



# LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS

### Nos. 95, 96 and 97

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#### No. 95 — Tuesday, 2 March 2021

- 1 The President took the Chair at 12.06 p.m., read the Prayer and made an Acknowledgement of Country.
- 2 **ASSENT TO ACTS** — The President read Messages from the Governor informing the Council that she had, on the following dates, given the Royal Assent to the following Acts presented to her by the Clerk of the Legislative Assembly:

On 23 February 2021 —

*Owners Corporations and Other Acts Amendment Act 2021*

*Workplace Injury Rehabilitation and Compensation Amendment (Provisional Payments) Act 2021*

On 2 March 2021 —

*Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021.*

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

Answers to certain questions on notice were circulated pursuant to Standing Order 8.12.

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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:

- **Access to VicRoads registration details by petrol retailers** — substantive and supplementary questions asked by Dr Cumming — response from Ms Pulford due Thursday, 4 March 2021.
- **Bright hospital redevelopment** — substantive and supplementary questions asked by Ms Maxwell — response from Ms Symes due Thursday, 4 March 2021.
- **Cryptocurrency usage in Victoria** — substantive and supplementary questions asked by Ms Patten — response from Ms Pulford due Thursday, 4 March 2021.

- 4 **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.

- 5 **PETITIONS** —

**NO SECONDARY LEAD SMELTER IN HAZELWOOD NORTH** — Ms Bath presented a Petition bearing 2,355 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to revoke the planning approval for the Used Lead Acid Battery recycling facility in Hazelwood North and prioritise the health, safety and wellbeing of Hazelwood North residents and the Latrobe Valley community, honouring their Health Innovation Zone commitment.

Ordered to lie on the Table.

**VOTE AGAINST THE PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021** — Mr Limbrick presented a Petition bearing 7,626 signatures from certain citizens of Victoria requesting that the Legislative Council vote against the Public Health and Wellbeing Amendment (State of Emergency Extension) Bill 2021.

Ordered to lie on the Table.

## 6 PAPERS —

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE — ALERT DIGEST** — Pursuant to section 35 of the *Parliamentary Committees Act 2003*, Mr Gepp presented Alert Digest No. 3 of 2021 (including Appendices) from the Scrutiny of Acts and Regulations Committee.

Ordered to be published.

Mr Gepp moved, That the Council take note of the Report.

Debate ensued.

Question — put and agreed to.

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**PAPERS PURSUANT TO STATUTE** — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Acting Clerk:

Australian Children's Education and Care Quality Authority — Report, 2019-20.

Commissioner for Environmental Sustainability Victoria — Strategic Audit: Implementation of environmental management systems in Victorian Government, 2019-20.

Education and Care Services National Law Act 2010 — National Education and Care Services Freedom of Information and Privacy Commissioners and Ombudsman — Report, 2019-20.

Family Violence and Protection Act 2008 — Evaluation of the Amendment to Section 31 of the *Family Violence Protection Act 2008* (Vic) — Family Violence Safety Notices, Final Report, February 2021, under section 230A of the Act.

Inquiries Act 2014 — Royal Commission into Victoria's Mental Health System, Final Report (six documents) (*Ordered to be published*).

Planning and Environment Act 1987 —

Infrastructure Contributions and Development Contribution Levies — Report, 2019-20, under section 46GZJ of the Act.

Notices of Approval of the following amendments to planning schemes —

Glen Eira Planning Scheme — Amendment C222.

Greater Geelong Planning Scheme — Amendment C366.

Melton Planning Scheme — Amendments C216 and C226.

Moyne Planning Scheme — Amendment C73.

Victoria Planning Provisions — Amendment V10.

Statutory Rules under the following Acts of Parliament —

Occupational Health and Safety Act 2004 — No. 8.

Subordinate Legislation Act 1994 — No. 7.

Victims of Crime Assistance Act 1996 — No. 9.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 7.

Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 — Guidelines No. 1/2021, effective 1 May 2021, under section 36 of the Act.

Wildlife Act 1975 — Wildlife (Prohibition of Game Hunting) Notice (*Gazette No. S69, 12 February 2021*).

## 7 BUSINESS OF THE COUNCIL

— Mr Davis moved, by leave, That precedence be given to the following General Business on Wednesday, 3 March 2021 —

- (1) the notice of motion given this day by Mr Davis to revoke, in part, Amendment VC190 to the Victoria Planning Provisions;
- (2) Notice of Motion No. 502 standing in the name of Mr Meddick on companion animals in family violence;

- (3) the notice of motion given this day by Mr Meddick on the production of documents relating to the decision to kill kangaroos for human consumption;
- (4) the notice of motion given this day by Mr Davis on the impact of COVID-19 on small retail and other businesses in Melbourne's strip shopping centres; and
- (5) the notice of motion given this day by Mr O'Donohue on investigating the occupational health and safety risks and corresponding responsibilities for duty holders within the Hotel Quarantine Program.

Question — put and agreed to.

- 8 ECONOMY AND INFRASTRUCTURE COMMITTEE MEMBERSHIP** — Mr Davis moved, by leave, That Ms Lovell be a participating member of the Standing Committee on the Economy and Infrastructure.

Question — put and agreed to.

- 9 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.

- 10 BUSINESS POSTPONED** — Ordered — That the consideration of Notices of Motion, Government Business, Nos. 403 to 447, be postponed until later this day.

- 11 PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021** — Debate resumed on the question, That the Bill be now read a second time.

