

PROOF

Hansard

LEGISLATIVE ASSEMBLY

60th Parliament

Tuesday 12 November 2024

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Proof

Tuesday 12 November 2024

The SPEAKER (Maree Edwards) took the chair at 12:03 pm, read the prayer and made an acknowledgement of country.

Bills

Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024

Introduction and first reading

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (12:04): I move:

That I introduce a bill for an act to amend the Tobacco Act 1987 to establish a licensing scheme for tobacco retailers and wholesalers and make related and other amendments, to make consequential amendments to the Confiscation Act 1997, the Drugs, Poisons and Controlled Substances Act 1981 and the Spent Convictions Act 2021 and for other purposes.

James NEWBURY (Brighton) (12:05): I do note the coalition will not be opposing the leave, which the government will seek to introduce the bill, but it is worth noting that this is now the third bill this year that the government has brought into this place without any notice. This has been such a rush that the Parliament has not even had time to put it on the notice paper in the proposed government business program for the week.

Only last week the member for Ovens Valley tried in this place to take action on behalf of the coalition on this issue, and at that time 108 tobacco outlets had been firebombed. This is a serious issue in the community. Since then –

Members interjecting.

The SPEAKER: Order! Member for Cranbourne!

James NEWBURY: Since then, when the government declined and blocked the opportunity of the member for Ovens Valley to move their bill, there have been –

Members interjecting.

James NEWBURY: This is not a joking matter for the government.

The SPEAKER: Member for Cranbourne!

James NEWBURY: This is not a joking matter. There have been two more firebombings – two more – and had the government taken the coalition's leadership two weeks ago, maybe they would not have happened.

Members interjecting.

The SPEAKER: Order! Member for Cranbourne!

James NEWBURY: The coalition will provide leave –

Members interjecting.

The SPEAKER: Member for Cranbourne!

James NEWBURY: on the second reading, but it is important to note that when the coalition sought to act on this before those two firebombings, the Labor Party opposed it.

Sarah CONNOLLY (Laverton) (12:07): Quite an expected audition – again – from the member for Brighton about this matter. This is an incredibly important bill that has been brought before the

house. Those opposite would want to remember there was an inquiry into this matter not so long ago. I would suggest that you go and read it. I would also suggest that you check –

Members interjecting.

The SPEAKER: Order! The member for Nepean will come to order.

Sarah CONNOLLY: You go ahead and check how many members on your side turned up to public inquiries to listen to what the community had to say on this matter, particularly in regional Victoria – Shepparton, in fact.

Members interjecting.

The SPEAKER: Order! Member for Laverton, through the Chair.

Sarah CONNOLLY: Thank you, Speaker. This is an incredibly serious matter that the community wants to see real action and real change taken on. That is exactly what this bill is about. Those opposite have proved themselves, once again, as nothing but blockers – blockers to everything that matters to the people of this state, time and time again.

Members interjecting.

The SPEAKER: Order! Leader of the Opposition! Member for South-West Coast!

Sarah CONNOLLY: The outrage, and confected outrage, from those opposite is absolutely extraordinary, because not one of them could be bothered to turn up except for, I have to say, Mrs McArthur – who would be the only subject matter expert on this matter – in the other place, who turned up to represent those opposite. What a disgrace they are to stand here in this place and talk down this bill and talk down the importance of this bill.

James Newbury: Wrong.

Sarah CONNOLLY: That is not wrong, member for Brighton. We know that you tend to block everything in this place. That is why you sit on that side of the chamber and we sit on this side of the chamber. The Victorian community know they can rely on Labor and this side of the house to go on and get things done. This is an incredibly important bill before the house, and I am very glad that the member for Brighton has said that they are not going to oppose this bill. You have had, as you said –

The SPEAKER: Order! Through the Chair, member for Laverton.

Sarah CONNOLLY: last sitting week, plenty of time to look at and investigate this matter and see what matters to real Victorians.

I just have to say as chair of the Public Accounts and Estimates Committee that it was a shame that those opposite did not feel the need to participate in any depth during the public hearings and inquiry that recently took place. I would suggest that they go ahead and read the report that was tabled in this place not so long ago. This is a really important bill before the house.

John Pesutto interjected.

The SPEAKER: Leader of the Opposition!

Sarah CONNOLLY: I would say, through the Chair, to the Leader of the Opposition that he should go and consult with one of his mates in the other chamber, Mrs McArthur. She is the subject matter expert in your party.

The SPEAKER: Through the Chair, member for Laverton.

Sarah CONNOLLY: It is an absolute farce, the confected outrage from those opposite in relation to this bill. This side of the house, including me, cannot wait to get on and debate this bill as it comes forth. The Victorian community knows that we need to do it. It is a great bill before the house, and I

really look forward to hearing the minister talk further about it. It may be shocking for those opposite to go ahead and read the facts, but I would suggest in good faith that they go and talk to Mrs McArthur, the subject matter expert of the Liberal Party in the other place.

Motion agreed to.

Tim McCURDY (Ovens Valley) (12:11): I request a brief explanation of the bill.

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (12:11): The Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024 will amend the Tobacco Act 1987 to establish a tobacco retailer and wholesaler licensing scheme; strengthen offences, enforcement and compliance provisions; repeal provisions relating to vaping goods in line with the Commonwealth’s ban on the retail sale of non-therapeutic vaping goods; and make consequential amendments to other acts to support the functions of the scheme and regulatory enforcement activities.

Read first time.

Melissa HORNE: I move, by leave:

That this bill be read a second time immediately.

I do so under standing order 61(3)(c).

Motion agreed to.

Statement of compatibility

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (12:16): In accordance with the Charter of Human Rights and Responsibilities Act 2006, I table a statement of compatibility in relation to the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024 (the **Bill**).

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

Overview of the Bill

This Bill:

- amends the Tobacco Act 1987 (the **Act**):
 - to establish a licensing scheme for tobacco retailers and wholesalers;
 - to repeal provisions relating to e-cigarettes and specialist tobacconists; and
 - to provide for forfeiture of prohibited products; and
- makes consequential amendments to the *Confiscation Act 1997* (**Confiscation Act**), the *Drugs, Poisons and Controlled Substances Act 1987* and the *Spent Convictions Act 2021* (**Spent Convictions Act**).

The purposes of this Bill are to:

- safeguard the suitability of licensed retailers and wholesalers of tobacco products;
- promote and enforce retailer and wholesaler compliance with controls on the lawful sale and promotion of tobacco products under the Act; and
- uphold the integrity of the tobacco retailer and wholesaler licensing scheme by deterring unlawful conduct.

Human rights issues

The human rights protected by the Charter that are relevant to the Bill are:

- The right to privacy and reputation (section 13);
- The right to freedom of expression (section 15);
- The right to property (section 20);
- The right to a fair hearing (section 24);
- The right to the presumption of innocence (section 25(1)); and
- The right not to be tried or punished more than once (section 26).

Licence application processes

The Bill establishes a tobacco business licensing scheme to regulate the lawful supply of tobacco products. Accordingly, new Part 3AA of the Act, inserted by clause 8 of the Bill, sets out the application processes for obtaining, renewing, varying, relocating, and transferring a licence. Licence applications must contain prescribed particulars, such as specified details of the applicant's associates, which includes prescribed relatives. The Regulator may additionally request that the applicant provide a criminal history check and any other documents or information relevant to assessing the suitability of the applicant to obtain, relocate, transfer and renew a licence (new sections 34A(1)–(3)), 34H(2)–(4), 34I(2)–(4) and 34ZS(2)–(4)).

Division 6 of Part 3AA sets out the process by which the Regulator must determine licence applications. Before granting or refusing a licence, relocation, transfer, variation or renewal application, the Regulator may conduct inquiries with government agencies in Victoria or in other Australian jurisdictions in relation to the criminal history of the applicant or any of their associates and must consider any objections or representations made by the Chief Commissioner of Police (new section 34W(3)(a), (c) and (6)). Under new section 34X, the Regulator may refuse to grant a licence or transfer application if they consider the applicant or an associate of theirs not to be a suitable person to carry on or be associated with a tobacco supply business.

Section 34Z deals with suitability matters and provides that a person found guilty – within the preceding 5 years – of a suitability offence (as defined in amended section 3) or an indictable offence (other than an indictable offence that is a suitability offence) or who is, in the Regulator's opinion, linked to or tends to be linked to, unlawful tobacco activity or organised crime activity, are not a suitable person to carry on or be associated with a tobacco supply business under the licence. Section 34Z(2) provides that the Regulator may take into account any spent conviction in relation to an offence specified in section 34(1) disclosed to the Regulator under the Spent Convictions Act that is recorded not more than 5 years before the date that the Regulator requested the information from the relevant law enforcement agency.

Right to equality and right to freedom of association

Section 8(3) of the Charter relevantly provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. The purpose of this component of the right to equality is to ensure that all laws and policies are applied equally, and do not have a discriminatory effect.

'Discrimination' under the Charter is defined by reference to the definition in the *Equal Opportunity Act 2010* (EO Act) on the basis of an attribute in section 6 of that Act. Relevantly, 'spent convictions' and 'personal associations' with a person who is identified by reference to a spent conviction, are attributes protected under sections 6(pb) and 6(q) of the EO Act. Direct discrimination occurs where a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

Accordingly, the power to refuse to grant a licence to an applicant on the basis that the applicant, or their associate, has a spent conviction may constitute direct discrimination against a person with a protected attribute and therefore engage the right to equality under s 8(3) of the Charter.

Section 16(2) of the Charter provides that every person has the right to freedom of association with others. This right has been broadly construed to include private associations and is not confined to participation in formal groups. Therefore, this Bill may engage this right by denying a person a licence on the basis of their personal or business associations.

Consequently, it is necessary to consider the proportionality or justification of the limitation on this right, by reference to its purpose. In order to justify limiting a Charter right, the purpose of the limitation must relate to 'pressing and substantial' social concerns, and be aimed at achieving legitimate values and interests. The more pressing and substantial the purpose, the greater the limitation it will justify.

The Bill seeks to address the pressing and substantial social concern of infiltration of the tobacco industry by serious and organised crime, and the practice of placing business assets in the names of family members. This

practice has also been linked with financial abuse of domestic partners where criminal activity takes place within businesses under the names of domestic partners. These amendments are thus aimed at achieving the legitimate purpose of safeguarding the suitability of licensed retailers and wholesalers of tobacco products. Given the immediate and escalating risks in the tobacco industry, there is a strong public interest in this purpose. Accordingly, any limitations on the rights to equality and free association occasioned by the licencing scheme established in the Bill are necessary to fulfil a legitimate and pressing purpose that cannot be achieved by less rights-limiting means. I therefore consider that the Bill is compatible with the right to equality in section 8 of the Charter.

Right to privacy and reputation

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have their reputation unlawfully attacked. An interference with the right to privacy and reputation will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought.

New Part 3AA of the Bill requires the provision of prescribed information, including an applicant or associate's criminal history, to the Regulator in support of a licence application (new sections 34A(1)–(3)), 34H(2)–(4), 34I(2)–(4) and 34ZS(2)–(4)). To the extent that the prescribed information includes personal information, these provisions may interfere with a person's right to privacy under section 13(a) of the Charter.

This being so, any impacts on the right to privacy are not unlawful or arbitrary. This is because the interference with privacy is authorised under legislation and is for the purpose of enabling the Regulator to make informed decisions about the appropriateness of a person to carry on a tobacco supply business. New sections 34A, 34H, 34I and 34ZS are clear and accessible and reasonably necessary to facilitate the Regulator's regulatory functions. Further, the information required by the Regulator is limited to information necessary for, or relevant to, the an assessment of whether a licence applicant is a suitable person to carry on a tobacco supply business, and serves the important purpose of enhancing the fitness and propriety of persons participating in the tobacco industry and addressing unlawful activity.

Further, as there is a diminished expectation of privacy by persons seeking to participate in a regulated industry and that applicants will have given their consent for their information to be verified and shared within the confines of the relevant provisions, any interference with the privacy interests of applicants is limited. I therefore consider that the Bill is compatible with the right to equality in section 13 of the Charter.

Criminal history

As noted above, various applications under the Act require the applicant to provide criminal history checks to the Regulator (new sections 34A(1)–(3)), 34H(2)–(4), 34I(2)–(4) and 34ZS(2)–(4)). Further, before granting or refusing a licence, relocation, transfer, variation or renewal application, the Regulator may conduct inquiries with government agencies in relation to the criminal history of the applicant or any associates of the applicant (section 34W(3)(a) and (6)). Criminal history checks may disclose pending criminal investigations, current unproven criminal charges, convictions and findings of guilt as well as charges that have been struck out, withdrawn, set aside or where the person has been found not guilty.

New section 34ZZ further set outs the process by which the Regulator may, on their own motion, review licences. In so doing, the Regulator is empowered to conduct any inquiries they think fit, including from the licensee or their associate, the Chief Commissioner of Police or other government agencies in relation to the criminal history of the applicant or their associates (section 34ZZ(3)–(4)). The Regulator may further request any documents or information that they consider appropriate, including a criminal history check of the licensee; and any of their associates.

Right to be presumed innocent

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right is one of the most fundamental rights in the Charter, and accordingly, will require a sufficiently important objective to justify being limited.

While the right has been found to only apply to criminal proceedings (and not, by contrast, to other proceedings such as regulatory decisions), it does afford an accused a right to have the benefit of the doubt, and to be treated in accordance with this principle. It is suggested that the right incorporates duties on others to refrain from prejudging the outcome of a trial – including to abstain from actions that affirm the guilt of an accused.

While Victorian case law has yet to consider in more detail the broader application of this right beyond criminal proceedings, there is a reasonable argument that the above mentioned provisions that allow the Regulator access to a person's criminal history which may disclose pending criminal investigations or current

unproven criminal charges may constitute a limit on the presumption of innocence if this information forms the basis of a decision to deny an application. As such, these provisions could be characterised as effecting an act of pre-judgment of an accused, or at least depriving them of their right to the benefit of the doubt.

However, I consider that the licencing decisions by reference to potential involvement in criminal conduct is justified because the effective operation of the licensing scheme is necessary to protect the integrity of the industry and combat illegal tobacco activity. I therefore consider that the Bill is compatible with the right to be presumed innocent in section 25(1) of the Charter.

Right not to be tried or punished more than once

Section 26 of the Charter provides that a person must not be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law. This right reflects the principle of double jeopardy. However the principle only applies in respect of criminal offences – it will not prevent civil proceedings being brought in respect of a person’s conduct which has previously been the subject of criminal proceedings, or vice versa.

It might be argued that new section 34X(1)(a) of the Act, which provides for the refusal of a licence application on the basis of past convictions including spent convictions, constitute a limit on this right. This is because the provision could be characterised as effecting a form of ‘punishment’. Similarly, the suspension and cancellation of a licence where the licensee or associate is found not to be a suitable person may be considered to be a double punishment if the finding is based on, or informed by, past charges or convictions.

However, in my view, these new sections do not engage this right as the making of licencing decisions by reference to past involvement in criminal conduct is not to be characterised as imposing a form of punishment, for the following reasons.

- The mere fact that a law operates to directly impose a detriment on a particular person does not make it punitive. Rather, the authorities show that the criteria by reference to which the detriment is imposed, and also the *purpose* for which it is imposed, are central to determining whether the imposition of a particular detriment is properly characterised as punitive.
- The purpose of the provisions is not punitive but protective, aimed at safeguarding the suitability of licensees, and the integrity of the licence scheme and tobacco supply industry. As the tobacco industry has been widely infiltrated by criminal organisations, it is important to ensure that the supply of tobacco products is subject to strict regulatory oversight.

Therefore, regulatory decisions on the basis of an applicant’s criminal history are not punitive in their purpose but protective in nature. Therefore, in my view, they do not amount to double punishment for the purpose of section 26, and this right is therefore not limited.

