

Victorian Parliamentary Internship Program

**Prepared for Fiona Patten MLC,
Northern Metropolitan Region**

Legislating for Future Well-Being: Examining the construct and building the framework in Victoria



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“In all of your deliberations in the Confederate Council, in your efforts at law making, in all your official acts, self interest shall be cast into oblivion. Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground – the unborn of the future Nation.”

- Extract from the Iroquois Great Book of the Law¹

¹ Jerry D. Stubben, *Native Americans And Political Participation* (ABC-CLIO, 2006), p 197.

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EXECUTIVE SUMMARY

This report undertook two key tasks: to examine the construct of future well-being at a population level, and to assess legislative options through which evidence about well-being frameworks could be translated and actioned in Victoria.

This report summarises divergent understandings of well-being across Western societies, drawing on ideological, philosophical and legislative perspectives, as well as longitudinal empirical evidence. It analyses and defines the possibilities for future well-being in a Victorian context with reference to international legislative well-being frameworks, prevailing academic understandings of well-being and interviews with Victorian well-being researchers. In examining both quantitative and qualitative source material, the report offers a new meaning and framework to guide legislative progress toward 'future well-being' in Victoria.

Core to its considerations, the report analyses the Scrutiny of Acts and Regulations Committee as an existing infrastructure of the Victorian Parliament, and asks whether it may appropriately serve a role in enforcing future well-being outcomes in Victorian legislation.

From these examinations, this report determines that a comprehensive, multidimensional approach to future well-being bears the most chance of catalysing future well-being outcomes in Victoria. As such, it recommends:

- That a comprehensive well-being framework in the style of the Welsh *Well-being of Future Generations Act* be considered for Victoria.
- That consideration be given to first tier implementation through the Scrutiny of Acts and Regulations Committee Terms of Reference. These may be altered to allow the Committee to play a role not only in preventing legislation passed by Parliament from having negative outcomes, but also to encourage and indeed ensure that Parliament gives equal regard to creating legislation that enhances positive long-term well-being of the Victorian population.
- That any well-being initiative itself must be future proofed by rigorous evaluation and continuous refinement, in a commitment to population well-being that extends far beyond the life-cycle of any one government of Victoria.

1 INTRODUCTION

This report is tasked with defining the notion of ‘future well-being’ in Victoria, in an era where all levels of society face significant local and global burdens, and in a context where narrow, fiscally-based notions of well-being have become the norm for policymakers. It explores how the critical policy decisions facing Victoria’s lawmakers might be tailored to the future social, cultural and environmental health of its citizens.

Australian jurisdictions are given the responsibility of acting on behalf of, and in the best interests of those they represent, through codified constitutions. The mandate for legislators to carry out their duty for the “peace, order and good government” of their jurisdictions is entrenched in Australia’s Commonwealth constitution, with similar provisions in state constitutions, including that of New South Wales. In Victoria, the *Constitution Act 1975 (Vic)* acknowledges a general mandate to govern “for and on behalf of the people of Victoria”.² Uniquely, this report frames these responsibilities in light of Victoria’s onus to not only its current constituents and circumstances, but its future populations and their priorities as well.

‘Legislation; and ‘well-being’ rarely appear in the same sentence. Is it even possible to legislate for future well-being? Is legislation an overlooked tool for bringing about population-level changes in well-being, now and in generations to come? A new wave of evidence-based findings suggests that governance must become acutely focussed on the future well-being both of our planet, and of its inhabitants. One study reveals that “[t]he total annual productivity loss attributed to the...high prevalence [of] mental disorders was estimated at [\$11.8 billion], coupled with the yearly income tax loss at [\$1.23 billion] and welfare payments at [\$12.9 billion].”³ At the acute end of the spectrum of well-being, a key study estimated the global burden of mental illness accounts for 32.4% of years lived with disability and 13.0% of disability-adjusted life-years, placing mental illness above cardiovascular and circulatory diseases as risks for sub-optimal quality of life. The authors conclude: “The unacceptable apathy of

² *Constitution Act 1975 (Vic)*, s 16A.

³ Yu-Chen Lee et al, "Cost Of High Prevalence Mental Disorders: Findings From The 2007 Australian National Survey Of Mental Health And Wellbeing" (2017) 51(12) *Australian & New Zealand Journal of Psychiatry*.

governments and funders of global health must be overcome to mitigate the human, social, and economic costs of mental illness”.⁴

Arguably, most western governments currently exercise their responsibilities for societal well-being through a risk mitigation lens, rather than a wellness promotion lens. This approach focuses on *avoiding* the passage of legislation which erodes rights, increases pay gaps, destroys the environment and so on, rather than the more ambitious approach of using legislation proactively in *promoting* the emotional and social health of citizens, now and in generations to come.

The Organisation for Economic Co-operation and Development (OECD), through its Better Life Initiative has encouraged countries to be more ambitious by regularly publishing extensive data on key well-being indicators in more economically developed countries.⁵ The movement of which it is a part has inspired numerous governments around the world to consider frameworks for ensuring that they address and measure population-level well-being. These frameworks tend to adopt one of two broad approaches.

The first of these approaches considers personal well-being as a natural by-product of a society’s economic health and prosperity. Such universal indices as the Gross Domestic Product (GDP) provide governments with an objective frame with which to measure and display their financial prowess and the economic progress engendered by their policy initiatives. Calibrating policy and practice to improve these economic indicators is a primary policy objective for governments around the world, and while this might be said broadly to be done in order to benefit overall well-being, public and professional acceptance of such indicators as an accurate proxy for human well-being outcomes is waning. In section 2.1 of this report the viability of GDP as a well-being indicator is further examined.

The second major approach to well-being evident in current governments’ policies reflects a drift away from solely economic modes of evaluation and betterment. Through case study examination of efforts to measure and promote well-being by

⁴ Daniel Vigo, Graham Thornicroft and Rifat Atun, "Estimating The True Global Burden Of Mental Illness" (2016) 3(2) *The Lancet Psychiatry*.