Amendments proposed to be moved in Committee by Mr Davis and Ms Symes were circulated.

*Business having been interrupted at 6.30 p.m. pursuant to Sessional Order 1 —*

*[Sitting suspended from 6.30 p.m. to 7.30 p.m.]*

Debate continued.

Question — put.

The Council divided — The President in the Chair.

AYES, 19

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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)*

NOES, 18

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

Question agreed to.

Bill read a second time and ordered to be committed to a Committee of the whole later this day.

- 12 PRODUCTION OF DOCUMENTS — MULTI PURPOSE TAXI PROGRAM TRIAL** — The Acting Clerk laid on the Table a letter from the Attorney-General, dated 2 March 2021, in response to the Resolution of the Council of 3 February 2021 (on the motion of Mr Barton), relating to the Multi Purpose Taxi Program trial, advising that there was insufficient time to respond and that a final response to the Order would be provided as soon as possible.

- 13 PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021** — Bill committed to a Committee of the whole.

House in Committee.

*Business having been interrupted at 10.00 p.m. pursuant to Standing Orders —*

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Ms Symes declared, That the sitting be extended by up to one hour pursuant to Standing Order 4.08.

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Bill further considered in Committee of the whole.

Bill reported with amendments, the Report was adopted.

Ms Symes moved, That the Bill be now read a third time.

Question — That the Bill be now read a third time and do pass — put.

The Council divided — The President in the Chair.

AYES, 19

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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)*

NOES, 18

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

Question agreed to.

Bill read a third time.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill with amendments and requesting their agreement.

**14 ADJOURNMENT** — Ms Symes 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 11.23 p.m., adjourned until tomorrow.

ANNE SARGENT

*Acting Clerk of the Legislative Council*

## No. 96 — Wednesday, 3 March 2021

- 1 The President took the Chair at 9.35 a.m., read the Prayer and made an Acknowledgement of Country.
- 2 **PAPERS PURSUANT TO STATUTE** — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Acting Clerk:
  - Duties Act 2000 — Treasurer's Report for 1 July to 31 December 2020 of Foreign Purchaser Additional Duty Exemptions under section 3E of the Act.
  - Parliamentary Committees Act 2003 — Government response to the Public Accounts and Estimates Committee's Interim Report on the Inquiry into the Victorian Government's response to the COVID-19 pandemic.
  - Public Health and Wellbeing Act 2008 — 11<sup>th</sup> Report to Parliament on the Extension of the Declaration of the State of Emergency, under section 198(8A) of the Act.
  - Subordinate Legislation Act 1994 — Legislative instruments and related documents under section 16B in respect of Service Victoria Identity Verification Standards of 23 February 2021 under the Service Victoria Act 2018.
  - Voluntary Assisted Dying Act 2017 — Voluntary Assisted Dying Review Board's Report of Operations, July to December 2020.
- 3 **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.
- 4 **REVOCATION OF PLANNING SCHEME AMENDMENT VC190** — Mr Davis moved, That this House —
  - (1) notes that —
    - (a) the Minister for Energy, Environment and Climate Change, on 12 November 2020 approved, and on 8 December 2020 tabled, Amendment VC190 to the Victoria Planning Provisions (VPP);

- (b) the changes to the VPP and all planning schemes in Victoria include introducing a new particular provision, Victoria's Big Housing Build at Clause 52.20;
  - (c) Clause 52.20 removes the need for a planning permit to develop a housing project if funded under Victoria's Big Housing Build and supported by the Director of Housing; and
- (2) pursuant to section 38(2) of the *Planning and Environment Act 1987*, revokes Clause 52.20 of Amendment VC190 to the Victoria Planning Provisions.

Debate ensued.

Dr Bach moved, as amendments, That —

1. In paragraph (1)(a) **omit** "Amendment" and **insert** "Amendments VC187 and" in its place.
2. **Omit** all the words in paragraph (1)(b) and replace them with:  
"the changes to the VPP and all planning schemes in Victoria made by VC187 include a new provision at clause 53.20 to facilitate the planning permit process for housing projects by or on behalf of the Director of Housing and the modification to clause 72.01 specifies circumstances where an application assessed under the new clause 53 is determined by the Minister where there is an application to develop more than 10 dwellings, construct or extend an apartment development, or construct or extend a dwelling in or forming part of an apartment development;"
3. **Omit** all the words in paragraph (1)(c) and replace them with:  
"the changes to the VPP and all planning schemes in Victoria made by VC190 include introducing a new particular provision, Victoria's Big Housing Build at clause 52.20 which expedites the planning assessment and approval process for large scale social and affordable housing projects and amending clause 72.01 to specify the Minister as the responsible authority for the use and development of land that clause 52.20 applies to; and"
4. In paragraph (2) **omit** "Clause 52.20 of Amendment" and **insert** "Amendments VC187 and".

Debate ensued.

Question — That the amendments moved by Dr Bach be agreed to — put.

The Council divided — The President in the Chair.

AYES, 14

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Hayes; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 23

Mr Barton; Mr Bourman; Mr Elasmr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Dr Kieu; Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Tierney; Ms Vaghela; Ms Watt.

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

Question negated.

Original question — put.

The Council divided — The President in the Chair.

AYES, 12

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Hayes; Ms Lovell; Mrs McArthur; Mr O'Donohue; Mr Rich-Phillips.