Powers to suspend and cancel licences and disqualify persons

Division 4 of new Part 3AA, inserted by clause 8, regulates the suspension and cancellation of licences. New section 34Q, inserted by clause 22 of the Bill, authorises the Regulator to suspend or cancel a licence on various grounds set out in section 34P(1), including where the licensee, or an associate, are found to no longer be a suitable person to carry on or be associated with a tobacco supply business under the licence for reasons that may include being found guilty of a suitability offence or an indictable offence that in the Regulator’s opinion is linked to or tends to be linked to unlawful tobacco activity or organised crime activity (section 34Z). If the Regulator has cancelled a licence under new section 34Q, the Regulator may also disqualify that person from holding a licence for up to five years (new section 34ZU). New section 34W further authorises the Regulator to refuse a licence renewal application.

Right to privacy

Although the Charter does not include an express ‘right to work’, there is case law which suggests that the right to privacy may include ‘a right to work of some kind’ where there is a sufficient impact upon the personal relationships of an individual or on their capacity to experience a private life, for example by curtailing their ability to earn a living and maintain their identity through employment.

It is possible that for a person who operates a tobacco supply business, the suspension, cancellation or refusal to grant renewal of their licence, or their disqualification from holding a licence, may significantly curtail their ability to earn a living and maintain their identity through employment. Accordingly, on a broad reading, the right to privacy may be engaged by a decision to suspend, cancel or disqualify a person, or a decision not to renew a licence. However, for the right to be limited, any interference must be unlawful and arbitrary. The question of arbitrariness depends upon the proportionality of any interference with privacy.

In my view, any impacts on the right to privacy are not unlawful or arbitrary. This is so because the provisions granting the power to suspend or cancel a licence are subject to a range of safeguards, such that any limits on rights are precise and carefully circumscribed. Division 4 sets out a detailed procedure for the determination

of suspension and cancellation applications. For example, where an application is made by the Chief Commissioner of Police or a mortgagee of a licenced tobacco premises, the licensee must be provided with a copy of the application and where relevant, a ‘show cause’ notice (sections 34N, 34O and 34P). Further, a decision to suspend or cancel a licence must only be made in accordance with the criteria set out in section 34P(1), which includes a finding of such matters as the licensee or their associate is no longer a suitable person to carry on or be associated with a tobacco supply business under the licence, or the breach of a licence condition by the licensee. Similar safeguards apply to disqualification decisions (section 34ZT). Therefore, these provisions are aimed at ensuring that only suitable people are permitted to operate tobacco supply businesses, which serves a legitimate and important purpose, particularly given the incidence of unlawful and organised crime activity in the supply of tobacco products and the central role of licensees to supply of these products. Finally, suspension, cancellation and disqualification decisions are all subject to internal review (clause 5, subsection 3(e) and (g)) and VCAT appeal processes (new section 34ZL).

Finally, a tobacco supply licence is a privilege that attracts special responsibilities and duties. The power to suspend or cancel a licence due to a licensee’s failure to comply with its requirements and conditions is an important regulatory function that protects the integrity and safety of the industry.

Accordingly, I consider that any interference arising from the Regulator’s powers to suspend or cancel licences or disqualify persons from holding licences would not be arbitrary.

Right to fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a ‘civil proceeding’ is not limited to judicial decision makers, but may encompass the decision-making procedures of many types of administrative decision-makers with the power to determine private rights and interests in the broad sense. As administrative decisions that affect existing rights attract the application of the right to a fair hearing, powers to cancel or suspend an existing licence are likely to engage this right.

The fair hearing right is principally concerned with the procedural fairness of a decision, which in the context of these types of administrative decisions, generally requires prior notice of a decision, informing interested parties of the matters that may be relevant to a decision, and giving them a ‘reasonable opportunity’ to present their case and respond to adverse information.

I am satisfied that the fair hearing right is not limited, because section 34P provides for show cause notice requirements, which must include the ground(s) for the decision and an outline of the facts and circumstances forming the basis of the Regulator’s belief that the ground(s) exist (subsections (2)(b) and (c)). Additionally, the Bill affords licensees a reasonable opportunity to respond (subsections 34P(2)(e) and (3)) and with a right of internal and VCAT review of the decision (sections 34ZJ and 34ZL).

Right not to be tried or punished more than once

It might be argued that new section 34Q of the Act, which provides for the suspension or cancellation of a licence where the licensee or associate is found not to be a suitable person, constitutes a limit on this right if the finding is based on, or informed by, past convictions including spent convictions. The argument might be put on the basis that the provision could be characterised as effecting a form of ‘punishment’.

However, in my view, this new section does not engage this right as the making of licencing decisions by reference to past involvement in criminal conduct is not to be characterised as imposing a form of punishment, for the same reasons as outlined above.

Further, the nature of the detriments being imposed (eg, licence suspension or cancellation) is not of a nature traditionally associated with a criminal sanction. Penalties and sanctions imposed by a regulator do not usually constitute a form of ‘punishment’ for the purposes of this right. Further, no conviction flows from these outcomes nor is a person liable for subsequent sanctions of a criminal nature, such as a fine or imprisonment. The detriment does not interfere with a person’s liberty or bodily integrity (or even pre-existing property rights), it is just directed to whether an applicant will continue to enjoy a privilege (ie, a licence).

Finally, licence suspension and cancellation on the basis of criminal history are limited to serious offences, such as indictable offences that in the Regulator’s opinion may be linked to unlawful tobacco activity or organised crime activity (new section 34Z(1)(b)), and other specified offences that reasonably put into question a person’s suitability to carry on a tobacco supply business (eg, indictable offences relating to fraud or dishonesty: subsections 3(c) and 34Z(1)(a)) (see ‘suitability matters’ as defined in new section 34Z).

Immediate suspension in relation to suspected illicit tobacco offences

Pursuant to recommendations arising from the PAEC inquiry into Vaping and Tobacco Controls, the Bill introduces a new process providing for the immediate suspension of a licence (for up to 90 days) if the

Regulator forms a reasonable belief that a licensee has committed an offence relating to the possession or supply of a commercial quantity of illicit tobacco, and may continue to possess or supply illicit tobacco in or from the licensed premises (clause 8, new section 34R).

Right to a fair hearing

As new section 34R allows a person's licence to be immediately suspended without a show cause process, this amendment may further engage the right to a fair hearing.

However, as outlined above, the fair hearing right is principally concerned with the procedural fairness of a decision, such that the entire decision-making process, including reviews and appeals, must be examined in order to determine whether the right is limited. The Bill affords licensees a right of internal and VCAT review of a decision to immediately suspend a licence (sections 34ZJ and 34ZL).

Further, immediate suspension serves an important purpose of providing a timely mechanism for preventing further criminal activity in circumstances where the Regulator reasonably believes that a licensee has committed an offence and may continue to do so. It is an important mechanism for realising the Bill's purpose of ensuring retailer and wholesaler compliance with the lawful sale of tobacco products.

I further consider section 34R to be a proportionate response as immediate suspension is confined to preventing activities reasonably considered to be an offence in circumstances where delayed regulatory action would not have the immediate protective effect of preventing an imminent risk of continued offending.

Therefore, to the extent that this provision limits the fair hearing right, it serves a legitimate objective and is thus reasonably justified. Accordingly, I am satisfied this provision is compatible with the Charter.

The right to be presumed innocent

Section 34R(2) authorises the Regulator to immediately suspend a licence under section 34R regardless of whether the licensee has been charged with an illicit tobacco offence, proceedings have been initiated against the licensee in respect of such offence, or the licensee having been convicted of such offence. As the provision allows for a regulatory action on the basis of an unproven offence and therefore can be characterised as effecting an act of pre-judgment of an accused, or at least depriving them of their right to the benefit of the doubt, the provision engages and may limit the right to the presumption of innocence in section 25(1) of the Charter.

However, there is a clear and direct relationship between the limitation and stated purpose – the immediate suspension of a licence directly correlates to the stated purpose of safeguarding the suitability of licensed tobacco retailers and wholesalers and the integrity of the tobacco retailer and wholesaler licensing scheme. Given the immediate and escalating risks in the tobacco industry, there is a strong public interest in this purpose.

Moreover, immediate suspension is limited to serious offences related to the possession or supply of a commercial quantity of illegal tobacco, where the Regulator reasonably believes the licensee may continue to offend.

It is my view that if the immediate suspension of a licence under new section 34R of the Act limits the right to be presumed innocent under section 25(1) of the Charter, such limits are justifiable.

Search and seizure powers

Division 3 of new Part 3AAB of the Act introduces a suite of powers that enable licensing inspectors to enter, inspect and search licensed tobacco premises, any vehicle used in connection with these premises, or other premises, and to seize any document or thing after entry. These powers provide a hierarchy of options that scale in the extent of their interference with rights:

- at the lower end of the scale are powers to enter a licensed tobacco premises open to the public, or to enter with consent (sections 35I and 35J);
- at the higher end are those powers that can only be exercised pursuant to a search warrant (section 35L).

Where a licensing inspector enters a premises or vehicle, they may exercise the powers specified in new sections 34K. These powers differ, depending on the basis on which a person's entry is authorised, but broadly include powers to search the premises; inspect or require the production of any document, equipment, product, goods or other thing for the purpose of inspection; copy or take an extract from documents; request information from persons at the premises, and seize any document, equipment, tobacco product, vaping goods or other thing in certain circumstances.

Warrants can be issued by a Magistrate where there are reasonable grounds to believe that there is likely to be on the premises any document, equipment, tobacco product, vaping goods or other thing that may be evidence of a licensing offence (section 35L). Where entry is authorised by warrant, a licensing inspector or

police officer may also seize things not mentioned in the warrant if they reasonably believe certain matters exist (section 35O). They may also use or seize electronic equipment at the premises in certain circumstances (section 35P).

Right to privacy

These powers engage the right to privacy in section 13 of the Charter, which protects against unlawful and arbitrary interferences with a person's privacy or correspondence. However, a number of safeguards apply to the exercise of such powers to ensure they are not exercised arbitrarily or unlawfully. In particular:

- licensing inspectors must only exercise powers of entry during normal business hours or any other time the premises are open to the public (unless the licensing inspector reasonably suspects that a licensing offence is being or has been committed, or otherwise provided for under a warrant, or by consent) (section 35I);
- licensing inspectors may only exercise powers (other than under a warrant) for the purpose of monitoring compliance with a relevant provision or if the inspector reasonably believes that a licensing offence is being or has been committed (section 35K(1));
- when consent is required to exercise a power, licensing inspectors must explain certain matters including the person's right to refuse to consent, and seek a signed acknowledgment of consent (section 35J);
- licensing inspectors and police officers must comply with retention and return limits in accordance with section 35Q for anything seized under section 35K or under a licensing search warrant; and
- when exercising powers of entry under a warrant, licensing inspectors or police officers must generally announce that they are authorised by warrant, give a person at the premises the opportunity to allow entry, and provide a copy of the warrant to the occupier (if present) (sections 35M and 35N).

As such, a broad range of safeguards apply to ensure the powers may only be exercised in a reasonable and proportionate way that protects the privacy of individuals as much as possible. The powers serve the important purpose of enabling licensing inspectors to effectively monitor and enforce compliance with the Act. The powers are appropriately tailored to reflect the source of the authority to enter premises and exercise associated powers, with the most significant powers being reserved to circumstances where a Magistrate has granted a warrant. Further the powers will primarily be restricted to entry onto commercial premises, at which there is generally a lesser expectation of privacy.

Although the powers involve some interference with the privacy of the licensees, I consider that the interference is neither unlawful nor arbitrary and is therefore compatible with the right to privacy in section 13 of the Charter.

Right to property

While property is not defined under the Charter, it is likely to include personal property interests recognised under general law. As the new seizure powers authorise the removal of anything found on the premises, these powers may engage property rights under section 20 of the Charter.

However, the provisions empowering the seizure of any document, equipment, tobacco product, vaping goods or other thing do not limit property rights, as any interference with property occasioned by these provisions would be undertaken in accordance with the provisions of the Bill, which are accessible, clear and sufficiently precise. For example, a licensing inspector may only seize anything on the premises if they consider it necessary for the purpose of obtaining evidence of the commission of a licensing offence (subsection 35K(2)(d)) and must provide a receipt for the thing seized as soon as practicable (subsection 35K(4)). Under a licensing search warrant, the power to seize anything not named in the warrant is subject to various conditions: specifically, a licensing inspector or police officer must believe on reasonable grounds that the seized thing is of a kind which could have been included in a warrant, will afford evidence of a licensing offence and is necessary to seize to prevent its concealment, loss or destruction or its use in the commission of that offence (new section 35O). Further, any deprivation of property is reasonably necessary to achieve the important objective of obtaining evidence of the commission of a licensing offence.

Therefore, any deprivation of property will be 'in accordance with law' and will therefore not limit the Charter right to property.

Information use and sharing provisions

New section 35C, inserted by clause 12, authorises the Regulator or a licensing inspector to collect, use and disclose information about an applicant or licensee, or their associate, for the purpose of performing the functions of the Regulator or licensing inspector under the Act and for other specified purposes. The provision also authorises the Chief Commissioner of Police to disclose to the Regulator any information, including

personal information and law enforcement data, that they consider is reasonably necessary to enable the Regulator to perform their functions under the Act.

Additionally, new sections 34T and 34U of the Act, inserted by clause 8, enable the sharing of information, including personal and sensitive information between the Regulator and Chief Commissioner of Police for the purpose of objections or representations in relation to licence applications. Specifically, the Regulator must provide a copy of a licence or transfer application and may provide a copy of suspension, cancellation, relocation and variation applications, to the Chief Commissioner of Police (sections 34T and 34V). Sections 34U and 34V permit the Chief Commissioner to object and/or make written representations to the Regulator in relation to these applications. New section 34W of the Act enables the Regulator to use information provided by the Chief Commissioner when determining licence applications.

Right to privacy and reputation

By authorising the disclosure of what may be personal and sensitive information, these provisions engage the right to privacy and reputation of applicants and licensees under section 13 of the Charter. However, these amendments are carefully confined to their statutory purpose, to enable the Regulator to exercise their regulatory functions in respect of the licensing scheme and preclude unsuitable licensees, applicants and their associates from carrying on or being associated with a tobacco supply business. Therefore, the proposed disclosure of information does not extend beyond what is reasonably necessary to achieve the legitimate aim of the Bill, such that it is reasonable and proportionate to the Bill's important objectives.

Accordingly, I consider that these provisions strike an appropriate balance between protecting the privacy and reputation of applicants while ensuring that the Regulator has sufficient information to perform its regulatory functions, including determining the outcome of licence applications and reviews. In my view, the information sharing powers are proportionate to the purpose of the limitation and therefore, will not be an arbitrary or unlawful interference with privacy.

Protected information provisions

Clause 8 inserts new section 34ZA, which sets out a new regime for the use and disclosure of 'protected information' as defined in amended section 3 of the Act. Protected information includes any information that is likely to jeopardise the safety of another person; reveal an intelligence gathering method, investigative technique or covert police practice; or may prejudice any investigation or criminal proceeding.

The Bill provides that protected information may be withheld from the Regulator if the Chief Commissioner of Police makes an objection, representations, or licence suspension or cancellation application that relies partly or wholly on protected information. Further, if the Regulator makes a licence application decision based on protected information, and provides the applicant with reasons for that decision, they must not disclose the protected information to the applicant (new sections 34ZA(3) and 34ZI). Instead, the Regulator must state only that their decision is based on advice from the Chief Commissioner of Police.

Freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. The right to freedom of expression in section 15 of the Charter has been interpreted as encompassing a right to access information in the possession of government bodies, particularly where an individual seeks information on a subject in which they have a legitimate interest. Accordingly, these provisions may impose a limit on the right to freedom of expression under s 18 of the Charter by limiting a person's right to access information on matters that concern them.

However, section 15(3) provides that the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others, or for the protection of national security, public order, public health or public morality. The protective information provisions in the Bill are necessary to achieve important objectives such as the protection of the safety and privacy of individuals, the integrity of police investigations, and the administration of justice. I, therefore, consider that any limitations imposed are either within the internal limits of the right in s 15(3) or reasonably justified and proportionate in accordance with section 7(2) of the Charter.

Therefore, while there are restrictions upon the ability to access protected information that is provided by the Chief Commissioner of Police and is relevant to application decisions, those limits are reasonably necessary to protect the rights of others and the administration of justice, and are therefore compatible with the right to freedom of expression.

Right to fair hearing

As applicants and licensees will be precluded from accessing protected information on which adverse licence decisions may be based, the protected information provisions may engage the right to fair hearing.

Although an applicant is not privy to the entire case against them insofar as the decision is based on the protected information, the Bill provides a range of protections to facilitate procedural fairness. New section 34ZM permits a person whose interests are affected by a decision that is based on advice from the Chief Commissioner of Police to apply to VCAT for review of the Regulator's decision. In such proceedings, VCAT must appoint a special counsel to represent the interests of the applicant to the extent that those interests relate to the protected information on which the decision is based (new section 34ZO). The Bill sets out a detailed process for the hearing of these review proceedings that balances the need to maintain the confidentiality of protected information with the rights of the applicant to a fair hearing (Division 9 of new Part 3AA). Accordingly, I find that any limitation to this right resulting from new section 34ZA is proportionate and reasonably justified.

Evidentiary presumptions in unlicensed sale of tobacco offence

Clause 35 of the Bill inserts new section 33A, which introduces an offence to sell tobacco products without a licence. The provision contains a presumption that the fact that there are more tobacco products on the premises than are reasonably required for the occupier's use, is evidence of the sale of those products by the occupier.

Clause 29 of the Bill inserts new section 39A, which provides that proof of the delivery of tobacco products is evidence of money or other consideration having been given for the tobacco products and that proof that a transaction in the nature of a sale of tobacco products took place is evidence of the sale of tobacco products.

Right to be presumed innocent

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. These provisions engage this right because they operate to deem certain evidence as proof of the 'fact' that an individual has committed an element of an offence and thus reduce the prosecution's burden to provide evidence in relation to these facts. These presumptions can be rebutted by the defendant adducing evidence to the contrary, when the burden will shift to the prosecutor.

To the extent that these evidentiary presumptions limit the right in section 25(1) of the Charter, any such limit is, in my view, reasonable and justified given the important protective purpose of clauses 29 and 35 of the Bill. As the offences involve acts, being the unlicensed sale of tobacco, that would be difficult for the prosecution to establish in the absence of the presumptions, these provisions are necessary to ensure the effective administration of the licence scheme designed to prevent the unregulated sale of tobacco. The clauses establish facts that are probabilistically likely to be the case (ie, the fact that there are more tobacco products than are reasonably required for the occupier's use means it is highly likely that it is for the purposes of sale) and enable these offences to be efficiently prosecuted. Accordingly, I do not consider there are any less restrictive means reasonably available to achieve the legislative purpose.

Further, courts in other jurisdictions have held that the presumption of innocence may be subject to reasonable limits in the context of regulatory compliance, particularly where regulatory offences may cause harm to the public. I consider these presumptions to be a reasonably necessary and proportionate response to address the high incidence of unlawful and organised crime activity in the tobacco industry, and enforce the compliance with the licensing scheme.

Therefore, I am of the view that any limitation on the right to be presumed innocent in section 25(1) is reasonable and demonstrably justified.

Appointment of licensing inspectors

Division 2 of new Part 3AAB provides for the appointment of licensing inspectors to promote, monitor and enforce compliance by tobacco supply businesses with the Act and regulations (new sections 35D and 35F(1)(b)). The Regulator may only appoint a person as a licensing inspector if they are satisfied that the person has the necessary skills, training and expertise to perform the functions and duties, and exercise the powers of an inspector under the Act (new section 35D(2)). The Regulator may require a prospective licensing inspector to consent to having their photograph, finger prints and palm prints taken, and must refer a copy of these and any supporting documentation to the Chief Commissioner of Police for a criminal records check (section 35E(1)–(2)). The Chief Commissioner of Police must inquire into and report to the Regulator on matters relating to whether the prospective licensing inspector is of good repute, having regard to character, honesty and integrity (section 35E(3)).

Right to privacy

To the extent that these provisions require a person to disclose personal and sensitive information, including biometric data or any criminal record, the requirements would interfere with the person's right to privacy in section 13(a) of the Charter. In my view, any interference would not be arbitrary, because ensuring that only fit and proper people are appointed as licensing inspectors serves a legitimate and important purpose, noting

their role in supporting improved compliance and enforcement. Further, these provisions are accompanied by safeguards such as the mandatory destruction of all biometric information obtained for the purpose of considering a prospective appointment (section 35E(4)–(5)), such that they are proportionate to the legitimate aim sought.

Forfeiture provisions

New section 35ZB authorises the forfeiture and destruction of seized tobacco products if the person is found guilty of an offence under the Act. Similarly, new section 37A authorises the forfeiture of prohibited products, which include illicit tobacco products and vaping goods. Further, clause 69 amends Schedules 1 and 2 of the Confiscation Act to include illicit tobacco offences. The effect of these amendments is to render the property of persons convicted of certain offences under the Act subject to forfeiture, asset freezing and other confiscation orders under the Confiscation Act.

Right to property

As property is likely to include real and personal property interests, the above forfeiture provisions could be considered to deprive a person of their property rights.

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

However, any such deprivation will be ‘in accordance with law’ and will therefore not limit the Charter right to property. In particular, new sections 35ZB and 37A are drafted in clear and precise terms. For example, section 37A(1) requires that after seizure of the prohibited product, the licensee be served with a forfeiture notice, which has been approved by the ‘appropriate person’ (as defined in section 37A(8)) in the circumstances. Similarly, the existing suite of safeguards in the Confiscation Act will apply to the tobacco offence included in the forfeiture regime. In addition, any deprivation of property will be reasonably necessary to deprive retailers and suppliers of the proceeds of crime and thus disrupt further criminal activity by preventing the use of property, deterring others from engaging in criminal activity and undermining the profitability of serious criminal activity. This serves the important objective of ensuring effective enforcement of retailer and wholesaler compliance with controls on the lawful sale and promotion of tobacco products under the Act.

The Hon. Melissa Horne MP
Minister for Casino, Gaming and Liquor Regulation

Second reading

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (12:16):
I move:

That this bill be now read a second time.

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

Incorporated speech as follows:

I am pleased to bring before the House the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. The Bill will amend the *Tobacco Act 1987* to introduce a tobacco business licensing scheme, that will prohibit the retail and wholesale sale of tobacco by any person other than the holder of a licence granted under the Tobacco Act 1987. These reforms will better protect businesses who are operating legitimately and will ensure greater oversight of the tobacco retail and wholesale industries in Victoria.

The reforms in this Bill respond to significant community concerns regarding illicit tobacco and the prevalence of tobacco businesses suspected of involvement in its distribution across the state. The Bill aims to significantly strengthen regulation and enforcement of laws governing the supply of tobacco to limit the availability of illicit tobacco and punish those who distribute it. The new licensing scheme will deter unsuitable people from seeking to run a tobacco business and contribute through intelligence and licensing enforcement action to support Victoria Police and other law enforcement efforts to combat serious and organised crime.

The Bill implements key findings from the Review into Illicit Tobacco completed by the Commissioner for Better Regulation in 2021, as well as the 2024 Public Accounts and Estimates Committee Inquiry into Vaping and Tobacco Controls.

The Bill builds on the recent Commonwealth legislation relating to the sale and supply of vaping goods, which can now only be legally sold in pharmacies. The Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024 amended the Therapeutic Goods Act and other Commonwealth legislation to prohibit the importation, domestic manufacture, supply, commercial possession and advertisement of non-therapeutic and disposable vaping goods. These reforms are intended to reduce the prevalence of smoking and vaping in the community, in line with the National Tobacco Strategy.

Administration

The Department of Justice and Community Safety will be responsible for administering the new tobacco business licensing scheme. The new tobacco regulatory function will work closely with other government departments and agencies to ensure a coordinated approach, in particular, the Department of Health which will remain the lead department responsible for the administration of the *Tobacco Act 1987* including health promotion, smoking cessation, enforcement of smoke free area offences and preventing broader tobacco and smoking harms, along with Victoria Police which will continue to lead the investigation and disruption of serious and organised crime.

Licensing

Key features of the Bill include the establishment of a licensing scheme that will prohibit the retail and wholesale sale of tobacco products by any person without a licence granted under the Tobacco Act 1987. The Bill will introduce powers for the regulator to impose conditions on tobacco licences, as well as suitability requirements, to ensure that licences cannot be held by anyone who is not ‘fit and proper’ in accordance with the requirements of the scheme. The Bill will also introduce new offences and strengthen penalties, to ensure that Victoria has the strongest illicit tobacco offences in the country.

Suitability of licensees

The Bill provides that a person or body corporate can apply to the regulator for a licence to sell tobacco. The licence application must include the required information and any other documents or information that the Regulator considers appropriate to determine the applicant’s suitability to hold a licence. The Bill enables the regulator to seek information and intelligence from Victoria Police when assessing licence applications to determine a person’s suitability to hold a tobacco licence. Importantly, the Bill provides that the regulator may refuse to grant a licence if the regulator considers that the applicant or an associate of the applicant is not suitable to carry out or be associated with a tobacco supply business. The Bill also enables the regulator to impose conditions on a licence, such as a requirement that the licensee report to the regulator on the activity they conduct under the licence.

Suspension and cancellation of licences

The Bill provides that in certain circumstances, the regulator may vary, suspend or cancel a tobacco licence if the licensee, or an associate of the licensee, breaches a condition of their licence or is no longer considered to be a suitable person to run or be associated with a tobacco supply business. Specifically, a tobacco licence can be suspended or cancelled following a show cause notice. Given the immediate and escalating risks in the tobacco industry, the Bill also provides that the regulator will be able to immediately suspend a licence for up to 90 days in response to serious contraventions of the *Tobacco Act 1987*. The regulator may also disqualify a person or body corporate from holding a licence for up to 5 years.

Ongoing reviews of suitability

The Bill also allows the regulator to conduct a review of a licence at any time, which will include consideration of the licensee’s (or their associate’s) suitability to carry on a tobacco supply business and may request the licensee and the licensee’s associates undertake a criminal history check. To inform this review, the regulator may make inquiries with Victoria Police, other government agencies and local councils, to verify the licensee’s compliance under the Act.

Penalty Regime

Another key component of the Bill is the introduction of a range of measures to enable non-compliance to be appropriately dealt with. Several new offences have been included to support the licensing scheme, including separate offences for possessing and selling illicit tobacco, a new offence to sell tobacco without a licence and an offence to sell tobacco products except in accordance with a licence.

The Bill introduces the strongest penalty regime in the country for supplying illicit tobacco. For supplying a commercial quantity of illicit tobacco, the new penalty will be a fine of up to \$355,662.00, or 1800 penalty units, or 15 years jail for an individual, and a fine of up to \$1,778,310.00 or 9000 penalty units, for corporations.

Importantly, the Bill introduces substantial penalties for selling tobacco products in contravention of the Act, including selling tobacco without a licence. For individuals, the new penalty will be a fine of up to

\$165,975.60, or 840 penalty units, or 5 years imprisonment and a fine of up to \$829,878.00, or 4200 penalty units, for corporations.

The strong penalties contained in the Bill will be supported by cooperation between the regulator, Victoria Police and other authorities, and supplement the broader efforts of state and federal law enforcement agencies to counter serious and organised crime in the tobacco industry

Enforcement

The Bill introduces inspection and enforcement powers for licensing inspectors, including the power to enter premises for compliance monitoring and inspection and seizure powers. The regulator will also be able to issue improvement notices and accept enforceable undertakings to bring about compliance with the licensing scheme.

Victoria Police will continue to be responsible for, and focussed on, detecting and investigating serious and organised crime associated with illicit tobacco. The Bill will help to strengthen Victoria Police's efforts to crack down on illicit tobacco by providing police officers with the ability to exercise enforcement powers under the tobacco business licensing scheme, including to obtain search warrants, enter premises and seize illicit items to support the detention and enforcement of serious criminal activity.

The regulator will build a strong operational relationship with Victoria Police, enabling the regulator to focus on day-to-day compliance, inspection and enforcement activities and Victoria Police to focus on the detection, investigation and disruption of serious and organised crime associated with the illicit tobacco markets.

Review of decisions

The Bill provides for an internal review process with respect to certain decisions made by the regulator, as well as an external review process, whereby a person whose interests are affected by a decision made by the Regulator may apply to the Victorian Civil and Administrative Tribunal for external review of the Regulator's decision. This includes a process that allows Victoria Police to object to or provide input in relation to a licence application based on protected information that will not be disclosed to the applicant.

Statutory Review

The Bill includes provisions requiring a statutory review of the tobacco licensing scheme to be undertaken after 5 years of operation. The objective of these provisions is to facilitate transparent reporting on the licensing scheme's effectiveness, as recommended by the PAEC Inquiry.

Data collection

As noted by the PAEC Inquiry, there is a need for improved data collection in relation to the sales and supply of tobacco. The Bill will enable data collection through the inclusion of conditions on tobacco licences. The Bill provides that the regulator must keep a Register of Licensed Tobacco Suppliers, which includes information in relation to each licence, the business name under which the licensee sells tobacco products, the address of the licensed tobacco premises, the licensee's licence number and any other prescribed information. The Bill also provides that the Register will be published on the regulator's website.

Conclusion

These reforms will bring Victoria into line with other states and territories which have introduced licensing schemes and will ensure that Victoria has the strongest illicit tobacco offences in the country. The increased penalties for illicit tobacco offences reflect the Government's commitment to address the harms caused by the illicit tobacco industry and the significant health impacts of smoking on Victorians. This Bill is reflective of the Government's commitment to address these issues as effectively and efficiently as possible, in line with community expectations.

I commend the Bill to the house.

James NEWBURY (Brighton) (12:16): I move:

That debate be adjourned.

Motion agreed to and debate adjourned.

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (12:16): I move:

That debate be adjourned until tomorrow.

James NEWBURY (Brighton) (12:17): The bill has just been circulated to the chamber, and I note that despite being given effectively urgent status in this chamber, the bill on page 1 makes clear that

the government does not intend to bring this bill into operation until 19 months time – 19 months time. This is why it is important that bills not get rushed through this chamber, because if the government had come to the coalition we could have raised with them in good faith the need to act now. It is not good enough to simply say there is a problem – a problem which, by the way, the government in the last sitting week blocked the coalition from taking action on. A bill has been introduced which requires some urgent status in this chamber that will sit collecting dust for 19 months. How could that be? We know that 110 firebombings have occurred that we already know of, only two in the last week in Pascoe Vale – two in the last two days at the same shop.

The SPEAKER: I remind members not to anticipate debate; this is a procedural motion.

James NEWBURY: And it is an important procedural motion that goes to the substance of why we must take action. That is the core of what we are debating today. It is the core of what we debated in the last sitting week: the need for action, the need for doing something, the need for doing something now. We have seen two firebombings since the last sitting week. This bill, which has just been handed out to the non-government members around this chamber, has on the front page that the bill will not commence operation until 1 July 2026. How can that be? We know what has happened in the community and the need for action, and that is why the coalition has been leading on it. That is why the member for Ovens Valley came into this chamber and said, ‘We need action now’, and he was very persuasive I felt –

Roma Britnell interjected.