⁵ OECD, *How's Life? 2017: Measuring Well-Being* (OECD Publishing, 2017).

alternate means in Bhutan, Australia, New Zealand and Wales, this report appraises alternate frameworks, evaluates their efficacy, and considers the degree to which they might provide guidance for the potential adoption of a Victorian equivalent.

Beyond the political lens, this report considers the ways in which a well society has been operationalised in research and looks at key longitudinal studies that offer ideas on the promotion of population well-being in Victoria. Beyond doubt, this research encourages a broad policy responsibility to ensure that any legislative framework implemented must have regard for future generations of Victorians and the social fabric they inhabit.

The Iroquois notion of governing for ‘7 Generations Hence’⁶ has inspired a modern interpretation, in the study of well-being by Deakin University researchers, Dr. Bill Hallam and Professor Craig Olsson. In a personal communication, Olsson explained that “it is natural to think of ‘wellbeing’ as ‘being happy’ or ‘happiness’... and what makes our lives ‘worth living’”.⁷ His research with Hallam contrasts the propositions that we seek happiness as the goal of life (‘hedonic happiness’), with experiencing happiness as a by-product of living a virtuous life (‘eudaimonic happiness’). Hallam advises that the former has clearly emerged as the basis of contemporary Western culture. The report considers what a eudaimonic definition of well-being could look like, how it might be supported in legislature, and how its impact might be measured and evaluated. It dares to suggest that, beyond the ambitions of the OECD, a government that cares for the economic future for its society must also actively promote the emotional health of its citizens, and their capacity to care for others.

This report concludes with recommendations for the promotion of ‘future proofing’ our legislation through a focus on population level well-being several generations hence through investment in the individual and their development across all stages of their life.

It examines existing Parliamentary instruments that might be adapted for this challenge, namely the Scrutiny of Acts and Regulations Committee, and assesses its

⁶ See quotation on inside cover page, and Jerry D. Stubben, *Native Americans And Political Participation* (ABC-CLIO, 2006).

⁷ Personal communication with Craig Olsson & Bill Hallam (7 June 2019).

suitability for the task of acting to enforce well-being standards in legislation. Aspirationally, it also champions the notion of a formal *Wellbeing Act* that would underpin a comprehensive legislative framework for future proofing the state's well-being.

1.1 METHODOLOGY

This report draws on both qualitative and quantitative data from a range of sources. Peer-reviewed academic articles, departmental reports, and legislation from Victoria and other Australian and international jurisdictions have been examined, along with online resources from the Parliament of Victoria and various governments and intergovernmental organisations.

An interview with Professor Craig Olsson, director of the Australian Temperament Project, was conducted, followed by further personal communication with Australian Temperament Project researchers.

2 GDP: MEASURING WELL-BEING THROUGH ECONOMIC PROSPERITY

Much of the challenge in legislating for future well-being stems from the diaspora of outcomes to which the term ‘well-being’ is ascribed – for example, well-being as economic prosperity, well-being as happiness, well-being as sustainable development. Sections 2, 3 and 4 of the report define some common conceptualisations of well-being and analyse them for holistic future benefit.

Assessing well-being by reference to overall income measures like GDP or the equivalent Victorian index, Gross State Product (GSP) has been standard practice in the past.⁸ As it provides a measure of overall income, conventional economic analysis has leaned towards GDP as a utility index, and by extension as a proxy measurement of social welfare.⁹ If GDP is indeed the most valuable utility index, then the state of well-being in Victoria and Australia more broadly is excellent: legislation to protect and enhance economic prosperity is passed regularly, most notably in the annual Appropriation Act, or Budget.¹⁰

It is broadly acknowledged, however, that economic measurement is not an adequate means of gauging or representing the well-being of a population. Former Chair of the United States Federal Reserve, Ben Bernanke, noted that the “ultimate purpose of economics ... is to understand and promote the enhancement of well-being,”¹¹ which necessarily means relying on non-economic measurements of society’s well-being progress.

Local Victorian evidence abounds supporting the risks of relying solely on economic measures. For instance, the catastrophic Black Saturday bushfires, which tore through the state in 2009 destroying 11 townships and killing 176 people, made a net positive contribution to the nation’s progress (by economic measure), as around \$5

⁸ Department of the Treasury, *Policy Advice And Treasury's Wellbeing Framework* (Department of the Treasury, 2004).

⁹ Ibid, p 3.

¹⁰ The current version is *Appropriation (2019-2020) Act 2019* (Vic).

¹¹ Ben Bernanke, "Economic Measurement" (Speech, Cambridge, 2012).

billion was added to GDP in compensation and rebuilding costs.¹² Of course, no economist, politician or layperson would attempt to assert that Black Saturday was beneficial for Victoria's, and more broadly Australia's well-being. Any adherence to a strict economic index of community well-being belies the disastrous impact of the fires on Victorian lives, and emotional well-being.

Just as Bernanke indicates that economic measures should not be used in isolation today, economic analyses of prosperity were not intended to be confined to such concepts as GDP, which remains a blatantly inadequate proxy for the welfare and well-being of a population.¹³

¹² Australian National Development Index, "Only Economic Growth?", *ANDI* (Webpage, 2019).

¹³ Amartya Sen, *Development As Freedom* (Oxford University Press, 1999), in Department of the Treasury, above n 8.

3 CASE STUDIES: WHAT WELL-BEING OBJECTIVES DO GOVERNMENTS PURSUE?

Contrary to common belief, government well-being frameworks are not all newly minted. Liberal democratic governments have acknowledged the value of exploring non-economic indicators of progress for many decades. Models have varied in the way the construct of well-being has been defined and operationalised, the degree to which resulting frameworks have been implemented and adhered to, and their translational utility and efficacy. When governments have pursued a set of population level well-being guidelines to aid decision-making, the guidelines have generally taken one of two forms. The first, as in the examples of Australia and New Zealand below, is underpinned by a formal policy stance adopted by a specific department, or a government as a whole. The second is a codified well-being framework, with broad reach across departments and local governments, examples of which can be found in Wales and Bhutan (discussed in this report) and Scotland¹⁴.