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

NOES, 25

Mr Barton; Mr Bourman; Mr Elasmr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Dr Kieu; Mr Leane; Mr Limbrick; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Mr Quilty; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Tierney; Ms Vaghela; Ms Watt.

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

Question negated.

**5 COMPANION ANIMALS IN FAMILY VIOLENCE** — Mr Meddick moved, That this House —

- (1) recognises that —
  - (a) animal abuse is a form of family violence (FV);
  - (b) in the context of FV, animals are vulnerable individuals;
  - (c) in our society, companion animals are considered family members;
  - (d) in our laws, companion animals are considered property;
- (2) notes that while some of the legal frameworks around FV are silent on companion animals, the Government is continuing to embed practices to protect companion animals in the application of these laws and the delivery of service;
- (3) calls on the Government to consider —
  - (a) financial assistance to support victim survivors of FV, including for the care of animals;
  - (b) advocacy to the federal Government to include companion animals as victims of FV for the purposes of FV leave;
- (4) further calls on the Government to ensure that —
  - (a) a review of the *Family Violence Protection Act 2008* is undertaken to develop amendments to recognise that companion animals are affected by FV and require protection;
  - (b) in the context of paragraph (4)(a), policy options are developed to enable companion animals to be placed in the care of either the victim survivor or other appropriate carers to protect their best interests;
  - (c) the knowledge base about the abuse of animals in the context of FV continues to be built and embedded at all levels of society; and
  - (d) FV service providers are supported to implement risk assessment frameworks which identify the necessary risk management responses for women, children and animals, enabling them all to live safely without violence.

Debate ensued.

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

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

**I COOK FOODS ALLEGATIONS** — Mr Leane having given answers to a question without notice and supplementary question relating to I Cook Foods allegations —

On the motion of Ms Crozier, the Minister's answers were ordered to be taken into consideration on the next day of meeting.

**QUESTIONS** — Questions without notice and Ministers' Statements continued and an answer to a question on notice was circulated pursuant to Standing Order 8.12.

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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:

- **Gippsland native timber protestors** — substantive and supplementary questions asked by Ms Bath — response from Ms Stitt due Friday, 5 March 2021.
- **Uber passenger safety** — substantive and supplementary questions asked by Mr Barton — response from Ms Pulford due Friday, 5 March 2021.
- **TAFE financial audits** — supplementary question asked by Dr Bach — response from Ms Tierney due Thursday, 4 March 2021.
- **Firewood collection** — substantive and supplementary questions asked by Mr Bourman — response from Mr Leane due Friday, 5 March 2021.

**7 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.**8 COMPANION ANIMALS IN FAMILY VIOLENCE** — Debate continued on the question, That this House —

- (1) recognises that —
  - (a) animal abuse is a form of family violence (FV);

- (b) in the context of FV, animals are vulnerable individuals;
  - (c) in our society, companion animals are considered family members;
  - (d) in our laws, companion animals are considered property;
- (2) notes that while some of the legal frameworks around FV are silent on companion animals, the Government is continuing to embed practices to protect companion animals in the application of these laws and the delivery of service;
- (3) calls on the Government to consider —
- (a) financial assistance to support victim survivors of FV, including for the care of animals;
  - (b) advocacy to the federal Government to include companion animals as victims of FV for the purposes of FV leave;
- (4) further calls on the Government to ensure that —
- (a) a review of the *Family Violence Protection Act 2008* is undertaken to develop amendments to recognise that companion animals are affected by FV and require protection;
  - (b) in the context of paragraph (4)(a), policy options are developed to enable companion animals to be placed in the care of either the victim survivor or other appropriate carers to protect their best interests;
  - (c) the knowledge base about the abuse of animals in the context of FV continues to be built and embedded at all levels of society; and
  - (d) FV service providers are supported to implement risk assessment frameworks which identify the necessary risk management responses for women, children and animals, enabling them all to live safely without violence.

Question — put and agreed to.

**9 BUSINESS POSTPONED** — Ordered — That the consideration of Notice of Motion, General Business, No. 508, be postponed until later this day.

**10 IMPACT OF COVID-19 ON SMALL BUSINESSES IN STRIP SHOPPING CENTRES** — Mr Finn (for Mr Davis) moved, That this House —

- (1) notes the devastating impact of the COVID-19 pandemic on small retail and other businesses in strip shopping centres in metropolitan Melbourne, and in particular central Melbourne;
- (2) calls on the Andrews Labor Government to urgently release —
  - (a) a package of measures to support Melbourne's central business district, particularly businesses and jobs in the retail and hospitality sectors; and
  - (b) a support package to prevent further decline in metropolitan strip shopping centres and revive these centres as local community activity and employment districts.

Debate ensued.

Question — put and agreed to.

**11 HOTEL QUARANTINE PROGRAM — OCCUPATIONAL HEALTH AND SAFETY** —

Mr O'Donohue moved, That this House calls on the Minister for Workplace Safety, the Hon Ingrid Stitt MLC, to exercise her power, confirmed in section 7(1)(a) of the *Occupational Health and Safety Act 2004*, to direct WorkSafe Victoria to —

- (1) conduct an urgent investigation into all occupational health and safety risks and corresponding responsibilities for duty holders within the Hotel Quarantine Program managed by COVID-19 Quarantine Victoria and its predecessors with responsibility for hotel quarantine;
- (2) ensure the report includes details of the health and safety risks and corresponding responsibilities for duty holders;
- (3) complete the inquiry and present a Report to the Minister for Workplace Safety by 31 May 2021; and
- (4) cause the Report to be tabled in the Council on the next sitting day after it has been received from WorkSafe Victoria.