The SPEAKER: The member for South-West Coast, if you would like to talk on the procedural motion, you may have a turn.

James NEWBURY: and he spoke eloquently about the need for action now. The government said, ‘No. Block. No. Block’. Every single member on that side of the chamber said no – they blocked it. And yet we have seen a rushed bill come into the chamber this week. It is not even on the Parliament’s program for the day. It is not even on the program for the day, it is so rushed.

The Parliament has not even had time to add it to their program, and yet it is so rushed it is going to sit on a shelf for 19 months. What is going to happen in that time? I fear for what is going to happen over that time. I cannot understand how the government keeps getting this so wrong. That is why the coalition has said again and again and again that we need action. We need action now. As the member for Ovens Valley and as many members on this side of the chamber said in the last sitting week, we need action now.

So we are shocked, frankly, to see a bill introduced in this chamber that is going to see dust until 1 July 2026. We need action now. How many more firebombings will occur before 1 July 2026? We are concerned; of course we are concerned. We are concerned on behalf of the community. For the government to walk in here with an urgent bill that is going to sit collecting dust for 19 months is shameful. It shows they do not get the problem, and they certainly do not know how to fix it. They should have listened to the member for Ovens Valley last week. That is what they should have done. They should have listened to him last week, and there would have been two firebombings that we may not have seen occur. The government stands condemned for their lack of action when it comes to this important issue.

Lauren KATHAGE (Yan Yean) (12:22): The member for Brighton reminds me of Goldilocks: first it is too slow, then it is too rushed. Well, I say it is just right. The willingness to push for quicker action and then to say ‘slow down’ when we take action shows the truth about those opposite: that really the only thing they want to do is block. It is not about the content, it is not about the substance, it is not about the timing and it is not about the community. It is just about blocking. So I thought what other fairytale or fable –

Members interjecting.

The SPEAKER: Order! I am having trouble hearing the member for Yan Yean. There is too much conversation in the chamber.

Lauren KATHAGE: So if it is not Goldilocks, perhaps is it the boy who cried wolf? I think the member for Brighton is reminding me of the boy who cried wolf, because what he is saying cannot be believed. He should talk straight. Are they going to support this or not?

The SPEAKER: Order! Through the Chair.

Lauren KATHAGE: Sorry. I hope that they talk straight and tell us if they are going to support it or not.

John Pesutto interjected.

The SPEAKER: Leader of the Opposition! I would ask you to show some respect to members on their feet.

Lauren KATHAGE: It is really all they are doing. All they ever do is seek to block and delay, block and delay. We heard the desperate attempt earlier of the member for Brighton, bringing up the very standard clause about when something comes into operation. Anybody in this house who knows anything about legislating would know this is a standard clause, and if not already gazetted, the legislation would automatically come in on this day. It shows that they do not know how legislation works. He has been in this house for how long and does not know how to legislate.

Cindy McLeish interjected.

Lauren KATHAGE: That is right, because all they know how to do is block.

The SPEAKER: Member for Eildon, if you would like to speak on the procedural motion, you can have a turn.

Lauren KATHAGE: They do not know how to legislate; they only know how to block. They say, ‘We want to see action,’ and then they attempt to stop the action, – ‘Not like that. When I said “action”, what I meant was a press release, obviously.’ Well, I am sorry, when you are in government it just does not cut it. You have got to do the work, like the fantastic minister here who has done the work. It is not about the press release.

This bill that is before the house is incredibly important. It is too important for those opposite to attempt to use it for blocking, for politics and to slow the work down. How desperate and sad of them to use such an important issue as a fake, cheap, political trick. ‘Desperate’ – that is the word.

‘We need action now,’ the member for Brighton calls out, but then actually blocks it. This reminds me of another very important issue in our community. This feels like *deja vu*. I have read this fairytale before. This is exactly what happened and what we have seen in this place around housing. This government is the government with its skates on –

James Newbury: On a point of order, Speaker, this is a procedural motion on which we are not calling a division. I do not know what the member is speaking about, but it is certainly not on the procedural motion.

The SPEAKER: Order! A point of order is not an opportunity to make a statement to the house. It is a procedural motion, member for Yan Yean. Can you come back to it.

Lauren KATHAGE: I know the standard operating procedure of those opposite and that is to block. Yes, that is right. The standard operating procedure of the member for Brighton is to block. It is a bit of a Henny Penny approach, running around saying, ‘The sky is falling in.’ The reason I raised housing is because it shows that this is the only thing they know how to do. When something is so important to the community, when this government has done the hard work and is bringing improvement to our community – action, real change for Victorians – all that those opposite know

how to do is block. They are seeking to stop the happily ever after, and all they are doing is taking us to a faraway land we do not want to go to. Their fairytale is grim. We do not want a part of it. We are busy with action, and we want to see this bill debated and passed this week.

Tim McCURDY (Ovens Valley) (12:27): I wish to speak in the procedural debate, but I do want to raise that the member for Yan Yean has obviously got a hearing problem, because we are not opposing this second-reading speech. But if she wants to talk about blockers, who were the ones who blocked it two weeks ago? Two weeks ago we brought a bill to Parliament and it was blocked. It was blocked by you, member for Yan Yean, and everybody else on that side. This procedural debate –

The SPEAKER: Member for Ovens Valley, through the Chair.

Tim McCURDY: we know is a lack of respect for the Parliament to demand this bill be get straight up or in the next couple of days and not the usual 14 days we are used to. It is a lack of respect to the Parliament but certainly to the stakeholders and all Victorians. When you look at this bill, which I have seen for the first time – it is 130-something pages –

Lauren Kathage interjected.

The SPEAKER: Member for Yan Yean, you had your turn.

Tim McCURDY: when you expect Victorians to understand this bill and particularly stakeholders to understand this bill, they need some time to understand the bill and give us some feedback so that we can talk about what changes may need to be made. We have seen legislation come through this place that within months needs to be fixed up and altered because it has been done very poorly on the trot.

We are talking about rushing this bill through in three days time, so between today, Tuesday, and when it goes to the guillotine on Thursday, and yet this bill will not start, as the member for Brighton said, until 2026. That is 19 months away. How many more firebombings do we have to have in 19 months? We have had 110 firebombings in the last 18 months, so it is fair to say there will probably be at least another 100 firebombings take place before we get boots on the ground, as we say.

It is the lack of respect to the Parliament. We need time to go through this bill – to let stakeholders and Victorians have their say – so that we get it right, because we know the government does not get it right very often, and this is another example. If we are going to rush this, we need to make sure that we give time for all our stakeholders to have their say. I think it is disgraceful that this government wants to come in today, introduce a bill and have it guillotined on Thursday without proper input. They had their chance two weeks ago to have their say, and we all could have had time to go through the bill. Now they are not giving us the opportunity to go through the bill.

We were going to give them plenty of time to go through the bill, and we are now faced with two days. I have got stakeholders already calling me saying they do not know what is in the bill. I am afraid to say this is just an appalling approach in this place, and I think we should be extending this for the full 14 days, as we should.

Mathew HILAKARI (Point Cook) (12:30): I do follow the member for Ovens Valley. I thought it was pretty cynical, the approach that has just been taken and that was taken two weeks ago, because we talk about consultation and admittedly you do not need a lot of consultation when you just pop a media release into the Parliament. It does not need a lot to be dealt with. The Parliament should deal with media releases that are presented by the opposition in the way that we did, which is to reject them and move them on so we can get on with the actual work of government. The reason the member for Ovens Valley complains about 138 pages and going through the detail is because they could only muster up a couple of pages. They did not do the work. They were not interested in doing the work.

I remember going up to Shepparton with the Public Accounts and Estimates Committee (PAEC), and I would have thought that those opposite, who are suddenly so very interested in this bill –

A member interjected.

Mathew HILAKARI: Especially regional MPs, that is right – exactly right. The member for Shepparton was not there. The members of PAEC from those opposite –

Danny O’Brien interjected.

The SPEAKER: Order! Through the Chair, member for Gippsland South.

Mathew HILAKARI: She is welcome to attend with her community. The member for Shepparton is always welcome to attend with the community. Members of Parliament are always notified –

James Newbury: On a point of order, Speaker, it certainly cannot be parliamentary to sledge a member for not attending a committee meeting who is not a member of that committee. That is an outrageous sledge.

The SPEAKER: There is no point of order.

Mathew HILAKARI: These are open hearings that members are all informed of prior to them happening in their own communities. I thought it was really important, because there were children from –

Emma Kealy: On a point of order, Speaker, this is a narrow procedural debate. I ask you to bring the member back to what we are actually debating.

Mary-Anne Thomas: On the point of order, Speaker, there is no point of order. The debate, whilst it is a procedural debate, has been wideranging, including from those on the other side. The member on his feet is only responding to what has been said by members on the other side.

The SPEAKER: I remind members that all procedural debates in this chamber are very narrow. To go outside of those procedural debates is not acceptable, nor is sledging.

Mathew HILAKARI: I will go to another matter, which is the member for Brighton and the attempts to try and describe these bills as emergency bills. Of course they are no such thing. The member for Yan Yean raised the issues around the delay. There is a definition of them, and they do not fit that definition. The member for Yan Yean raised the issues around when this bill comes into effect, which is again a standard clause for bills. So it is unfortunate that the opposition seeks to bring forward debates in this way. We are going through a narrow procedural debate, and we are spending 30 minutes on it. The opposition has the gall to then say we do not have enough time in this place to debate the bills that are put forward. What an unbelievable approach to take 30 minutes of debate away from this Parliament to do procedural debates over and over again. Every week there is a set process by the opposition where they seek to waste the time of the house, seek to take time away from those members and seek to take time away from the member for Brighton, who I know has contributions to make on almost every single matter. We always appreciate the matters that are raised by the member for Brighton.

Emma Kealy: On a point of order, Speaker, it is a narrow procedural debate. I ask you to bring the member back or otherwise to ask him to sit down if he cannot stick to your orders.

The SPEAKER: I think the member for Point Cook was being relevant to the procedural motion in relation to opportunities for speaking in the house.

Mathew HILAKARI: This is really the point. We do not want to delay this bill that the work has been done for, that the minister has been engaging with appropriate authorities on and that the PAEC has delivered a report on. Now is the time to do it, and I would like those opposite who were so desperate to see it done to get on board or, really, get out of the way.

Danny O’Brien (Gippsland South) (12:35): On the very last point of the member for Point Cook – that government wants us to get on board or get out of the way – I do not know whether the members

opposite actually listen to anything over here. We have already said – the member for Brighton, the member for Ovens Valley – that we are not opposing you going straight to the second reading.

Members interjecting.

The SPEAKER: Member for Gippsland South, through the Chair!

Mathew Hilakari interjected.

The SPEAKER: Member for Point Cook, you had your turn.

Danny O'BRIEN: So 'Get on with it then,' they say. Well, why did they have to get up and speak? We actually have the opportunity as per the rules of the house, the procedures of the house, to debate motions such as 'That debate be adjourned until tomorrow', and we have made it clear that we will not oppose this one. Whilst the member for Yan Yean wants to give us a whole lot of nursery rhymes, perhaps she needs to read *The Boy Who Cried Wolf*, because she is crying wolf. They are crying wolf, because they do not seem to actually listen. The members opposite do not seem to understand that we are very happy to have this piece of legislation debated, but it is also our right as members of Parliament to highlight the flaws in the government's ability to get things done. I mean, we had members behind me when this was introduced saying, 'You can't speak on this, because you've got to be in government.' This is not a dictatorship, this is a democracy. It is called a Parliament – a Parliament that every member of Parliament, member for Narre Warren South, has the ability to stand up and move a piece of legislation in. They have the ability to stand up and speak on bills that are brought forward. Indeed to that very point, the member for Ovens Valley did stand up last sitting week and move a piece of legislation that had the same intent as this piece of legislation that we have just been given, and what happened, everyone on this side?

James Newbury: Blocked.

Danny O'BRIEN: It was blocked. Those opposite would like to get up and say that we are blockers when just two weeks ago they had the opportunity to actually get up and do this. The facts of this legislation and this issue are that we have had over 100 firebombings now in tobacco-related businesses in Victoria. The government announced only in March this year that they were finally going to do something, and here we are in November and finally we are seeing something. I would wager that if it was not for the actions of the member for Ovens Valley last week in actually bringing forward a piece of legislation, that mob over there would have no idea and would still be faffing around with the bill. Indeed it would appear to me that what was sent to the member for Ovens Valley and me ahead of this debate, just before we walked in, has a different number of pages to what we have now been presented. You can feel how warm this piece of legislation is because it has literally just come off the printer. Indeed it seemed that when this was handed around –

A member interjected.

Danny O'BRIEN: It could have been firebombed, this legislation. It seemed that many of those opposite were somewhat surprised too, because they were having a good look at the legislation themselves – 'Oh, what's this about?' – but at the same time we had the Leader of the House saying to the member for Ovens Valley, 'Why don't you read the bill?' We got the bill 20 minutes ago, and it is 138 pages. We would love to have read the bill. We would love to have had a go. I am a speed reader, but I cannot do it that quickly. It is extraordinary.

I take up the comments of the member for Point Cook and indeed the member for Laverton previously about people not attending. I am a member of the Public Accounts and Estimates Committee, as the member for Point Cook is aware, and I did attend the hearings, but I did not attend all of them, because they were scheduled at the same time as shadow cabinet and cabinet. Equally, when the member for Point Cook says, 'Where was the member for Shepparton?', well, we have upper house members in this building too. Did the Attorney-General attend the PAEC hearings? Did she? The Attorney-General is a member for Northern Victoria, and I do not believe she was there.

As it is with this mob, it is always one rule for them and a different rule for everybody else. We look forward to having a look at this legislation, having just got it 25 minutes ago. In principle we are happy for the government to bring on the bill and have the debate tomorrow. We will have the usual 14 days time to have a look at it – no, sorry, we will have 24 hours to have a look at it, because notwithstanding they have had since March when they announced that they were going to do this, the government have completely botched it. You have taken too long to get on with it, and you stand condemned for that.

Motion agreed to and debate adjourned until tomorrow.

Inquiries Amendment (Yoorrook Justice Commission Records and Other Matters) Bill 2024

Introduction and first reading

Natalie HUTCHINS (Sydenham – Minister for Jobs and Industry, Minister for Treaty and First Peoples, Minister for Women) (12:40): I move:

That I introduce a bill for an act to amend the Inquiries Act 2014 and the Public Records Act 1973 in relation to the Yoorrook Justice Commission and for other purposes.

Motion agreed to.

Peter WALSH (Murray Plains) (12:41): I ask the minister for a brief explanation, please.

Natalie HUTCHINS (Sydenham – Minister for Jobs and Industry, Minister for Treaty and First Peoples, Minister for Women) (12:41): The bill will amend the Inquiries Act 2014 and the Public Records Act 1973 to ensure that the Yoorrook Justice Commission can fully fulfil its obligations under the letters patent to uphold Indigenous data sovereignty principles in relation to First Peoples' evidence to the commission. It will also make sure that other minor amendments to the Inquiries Act are in place to clarify the requirements for the treatment of records of a royal commission, board of inquiry or formal review that have ceased to exist in accordance with current practices.

Read first time.

Ordered to be read second time tomorrow.

Business of the house

Notices of motion and orders of the day

The SPEAKER (12:42): General business, notices of motion 5, 6 and 15 and orders of the day 3 to 6, will be removed from the notice paper unless members wishing their matter to remain advise the Clerk in writing before 5 pm today.