To understand the history of governmental well-being frameworks, one might look first to the small Himalayan state of Bhutan. One of the earliest attempts to establish a system to drive future well-being outcomes is the oft-cited 'Gross National Happiness' (GNH) indicator, proposed by the Kingdom of Bhutan in 1972 as a preference to relying on economic analysis to assess the health and prosperity of the population. The country's GNH Commission, which oversees the implementation of the framework, defines the GNH as a "multi-dimensional development approach that seeks to achieve a harmonious balance between material well-being and the spiritual, emotional and cultural needs of our society".¹⁵ The Bhutanese government, which since 2008 has been democratically elected,¹⁶ is constitutionally mandated to pursue the advancement of the GNH agenda,¹⁷ which it positions as its core guiding framework for policy creation. The efficacy of the framework's implementation is

¹⁴ Scottish Government, "National Performance Framework", *Nationalperformance.gov.scot* (Webpage, 2019).

¹⁵ Gross National Happiness Commission, "FAQ's On GNH", *Gnhc.gov.bt* (Gross National Happiness Commission, 2017).

¹⁶ Siegfried O. Wolf, "Bhutan's Political Transition – Between Ethnic Conflict And Democracy" (2012) 2 *Spotlight South Asia*, pp 6, 14.

¹⁷ *Constitution of the Kingdom of Bhutan 2008* (Bhutan), art 9.

unclear, but some key contradictions are evident. Whilst Bhutan has consistently been rated amongst the happiest countries in the world,¹⁸ it has also faced criticism for perceived human rights abuses against minority ethnic groups. This dichotomy has sparked suggestions that to pursue national happiness whilst engaging in population-level discrimination is hypocritical.¹⁹

Beyond Bhutan, there are other guidelines which provide greater relevance for a potential Victorian framework for future well-being. Each of those below has been selected because they are distinct from each other in construction, implementation and effectiveness, and therefore represent a useful cross-section of examples, and because they have clear potential for adaptation in a Victorian context.

3.1 WELL-BEING THROUGH POLICY

3.1.1 AUSTRALIA – TREASURY WELL-BEING FRAMEWORK

NOTE: The Treasury abandoned its well-being framework following the appointment of John Fraser as department secretary. Curiously, a copy of the complete Treasury well-being framework is not readily obtainable for the purposes of compiling this report. This report therefore relies on excerpts from the framework, as well as Treasury reports, speeches by Treasury executives and analysis by industry experts.

3.1.1.1 BACKGROUND

Whilst we are familiar with the role Australia's Department of the Treasury serves in assisting to formulate economic policy, historically Treasury's role was restricted to managing accounts and balancing budgets.²⁰ Through the 1950's its responsibility began to shift towards the broader advisory mandate which it maintains to this day.

¹⁸ Wolf, above n 18.

¹⁹ Benjamin Mason Meier and Averi Chakrabarti, "The Paradox Of Happiness: Health And Human Rights In The Kingdom Of Bhutan" (2016) 18(1) *Health and Human Rights Journal*.

²⁰ Stephanie Gorecki and James Kelly, *Treasury's Wellbeing Framework* (Department of the Treasury, 2012).

As literature around non-economic indicators of well-being became compelling, and with the appointment of Ken Henry as Secretary to the Treasury, the Department's adoption of a set of well-being guidelines culminated in the formulation of a Treasury well-being framework in the early 2000's.²¹ The model acknowledged that conventional economic analysis is deeply linked to a utilitarian social welfare approach whereby maximising summative population utility, or happiness, results in maximum aggregate wellbeing. It recognised that "analyses of economic development or progress that only take income into account neglect other important determinants of wellbeing". Adopting Sen's notion of a 'beyond-utilitarian' framework,²² Treasury's well-being framework sought to "recognis[e] a range of determinants for utility (beyond just income and GDP), and also a range of constituents of utility (beyond just individual happiness)".²³

3.1.1.2 WELL-BEING GOALS

Treasury's guiding well-being statement "takes a broad view of wellbeing as primarily reflecting a person's substantive freedom to lead a life they have reason to value".²⁴

A five-dimensional approach was adopted by the Treasury in its well-being framework, intended to become considerations that departmental policy makers should have recourse to in formulating advice to government. The five points of consideration were:

The set of opportunities available to people

This includes not only the level of goods and services that can be consumed, but good health and environmental amenity, leisure and intangibles such as personal and social activities, community participation and political rights and freedoms.

The distribution of those opportunities across the Australian people

In particular, that all Australians have the opportunity to lead a fulfilling life and participate meaningfully in society.

The sustainability of those opportunities available over time

In particular, consideration of whether the productive base needed to generate opportunities (the total stock of capital, including human, physical, social and natural

²¹ Ibid.

²² Sen, above n 13 in Department of the Treasury, above n 8.

²³ Department of the Treasury, above n 8.

²⁴ Gorecki, above n 20.

	assets) is maintained or enhanced for current and future generations.
The overall level and allocation of risk borne by individuals and the community	This includes a concern for the ability, and inability, of individuals to manage the level and nature of the risks they face.
The complexity of the choices facing individuals and the community	Our concerns include the costs of dealing with unwanted complexity, the transparency of government and the ability of individuals and the community to make choices and trade-offs that better match their preferences.
Source: Stephanie Gorecki and James Kelly, <i>Treasury's Wellbeing Framework</i> (Department of the Treasury, 2012).	