Debate ensued.

*Business having been interrupted at 5.15 p.m. pursuant to Sessional Orders —*

- 12 STATEMENTS ON REPORTS, PAPERS AND PETITIONS** — Statements on reports, papers and petitions were made by Members pursuant to Sessional Order 16.
- 13 PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021** — The President read a Message from the Assembly informing the Council that they had agreed to the amendments made by the Council in this Bill.
- 14 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 6.05 p.m., adjourned until tomorrow.

ANNE SARGENT  
*Acting Clerk of the Legislative Council*

## No. 97 — Thursday, 4 March 2021

- 1** The President took the Chair at 10.05 a.m., read the Prayer and made an Acknowledgement of Country.
- 2 ELECTORAL MATTERS COMMITTEE MEMBERSHIP** — The President read a letter from Ms Lizzie Blandthorn resigning from the Electoral Matters Committee, effective from Wednesday, 3 March 2021.  
Ms Symes moved, by leave, That Mr Erdogan be a member of the Electoral Matters Committee.  
Question — put and agreed to.
- 3 PETITION — FREEDOM OF THE PRESS** — Dr Cumming presented a Petition bearing 1,318 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to defend and strengthen freedom of the press in Victoria and to guarantee that journalists are free to attend press conferences without political or police interference.  
Ordered to lie on the Table.  
On the motion of Dr Cumming, the petition was ordered to be taken into consideration on the next day of meeting.
- 4 HOUSING AMENDMENT (ENDING HOMELESSNESS) BILL 2021** — Dr Ratnam introduced *A Bill for an Act to amend the Housing Act 1983 in relation to the development of a plan to end homelessness and the imposition of requirements relating to the provision of housing and for other purposes.*  
On the motion of Dr Ratnam, the Bill was read a first time and ordered to be read a second time on the next day of meeting.
- 5 PAPERS —**  
**LEGAL AND SOCIAL ISSUES COMMITTEE — INQUIRY INTO HOMELESSNESS IN VICTORIA** — Pursuant to Standing Order 23.29, Ms Patten laid on the Table the Final report from the Legal and Social Issues Committee on the Inquiry into homelessness in Victoria (including Appendices), and further presented Transcripts of Evidence and a Summary booklet.  
Ordered that the Transcripts of Evidence lie on the Table and the Final report and Summary booklet be published.  
Ms Patten moved, That the Council take note of the Report.  
Debate ensued.  
Question — put and agreed to.

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**PAPER PURSUANT TO STATUTE** — The following Paper, pursuant to the direction of an Act of Parliament, was laid on the Table by the Acting Clerk:

Caulfield Racecourse Reserve Trust — Minister's report of receipt of the 2019-20 report.

**6 PRODUCTION OF DOCUMENTS — AUDITING HOTELS USED IN THE HOTEL QUARANTINE PROGRAM** — The Acting Clerk laid on the Table a letter from the Attorney-General, dated 3 March 2021, in response to the Resolution of the Council of 18 February 2021 (on the motion of Ms Crozier), relating to auditing hotels used in the hotel quarantine program, advising that there was insufficient time to respond and that a final response to the Order would be provided as soon as possible.

**7 SITTING OF THE COUNCIL** — Ms Symes moved, That the Council, at its rising, adjourn until Tuesday, 16 March 2021.

Question — put and agreed to.

**8 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.

**9 BUSINESS POSTPONED** — Ordered — That the consideration of Notices of Motion, Government Business, Nos. 403 to 447 be postponed until later this day.

**10 CONSTITUTION AMENDMENT (FRACKING BAN) BILL 2020** — Debate resumed on the question, That the Bill be now read a second time.

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

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

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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:

- **Review of duck hunting season** — substantive and supplementary questions asked by Mr Meddick — response from Ms Tierney due Tuesday, 9 March 2021.
- **Commercial passenger vehicle illegal advertising** — substantive and supplementary questions asked by Mr Barton — response from Ms Pulford due Tuesday, 9 March 2021.
- **Electric vehicle manufacturing industry support** — substantive and supplementary questions asked by Ms Bath — response from Ms Pulford due Tuesday, 9 March 2021.

**12 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.

**13 CONSTITUTION AMENDMENT (FRACKING BAN) BILL 2020** — Debate continued on the question, That the Bill be now read a second time.

Mr Limbrick moved, as a reasoned amendment, That all the words after “That” be omitted and replaced with the words “this House refuses to read this Bill a second time until a Select Committee of eight Members is appointed to inquire into, consider and their report is presented to the House, no later than 2 August 2021, in accordance with the following terms —

- (1) the Committee will examine the potential legal and democratic consequences of utilising the entrenchment provisions of the *Constitution Act 1975* to enshrine Government policy priorities as contemplated by the Constitution Amendment (Fracking Ban) Bill 2020, and in particular —
  - (a) the views and opinions of academic and legal experts;
  - (b) the nature and intent of section 6 of the Australia Act 1986 (Cth) and the implications for this Bill;
  - (c) relevant case law from the High Court of Australia;
  - (d) any legal advice the Government received in drafting the Bill;
  - (e) community views on the role of the Victorian Constitution;
- (2) the Committee will consist of four Members from the Government Party nominated by the Leader of the Government in the Council, two Members from the Opposition nominated by the Leader of the Opposition in the Council, two Members from among the remaining Members in the Council nominated jointly by minority groups and independent Members;

