of Country.
  - 2 **PETITION — DISCRIMINATION IN PUBLIC SCHOOL CHAPLAIN APPOINTMENTS** — Ms Patten presented a Petition bearing 370 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to stop advertisements for public school chaplaincy roles from excluding non-Christian applicants and require School Chaplaincy Providers to select school chaplains on merit, irrespective of their religious affiliation or non-affiliation.  
Ordered to lie on the Table.  
On the motion of Ms Patten, the petition was ordered to be taken into consideration on the next day of meeting.
  - 3 **PAPERS PURSUANT TO STATUTE** — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:
    - Auditor-General's Reports on —
      - Sexual Harassment in Local Government, December 2020 (*Ordered to be published*).
      - Systems and Support for Principal Performance, December 2020 (*Ordered to be published*).
    - Commission for Children and Young People — Keep caring: Systemic inquiry into services for young people transitioning from out-of-home care (*Ordered to be published*).
    - Community Visitors — Report, 2019-20 (*Ordered to be published*).
    - Fisheries Act 1995 — Report on the disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2019-20.
    - Public Health and Wellbeing Act 2008 — Report to Parliament on the Extension of the Declaration of a State of Emergency, under section 198(8A) of the Act.
    - Victorian Fisheries Authority — Report, 2019-20.
    - Victorian Ports Corporation (Melbourne) — Report, 2019-20.
  - 4 **EXTENSION OF GENERAL BUSINESS TODAY** — Mr Davis moved, by leave, That Standing and Sessional Orders be suspended to the extent necessary to allow the time for the consideration of General Business today to be extended by up to 20 minutes and require the Chair to interrupt business no later than 5.35 p.m. for Statements on Reports, Papers and Petitions.  
Question — put and agreed to.
  - 5 **MEMBERS' STATEMENTS** — Statements were made by Members pursuant to Standing Order 5.13 and further statements were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

**6 TAXI AND HIRE CAR LICENCES** — Debate resumed on the question, That this House —

- (1) acknowledges that —
- (a) in 1998, the High Court of Australia determined that a taxi licence was a valuable item of property;
  - (b) since the commencement of the *Commercial Passenger Vehicle Industry Act 2017*, the revocation of perpetual Victorian taxi and hire car licences amounted to a compulsory government asset acquisition;
  - (c) the revocation of perpetual Victorian taxi and hire car licences for a fraction of their worth constitutes a breach of the *Charter of Human Rights and Responsibilities Act 2006*;
  - (d) arbitrary transition assistance payments in lieu of some, but not all, perpetual Victorian taxi and hire car licences was grossly inadequate and unfair;
  - (e) the deregulation of the industry in 2017 has —
    - (i) created a glut of commercial passenger vehicles on our roads;
    - (ii) reduced driver income to well below minimum wage;
    - (iii) threatened the economic viability of the industry;
    - (iv) caused worsening traffic congestion;
- (2) calls on the Andrews Government to —
- (a) accept a financial proposal to properly compensate the industry for the compulsory asset acquisition of all perpetual Victorian taxi and hire car licences;
  - (b) make adjustments to the commercial passenger vehicle industry structure to better balance market components and end driver exploitation; and
  - (c) support a recovery plan to build back and move the commercial passenger vehicle industry forward through COVID-19.

Question — put.

The Council divided — The President in the Chair.

AYES, 19

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr Meddick; Mr O'Donohue; Mr Ondarchie; Ms Patten; Dr Ratnam.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

NOES, 18

Mr Elasmarr; Mr Erdogan; Mr Gepp; Dr Kieu; Mr Leane; Mr Limbrick; Mr Melhem; Ms Pulford; Mr Quilty; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

Question agreed to.

**7 REVOCATION OF MOORABOOL PLANNING SCHEME AMENDMENT C95** — Mr Davis moved, That this House, pursuant to section 38(2) of the *Planning and Environment Act 1987*, revokes Amendment C95 to the Moorabool Planning Scheme.

Debate ensued.

*The Deputy President advised that the total time allocated for debate, pursuant to Sessional Order 8, had elapsed —*

Question — put.

The Council divided — The President in the Chair.

AYES, 18

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr Meddick; Mr O'Donohue; Mr Ondarchie; Dr Ratnam.

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## NOES, 19

Mr Elasmarr; Mr Erdogan; Mr Gepp; Dr Kieu; Mr Leane; Mr Limbrick; Mr Melhem; Ms Patten; Ms Pulford; Mr Quilty; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

Question negatived.

**8 BUSINESS POSTPONED** — Ordered — That the consideration of Notice of Motion, General Business, No. 453, be postponed until later this day.

**9 NICOTINE VAPING** — Mr Limbrick moved, That this House notes that —

- (1) according to the Australian Institute of Health and Welfare, smoking was responsible for 9.3 per cent of the total burden of disease in Australia in 2015 and for more than one in every eight deaths;
- (2) the *Australian Institute of Health and Welfare's National Drug Strategy Household Survey 2019* Report shows that despite a de facto ban on nicotine e-liquids, the rate of vaping has more than doubled since 2016, with 2.5 per cent of the population aged 14 years and over now using e-cigarettes;
- (3) the Report showed that vaping is primarily used as a quitting tool by smokers, with 44 per cent using it to quit, 32 per cent to cut down on smoking, 23 per cent to avoid relapse and 27 per cent to reduce harm from smoking;
- (4) according to the United Kingdom's Royal College of Physicians, nicotine vaping is at least 95 per cent safer than smoking;
- (5) regulation needs to strike the right balance between providing access for addicted smokers, while enforcing a minimum age of sale and strict penalties to discourage uptake by youth; and calls on the Government to support tobacco harm reduction by nicotine vaping as a safer alternative for smokers who are unable to quit through other methods and legalise nicotine liquid for vaping as a consumer product with appropriate and risk-proportionate regulations.