3.1.1.3 OUTCOMES, ANALYSIS AND CONCLUSION

The Treasury well-being framework did not stand alone in its time. Concurrently, the United Kingdom was developing a model of its own, and New Zealand began contemplating one as well (since adopted and reflected in New Zealand's 2019 'Wellbeing Budget' discussed below).²⁵ In comparison to these international efforts, the Treasury framework has been criticised on two primary fronts. Prominent Australian economist Dr Nicholas Gruen has noted that whilst the framework appeared well intentioned, its potential seemed limited in his assessment by its vagueness and lack of clarity. For instance, the *complexity* element of the framework addressed literature on the benefits to individual well-being of reducing economic complexity in certain circumstances. In turn, it failed to consider instances in which complexity is exactly what consumers seek (for example, he says, in smartphones' capacity for customisation), and overlooked scholarly work suggesting the clear economic development derived from economic complexity.²⁶

Despite the status of the Treasury well-being framework as publicly articulated departmental policy, there is little evidence that decisions were made in consideration thereof. This has led some to assert that it served little more purpose than to be a useful speech-padding and report-filling tool for Treasury officials.²⁷ That the Treasury's well-being framework turned out perhaps little more than well-

²⁵ Nicholas Gruen, "Nicholas Gruen: What Have Wellbeing Frameworks Ever Done For Us?", *The Mandarin* (2017).

²⁶ Ibid.

²⁷ Ibid.

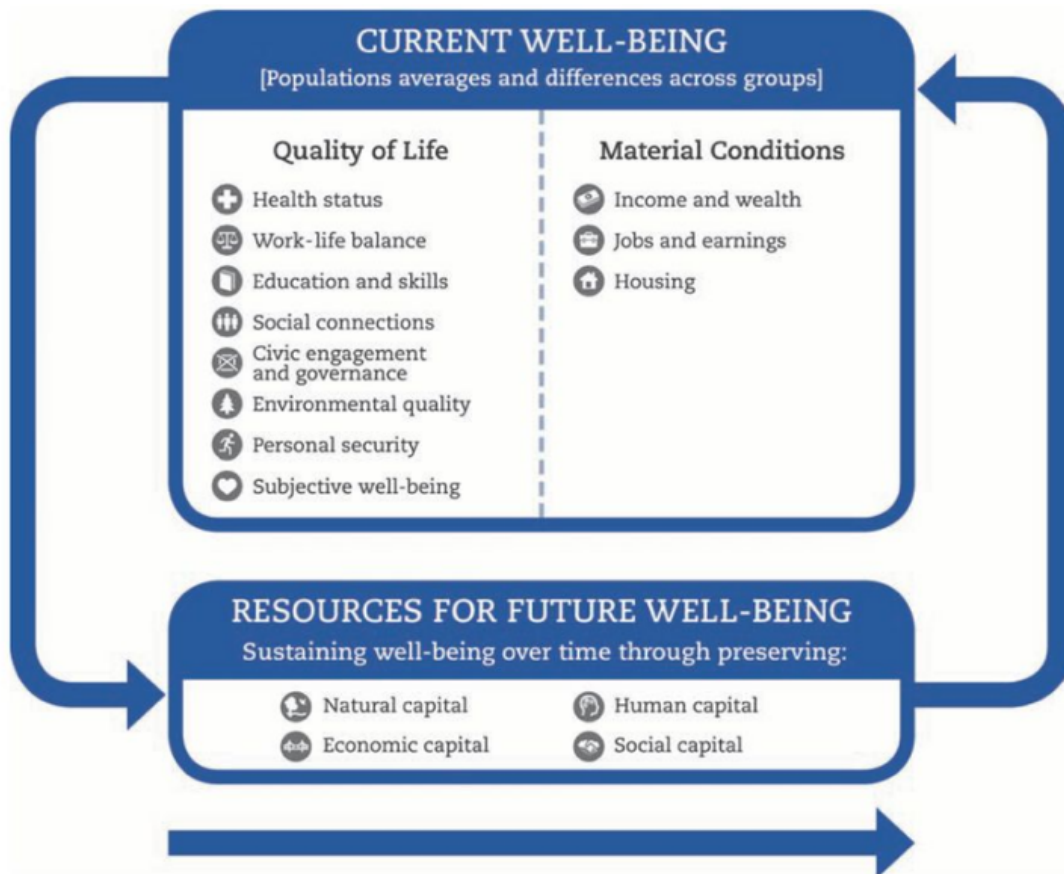
intended, and so readily cast away, holds lessons for future framework implementation. Enduring frameworks that demonstrably achieve their goals must be entrenched beyond the point of departmental policy, protected from the inevitable changes in direction to which Treasury and the public service more broadly are subject.

3.1.2 NEW ZEALAND – THE ‘LIVING STANDARDS FRAMEWORK’ AND A ‘WELLBEING BUDGET’

3.1.2.1 BACKGROUND

New Zealand has been the focus of significant media attention of late following an announcement by its Prime Minister Jacinda Ardern at the World Economic Forum in January 2019 that it intended to re-design the way it makes its financial decisions. At that time, Ardern articulated her intention for decisions of governance to be acutely influenced by factors of social, rather than solely economic, well-being. This would be achieved by way of a ‘Wellbeing Budget’, developed by Ministers, the Treasury and key stakeholders.²⁸ New Zealand’s Treasury, much like Australia’s, plays an advisory role in economic policy. As was also the case in Australia for a time, Treasury in New Zealand has a formal framework for assessing well-being impacts in decision making, known as the Living Standards Framework (LSF), said to embody decades of domestic and international evidence on well-being. The OECD’s well-being model (see figure on page 16) is used to inform measurement of the well-being outcomes of New Zealand’s policies.

²⁸ Ceri Parker, "New Zealand Will Have A New 'Well-Being Budget,' Says Jacinda Ardern" *World Economic Forum* (2019).