- (3) the Members will be appointed by lodgement of the names with the President by the persons referred to in paragraph (2) no later than 4.00 p.m. on the day following the House resolving to establish the Committee;
- (4) the first meeting of the Committee must be held no later than 14 days after the day on which the House resolves to establish the Committee;
- (5) the Committee may proceed to the despatch of business notwithstanding that all Members have not been appointed and notwithstanding any vacancy;
- (6) one half of the Members appointed pursuant to paragraph (3) will constitute a quorum of the Committee;
- (7) the Chair of the Committee will be a non-Government Member and the Deputy Chair will be a Government Member;
- (8) in addition to exercising a deliberative vote, when votes on a question are equally divided, the Chair, or the Deputy Chair when acting as chair, shall have a casting vote;
- (9) the Committee may commission persons to investigate and report to the Committee on any aspects of its inquiry; and
- (10) the foregoing provisions of this resolution, so far as they are inconsistent with the Standing Orders and Sessional Orders or practices of the Council will have effect notwithstanding anything contained in the Standing or Sessional Orders or practices of the Council.”.

Debate ensued.

Question — That the reasoned amendment moved by Mr Limbrick be agreed to — put.

The Council divided — The President in the Chair.

AYES, 12

Mr Atkinson; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Limbrick; Ms Lovell; Mrs McArthur; Mr O’Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 23

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

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

Question negatived.

Question — That the Bill be read a second time — put.

The Council divided — The President in the Chair.

AYES, 32

Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Elasmarr; Mr Erdogan; Mr Finn; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr Meddick; Mr Melhem; Mr O’Donohue; Ms Patten; Ms Pulford; Dr Ratnam; Mr Rich-Phillips; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Tierney; Ms Watt.

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

NOES, 3

Mr Atkinson; Mr Limbrick; Mr Quilty.

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

Question agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

Bill reported without amendment, the Report was adopted.

Ms Symes moved, That the Bill be now read a third time.

Question — That the Bill be now read a third time — put.

The Council divided — The President in the Chair.

## AYES, 30

Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr Meddick; Mr Melhem; Mr O'Donohue; Ms Patten; Ms Pulford; Dr Ratnam; Mr Rich-Phillips; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Tierney; Ms Watt.

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

## NOES, 4

Mr Atkinson; Dr Cumming; Mr Limbrick; Mr Quilty.

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

Question agreed to.

Bill read a third time with the concurrence of a special majority of the whole number of the Members of the Legislative Council and passed.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

- 14 BUSINESS POSTPONED** — Ordered — That the consideration of Order of the Day, Government Business, No. 2, be postponed until later this day.

- 15 EDUCATION AND TRAINING REFORM AMENDMENT BILL 2020** — Debate resumed on the question, That the Bill be now read a second time.

Question — put and agreed to.

Bill read a second time and, by leave, read a third time and passed.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

- 16 DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2020** — The Acting President read a Message from the Assembly presenting *A Bill for an Act to amend the Drugs, Poisons and Controlled Substances Act 1981 in relation to the supply of hypodermic needles and syringes and the supply, possession and administration of naloxone or other Schedule 2 or Schedule 3 poisons for the treatment of opioid overdose and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Tierney (for Ms Symes), the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Tierney laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Tierney, the second reading speech was incorporated into Hansard.

Ms Tierney moved, That the Bill be now read a second time.

On the motion of Mr Rich-Phillips (for Ms Crozier), the debate was adjourned for one week.

- 17 JUSTICE LEGISLATION AMENDMENT (SYSTEM ENHANCEMENTS AND OTHER MATTERS) BILL 2021** — The Acting President read a Message from the Assembly presenting *A Bill for an Act to amend various courts, integrity entities and justice Acts to provide for the on-going operation of certain processes and procedures implemented during the COVID-19 pandemic, to amend the Independent Broad-based Anti-corruption Commission Act 2011 to provide for the on-going operation of certain processes and procedures implemented during the COVID-19 pandemic and to provide for Deputy Commissioners to be examiners, to amend the Fines Reform Act 2014 in relation to time served and fines, to extend the default commencement and repeal dates of the Justice Legislation Amendment (Criminal Appeals) Act 2019, to consequentially amend the Interpretation of Legislation Act 1984, to extend the operation of certain provisions relating to the COVID-19 pandemic in various Acts and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Tierney (for Ms Symes), the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Tierney laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Tierney, the second reading speech was incorporated into Hansard.

Ms Tierney moved, That the Bill be now read a second time.

On the motion of Mr Rich-Phillips (for Mr O'Donohue), the debate was adjourned for one week.

**18 PLANNING AND ENVIRONMENT AMENDMENT BILL 2021** — The Acting President read a Message from the Assembly presenting *A Bill for an Act to amend the Planning and Environment Act 1987 and for other purposes* and requesting the agreement of the Council.

On the motion of Ms Tierney (for Ms Stitt), the Bill was read a first time and, by leave, ordered to be read a second time forthwith.

Ms Tierney laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Ms Tierney, the second reading speech was incorporated into Hansard.

Ms Tierney moved, That the Bill be now read a second time.

On the motion of Mr Rich-Phillips (for Mr Davis), the debate was adjourned for one week.

**19 ADJOURNMENT** — Ms Tierney moved, That the House do now adjourn.

Debate ensued and a response to an Adjournment matter was circulated pursuant to Standing Order 4.13.