Petitions

Southern Cross train station

Ellen SANDELL (Melbourne) presented a petition bearing 572 signatures:

Issue:

This petition is intended to bring to the attention of the Victorian Legislative Assembly the serious concerns of the signatories about the extremely poor air quality in Southern Cross train and bus stations, and the threat this poses to the health of workers in the station, commuters, and local residents. Air quality monitoring data recently obtained by ABC News show that nitrogen dioxide (NO₂) levels in parts of SCS have regularly been more than 90 times the guidelines set by the World Health Organization (WHO). A leading Victorian respiratory doctor commented: 'From the measurements I have seen in this report, I would be concerned that this is one of the least clean air areas in Melbourne.' Alarming, the Safe Work Australia standards applied to NO₂ levels at the station, have not changed in over three decades and are far higher than WHO recommendations. There are currently no Safe Work standards specifically for diesel engine emissions. The extractor fans, promised and budgeted for in 2011, have still not been installed. This despite trains left idling for up to several hours, and unacceptably high fine particulate matter (PM_{2.5}) being measured in nearby apartments.

Action:

The Petitioners therefore request that the Legislative Assembly of Victoria call on the Government to:

1. Prohibit idling of diesel trains and buses at Southern Cross Station (SCS) for any longer than five minutes.
2. Install external electrical power connections for diesel trains, to be plugged in upon arrival, in order to prevent idling.
3. Install extractor fans to remove harmful diesel fumes.
4. More effectively monitor air quality by measuring PM2.5 and elemental carbon (EC) levels hourly and publish the results monthly on the SCS website.
5. Include a representative of the Environmental Protection Authority (EPA) Victoria in the SCS Air Quality Working Group. This Group be required to work to reduce harmful diesel emissions.
6. Revise Workplace Exposure Standards for all thresholds so that they are consistent with the WHO guidelines.

Ordered that petition be considered tomorrow.*Committees***Scrutiny of Acts and Regulations Committee***Alert Digest No. 15*

Gary MAAS (Narre Warren South) (12:43): I have the honour to present to the house a report from the Scrutiny of Acts and Regulations Committee, being *Alert Digest* No. 15 of 2024, on the following bills and subordinate legislation:

Aged Care Restrictive Practices Substitute Decision-maker Bill 2024
 Duties Amendment (More Homes) Bill 2024
 Justice Legislation Amendment (Committals) Bill 2024
 Roads and Road Safety Legislation Amendment Bill 2024 – house amendments
 Short Stay Levy Bill 2024
 State Taxation Further Amendment Bill 2024
 Statute Law Repeals Bill 2024
 SR No. 33 – Child Employment Regulations 2024
 SR No. 35 – Workplace Injury Rehabilitation and Compensation Regulations 2024
 SR No. 42 – Victoria Police Regulations 2024
 SR No. 44 – Water (Lake Eildon Recreational Area) (Houseboats) Regulations 2024

together with appendices.

Ordered to be published.*Documents***Parliamentary Budget Office***Report 2023–24*

Sarah CONNOLLY (Laverton) (12:44): I have the honour to present to the house the Parliamentary Budget Office report 2023–24 under section 28 of the Parliamentary Budget Officer Act 2017.

Documents**Incorporated list as follows:****DOCUMENTS TABLED UNDER ACTS OF PARLIAMENT** – The Clerk tabled:

Audit Act 1994 – Financial Audit of the Victorian Auditor-General’s Office year ended 30 June 2024

Crown Land (Reserves) Act 1978:

Order under s 17B granting licences over Sandringham Beach Park (8 licenses)

Orders under s 17D granting leases over:

Albert Park

Watery Gully Reserve

Planning and Environment Act 1987 – Notices of approval of amendments to the following Planning Schemes:

Boroondara – C411

Maribyrnong – C189

Professional Standards Act 2003 – Australian Computer Society Professional Standards Scheme (*Gazette G594, 21 October 2024*)

Statutory Rules under the following Acts:

Firearms Act 1996 – SR 125

Supreme Court Act 1986 – SR 124

Subordinate Legislation Act 1994 – Documents under s 15 in relation to Statutory Rules 108, 111, 112, 116, 117, 118, 119, 120, 121, 125.

PROCLAMATION – Under SO 177A, the Clerk tabled the following proclamation fixing an operative date:

Justice Legislation Amendment (Integrity, Defamation and Other Matters) Act 2024 – Part 6 – 1 November 2024 (*Gazette S579, 29 October 2024*).

Bills**Building Legislation Amendment and Other Matters Bill 2024***Council's agreement*

The SPEAKER (12:45): I have received a message from the Legislative Council agreeing to the Building Legislation Amendment and Other Matters Bill 2024 without amendment.

Roads and Road Safety Legislation Amendment Bill 2024*Council's amendments*

The SPEAKER (12:45): I have received a message from the Legislative Council agreeing to the Roads and Road Safety Legislation Amendment Bill 2024 with amendments.

Ordered that amendments be taken into consideration later this day.

*Joint sitting of Parliament***Legislative Council vacancy**

The SPEAKER (12:46): I have received a message from the Legislative Council proposing that the Council meets with the Legislative Assembly for the purpose of sitting and voting together to choose a person to hold the seat in the Legislative Council rendered vacant by the resignation of Samantha Ratnam MLC and that the place and time of such meeting be the Legislative Assembly chamber on Wednesday 13 November 2024 at 6:20 pm.

Ordered that message be taken into consideration immediately.

Mary-Anne THOMAS (Macedon – Leader of the House, Minister for Health, Minister for Health Infrastructure, Minister for Ambulance Services) (12:46): I move:

That this house agrees to the Council's proposal for a joint sitting on 13 November 2024 at 6:20 pm in the Assembly chamber for the purpose of sitting and voting together to choose a person to hold the seat in the Council rendered vacant by the resignation of Samantha Ratnam MLC.

Motion agreed to.

Ordered that message be sent to Council informing them accordingly.

Bills**Building Legislation Amendment and Other Matters Bill 2024****Drugs, Poisons and Controlled Substances Amendment (Pill Testing) Bill 2024****Offshore Petroleum and Greenhouse Gas Storage Amendment Bill 2024***Royal assent*

The SPEAKER (12:47): I inform the house that the Governor has given royal assent to the Building Legislation Amendment and Other Matters Bill 2024, the Drugs, Poisons and Controlled Substances Amendment (Pill Testing) Bill 2024 and the Offshore Petroleum and Greenhouse Gas Storage Amendment Bill 2024.

State Taxation Further Amendment Bill 2024*Appropriation*

The SPEAKER (12:47): I have received a message from the Governor recommending an appropriation for the purposes of the State Taxation Further Amendment Bill 2024.

Committees**Parliamentary committees***Membership*

The SPEAKER (12:48): I have received the resignation of Sam Hibbins from the Standing Orders Committee and the Electoral Matters Committee effective from 4 November 2024.

Business of the house**Program**

Mary-Anne THOMAS (Macedon – Leader of the House, Minister for Health, Minister for Health Infrastructure, Minister for Ambulance Services) (12:48): I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 5 pm on 14 November 2024:

Aged Care Restrictive Practices Substitute Decision-maker Bill 2024

State Taxation Further Amendment Bill 2024

Statute Law Repeals Bill 2024

Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024.

In this second-last sitting week of the Parliament it is a real pleasure to be here with such an important government business program before us. We have just had a bit of a display from those opposite – a lot of sound and fury signifying nothing – in relation to us bringing on this tobacco bill and moving to the second reading this week. This is an important bill, and it is indicative of our government's approach that we take the time to make sure that when we are introducing legislation such as this, we get it right. That means doing the work. It means consulting with stakeholders, it means examining practices elsewhere and it means benchmarking ourselves against what happens in other jurisdictions.

It is not a matter of writing a press release and standing up and doing something for the media. It is actually about hard work when you are looking to do something such as introducing the Tobacco Amendment (Tobacco Retailer and Wholesale Licensing Scheme) Bill 2024. Of course we made this commitment earlier in the year, and we are really pleased, with this bill now before the house, to be getting on and implementing the commitment. We do want to move to see a quick implementation. We know that this is important legislation to the community, which is why we have taken the time, as I said, to design it and make sure that it is right. It will be implementing the toughest penalties in the country for the illegal tobacco trade and the criminals who profit from it. The bill will create a strict

new licensing scheme, putting more boots on the ground and providing more powers to crack down on illicit tobacco and organised crime, with massive consequences for those who choose to break the law.

Also on the government business program is the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. This bill is before the house in response to the Royal Commission into Aged Care Quality and Safety. The Commonwealth government introduced new requirements for restrictive practices to be used only with the informed consent of the aged care recipient. For aged care residents who do not or may not have capacity to make decisions, such as in cases of advanced dementia, a substitute decision-maker can provide this consent. Unlike other jurisdictions, Victoria does not have legislation that explicitly authorises substitute decision-makers, and therefore this bill is necessary in order to deliver this. I am sure that we would all agree in this place that the care and safety of our older residents, senior Victorians, is something that we all feel very strongly about. We are also quite appalled by some of the evidence that we saw come out of the royal commission into the delivery of aged care in this nation. I am really proud to be a minister in this government, which still runs a very strong public aged care system, one of the few jurisdictions that does that, and it is renowned for the quality of care that is delivered, I might say, by hardworking healthcare workers, who are committed to delivering care that treats our older Victorians with the dignity and respect that they deserve. It is a very important bill that will be debated in this place, and I am sure there will be many people that want to speak on that to ensure that residents are, as I said, treated with care, dignity and respect and that they have a choice in who they want to act as a substitute decision-maker.

We will also be discussing the State Taxation Further Amendment Bill 2024. This bill fulfils a commitment made by our government to provide exemption from payroll tax for payments to contractor GPs and to employee GPs for the provision of bulk-billed consultations from 1 July 2025. We know, after almost a decade of neglect from the federal Liberal–National party government, that GPs have been under acute pressure. Our government is doing its bit to support the delivery of primary care in this state, because we have had to step in to support a broken system, one that was torn apart by the Morrison–Dutton government. I commend this government business program to the house.

James NEWBURY (Brighton) (12:54): As I look at the government business program that the Leader of the House has just moved and the one listed on the daily program produced by the Parliament, they are different. What a mess. This government has proven time and time again that they are losing control of the Parliament and that they do not, frankly, know what they are doing. We saw it at the end of last year with bill after bill shelved in the Council, not dealt with, because the government did not know what to do. They had introduced things and sought to move things through this place and the other place without consulting with the Parliament. Now we are seeing a mess in their organisation of this place.

As I said, we have a government business program listed on the Parliament's daily program which is different to the motion that has been just moved in this place, so we cannot support a government business program that is a mess. It is a mess, and Victorians would expect more. They would expect more both in terms of the management and operation of this place but also in terms of the fair and reasonable management of proposed bills through this place. Governments should not be introducing bills and trying to push them through in a haphazard way because they have been caught out by the opposition, who have been trying to make meaningful changes on important issues as occurred last sitting week, two weeks ago. We saw it today. We saw a government find a bill and try to treat it as urgent this week, on an issue that the coalition has been pushing for action on for some time. This urgent bill has a 19-month delay where it will sit gathering dust. The coalition cannot support a government business program – which one is it? Is it the government business program –

Mary-Anne Thomas interjected.

James NEWBURY: Well, the Leader of the House says it is the one that the Leader of the House read out, but the daily program which is available at the end of the table has three bills listed for this

week. There is a fourth one that I understand the Leader of the House has read out – the tobacco bill – and we have said we want that bill debated, because it is an important issue. The fact that the government has so poorly managed this issue is a reflection on them, and as I said earlier, two firebombings have occurred in the last two weeks in Pascoe Vale.

I note that the government business program – I do not know if it was right or if it is still right anymore – that was sent out to non-government members suggested that there would be debate around the budget bills. I know for many weeks I have been trying to find an opportunity for the government to allow members of all sides to speak about the dud budget, which a third of the members of this chamber, roughly speaking, have not even spoken on. The notification that went out to members suggested that there would be time for that debate. There are so many members of this place who have not been able to talk about the fact that on our side of the chamber our communities are being ripped off again. But I suspect now that with four bills to debate this week – not that it is on the program that has been sent out by the Parliament – proposed for the government business program, that budget debate opportunity may not occur or would not occur in any meaningful way. And how can you be so ashamed of your own budget that a third of the members of this place are not given an opportunity to speak about it? I mean, that just shows you are trying to hide it, doesn't it? I mean, you do not stop a third of your backbench being able to speak on something unless you are really, really embarrassed about the budget. I do note that that proposal was put out publicly that there would be meaningful debate on that, but I suspect now with four bills for debate this week that will not occur.

The coalition cannot support the mess of the government business program. I do not think the government knows what it is doing from day to day. Clearly that is not the case in that what we are seeing on the program provided by the Parliament and what the leader just said are completely different, so the coalition will not be supporting the program.

Sarah CONNOLLY (Laverton) (12:59): How am I not surprised that the member for Brighton and the coalition are not supporting the government business program this week. I think time and time again, each and every single week, as few and far between as they are, those sitting in this chamber talk about not supporting the government business program. But there is no surprise, because over the past six years what I have learned in this place is that they barely make a contribution on any bill about anything before this house.

James Newbury: Not true.

Sarah CONNOLLY: Member for Brighton, that may not be you. I do see that you do take, or try to take, your role a little bit more seriously. But if we continue this way in the lead-up to Christmas, member for Brighton, I would say through the Chair that you will soon become known on this side of the house as the Grinch, really, with that sort of dismal confectioned outrage that you constantly display here in this chamber.

But I am going to pivot to something really quickly if the house will indulge me. I am so excited because my daughter just quickly called me and said she is going to be school captain for year 9 next year, so I am going to kick off on a really positive note because I am feeling so great about this government business program this week and I am starting on a note that it has been really good news in the Connolly household. What is also really good news in the Connolly household is this government business program because I am looking forward to making a contribution this week on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, which is going to put in place a clear hierarchy of decision-makers for approving restrictive practices importantly in aged care settings, acquitting an important recommendation of the aged care royal commission, something that is really important I know to folks who have got loved ones or do indeed find themselves in aged care facilities here in this state.

Really that is what we do on this side of the house: we are always introducing legislation and debating bills here in this place for one reason only, and that is because it matters to folks in our communities

and, yes, looking across the chamber at members over there, in your communities too. They want to see these bills before the house and being debated. What we do say is that those opposite should get on board and should support the government business program and, most importantly – and I am looking at all the empty chairs over there – come into the chamber, be part of these debates, be part of these conversations. They are really important conversations. Time and time again we bring really important bills before this house – bills that are about making Victoria a much fairer and more equitable state and doing the right thing for all Victorians. Those opposite time and time again fail to contribute to these bills before the house. Why, I will never know, but I do say it is why they sit on that side of the chamber and we sit on this side of the chamber.

This week we have also got the Statute Law Repeals Bill 2024, which is going to repeal a number of redundant and spent provisions contained in our legislation to ensure Victorian legislation remains accurate and up to date. That is always really important because here on this side of the house we are introducing legislation and making legislative reform that does make significant changes here in this state. This does require us from time to time to introduce bills that make amendments to legislation to keep up with the laws and policy of these times, and that is also a really important part of being in government, particularly a government that gets on and does a whole lot of things for all Victorians across the state.

The State Taxation Further Amendment Bill 2024 is also going to legislate a clear payroll tax exemption for GPs, something that we did in fact commit to earlier this year, and it makes a number of other small changes – small but, like I said, important changes – around things like payroll tax on wage underpayments and land tax exemption on social and affordable housing providers.

Whilst a couple of these bills, some may say, would not be classified as major pieces of legislation, this work is important and it is also a key part of the work that we have to do here this week. Sometimes bills are introduced and there is work to do here in this chamber and indeed, like I talked about this morning, on committees – committee work – important work that needs to be done as part of being a member of Parliament. I would say to those opposite: you cannot spend your entire life here in Parliament being known as a blocker. Sometimes you need to get on board, participate, do your bit, speak on bills and turn up to committee hearings and committee inquiries. It is what you are paid for at the end of the day, and it is what those out on the streets in your electorate do expect. I wholeheartedly commend the government business program to the house.