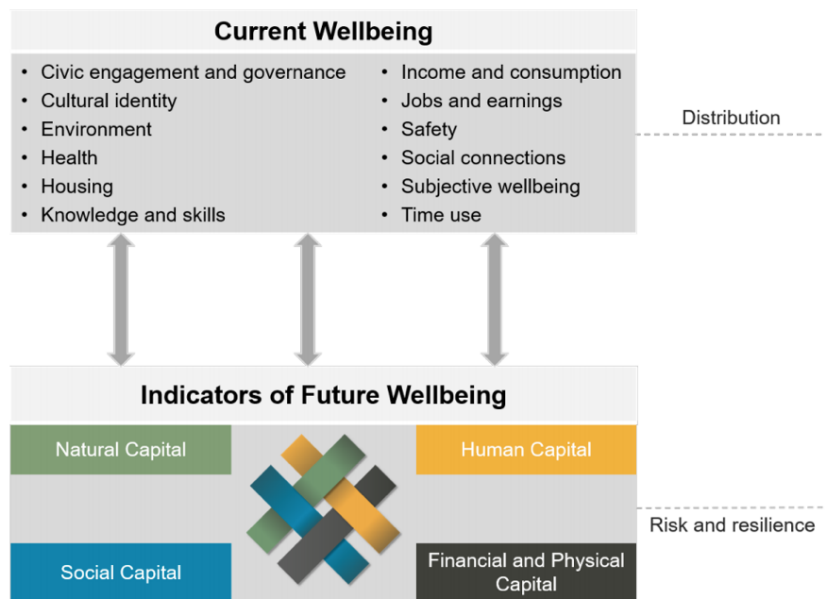


Source: OECD, *How's Life? 2017: Measuring Well-Being* (OECD Publishing, 2017), p 22.

3.1.2.2 WELL-BEING GOALS

The LSF is described as having three central elements: the twelve 'domains' of current well-being, the four 'capitals' of future well-being, and the mitigation of risk and promotion of resilience (see figure on page 17).²⁹

²⁹ Government of New Zealand, *Living Standards Framework: Background And Future Work* (New Zealand Treasury, 2018) p 4.



Source: Government of New Zealand, *Living Standards Framework: Background And Future Work* (New Zealand Treasury, 2018), p 4.

The capability model of well-being, in circulation since the 1980's, has remained as the philosophical core of the LSF. That model avers that “wellbeing should be considered in terms of the capability of people to live lives that they have reason to value”.³⁰ With its rationale in place, the LSF needed a driving empirical framework to operate effectively. Importantly, in crafting this, Treasury acknowledged that the science and data on well-being are constantly evolving, and that whilst the LSF can only ever be based on current best practice models, it must not ignore future evolutions in international well-being literature as it comes to hand, and evolve in step with evidence-based findings. In this vein, a multidimensional understanding of well-being articulated by the OECD (above) was adapted to fit New Zealand-specific circumstances.³¹

3.1.2.3 OUTCOMES, ANALYSIS AND CONCLUSION

The culmination of the Treasury's LSF is New Zealand's first 'Wellbeing Budget', delivered on 30 May 2019. Through data analysis and application of the LSF's multidimensional well-being model, the Wellbeing Budget proposed five areas of

³⁰ Ibid, p 8.

³¹ Ibid, p 3.

investment which data indicated would yield the most substantial impact in future well-being terms. Those areas were:

<i>Taking Mental Health Seriously</i>	Supporting mental wellbeing for all New Zealanders, with a special focus on under 24-year-olds.
<i>Improving Child Wellbeing</i>	Reducing child poverty and improving child wellbeing, including addressing family violence.
<i>Supporting Māori and Pasifika Aspirations</i>	Lifting Māori and Pacific incomes, skills and opportunities.
<i>Building a Productive Nation</i>	Supporting a thriving nation in the digital age through innovation, social and economic opportunities.
<i>Transforming the Economy</i>	Creating opportunities for productive businesses, regions, iwi and others to transition to a sustainable and low-emissions economy.

Source: Government of New Zealand, *The Wellbeing Budget* (New Zealand Treasury, 2019), p 6.

Whilst unquestionably an advance on its Australian equivalent, the Wellbeing Budget and LSF are equally vulnerable to the same threat of departmental or governmental policy change. In this light, the New Zealand government has taken legislative steps to embed some of these budgetary measures into New Zealand’s political framework, including the passage of legislation requiring reporting on and adherence to child poverty targets. The government intends to introduce further similar legislation.³² Its chief vulnerability lies in the natural cycles of political life. The Wellbeing Budget cannot guarantee that any future New Zealand government or treasury would continue this course of action, nor even that the current government would do so. Given effective transmission of policy to population outcomes requires a longitudinal perseverance, the essentially unprotected life of this well-being initiative may yet consign it to a mounting pile of well-intended words about well-being. Without legislative embodiment and protection, otherwise largely well thought out policy positions like New Zealand’s are left extremely vulnerable.

³² Ibid, p 8.

3.2 WELL-BEING THROUGH LEGISLATION

3.2.1 WALES – WELL-BEING OF FUTURE GENERATIONS ACT

3.2.1.1 BACKGROUND

Wales has sat at the forefront of legislating for future well-being for decades, with the origins of its currently legislated well-being framework traceable to the immediate post-devolution era of 1998.³³ Wales' legislative prescience ultimately led its National Assembly to pass the Well-being of Future Generations Act into law in 2015.³⁴ The Act is unique in its scope – all 'public bodies' (a term in the Act which includes Ministers, local authorities, health boards, national councils and trusts)³⁵ are compelled to operate in accordance with the Act's *sustainable development principle* and formulate well-being outcomes to "improve and achieve economic, social, environmental and cultural well-being".³⁶ The legislation also establishes a set of seven *well-being goals*, and appoints a Commissioner to oversee the application of the Act.

3.2.1.2 SUSTAINABLE DEVELOPMENT PRINCIPLE

The Well-being of Future Generations Act places an onus on public bodies to pursue sustainable development, which is to be done:

- 1) by taking action which seeks to ensure that the needs of the present are met,
- 2) without compromising the ability of future generations to meet their own needs,
- 3) by taking account of the *sustainable development principle*, and

³³ Jennifer Wallace, "Wales: Wellbeing As Sustainable Development" in *Wellbeing And Devolution: Reframing The Role Of Government In Scotland, Wales And Northern Ireland* (Palgrave Pivot, 1st ed, 2019), p 73.