And then the Council, at 5.44 p.m., adjourned until Tuesday, 16 March 2021.

ANNE SARGENT  
*Acting Clerk of the Legislative Council*

# COMMITTEE OF THE WHOLE COUNCIL

## Supplement to Minutes Nos. 95, 96 and 97

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### **PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021**

*Committed Tuesday, 2 March 2021*

*Amendments circulated: Mr Davis (pp. 693-5), Mr Limbrick (DL32C and DL33C) (p. 695), Ms Symes (pp. 695-8)*

Amendments proposed to be moved in Committee by Mr Limbrick (two sets) were circulated.

**Clause 1** — Mr Davis moved Amendment No. 1.

Question — That the amendment be agreed to — put.

The Committee divided — The Deputy President in the Chair.

AYES, 15

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 22

Mr Barton; Mr Bourman; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Hayes; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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 negated.

Mr Limbrick moved Amendment No. 1 (DL33C).

Question — That the amendment be agreed to — put.

The Committee divided — The Deputy President in the Chair.

AYES, 15

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; 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 Bourman; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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 negated.

Ms Symes moved Amendment No. 1 — put and agreed to.

Mr Limbrick moved Amendment No. 1 (DL32C).

Question — That the amendment be agreed to — put.

The Committee divided — The Deputy 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; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 19

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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.

Mr Davis moved Amendment No. 2.

Question — That the amendment be agreed to — put.

The Committee divided — The Deputy President in the Chair.

AYES, 16

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; 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 Bourman; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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.

Clause 1, as amended — put and agreed to.

**Clause 2** — Ms Symes moved Amendment Nos. 2 and 3 — put and agreed to.

Clause 2, as amended — put and agreed to.

**New Clauses** — Ms Symes moved Amendment No. 4.

Question — That the New Clauses stand part of the Bill — put and agreed to.

**Clause 3** — Mr Davis moved Amendment No. 3.

Question — That clause 3 stands part of the Bill — put.

The Committee divided — The Deputy President in the Chair.

AYES, 19

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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)*

NOES, 18

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

Question agreed to.

**New Clause** — Mr Davis moved Amendment No. 4.

Question — That the New Clause stands part of the Bill — put.

The Committee divided — The Deputy President in the Chair.

AYES, 12

Mr Atkinson; Dr Bach; Ms Bath; Ms Crozier; Mr Davis; Mr Finn; Mr Grimley; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Rich-Phillips.

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

NOES, 25

Mr Barton; Mr Bourman; Dr Cumming; Mr Elasmár; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Hayes; Dr Kieu; Mr Leane; Mr Limbrick; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Mr Quilty; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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 negated.

**New Clause** — Mr Davis moved Amendment No. 5.

Question — That the New Clause stands part of the Bill — put.

The Committee divided — The Deputy 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; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 19

Mr Elasmár; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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 negated.

**New Clause** — Ms Symes moved Amendment No. 5.

Question — That the New Clause stands part of the Bill — put and agreed to.

**New Clause** — Mr Davis moved Amendment No. 6.

Question — That the New Clause stands part of the Bill — put.

The Committee divided — The Deputy 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; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Quilty; Mr Rich-Phillips.

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

NOES, 19

Mr Elasmár; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; 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 negated.

**Clause 4** — put and agreed to.

**Clause 5** — Ms Symes moved Amendment No. 6 — put and agreed to.

Clause 5, as amended — put and agreed to.

**Bill reported with amendments.**

\* \* \* \* \*

**CONSTITUTION AMENDMENT (FRACKING BAN) BILL 2020**

*Committed Thursday, 4 March 2021*

**Clauses 1 to 5** — put and agreed to.

**Bill reported without amendment.**

**AMENDMENTS CIRCULATED IN RELATION TO —****1. PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION) BILL 2021***Amendments circulated by Mr Davis*

1. Clause 1, lines 5 to 8, omit all words and expressions on these lines and insert—
  - "(a) to provide for the state of emergency declaration that relates to the COVID-19 pandemic continuing in force for a total period that exceeds 6 months, on a month by month basis; and
  - (ab) to provide for measures to enhance transparency during a state of emergency; and
  - (ac) to provide for restrictions on the making of directions in relation to the Parliamentary precincts; and".
2. Clause 1, line 10, omit "16 December 2021" and insert "to align with the date on which the state of emergency declaration that relates to the COVID-19 pandemic ceases to be in force".
3. Clause 3, omit this clause.

**NEW CLAUSES**

4. Insert the following New Clause before clause 4—

**'3 Declaration of a state of emergency**

- (1) In section 198(7)(c) of the **Public Health and Wellbeing Act 2008** for "6 months or, in the case or the emergency declaration in respect of the COVID-19 pandemic, 12 months." **substitute** "6 months, other than in accordance with a resolution of both Houses of the Parliament that approves the total period exceeding 6 months."
- (2) After section 198(7) of the **Public Health and Wellbeing Act 2008** insert—
 

"(7A) A resolution passed by both Houses of the Parliament that approves a state of emergency declaration continuing in force for a total period that exceeds 6 months—

  - (a) must specify the total additional period, not exceeding one month, for which the state of emergency declaration may continue in force in accordance with the resolution; and
  - (b) must be in respect of a state of emergency declaration that relates to the COVID-19 pandemic; and
  - (c) should not be moved until—
    - (i) a statement of the basis on which it is proposed that the declaration continue in force and the objectives of continuing the declaration in force, including as to how these objectives relate to the objects of the Act has been laid before the House; and
    - (ii) all members of Parliament who so request have received appropriate briefings and appropriate information on the circumstances causing a serious risk to public health out of which the state of emergency arises; and
  - (d) may be passed more than one time in respect of the same state of emergency declaration."
- (3) After section 198(9) of the **Public Health and Wellbeing Act 2008** insert—
 

"(10) Despite anything to the contrary in the Subordinate Legislation (Legislative Instruments) Regulations 2011, a declaration under subsection (1) is not an exempt legislative instrument, but the following are not required for any proposed declaration—

- (a) consultation under section 12C of the **Subordinate Legislation Act 1994**;
- (b) the preparation of a regulatory impact statement under section 12E of the **Subordinate Legislation Act 1994**.".'