*Business having been interrupted at 12.00 noon pursuant to Sessional Orders —*

**10 QUESTIONS AND MINISTERS' STATEMENTS** — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

**HARDWOOD TIMBER INDUSTRY** — Ms Symes having given an answer to a question without notice relating to the hardwood timber industry —

On the motion of Ms Bath, the Minister's answer was ordered to be taken into consideration on the next day of meeting.

**QUESTIONS** — Questions without notice continued.

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**QUESTIONS DIRECTED FOR WRITTEN RESPONSE** — The President directed written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Permit system for public protests** — substantive question asked by Mr O'Donohue — response from Ms Symes due Friday, 11 December 2020.
- **Veterans' housing** — substantive and supplementary questions asked by Dr Cumming — response from Ms Stitt due Friday, 11 December 2020.

**11 CONSTITUENCY QUESTIONS** — Constituency questions were taken pursuant to Standing Order 8.08 and further questions were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

**12 NICOTINE VAPING** — Debate continued on the question, That this House notes that —

- (1) according to the Australian Institute of Health and Welfare, smoking was responsible for 9.3 per cent of the total burden of disease in Australia in 2015 and for more than one in every eight deaths;
- (2) the *Australian Institute of Health and Welfare's National Drug Strategy Household Survey 2019* Report shows that despite a de facto ban on nicotine e-liquids, the rate of vaping has more than doubled since 2016, with 2.5 per cent of the population aged 14 years and over now using e-cigarettes;

- (3) the Report showed that vaping is primarily used as a quitting tool by smokers, with 44 per cent using it to quit, 32 per cent to cut down on smoking, 23 per cent to avoid relapse and 27 per cent to reduce harm from smoking;
- (4) according to the United Kingdom's Royal College of Physicians, nicotine vaping is at least 95 per cent safer than smoking;
- (5) regulation needs to strike the right balance between providing access for addicted smokers, while enforcing a minimum age of sale and strict penalties to discourage uptake by youth; and calls on the Government to support tobacco harm reduction by nicotine vaping as a safer alternative for smokers who are unable to quit through other methods and legalise nicotine liquid for vaping as a consumer product with appropriate and risk-proportionate regulations.

*The Acting President advised that the total time allocated for debate, pursuant to Sessional Order 8, had elapsed —*

Question — put and agreed to.

**13 RIGHT TO PROTEST** — Mr Quilty moved, That this House —

- (1) notes that —
  - (a) free assembly and expression are fundamental and well-recognised human rights, essential to the functioning of a free and democratic society, as recognised in —
    - (i) Articles 19 and 20 of the United Nations' *Universal Declaration of Human Rights*, adopted by the UN with Australia's support;
    - (ii) Articles 19 and 21 of the *International Covenant on Civil and Political Rights* to which Australia is a signatory;
    - (iii) rulings of the High Court of Australia, including the 1997 *Lange v Australian Broadcasting Corporation* case, which accepts that Australians enjoy an implied freedom of political communication;
    - (iv) sections 15 and 16 of the *Charter of Human Rights and Responsibilities Act 2006*;
  - (b) Australian law and the High Court decision in *Lange* recognises that certain measures may limit these rights but such limitations must be reasonably appropriate and adapted to a legitimate purpose;
  - (c) public health restrictions throughout the pandemic restricted the right to free assembly and provided no reasonable way for protesters to gather safely and in compliance with the law;
- (2) calls on the Government to restore and protect the right to free assembly in Victoria by —
  - (a) relaxing restrictions as far as is necessary;
  - (b) providing clear guidance on how the right to protest may be lawfully exercised in Victoria; and
  - (c) ensuring that future public health directions allow for protesting to be a legitimate reason to leave the home.

Debate ensued.

Question — put.

The Council divided — The President in the Chair.

AYES, 15

Mr Atkinson; Ms Bath; Mr Bach Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr Ondarchie; Ms Patten; Mr Quilty; Dr Ratnam; Mr Rich-Phillips.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

NOES, 21

Mr Barton; Mr Elasmarr; Mr Erdogan; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Pulford; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

Question negatived.

- 14 AUSTRALIA'S DISPUTE WITH THE CHINESE COMMUNIST PARTY OVER ITS USE OF FAKE IMAGES** — Mr Davis moved, That this House does not support the use of doctored fake images of Australian soldiers by the Chinese Communist Party as a continuing campaign attacking Australia's interests.

*Business having been interrupted pursuant an Order of the Council earlier this day, the debate stood adjourned in the name of Mr Davis.*

- 15 STATEMENTS ON REPORTS, PAPERS AND PETITIONS** — Statements on reports, papers and petitions were made by Members pursuant to Sessional Order 16.

- 16 ASSENT TO ACT** — The President read a Message from the Governor informing the Council that she had, this day, given the Royal Assent to the following Act presented to her by the Clerk of the Parliaments:

*Public Health and Wellbeing Amendment (Quarantine Fees) Act 2020.*

- 17 ADJOURNMENT** — Mr Leane moved, That the House do now adjourn.

Debate ensued and responses to certain Adjournment matters were circulated pursuant to Standing Order 4.13.

And then the Council, at 6.06 p.m., adjourned until tomorrow.

ANDREW YOUNG  
*Clerk of the Legislative Council*