³⁴ *Well-being of Future Generations (Wales) Act 2015* (Wales).

³⁵ *Well-being of Future Generations (Wales) Act 2015* (Wales), s 6.

³⁶ *Well-being of Future Generations (Wales) Act 2015* (Wales), s 2.

4) in setting objectives for well-being (known as *well-being outcomes*) and taking action to achieve them.³⁷

The *sustainable development principle* mandates the need for public bodies to take an integrated approach to formulating their *well-being outcomes* and involve and collaborate with persons who have an interest in those *outcomes*.³⁸ There is no strict requirement in place for these *outcomes* to be met.

3.2.1.3 WELL-BEING GOALS

Seven *well-being goals* are articulated in the Welsh Act, each with accompanying descriptions. They are aspirational, and designed to create a clear vision towards which public bodies must work. The Act dictates that public bodies must work to achieve all seven *goals*:

- A prosperous Wales;
- A resilient Wales;
- A healthier Wales;
- A more equal Wales;
- A Wales of cohesive communities;
- A Wales of vibrant culture and thriving Welsh language;
- A globally responsible Wales.³⁹

When setting *well-being outcomes*, public bodies are required to publicly report on why they believe their *outcomes* will assist them in meeting Wales' statutory *well-being goals*. Additionally, annual reports are required from public bodies, outlining what headway has been achieved towards meeting their *outcomes*.⁴⁰

³⁷ Haydn Davies, "The Well-Being Of Future Generations (Wales) Act 2015: Duties Or Aspirations?" (2016) 18(1) *Environmental Law Review*, in Wallace, above n 33, p 80.

³⁸ *Well-being of Future Generations (Wales) Act 2015* (Wales), s 5. Section 5 of the Act provides an unabridged outline of obligations under the *sustainable development principle*.

³⁹ Welsh Government, *Well-Being Of Future Generations (Wales) Act 2015: The Essentials* (Welsh Government, 2015), p 6.

⁴⁰ *Ibid*, p 8.

3.2.1.4 METHODS FOR ENSURING COMPLIANCE AND PROGRESS

The acclaim drawn by the Welsh model is partly attributable to the diligence with which it attempts to self-examine. Part of its success lies in the appointment of a Future Generations Commissioner for Wales, who is tasked with acting on behalf of future generations by supporting public bodies to achieve their *well-being outcomes*. The Commissioner may also review how the long-term effects of policy are being considered by public bodies, and make subsequent recommendations to that body about its setting and meeting of *well-being objectives*. All reasonable steps must be taken by public bodies to enact recommendations made by the Commissioner.⁴¹ The Commissioner reports each election cycle on trends within the public service more broadly, and improvements that should be made to allow the *well-being goals* to be achieved.⁴²

In addition to the specialist role the Commissioner plays, the Auditor General of Wales, who has a broader government watchdog role, is granted similar powers of public body review.

The final element of the enforcement framework requires Ministers to set national indicators against which progress towards meeting the *well-being goals* is to be measured. The indicators must be measurable, quantitatively or qualitatively, against outcomes, and must be accompanied by corresponding milestones to assist in determining whether sufficient progress is being made towards fulfilling the *well-being goals*.⁴³

3.2.1.5 CONCLUSION

The Wales *Well-being of Future Generations Act* is one of the best examples of its kind in the world, and unquestionably one of the most sustainable. In its statutory structure, it out ranks the policy model of New Zealand in stability of vision and potential longevity. In setting out principles, evidence-based goals, a clearly articulated method and avenues for reviewing progress of outcomes, it provides a

⁴¹ Ibid, p 9.

⁴² Ibid.

⁴³ *Well-being of Future Generations (Wales) Act 2015* (Wales), s 10.

valuable point of reference for Victoria in its own contemplations about how a well-being framework might be both defined and structured in order to translate its goals into meaningful population level outcomes.

In saying this, the socio-political context that distinguishes Wales from Victoria needs due recognition. Since devolution in 1998, the Welsh Labour political party has always formed government. Such an enduring period of government has allowed it the rare privilege of being able to oversee more than two decades of 'fine-tooth-comb' tweaking to well-being structures. Courtesy of devolution, and contemporaneously with the Welsh construction of a new national political apparatus, the Labour government started with a completely clean slate. Victoria's political structure, by contrast, is over 160 years old. Whilst numerous significant changes to the structure of Parliament (for example the 2003 Legislative Council constituency reforms⁴⁴) and the public service (for example the local government reforms of the Kennett Government⁴⁵) have occurred in the intervening years, wide-scale alterations to the Victorian Public Service would clearly be both necessary and disruptive. Short term political and structural disruption, however, may well be a small price to pay for the end goal of enduring improvements in societal well-being.

⁴⁴ *Constitution (Parliamentary Reform) Act 2003 (Vic)*.

⁴⁵ Rob Connoley, "Victorian Local Government Reform 1992-1999 Revisited: Implications For Trade Unions" (2007) 11(2) *Journal of Economic and Social Policy*.

4 A DIFFERENT APPROACH – ‘HEDONIC’ AND ‘EUDAIMONIC’ WELL-BEING

Contemporary debate about alternate definitions of well-being echoes ancient philosophical debate, contrasting the merit of well-being initiatives for short versus medium to long-term societal gain. The logical challenge for legislators is the equally complex task of considering whether legislation ought to have regard only to immediate (short term) well-being, or whether a mandate exists for legislating in full anticipation of long-term impacts on well-being.

4.1 HEDONIC WELL-BEING

People in Western society often regard ‘wellbeing’ as synonymous with ‘happiness’.⁴⁶ If we are reasonably happy then we consider ourselves ‘well’. “We feel good or are happy when we have enough money and health, security and status, quality relationships and friendships, freedom and self-esteem to meet our expectations.”⁴⁷ The word ‘hedonic’ has been used to describe this sort of well-being because it is subjective. Our culture has evolved, therefore, to promise happiness and well-being if we adhere to the cultural and social values that guide our society and our relationships.⁴⁸ In implementations of well-being frameworks (as discussed in section 3), current models have largely tried to deliver on the promise of hedonic well-being.