5. Insert the following New Clause before clause 4—

**'3A New section 198A**

After section 198 of the **Public Health and Wellbeing Act 2008** insert—

**"198A Measures to enhance transparency during a state of emergency**

- (1) This section applies during any period when a declaration of a state of emergency is in force.
- (2) The Leader of the Opposition, the leader of any other political party represented in the Parliament or an independent elected member may request that the Premier provide briefings or specified information in relation to the circumstances causing a serious risk to public health out of which the state of emergency arises, or any other matter relating to the state of emergency.
- (3) The Premier must, as soon as practicable, provide the requested briefings or information to the person who requested it.
- (4) The President of the Legislative Council and the Speaker of the Legislative Assembly must make their best endeavours to summon each House to meet at least once during each month that the declaration is in force.".'

6. Insert the following New Clause before clause 4—

**'3B New sections 200A and 200B**

After section 200 of the **Public Health and Wellbeing Act 2008** insert—

**"200A Limit on power to give directions**

- (1) For the avoidance of doubt, a direction must not be given under subsection 200(1)(d) in relation to the attendance in the Parliamentary precincts of a member of the Parliament, or any other person engaged in the normal carrying on of business of the Parliament.

**Note**

Section 19 of the **Constitution Act 1975** provides for the privileges, immunities and powers (parliamentary privilege) of the Council and Assembly respectively and committees and members thereof. The **Public Health and Wellbeing Act 2008** does not expressly override section 19 of the **Constitution Act 1975**.

- (2) In this section—

*parliamentary precincts* has the same meaning as in the **Parliamentary Precincts Act 2001**.

**200B Directions etc. to be laid before Parliament**

- (1) If a direction is given under section 200(1)(d) in the exercise of the emergency powers, the Minister must cause to be laid before both Houses of the Parliament, within one business day of the direction being given, a copy of—
  - (a) the direction; and
  - (b) all briefings provided, in respect of the giving of the direction, to the Chief Health Officer and the authorised officer who gave the direction (if that was not the Chief Health Officer); and
  - (c) a statement of the basis on which the direction was given, including as to how the giving of the direction relates to the objects of the Act.

- (2) If the Minister proposes to cause a copy of a direction, briefings and a statement to be laid before Parliament at a time when Parliament is not sitting, the Minister must give a copy of the direction, the briefings and the statement to the Clerk of each House within one business day of the direction being given.
- (3) The Clerk of each House must—
  - (a) give a copy of the direction, the briefings and the statement to each member of the House as soon as practicable after receiving them under subsection (2); and
  - (c) cause a copy of the direction, the briefings and the statement to be laid before the House on the next sitting day of the House.".'.

7. Clause 4, omit "16 December 2021" and insert "the date on which the state of emergency declaration that relates to the COVID-19 pandemic (as extended under section 198(7)(c)) ceases to be in force".

### Amendments circulated by Mr Limbrick (DL32C)

1. Clause 1, after line 8 insert—
 

"(ab) to provide additional rights for detained persons; and".

#### NEW CLAUSE

2. Insert the following New Clause to follow clause 3—

#### **'3A New section inserted**

After section 200 of the **Public Health and Wellbeing Act 2008** insert—  
**"200A Additional rights of a detained person**

- (1) This section applies to a person who is detained under section 200(1)(a).
- (2) The detained person must be provided with regular and meaningful access to fresh air and exercise to the extent reasonably practicable.".'.

### Amendments circulated by Mr Limbrick (DL33C)

1. Clause 1, line 8, omit "21 months" and insert "15 months".
2. Clause 1, line 10, omit "16 December 2021" and insert "26 July 2021".
3. Clause 3, line 5, omit "21" and insert "15".
4. Clause 4, line 9, omit "16 December 2021" and insert "26 July 2021".

### Amendments circulated by Ms Symes

1. Clause 1, after line 8 insert—
 

"(ab) to provide for enhanced review rights for detained persons; and  
 (ac) to provide for prescribed penalties to be different for adults and children; and".
2. Clause 2, line 2, omit "This" and insert "(1) Subject to subsection (2), this".
3. Clause 2, after line 3 insert—
 

"(2) Sections 2A, 2B and 3A come into operation on 20 April 2021".