Martin CAMERON (Morwell) (13:04): I rise to talk on the government business program. I stand not as a blocker but as an enabler, and I am here to enable a change of government in 2026 to the people on this side of the house. As the member for Laverton just spoke about before, I am passionate about being able to come into the chamber and talk on every bill that is put up. I am passionate about being able to be on committees and be a part of change that can happen inside the government, because that is what my constituents in the Latrobe Valley in the seat of Morwell have elected me to do – not to be shy and hide behind other people but to be at the forefront and to relay to the house on both sides of government the issues that are going on around regional Victoria but, more to the point, that are concerning the people of the Latrobe Valley.

When we look at what the government is putting up as its government business program, I would have been shocked and disappointed if the member for Brighton had got up and said that we were not opposing it, because it is a little bit all over the place. The member for Ovens Valley stood in this exact chamber last week and brought up issues with the tobacco laws and the firebombing of tobacco shops. It is good – and I note that we are not opposing this particular bill – that we are actually now getting some laws that are coming in to give our police and also the people of Victoria the confidence that something is going to happen. But why do we have to wait until 2026 for it to come in? Why can't it be brought in next year if we are all in agreement after we go through the amendments and what the law is going to be? Why can't we debate it and then bring it in a little bit earlier?

The State Taxation Further Amendment Bill 2024 has a little bit of clean-up work in it. Anything that is going to repeal some tax bills and make it a little bit easier for people in Victoria and give them a break – I think I am happy to stand up and debate that every single day of the week, because people are doing it hard out there at the moment.

Also, on aged care, the Minister for Health spoke up before and championed the need to look after our ageing communities and talked about the changes that we can make here after the royal commission to put some things in place. I think that stands well right across inner-city Melbourne but regional Victoria as well, because as members of Parliament it is our job to make sure we are looking after our most vulnerable people, and the changes that we can make to make their lives and their journey better and safer is great also.

The one thing I do want to touch on, and the member for Brighton said it as well, is the take-note budget reply. I am one of the members on this side that has not had a chance to talk about that. I am getting a little bit concerned. I did a couple of little sums before. There are 175 days left until the next budget is dropped, so I have got 175 days when I may get a chance. If I break it down even further, that is only 15 sitting days including today, and the clock is ticking as we move through this. I am not hopeful today that I am going to get a chance to be able to stand up and respond on behalf of the people down in the Latrobe Valley on the budget about what little things we did get but more so what we did not get.

The government talk a big game in the budget, about how everything is nation-leading – everything they drop in here is nation-leading. Well, I beg to differ with the budget. That is why I am so keen to get up and talk. Housing down in the Latrobe Valley: fail. They have failed on that. Roads: they have failed. Everyone does not think that the roads at the moment are any good. Health down in our area: it has failed. I want to be able to get up and talk about this. Regional jobs: they have failed in that way too. They have taken away jobs in the timber community, in our white paper community. On the SEC, for goodness sake, they said, 'We're bringing back the SEC.' Down in Morwell, it has failed; one job one day a week – fail. Our recreational pastimes: we are failing on that. All this proves is that Labor cannot manage money and Victorians are paying the price.

Dylan WIGHT (Tarneit) (13:09): It is a pleasure to follow the chief enabler himself and his wideranging contribution on the government business program. But it is a real pleasure to stand this afternoon and speak in favour of the government business program this week. There seems to be some confusion from those opposite about the government business program. Yes, there were three pieces of legislation on there, and yes, now there are four, because there is an incredibly important piece of legislation which we must debate this week.

I am pleased to speak about the fact, and I spoke about it last sitting week in the government business program, that this is a government with a really strong legislative agenda. Despite the efforts of those opposite to block and to delay through procedural motions, through whatever other means and through opposing the government business program, as they always do, in the last 12 months this government has passed 43 pieces of legislation, each one as important as the next, because this is a government with an incredibly strong agenda.

This week, for example, we have got four incredibly important pieces of legislation that those on this side of the house are really, really keen to contribute to. There has been some commentary about the lack of contribution by some of those opposite, but I can tell you that our speaking list will be full for these pieces of legislation, because we know that they matter to all Victorians. Take the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, for instance. This will contribute to making sure that those in our aged care system – those members of our family that we love so much and those members of our community that we love so much – will be treated with the care, the dignity and the respect that they deserve. It is an incredibly important piece of legislation that I know those in my community with loved ones in aged care facilities in Tarneit and Hoppers Crossing know are incredibly important.

We have also got the State Taxation Further Amendment Bill 2024, and I would like to agree with the member for Morwell. I think it is a fantastic piece of legislation as well, an absolutely fantastic piece of legislation. It makes up a couple of 64 reduced taxes in Victoria since we came to government in 2014. This makes up part of that. This piece of legislation is a GP payroll tax bulk-billing exemption, making it easier for those in our community that need to access a doctor and that need to take advantage of bulk-billing. We know that that is been incredibly difficult since about 2013, when we had 10 years of a federal government that tried to trash Medicare, so it has been incumbent on the state to make it easier for people to be able to see a doctor. Of course there is also a land tax exemption for social and affordable housing providers, which is also incredibly important.

Just in my last minute I should really touch on the tobacco legislation which has also been introduced today. This is a piece of legislation that is the result of extensive consultation and that also fulfils a commitment that this government made earlier this year. I said that this government business program and everything on it is incredibly important to those on this side of the house, but this piece of legislation is incredibly important to those in my community. It contains some of the toughest penalties in the country for this type of behaviour and seeks to hold those trying to do wrong by our community accountable. It is a fantastic government business program, and I commend it to the house.

Wayne FARNHAM (Narracan) (13:14): I am pleased to rise today on the government business program and all the reasons why we oppose it, because as the member for Brighton pointed out earlier, the government is all over the place. We have just heard how important all the bills are today from the member for Tarneit. He said this is a very important program and listed all the bills. Well, if they are all so important, which bill are they going to guillotine early that we cannot debate? It is a pretty simple question. If this program is so important and we push through four bills this week, which bill is going to be guillotined? Which bill is the less important bill?

It is amazing that this government has this morning decided to bring in a tobacco bill when we introduced a bill two weeks ago. I will say this about the member for Ovens Valley: imitation is the best form of flattery. That is what the government have done. They listened to the member for Ovens Valley and then decided, ‘Oh, that’s right, we’ve got to do something about this,’ and then they brought in a bill today to debate this week. Were we meant to take the government’s word that they have consulted with everyone? Victorians trust this government enough for us to take their word that they have consulted with all the stakeholders of the tobacco bill? I do not think the Victorian public would be very happy with us if we did that. They have brought in a bill this week, and our shadow ministers have not had a chance to talk to the stakeholders to see if what is in this bill reflects their attitudes and their expectation – no chance at all. That is an insult to this house and it is an insult to all Victorians.

I have heard here today that we are the big blockers, but two weeks ago those on that side blocked us trying to bring in a bill for tobacco. That is fact. It is also a fact that it is not the first time this has happened. The government has history in this. Every time we on this side of the chamber try to bring in a bill that will benefit Victorians, this government blocks it. Who can forget the Denyer bill? That was introduced by this side of the house, and this government blocked it. Then later the government brought it back in and the poor families had to live through that again. That was disgraceful. That was a bill brought on by our shadow minister that that side of the chamber blocked. Who can forget the machete bill? That was another one that was brought in by this side of the house that this government blocked and then reintroduced. So do not sit there on that side of the house and call us blockers. They blocked two very important pieces of legislation in this state and then brought them back. As I said, imitation is the best form of flattery.

We do have three other bills here today. The Aged Care Restrictive Practices Substitute Decision-maker Bill 2024 came about from a royal commission that the Liberal–National federal government did, and it is a bill that we will debate later this week. I am not going to get into that debate today, but it is a bill that needed to be brought in. So is this the bill that we are going to guillotine early? Will this important piece of legislation be the bill that gets guillotined? It should not be. It deserves debate, as does the State Taxation Further Amendment Bill 2024.

The problem is – and this is why we are opposing this today – we have not got enough time to debate, not to mention we are still going through the budget take-note motion. There are still eight people on this side of the chamber that have not had their say about how useless this government is and how the budget is about as useful as lips on a chicken for their electorates. They have not had that opportunity, and they deserve that opportunity. Will the government actually get it done this year? We have got communities that need answers to the budget, and the government is not giving us the opportunity. Of course we were always going to oppose the business program because, quite frankly, it is as useless as lips on a chicken.

Assembly divided on motion:

Ayes (49): Juliana Addison, Jacinta Allan, Colin Brooks, Josh Bull, Anthony Carbines, Ben Carroll, Anthony Cianflone, Sarah Connolly, Chris Couzens, Jordan Crugnale, Lily D’Ambrosio, Daniela De Martino, Steve Dimopoulos, Eden Foster, Matt Fregon, Ella George, Luba Grigorovitch, Bronwyn Halfpenny, Katie Hall, Paul Hamer, Mathew Hilakari, Melissa Horne, Natalie Hutchins, Lauren Kathage, Sonya Kilkenny, Nathan Lambert, Gary Maas, Alison Marchant, Kathleen Matthews-Ward, Steve McGhie, Paul Mercurio, John Mullahy, Tim Pallas, Danny Pearson, Pauline Richards, Tim Richardson, Michaela Settle, Ros Spence, Nick Staikos, Meng Heang Tak, Jackson Taylor, Nina Taylor, Kat Theophanous, Mary-Anne Thomas, Iwan Walters, Vicki Ward, Dylan Wight, Gabrielle Williams, Belinda Wilson

Noes (25): Brad Battin, Jade Benham, Roma Britnell, Tim Bull, Martin Cameron, Annabelle Cleeland, Chris Crewther, Wayne Farnham, Sam Groth, David Hodgett, Emma Kealy, Tim McCurdy, Cindy McLeish, James Newbury, Danny O’Brien, Michael O’Brien, Kim O’Keeffe, John Pesutto, Richard Riordan, Brad Rowswell, David Southwick, Bridget Vallence, Peter Walsh, Kim Wells, Jess Wilson

Motion agreed to.

Members statements

Williamstown electorate surf lifesaving clubs

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (13:25): Over the weekend I had the pleasure of attending the official season opening for the Nippers water safety program in Altona and Williamstown, and it was great to be down there. It started out on Williamstown beach, and Jason, Joel and the team organized an amazing smoking ceremony to really start off the Nippers season. It is a fantastic job that they do down there on the beach, and what greater excitement can you have than seeing that first cohort of little Nippers waiting to get their toes into the water. I would like to thank Uncle Mark for giving a fantastic welcome to country. It was wonderful to see so many families and community members come down to celebrate the start of this season. Of course I am still waiting with anticipation for our \$11.3 million assistance to the lifesaving club to deliver that new lifesaving club building. On top of that, the lifesaving club will receive an all-terrain vehicle funded by a grant of over \$17,000. From there, I went down to Altona Life Saving Club, where many children, families and community members also joined in. We have got a new big Nipper there, Sarah, and I need to pay tribute to Sally for her five years of contribution. It was also lovely to see Barb Morgan, a life member but also an Order of Australia Medal winner with more than 50 years as a lifesaver and a Knight of the Order of Lifesaving.

Taxation

Brad BATTIN (Berwick) (13:26): We keep getting questions out in my electorate about why they continue to have to pay so much in taxes when the government continue to have cost blowouts on the Suburban Rail Loop. What we have seen through the growth corridors is the increase in rent and the impact on housing affordability at a time when we want to see more houses on the market at a better price so people can afford just to get by and live. People in the community are continually coming forward talking about the increase in rent, and they understand 100 per cent that the rent has been

increased because the government continues to increase taxes such as land tax. They continue to penalise them every time a landlord buys or invests in a property in the growth corridors. That effectively rolls downhill, and those people ending up paying that with increased rent. This is a big issue for our local community and one that continues to get raised, but it does not end there.

Now the government want to not just tax them while they are renting, they want to increase taxes on dead people. This government want to put a death tax in place by stealth to ensure that people, when they die, will pay more money to the Victorian government to pay off their debts. How has the debt got so out of control that we are now increasing taxes on people that die by over 600 per cent – over 600 per cent of extra taxes on people that are dying here in this state? This government cut \$20 million out of the courts system and continue to fail when it comes to controlling the budget here in Victoria. People in Berwick are sick of it, and they are sick of paying off the waste – *(Time expired)*

Remembrance Day

Juliana ADDISON (Wendouree) (13:28): Remembrance Day was observed across Ballarat by solemn and moving ceremonies. At the Arch of Victory service, president Garry Snowden shared stories of Ballarat fathers who left behind young families when answering the call and, sadly, never returned home. Well done to the Ballarat High School vice-captains Emity Howlett and Charlie Hann for reading the names of the fallen. Thank you to the Arch of Victory and Avenue of Honour committee for the work they do to ensure that we never forget.

I wish to recognize the RSL Sebastopol sub-branch and president Kevin Scott for the service held at Albert Street cenotaph. It was wonderful for the children from the Journey Early Learning centre to attend the commemoration with their poppies.

The Ballarat RSL Remembrance Day commemoration was a moving and well-attended service. Thank you to the Ballarat RSL and president Frank Nuccio; the City of Ballarat; Sue Hyde; MC Reg Mowat; Major Robert Powell; Reverend Michael O'Brien; Victoria Police; the 8th/7th Battalion, Royal Victoria Regiment; RSM WO1 Matthew Verney; catafalque commander James Keyte and catafalque party privates Robinson, Fletcher, Osborne and Kent and the flag party from the Sebastopol cadets; students Charlotte Irvin and Phoebe Pittard; the Ballarat Vintage Brass Band; Sing Australia; and musicians Chris Farrington, Chris Ducardis, Sue Brant and Peter Gunn.

The ex-prisoner of war service was also a beautiful service, and it was great to have representatives from HMAS Ballarat in attendance as well as students from Ballarat High, Mount Rowan, Newington Primary – *(Time expired)*

Josh Waters

Jade BENHAM (Mildura) (13:29): I will say it again louder for those in the back: in Mildura we put food on your plate and champions on racetracks. On Sunday afternoon at a little racetrack called The Bend in South Australia Mildura's Josh Waters became the first ever four-time Australian Superbike champion.

He is a ripper of a bloke. He is an absolute champion, and he does this all while running a business and his family, living in Mildura. He is the first ever four-time Australian Superbike champion. Now with the newly elected council I certainly hope they pick up that motorsport strategy that was presented to the community many, many years ago and run with it. The time for delay is over, because we continually put champions on racetracks.

The Night the Phones Fell Silent

Jade BENHAM (Mildura) (13:30): Congratulations to Mildura author Nathan Carney on his latest book *The Night the Phones Fell Silent*. Written with Marco Medici, it tells the horrific story of the night of 18 February 2006 and the Cardross six. Over 18 years on, the issues with road safety still have not been rectified, so hopefully this book will facilitate some change at that horrific site.

Mildura RSL

Jade BENHAM (Mildura) (13:30): I also want to send a shout-out to the Mildura RSL, Paul McDermott, the president, and his committee for a lovely Remembrance Day service yesterday at Henderson Park.