This view, however, is problematic for a number of reasons. Firstly, the value in hedonic aspirations is instrumental and largely designed to serve the individual, rather than intrinsic and designed to serve the greater community. As such, hedonic goals may be devalued by some just as readily as they are valued by others.⁴⁹

⁴⁶ Personal communication with Craig Olsson and Bill Hallam (7 June 2019).

⁴⁷ Ibid.

⁴⁸ Interview with Professor Craig Olsson (9 May 2019); Olsson and Hallam, above n 46.

⁴⁹ Ibid.

Hedonic well-being pays less attention to the well-being of the community upon which one is dependent for social connection and fulfillment.⁵⁰

While hedonic well-being is of unquestionable importance in the broad remit of legislators, another holistic conceptualisation may prove a better fit for the task of promoting population level well-being, now and in generations to come.

4.2 EUDAIMONIC WELL-BEING

Since Aristotle, it has been argued that hedonic happiness is good, but is not the highest good.⁵¹ Eudaimonic well-being was seen not as obtainable per se but as “an unsolicited consequence of virtuous living”.⁵² Eudaimonic well-being, it is argued, is something gradually learned through childhood and adolescence, as we gain an understanding of intrinsic goodness and well-being (or what is ‘good in and of itself’) rather than what makes us feel good.⁵³ An example of a eudaimonic action is providing assistance to someone because you want to care for them, rather than because you want something in return – approval, acclaim, or re-election for example.

“Growth in self-awareness and moral awareness is necessarily inseparable from development in character and eudaimonic wellbeing.”⁵⁴ These learned values become part of an individual’s decision-making processes, particularly when children and young adults are exposed to eudaimonic decision-making through their family lives and formal education.

⁵⁰ Olsson and Hallam, above n 46.

⁵¹ Kraut, Richard, "Aristotle's Ethics", *Stanford Encyclopedia Of Philosophy* (Webpage, 2018).

⁵² Olsson and Hallam, above n 46.

⁵³ Olsson above n 48.

⁵⁴ Olsson and Hallam, above n 46.

4.3 THE AUSTRALIAN TEMPERAMENT PROJECT AND POSITIVE DEVELOPMENT

In crafting a longer term, values-based view of well-being to inform legislative directions, reference to local research findings is optimal. There are numerous studies which harvest such data, including the Australian National Development Index. In this section, however, attention is given to a unique database of relevance to Victoria, the Australian Temperament Project (ATP). The ATP is one of Australia's longest running studies of social and emotional development, now spanning three generations of Victorian families. Amongst multiple other questions, this study has set out to define and examine the development of well-being in its cohort, which spans 36 years and counting.⁵⁵ The ATP houses unique data on Victorians, prominently situating it to inform public health questions, policies, and interventions in the state. With these data, the research team is now exploring direct and indirect pathways to social and emotional well-being, across three generations.

The ATP's sample of 2443 infants and their parents was initially recruited in 1983 and represents every postcode in urban and rural areas of Victoria. Its method has seen these families regularly interviewed and observed from birth of the target child to date. Sixteen survey waves of data now exist on these adult participants, who are now 34 years old.⁵⁶ Moving into what is called the Generation 3 study, from 2012, over 1000 infants born to these ATP study participants have also been recruited into the study.⁵⁷ In capturing over one million points of longitudinal, intergenerational data, the ATP researchers have been able to gain a thorough understanding of some of the indices of eudaimonic well-being, particularly for adolescents and young adults.

Of particular interest to the ATP has been the process of positive development and promotion of quality of life. An ATP team write: "While interest in positive development...has grown in recent years, there remains an unmet need for

⁵⁵ Diana Smart and Ann Sanson, *The Role Of Temperament And Behaviour, And Their "Fit" With Parents' Expectations* (Australian Institute of Family Studies, 2001), p 12; Olsson, above n 48.

⁵⁶ M. T. Hawkins et al, "The Structural Stability Of Positive Development Across Young Adulthood" (2017) 5(5) *Emerging Adulthood*, p 323.

⁵⁷ Smart, above n 55; Olsson, above n 48.

empirically supported models to assess the construct in research, policy, and practice. Identification of robust indicators of positive functioning across time has the potential to advance the positive growth of young adults in various settings,”⁵⁸ furthering their eudaimonic well-being. Extensive data analysis in the ATP has shown that for adolescents and young adults (late teens to late 20’s), five important dimensions consistently characterise optimal positive development. Those dimensions are:

1. **“Social competence**, which underpins successful social relationships and helps individuals to meet everyday functional demands, participate socially, and be responsible for themselves and others;
2. **Life satisfaction**, which reflects a sense of contentment and feelings of congruency between wants or needs and accomplishments or resources;
3. **Trust and tolerance of others**, which reflects attachment to community and society and the individual’s capacity to work harmoniously with people from different backgrounds and cultures;
4. **Trust in authorities and institutions**, which are important aspects of social capital that reflect an individual’s attachment and adjustment to the community and society;
5. **Civic engagement**, referring to the willingness of an individual to take up the role of being a citizen, which is central to political socialization and a successful democratic society.”⁵⁹

These dimensions provide critical beacons for considering what a well-being framework shaped around intrinsic values may target.

In a personal communication with Professors Craig Olsson and Jennifer McIntosh of the ATP, they discussed recent trends emerging from Artificial Intelligence, or machine learning approaches to exploring their database.⁶⁰ When exploring the key ‘signatures’ associated with high positive development across the life course, two very interesting findings are emerging. While these are not yet replicated and

⁵⁸ Hawkins, above n 56, p 322.

⁵⁹ Ibid, p 323.