## NEW CLAUSES

4. Insert the following New Clauses before clause 3—

**'2A Definitions**

In section 3(1) of the **Public Health and Wellbeing Act 2008** insert—

**"Detention Review Officer** means a person appointed to be a Detention Review Officer under section 32A(1);".

**2B New section 32A inserted**

After section 32 of the **Public Health and Wellbeing Act 2008** insert—

**"32A Secretary may appoint Detention Review Officers**

- (1) The Secretary by instrument may appoint a person to be a Detention Review Officer for the purposes of this Act.
- (2) A person appointed as a Detention Review Officer must be an Australian lawyer of at least 10 years' experience.
- (3) An instrument of appointment of a person as a Detention Review Officer may—
  - (a) specify the functions, duties or powers under this Act or the regulations to which it relates; and
  - (b) be made subject to any conditions that the Secretary considers to be appropriate.
- (4) The Secretary may give a general direction to a Detention Review Officer in relation to the performance of the Detention Review Officer's functions or duties or the exercise of the Detention Review Officer's powers under this Act or the regulations.
- (5) An instrument of appointment under subsection (1) must be published in the Government Gazette as soon as reasonably practicable after it is made, but a failure to publish the instrument does not affect its validity.
- (6) A person appointed as a Detention Review Officer is employed under Part 3 of the **Public Administration Act 2004**.".!

5. Insert the following New Clauses after clause 3—

**'3A New sections inserted**

After section 200 of the **Public Health and Wellbeing Act 2008** insert—

**"200A Information to be given to detained persons**

- (1) As soon as practicable after a person is made subject to detention under section 200(1)(a), the person must be provided with the following information in a form that the person is capable of understanding—
  - (a) the purpose of the detention and its terms;
  - (b) any exemptions that may be available to the person in respect of the detention;
  - (c) an explanation of the person's rights and entitlements in relation to making a complaint or seeking a review of the decision to make the person subject to detention including, but not limited to—
    - (i) the process for making a complaint or seeking an exemption; and
    - (ii) the process for making an application for review under section 200B.
- (2) Nothing in this section limits the requirements under this Act or any other Act in respect of information to be given to a person who is subject to detention under section 200(1)(a) including, but not limited to, the information required to be given to the person under section 200.

**200B Applications may be made for review of certain decisions in relation to a person subject to detention**

- (1) A person who is subject to detention under section 200(1)(a) may make an application to the Secretary for a review by a Detention Review Officer of—
  - (a) the decision under section 200(1)(a) to make the person subject to detention including, but not limited to, in respect of the following—
    - (i) the reasons for the detention;
    - (ii) the period of the detention;
    - (iii) the place of the detention;
    - (iv) the conditions of the detention; or
  - (b) a decision under section 200(1)(d) that relates to the person's detention.
- (2) An application under subsection (1) cannot be made in respect of a decision under section 200(6) that the continued detention of a person is reasonably necessary to eliminate or reduce a serious risk to public health.
- (3) A person who is subject to detention under section 200(1)(a) and has made an application under subsection (1) may make further applications under subsection (1) in respect of that detention if—
  - (a) the most recent application made by the person has been determined; and
  - (b) since the most recent application was determined, new and materially different circumstances have arisen that affect the person in respect of the detention.
- (4) An application under subsection (1)—
  - (a) must be in writing; and
  - (b) must specify the grounds on which the application is made; and
  - (c) if the application is a further application of the kind permitted by subsection (3), must include a description of the new and materially different circumstances that have arisen and affect the person in respect of the detention; and
  - (d) must include any prescribed information; and
  - (e) may include any other information that the person making the application considers appropriate.
- (5) The Secretary must ensure that an application made under subsection (1) is referred to a Detention Review Officer immediately after the application is made.

**200C Detention Review Officer must decide applications**

- (1) This section applies if an application in respect of a decision is referred to a Detention Review Officer under section 200B(5).
- (2) The Detention Review Officer must use their best endeavours to decide the application, and advise the applicant in writing of the decision and the reasons for it, within 24 hours after the application was received by the Secretary.
- (3) In deciding the application, the Detention Review Officer—
  - (a) must consider the information included in the application; and
  - (b) may make such further inquiries and seek such further information in relation to any aspect of the application as the Detention Review Officer thinks fit including, but not limited to, making inquiries to or seeking information from persons with expertise in public health.

- (4) The Detention Review Officer may decide—
  - (a) to affirm the decision under review; or
  - (b) to refer the application to the Chief Health Officer, accompanied by such non-binding recommendations as the Detention Review Officer considers appropriate (if any).
- (5) A decision by a Detention Review Officer to affirm a decision made by an authorised officer is taken to be a decision of that authorised officer.

#### **200D Review referred back to Chief Health Officer**

- (1) If a Detention Review Officer refers an application to the Chief Health Officer under section 200C(4)(b), the Chief Health Officer must use their best endeavours to decide the application, and advise the applicant in writing of the decision and the reasons for it, within 24 hours after the application is referred.
- (2) The Chief Health Officer may—
  - (a) affirm the decision under review; or
  - (b) vary the decision under review; or
  - (c) set aside the decision under review and make a new decision in substitution for it.

#### **200E Detention not unlawful merely because of a decision on review**

If a person makes an application under section 200B(1) for review of a decision, and the detention of the person ceases because of a decision made on the review, the detention of the person is not unlawful merely because of the decision made on the review."

### **3B Regulations**

After section 232(2) of the **Public Health and Wellbeing Act 2008** insert—

- "(3) Despite anything to the contrary in Division 5 of Part 2 of the **Infringements Act 2006**, regulations prescribing an amount as the infringement penalty for an offence may—
  - (a) prescribe a lower amount of penalty for an offence committed by a person under the age of 18 years; and
  - (b) specify the circumstances in which the different amounts of penalty apply."

- 6. Clause 5, lines 3 and 4, omit "the first anniversary of its commencement" and insert "20 April 2022".