Ison Road, Werribee

Tim PALLAS (Werribee – Treasurer, Minister for Industrial Relations, Minister for Economic Growth) (13:31): I rise to update the house on a very exciting development at the Ison Road rail overpass bridge in the great community of Werribee. Recently the large beams for the overpass bridge were installed, providing another connection between Wyndham's north and south over the national rail line. It caused quite a stir in the community. In fact local residents came out of their houses or pulled over onto the roadside to witness these beams being transported along Cottrell Street in the early hours of the morning. It was an impressive sight, with the beams securely loaded on massive transport trucks carefully navigating the turn through on Bulban Road. The beams are now safely lifted and secured in place to form part of the vital link connecting residents of Wyndham's booming western area directly to the Princes Freeway. Major Road Projects Victoria are now getting ready to start work on the next section of the Wyndham West link supported by a \$60 million contribution from the state government to Wyndham council for a 1.3-kilometre extension of Ison Road. This project is a huge step towards easing the transportation needs of the area's booming population and will remove much of the traffic congestion through Werribee's CBD. As I have mentioned before, when launching Victoria's *Building Equitable Futures Strategy*, this project has over 30 per cent women working on it. It is so good that this government is building such support.

War memorials

Bridget VALLENCE (Evelyn) (13:32): An attack on any war memorial or cenotaph is an attack on Australian values and the heroic legacy of our veterans. Sadly, there has been an increase in the desecration and vandalism of war memorials recently, including Yarra Ranges memorials in Montrose, Lilydale, Seville, Mount Evelyn and at the Coldstream and Yering War Memorial just last week. This proves the existing penalty does not adequately deter vandalism of our sacred memorials that commemorate service men and women who have paid the ultimate sacrifice. This vandalism, especially before Remembrance Day, causes considerable hurt and pain to war veterans and their families. I have been campaigning for and calling on the government to introduce a specific offence in relation to the desecration of war memorials, carrying a 15-year jail term. New South Wales, Tasmania and the United Kingdom parliaments have all introduced this offence in recent years to protect these sacred sites, and there is no reason why we should not do that here in Victoria. Regrettably, the Labor government has shown no regard for this important issue. When I last raised this in Parliament, the Attorney-General stated that someone could be imprisoned for merely three months for such appalling conduct, an insult really to returned service men and women and our community. This should be above politics, and the government should legislate tougher penalties as a matter of urgency. Send a clear message to those who seek to dishonour the tremendous sacrifice of brave service men and women who defended our country and fought for our freedoms. I will keep the fight up together with Lilydale and Mount Evelyn RSLs.

Australian Music Month

Matt FREGON (Ashwood) (13:34): Once again it is Australian Music Month, and as Bliss n Eso said, home is where the heart is. Everywhere I go young Victorians are looking down the streets of your town. They are caught in the crowd. They stand where I stood decades ago and they are saving up, but their own home is on a pedestal. They think they have no say in it. They are standing on the outside in their rentals saying, 'We've got to get out of this place.' Well, in this city we are all in this together. That is why this government has been asking the question: where will we be in 50 years? We have got plans. We do not need 20 good reasons, but we will have 50 new activity centres and the Suburban Rail Loop to boot. Do you see what I see? Help is on its way. There is a change in mood.

We have heard what you need, and we are all fired up to help. Not everyone wants a home amongst the gum trees miles and miles from where they know. We are planning ahead, making it better, and it will not be accidentally Kelly Street, Charcoal Lane or somewhere near Footscray station.

Is Balwyn calling or maybe Carlton for some Lygon Street limbo? From St Kilda to Kings Cross – no, stick in Melbourne – maybe old Fitzroy or even Brunswick, Northcote or South Melbourne near the Star Hotel. Maybe 14 years in Rowville sounds amazing; a little home in Spotswood or Thomastown – you never know; or Chapel Street et cetera if you are a Toorak cowboy. Victorians, let your hair hang down. From little things, big things grow. If you want to live under the Milky Way, better days are coming before too long, so get set for more homes and more opportunity.

Rosebud RSL

Sam GROTH (Nepean) (13:35): Yesterday it was a privilege to stand beside Rosebud RSL president Bruce Turner as the Rosebud RSL presented their scholarship awards. The Rosebud RSL, like me, take great pride in supporting the next generation of leaders from across our community, and these scholarships total more than \$34,000. It was a great honour to stand beside the president and to present them. Congratulations to, from Boneo Primary School, Gemma Butler, Levi May, Mason Rossi and Sage Davidson; from Eastbourne Primary School, Yen-Hsin Huang, Tyson Suric, Austin Ashworth and Charlee Dalziel; from Our Lady of Fatima Primary School, Mason Green, Cruz Grant, Henry Jobling and Estelle Bateman; from Rosebud Primary School, Aidan Rudd, Charli Failla, Emily Sharkey and William Lyell; and Dromana Secondary College, Mckayla King, Shaylee Putland, Ryan Hanley and Josh Allen; from Padua secondary college, Xander McDonald, Mia Hughes, Michael Seang and James Lewington; and finally, from Rosebud Secondary College, Thato Marks, Gabby Visal, Penny Dakin and Charlotte Morrow-Dick.

As I reflect on yesterday's Remembrance Day, I just want to thank personally everyone in my community who has served or continues to serve this great country. It was a humbling experience also to be presented by Bruce with an honorary RSL membership. I look forward to continuing my work as the local member, supporting our returned service members.

Our Lady of the Immaculate Conception Primary School

Sarah CONNOLLY (Laverton) (13:37): It was great to be down in Sunshine yesterday at one of our wonderful local Catholic primary schools, Our Lady of the Immaculate Conception Primary School, to officially open their brand new learning building. This upgrade was made possible by a \$3 million grant from our government back in 2021, which was matched by a \$4 million contribution from the school community. Our Lady of the Immaculate is one of the oldest schools in the Laverton electorate, having opened all the way back in 1919. Can you believe that? The school is over 100 years old. I was very glad to tour the new building with principle Pat Bertani, a wonderful, hardworking local principal, who I am very sad to say is retiring after 12½ years of running the school. She has done an amazing job and will be very much missed. This investment has replaced classrooms which were well and truly past their best days and replaced them with a brand new architecturally designed two-storey building. Now students at the school in grades 3 and 4 have the opportunity to learn in brand new, state-of-the-art facilities. Our government is committed to building the Education State, ensuring all kids receive a world-class education in modern facilities. This commitment extends to our non-government schools as well, and I am so glad that we have been able to do just that for the kids at Our Lady of the Immaculate Conception.

Climate change

Tim READ (Brunswick) (13:38): Pressure from climate activists recently forced fossil fuel giant SLB to abandon plans for the world's largest seismic blasting gas exploration project off the Otway coast. It would have endangered whales and other marine life in southern sea country. Credit for this climate win goes to the 31,000 people who wrote to the government regulator and many more who

signed petitions, called their MPs and attended rallies on land and on surfboards. This win shows that collective action is how we stop fossil fuel companies and the governments that support them.

On Saturday 23 November I will join Northern Territorians and traditional owners in the Coburg town hall to hear how we can stop the Northern Territory's new Country Liberal Party government and the federal Labor government from opening up the Beetaloo basin for gas fracking in the territory. Around the same time, my Greens colleague Ellen Sandell will join thousands of climate activists at the people's blockade of the world's largest coal port in Newcastle.

Governments have been slow to catch on, but thousands of Australians are now desperately worried about the climate crisis and are putting their bodies on the line to stop fossil fuel extraction. They are doing more to ensure the safety of future generations than the rest of us sitting here. My support and solidarity is with those brave Australians on the front lines of the climate struggle.

Remembrance Day

Bronwyn HALFPENNY (Thomastown) (13:39): 11 November, Remembrance Day, was yesterday, and at the eleventh hour at the Epping RSL I joined with many to mark Remembrance Day. I would like to acknowledge and thank Epping RSL president Kevin Innes for his leadership; Mr Glenn Parker, who conducted the formalities; students Oliver and Cooper from Harvest Home Primary School, who recited *In Flanders Fields*; and also veteran Peter Duncombe, who spoke really well.

We also heard the immortal recital from the late Ken Jeffery of *The Final Inspection*. He was a former member of the Epping RSL who passed away some years ago, but all remember him and his great contribution to the service as well as places like the CFA.

Noor and Haidar

Bronwyn HALFPENNY (Thomastown) (13:40): I would also like to congratulate and thank locals Noor and Haidar on their wedding last week. I was kindly offered an invitation to attend the most beautiful celebration, and I would like to extend my best wishes for a happy and fulfilling marriage. Thank you to Noor and her family for allowing me to share this most important occasion with them all. It will be something that I will always cherish.

Euroa electorate pubs

Annabelle CLEELAND (Euroa) (13:41): With temperatures heating up, it is time to take a road trip to the home of Victoria's best pubs, all in the Euroa electorate. Do not take my word for it – both the Redesdale Hotel and the Tooborac Hotel and Brewery were featured in the *Weekly Times* best bush pub list, a nationwide recognition that included some of the country's most famous watering holes. While these might be award winners, you can visit any town in the region and find somewhere special for a pint, parma and a good time. Euroa is home to the beautiful Seven Creeks Hotel, with an amazing outdoor area, but pool enthusiasts might prefer the 'middle' pub. Longwood's White Hart Hotel has stood for 150 years and is our family's favourite, due to the kids bike track and live music. In Violet Town there is the Ellen Frances Hotel, and you have got the Imperial in Avenel. Seymour has the Royal and the Prince, and just around the corner you can visit the Tallarook pub too. Kilmore is home to Macs and the Royal Oak, and in Broadford there are the Top and Bottom pubs – you guessed it – at either end of town. When visiting wine country in Heathcote, do not forget to stop by the Commercial Hotel. Then if you still have some time you can play pub golf and take the trip out to the Colbo Hotel, the Rushworth Hotel, the Royal Mail, and then Nagambie Lakes nearby. In Benalla a local favourite is the Northo. Or just travel a bit outside to the Tatong Tavern, home of our local Octoberfest, or the Goorambat Railway Hotel. These are just a few of the hundreds of incredible options that highlight our amazing local hospitality industry. If you are ever in town visiting, give them a try.

Local government elections

Nathan LAMBERT (Preston) (13:42): On behalf of myself and the member for Northcote I would like to congratulate Darebin Labor on a fantastic result in the council elections. I have to admit some of us had become a little despondent about the working relationships on the council, but the Darebin Labor team took up the challenge of advocating for positive renewal. Well done to Geraldine Wood, Kate Polglaze, Liz Landray, Melentie Pandilovski, Connie Boglis, Emily Dimitriadis, Kristine Olaris, Matt Arturi and Vasilios Tsalkos, the latter five of whom were elected to council. Also, a big thanks to Jason Velios, Sammi Turner and Thomas Balakas and all of the volunteers – Dylan, Lucy, Riley and others – for giving up their weekends and evenings to support the team and create positive change for Darebin.

Newlands Primary School

Nathan LAMBERT (Preston) (13:43): I would also like to acknowledge and thank Ross Dudgeon, who retired this year after 42 years service to the Department of Education, the last 14 of which were as principal of Newlands Primary School. When Ross arrived at the school in 2009 there were only 90 or so students enrolled and there were some concerns about the school's viability. He introduced the bilingual Spanish–English program, which is unique in the state, and oversaw a significant transformation of the school's culture and buildings. Enrolments are now up around 400, and Ross has left the school in a very positive place, exemplified by the great turnout on the weekend for their annual Fete de la Primavera. We wish Ross the best for his future and congratulate new principal Luke Cripps.

Victorian Elderly Chinese Welfare Society

Nathan LAMBERT (Preston) (13:43): Finally, I would like to congratulate the Victorian Elderly Chinese Welfare Society on their 40th anniversary.

Housing

Will FOWLES (Ringwood) (13:44): I rise today to deliver some home truths. Home truth: there are currently 61,587 households waiting for social housing in Victoria; 51,602 of these households are not current social housing renters. Of those waiting in limbo for social housing, 34,804 are priority cases. This includes households in which people are currently homeless, fleeing family violence or impacted by flooding, fires or storms. They are people who need housing now. Home truth: the average waiting time for priority social housing in Victoria is 20 months. The national average is eight months. In other words, our most vulnerable Victorians wait more than two times longer than the rest of the country for a roof over their head. Home truth: the proportion of social housing in Victoria's total housing stock is just 2.8 per cent, the lowest in Australia.

While the demand for social housing continues to grow, supply continues to fall behind. Home truth: in Melbourne median house prices sit just below \$1 million and rents have surged by well over 10 per cent in the past year alone. Too many Victorians have been priced out of both the private rental market and home ownership, driving them into an ever-growing queue for social housing. Home truth: Infrastructure Australia estimates there is a shortage of 229,000 full-time infrastructure workers. That is over a quarter of a million workers. Without a capable workforce we simply cannot build the housing required to meet demand.

Diwali

John MULLAHY (Glen Waverley) (13:45): I recently had the pleasure of joining our Victorian Indian, Sri Lankan and Tamil communities in celebrating Diwali. This Festival of Lights symbolises the victory of good over evil and the enduring belief that knowledge supersedes ignorance. As always, I was touched by the warm hospitality and welcome that I received. I would like to express my gratitude to president Dr Usha Rani Gullapalli of the Hindu Society of Victoria for a kind invitation to the Deepavali festival at the Shiva Vishnu temple. I was also delighted to attend the Tamil Vizhuthugal

Deepavali celebrations, and I thank president Melwin Singaram and his team for organising what was an incredible display of Tamil heritage and culture.

Last month it was wonderful to celebrate Deepavali with the Tamil Senior Citizens Benevolent Society, and just last weekend I visited again to celebrate the great work this organisation have done over the years at their 10th anniversary. I send them my sincere congratulations and know they will do wonderful work over the coming decades. Thank you to Shanthy, Meha and Sam and the organising committee for the service they provide in bringing our community together and being active participants in promoting Tamil culture.

Brentwood Kindergarten

John MULLAHY (Glen Waverley) (13:46): On another matter, it was great to lend a helping hand at Brentwood Kindergarten's Bunnings sausage sizzle. I was happy to play my part in supporting the incredible work that our amazing early childhood educators do.

Australia and New Zealand Association of Physicians of Pakistani Origin

John MULLAHY (Glen Waverley) (13:46): Finally, it was an honour to attend the Australia and New Zealand Association of Physicians of Pakistani Origin's AGM. I would like to congratulate the incoming executive and thank Dr Muhammad Shahbaz for his kind invitation. It was inspiring to learn of the work that they do in supporting young Pakistani medical students.

South Barwon electorate building disputes

Darren CHEESEMAN (South Barwon) (13:47): The South Barwon community has been for the last 10 years a fast-growing community. Fortunately the reality is that between constituents that are hoping to build their homes in South Barwon and their building practitioners the relationship is good and a quality product is built for those constituents. Unfortunately on a rare number of occasions – though that rare number of occasions has grown in the last few years – there have been disputes between my constituents and their building practitioners. This has seen those individuals heading off to Domestic Building Dispute Resolution Victoria as a legislative step to help resolve the difficulties between those constituents and their building practitioners. Disappointingly though, it can take some time for those constituents to get their issues resolved through that mechanism, and if that mechanism does not resolve that dispute between the constituent and the building practitioner it then heads off to VCAT for further delays. This is something that in my seat I would like to see addressed.

Youth crime

Dylan WIGHT (Tarneit) (13:48): Youth crime is a problem that my community regards with particular concern. Our Youth Justice Act 2024 is a monumental step forward for youth justice in our state. It demonstrates significant criminal justice reform, shifting from an ineffective punitive system to a modern evidence-based approach. I am very aware of and I am concerned by the reputation that is often propagated about my electorate in the news and by some that should know better.

Last week I had the pleasure of meeting with the team from WESTjustice and the Centre for Multicultural Youth to discuss a fantastic program called TARGET ZERO. TARGET ZERO is a strong coalition of services, schools and community organisations working together on the factors that drive youth criminalisation and justice over-representation. The team is designing, testing and innovating new approaches to build resilience in our young Victorians and their families whilst elevating their talents. I am proud to be part of an Allan Labor government who put the safety of our citizens first. This is why I am more than happy to stand in this place and advocate for measures such as these, which promote evidence-based strategies for reducing youth reoffending. I am calling on all of my parliamentary colleagues to support TARGET ZERO, which I am confident will achieve great things in Wyndham, Melton and Brimbank.