⁶⁰ Olsson and Hallam, above n 46; Personal communication with Professor Jennifer McIntosh (13 May 2019).

therefore not public, the researchers were happy to discuss the findings broadly. In essence, pathways to positive development in this Victorian sample appear to be linked closely to optimism throughout adolescence and young adulthood, and also to the experience of having a highly supportive and caring relationship with a teacher during adolescence. These findings suggest that a society interested in promoting the five civic engagement dimensions – social competence, life satisfaction, trust and tolerance of others, trust in authorities and institutions and civic engagement – would invest heavily in pathways that promote an optimistic outlook on life, and that give opportunities for positive educational experiences during adolescence providing caring relationships through healthy role models beyond the family environment.

4.4 A HYBRID WELL-BEING FRAMEWORK

Both hedonic and eudaimonic understandings of well-being have benefits which are owed consideration by legislators as they forge a well-being framework. One model prioritises short to medium-term outcomes, whilst the other focusses on longer-term societal yield. One is charged with creating contentment and happiness where the other is charged with fostering values intrinsic to healthy and positively developed societies. The logical end point of these discussions, from a legislative perspective, is the construction of a hybrid framework of well-being which calls upon both constructs. A review of research on the two well-being understandings summarised that “well-being is probably best conceived as a multidimensional phenomenon that includes aspects of both the hedonic and eudaimonic conceptions of well-being.”⁶¹ This holistic understanding of well-being is one of the most comprehensive available to us, and is therefore an appropriate platform on which Victorian legislators may base a framework. That the ATP is co-incidentally a Victorian study enhances its credentials for this purpose.

⁶¹ Tim Kasser, "Cultural Values And The Well-Being Of Future Generations: A Cross-National Study" (2011) 42(2) *Journal of Cross-Cultural Psychology*.

5 RECOMMENDATIONS

This report makes the following recommendations in two distinct categories.

5.1 OPTIMAL IMPLEMENTATION – A VICTORIAN FUTURE WELL-BEING ACT

Based on the research cited in this report, there is a compelling case for a broad well-being framework to inform all legislative initiatives, and through this policymaking more generally. It is therefore the recommendation of this report that a comprehensive *Victorian Future Well-being Act* be established. Naturally the drafting of a *Victorian Future Wellbeing Act* is not a summary process, and requires far more research, modelling and testing than this report has the capacity to provide. Within its confines, this report provides recommendations for the process of constructing a *Victorian Future Well-being Act*.

- 1) **Further research and inquiry** is needed into the extent to which a **comprehensive future well-being framework** would be **feasible** in Victoria. This should be done:
 - a) with specific consideration for whether a model inspired by Wales' *Well-being of Future Generations Act* is viable and/or suitable; and
 - b) with acknowledgement of the critical role that balancing hedonic and eudaimonic well-being notions can play in developing a comprehensive theoretical underpinning for the framework; and
 - c) with a view to ensuring responsiveness of any framework to new knowledge as the empirical literature around future well-being evolves.
- 2) **Measurement of the well-being outcomes and impacts** resulting from legislative change must be **central to any Victorian framework**. To date, this is not a task carried out with particular efficacy by any of the case studies examined in this report. Some components of this task would include:
 - a) concise short, medium and long-term well-being goals; and
 - b) well considered methods by which:
 - i) the attainment of those goals can be measured; and

- ii) findings may inform legislative change in order to better achieve the desired outcomes; and
 - iii) new knowledge may inform re-definition of desired well-being outcomes for future generations.
- 3) **Legislators must acknowledge that** any meaningful **evaluation of the impact** on population well-being of government well-being reforms is **likely to outstrip the natural life span of any single government**. The research required is necessarily longitudinal in nature and therefore asks the government of the day to look beyond its own life course, and to fund research that will answer the question of long-term policy impact.

5.2 FAST-TRACKING IMPLEMENTATION – SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

The process involved in implementing a comprehensive *Victorian Future Well-being Act* would be extensive. Given the central and current imperative for the Victorian Government to support population well-being in the interim, this report outlines a potential method by which some well-being standards could be quickly enforced, namely through use of the Scrutiny of Acts and Regulations Committee (SARC).

SARC is a joint, all-party committee established within the Parliament of Victoria to examine every Bill introduced into Parliament.⁶² It operates subject to its Terms of Reference, which outline what specific scrutiny the committee is to perform. For example, it is tasked with assessing whether Bills are compatible with the requirements in the *Charter of Human Rights and Responsibilities Act 2006*, or that they do not inappropriately delegate legislative power.⁶³ This report provides the following recommendations relating to SARC:

- 1) A **basic structure to assess future well-being benefits** of Bills would be added to SARC's Terms of Reference, transforming the body from one that exclusively mitigates risk into one which concerns itself with **both minimisation of risk and**

⁶² Parliament of Victoria, "Scrutiny Of Acts And Regulations", *Parliament.vic.gov.au* (Webpage, 2019).

⁶³ *Parliamentary Committees Act 2003* (Vic), s 17.

promotion of benefits to well-being. This basic structure should establish a **set of well-being principles, goals or outcomes** against which all Bills are to be considered.

- 2) In **assessing whether Bills comply** with the basic structure formulated, SARC would be able to:
 - a) **make recommendations to Parliament** where necessary when SARC is of the view that a Bill does not meet the risk or well-being standards set out in the structure; and
 - b) **consider pertinent empirical research** on future well-being benefits where it has legitimate concerns as to whether a Bill meets the standards set out in the structure.

6 CONCLUSION

Well-being is a complex notion, from ideological, empirical, philosophical and legislative perspectives. Accordingly, designing and implementing a legislative framework for future well-being in Victoria is necessarily a complex task. Research and economic analysis have demonstrated, however, that it is also a critical task. Improving well-being at a population level for future generations has the potential to drastically reduce the mental health burden on the community and economy, and to shape a more sustainable, cohesive and healthy Victoria for future generations. This report seeks to serve as an addition to the growing literature on this topic, and through its recommendations it offers ideas about the architecture around which meaningful legislative reform might be formed, evaluated, refined and sustained. In time this may be enshrined in a revised constitution, reflecting Parliament's commitment to well-being "for and on behalf of the people of Victoria, *now and into the future.*"

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