Footscray Yarraville City Band

Katie HALL (Footscray) (13:50): I am delighted to congratulate the Footscray Yarraville City Band on reaching its 150th anniversary. This is a tremendous feat by one of the inner west's proudest institutions. The Footscray Yarraville City Band is one of Australia's most celebrated musical ensembles. Now older than Footscray town hall and the West Gate Bridge combined, it is not just the quality of the band's output that is remarkable but the strength of its connection and history to our community as well. I would like to congratulate the band on their wonderful performance at the recital centre with the MSO on Saturday night. The city band has refused to be pigeonholed – something that I am sure has contributed to its staying power. It has performed with the Western Bulldogs over many years, at our annual Christmas carols in Yarraville and in the grand embassies of London and Paris. The band is one of the western suburbs' finest exports. Although they have toured the world over, the western pride has clearly never worn off. The Footscray Yarraville City Band has always had a social conscience, and I want to recognise the work that the band does in supporting local organisations and charities. Congratulations to the Footscray Yarraville City Band on its 150th birthday.

Willum Warrain

Paul MERCURIO (Hastings) (13:51): I would like to thank the Minister for Treaty and First Peoples for accepting my invitation to come out to my electorate and visit the amazing space that is Willum Warrain. I have spoken about this place many times, and I never tire of taking my colleagues there and seeing them relax in this space.

Somerville Recreation Reserve

Paul MERCURIO (Hastings) (13:51): On another matter, I would like to thank the Minister for Community Sport for accepting my offer to come out and meet with members of the Somerville Recreation Reserve. Five clubs at the reserve received funding from this year's budget. It was great the minister could meet with the clubs and see how that funding was going to help them.

World Teachers' Day

Paul MERCURIO (Hastings) (13:52): On another matter, Friday 25 October was World Teachers' Day, and I am happy to say my staff and I delivered 1500 cupcakes, which is one cupcake for every teacher and staff member in all of the 27 schools in my electorate, as a thankyou for the amazing work that they all do.

Ehlers–Danlos syndrome

Paul MERCURIO (Hastings) (13:52): On another matter, I would like to thank the very courageous women that have come to my office to talk to me about living and suffering with Ehlers–Danlos syndrome. It is a syndrome that affects many people in our community but which is relatively unknown and not understood. I urge people with EDS to get in touch with their local MP and tell them directly about their journey.

FunFlight

Paul MERCURIO (Hastings) (13:52): On another matter, last Sunday was the 16th anniversary of FunFlight. I would like to thank everyone from the Peninsula Aero Club for giving their time and taking 180 kids up on a FunFlight.

National Survivors Day

Paul MERCURIO (Hastings) (13:52): Lastly, today is National Survivors Day. My heart, love and support go out to all of those survivors.

Fountain Gate Secondary College

Belinda WILSON (Narre Warren North) (13:53): Last week Minister Carroll and I visited Fountain Gate Secondary College, where we engaged with the school community about the \$400

school saving bonus. It was a great opportunity to speak directly with families about how they plan to use the bonus to support their children's education. It was great to hear their feedback and see the excitement around this incredible initiative. The school saving bonus is designed to ease the financial pressure that many families face when it comes to school-related expenses like uniforms, books and camps. It was really heartwarming to hear about the tangible difference this will make to my community.

Motor neurone disease

Belinda WILSON (Narre Warren North) (13:53): I recently had the chance to be involved in a cause that is very deeply personal to this side of the chamber: motor neurone disease, MND, a devastating illness that affects so many families across this state. I joined the MND walk in Pakenham, which was organised by my dear friend the member for Pakenham Emma Vulin. It was so great to see so many people come out not just to raise awareness but also to raise much-needed funds for MND Victoria. I was really proud to walk alongside so many of my colleagues, friends and community members, all united in the fight against this really shocking, terrible disease.

Samana Darmani

Belinda WILSON (Narre Warren North) (13:54): I recently had the pleasure of having Fountain Gate Secondary College student Samana in my office for work experience. She did an absolutely amazing job, showing great enthusiasm and a strong work ethic. We are so excited to see where her future takes her, and we wish her all the best.

Cranbourne Cenotaph

Pauline RICHARDS (Cranbourne) (13:54): I was very pleased to join so many other community members at the Cranbourne Cenotaph yesterday. I would particularly like to thank Stuart Couch for the role he played and acknowledge young veterans and how important it is that we are considerate of the needs of young veterans.

As always, the ceremony was moving, and it was great to see so many students from local schools. Our local RSL community is a credit to us, and we are very fortunate.

Business of the house

Notices of motion

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (13:55): I advise that the government does not wish to proceed with notices of motion, government business, today and ask that they remain on the notice paper.

Bills

Aged Care Restrictive Practices Substitute Decision-maker Bill 2024

Second reading

Debate resumed on motion of Mary-Anne Thomas:

That this bill be now read a second time.

Tim BULL (Gippsland East) (13:55): I rise to commence my contribution on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. We know that the use of restrictive practices can be very, very controversial, and we heard about that in the recent royal commission, which delved into their misuse in aged care. Restrictive practices are very necessary at certain times to ensure a person's safety, but their use does need to be well monitored and it needs to be restricted to cases where it is appropriate. That is why it is important to have the appropriate safeguards, checks and balances in place when it comes to restrictive practices as best as possible that can be achieved. It

is a very, very contentious area at times. But as this bill strives to improve oversight in this area, we are happy on this side to support the passage of this bill through the Legislative Assembly.

I wish to note up front that this legislation that we will be debating in the chamber here today is about the appointment of substitute decision-makers for restrictive practices rather than about the restrictive practices guidelines themselves, which largely sit within the federal jurisdiction. Having said that, it is important to cover off on some background in relation to the larger issue around restrictive practices. In 2021 the former coalition Commonwealth government introduced new legislative requirements for residential aged care, and this included for providers of aged care to seek informed consent from substitute decision-makers to authorise the use of restrictive practices when they are required. This of course comes into play when the person on whom the restrictive practices are being used has lost the capacity to give informed consent themselves. This was in response to the 2021 royal commission, as I said. The royal commission made a couple of very, very pertinent statements on this topic. It said that restrictive practices have been identified as a problem in aged care in Australia for more than the last 20 years, which is a significant amount of time. The inappropriate use of unsafe and inhumane restrictive practices in residential aged care has unfortunately continued.

Whilst it had been identified as a problem for some time, the fact that it was continuing was of great concern. This was despite multiple reviews and reports highlighting the problem. The royal commission said ‘It must stop now.’ Recommendation 17 also went into a lot more detail around restrictive practices and their use. It said that restrictive practices should only be used:

in accordance with relevant State or Territory laws and with the documented informed consent of the person receiving care or someone authorised by law to give consent on that person’s behalf

Over the course of the royal commission there were numerous stories about substandard care and there were numerous stories of misuse of restrictive practices from those who experienced it, from family members of those who experienced it and also from people who had witnessed it or heard about it. There was feedback from aged care workers, there was feedback from service providers, there was feedback from peak bodies and there was feedback from advocates and experts. There was an enormous amount of information that came forward in the submissions that highlighted a range of experiences, both sad and confronting.

Business interrupted under sessional orders.

The SPEAKER: I acknowledge the presence in the gallery today of a delegation from the Bougainville House of Representatives. I welcome the Honourable Speaker Simon Pentanu, Deputy Speaker Therese Kaetavara, Deputy Clerk Peter Topura and Secretary Ignatius Hamal.

Members

Minister for Veterans

Absence

Jacinta ALLAN (Bendigo East – Premier) (14:01): I wish to inform the house that for the purposes of question time today the Minister for Agriculture will answer questions for the portfolios of small business, veterans and youth.

Questions without notice and ministers statements

Child protection

Roma BRITNELL (South-West Coast) (14:02): My question is to the Premier. Confidential guidelines for state residential care home staff, which I have a copy of, inform employees how to supervise children while they inject illegal drugs and how to administer naloxone if there is an overdose. Why has the Premier turned children’s residential care homes into new drug-injecting rooms?

Members interjecting.

The SPEAKER: Order! Members may not like the question. That is no reason to interject on the member on their feet.

Jacinta ALLAN (Bendigo East – Premier) (14:02): The member for South-West Coast has made an assertion in her question that I absolutely reject, and it would be deeply wrong to characterise the provision of naloxone in the way that the member for South-West Coast has done, and I will –

Roma Britnell: On a point of order, Speaker, I am happy to table this document officially. It clearly states that naloxone is part of the treatment that is to be administered.

The SPEAKER: There is no point of order.

Jacinta ALLAN: The reason why I reject the characterisation is that it is either wilfully deliberate mischaracterisation or ignorance that is seeing the member for South-West Coast make this characterisation. The reason why I reject this characterisation is that particularly those who have worked in the health professions know that naloxone is a life-saving treatment.

Members interjecting.

The SPEAKER: Order! Member for South-West Coast, you have asked the question. I ask you to show respect to the member on their feet.

Jacinta ALLAN: People who have worked as paramedics, as nurses – people who have worked in these caring professions – know that naloxone is a life-saving treatment. The reason why I make this point is that earlier this year we announced, as part of further investments in our statewide action plan on supporting people with alcohol and drug and mental health challenges, that we are increasing access to this life-saving drug. We announced it in April of this year.

Roma Britnell: On a point of order, Speaker, on relevance, these are children injecting drugs – children.

The SPEAKER: Order! Member for South-West Coast!

Roma Britnell: I do not want to hear a lecture about the use of naloxone for saving lives.

The SPEAKER: The member for South-West Coast will resume her seat.

Roma Britnell: I want to save these children's lives first.

The SPEAKER: Member for South-West Coast, I ask for an apology.

Roma Britnell: I apologise, Speaker. I did not see you on your feet, and I do apologise.

The SPEAKER: That is not a point of order. The Premier was being relevant to the question.

Jacinta ALLAN: I am making this point because we know that people who work in supporting some of the most vulnerable children in our state always place and prioritise the health and safety of those children at the forefront of everything they do. As I have said, naloxone is well understood as a life-saving treatment for people suffering a drug overdose, and I will always defer to the health professionals who are dispensing that treatment on the circumstances in which they are providing that life-saving treatment for people who are drug affected or who may be experiencing a drug overdose.

Roma BRITNELL (South-West Coast) (14:06): Under Labor, vulnerable children in state residential care homes are being allowed to inject illegal drugs in their rooms, putting their lives at risk. Why has the Premier left state residential care home staff powerless to intervene and prevent more children from dying?

Jacinta ALLAN (Bendigo East – Premier) (14:07): Again I reject the allegations that the member has made in her supplementary question. We will always support the workers, whether they are

supporting kids in child protection or vulnerable kids in resi care, and will always provide them with the support they need to care for some of our most vulnerable Victorians. Those vulnerable Victorians deserve our care, not the sort of behaviour we are seeing from the member for South-West Coast today.

Roma Britnell: On a point of order, Speaker, on relevance, the workers are begging for the tools to be able to go and find the children to stop them from running away. They have got nothing.

The SPEAKER: There is no point of order. The Premier was being relevant. The Premier has concluded her answer. I remind members that a point of order is not an opportunity to make a statement to the house.

Ministers statements: housing

Jacinta ALLAN (Bendigo East – Premier) (14:08): On this side of the house we get on and build the homes, infrastructure and support Victorians need for the future. Whether it is building tunnels, whether it is building train lines or whether it is building new roads or world-class schools, we are the builders. We are building more homes, working with industry to build more homes for more families, more homes for millennials – more homes. It could be in the inner suburbs like Brunswick, it could be in the middle suburbs like Brighton or it could be in those great regional centres like Ballarat, Bendigo and Benalla. We are building homes in places where Victorians work, close to where they grew up and close to where we know people want to live. We are not just getting on and building more homes; we are also building more homes than any other state in the nation. The facts back this up – approving, starting and finishing more homes – and we are the only state or territory where housing affordability has improved. We know there are some who want to block.

Members interjecting.

Jacinta ALLAN: We are hearing it now. There are some who want to block. Particularly, for example, there are some who want to block the off-the-plan stamp duty concession that industry have told us they need. Industry have told us what they want, and buyers are wanting to see this certainty. Who is blocking it? The self-declared Leader of the Opposition. But Victorians know, homebuyers know and home builders know that you just cannot trust this self-declared blocker over here to work on the things that need to be done.

James Newbury: On a point of order, Speaker, I refer you to Speaker Brooks’s ruling that it is inappropriate to use a ministers statement to attack the opposition.

The SPEAKER: The Premier will come back to her statement without attacking the opposition.

Jacinta ALLAN: As the blocker from Brighton knows, we are builders and we are going to get on and build more homes for more Victorians.

Victoria Police enterprise bargaining agreement

Brad BATTIN (Berwick) (14:10): My question is to the Premier. Police association secretary Wayne Gatt has called out Labor’s unfair treatment of police, asking if the government wants a train line or a front line. At this rate it will not have a front line. Why has the Premier recklessly committed \$216 billion to the Suburban Rail Loop instead of offering our police a decent wage deal?

Jacinta ALLAN (Bendigo East – Premier) (14:11): Let me tell the member for Berwick just how wrong he is. The Suburban Rail Loop is absolutely the project that Victorians need, Victorians want and Victorians have voted for. Those figures that the member for Berwick has put to the house are wrong because they are based on the lies and mistruths that were in the question that was asked by the Leader of the Opposition to the Parliamentary Budget Office.

Brad Battin: On a point of order, Speaker, in relation to relevance, thousands of police officers would love to know why the Victorian government are wasting money rather than giving them a decent wage that they thoroughly deserve.

The SPEAKER: Resume your seat, member for Berwick. I will not allow members to raise points of order if they are going to use them to make statements to the house.

Mary-Anne Thomas: On the point of order, Speaker, I did just want to point to the fact that the member for Berwick was defying the very clear ruling that you just made. It is well known in this house that a point of order is not an opportunity to rephrase the question.

The SPEAKER: I ask members to be succinct in their points of order. The Premier is being relevant to the question that was asked.

Jacinta ALLAN: I say this: it was the Liberal Party that asked the Parliamentary Budget Office a crooked question to get a crooked answer. That is so true to form. This Catherine wheel of an opposition leader over here –

James Newbury: On a point of order, Speaker, on standing order 118, I am concerned that the Premier should not be attacking the Parliamentary Budget Office in that way. It is clearly a breach of standing order 118.

The SPEAKER: I ask the Premier to come back to answering the question and not attack the Parliamentary Budget Office.

Jacinta ALLAN: Amongst the hysteria from those opposite, they would do well to know I was calling their question to the Parliamentary Budget Office crooked, and that is so true to form from the untrustworthy opposition. The Parliamentary Budget Office has confirmed the government's costings of Suburban Rail Loop East as being between \$30 billion and \$34.5 billion. The Parliamentary Budget Office indeed in answering the crooked question from the crooked opposition confirmed that figure from the government.

Members interjecting.

The SPEAKER: Order! Members on my right will come to order. Leader of the Opposition, Member for Malvern, no more warnings.

James Newbury: On a point of order, Speaker, the Premier is debating the question.

Jacinta ALLAN: On the point of order, Speaker, I was asked a question that contained a reference to the Suburban Rail Loop and figures that are wrong, and in answering the question I am perfectly entitled to explain to the member for Berwick just how wrong he is.

The SPEAKER: I do not uphold the point of order.

Jacinta ALLAN: As I was saying, the Parliamentary Budget Office's report makes it very clear that the cost to build the Suburban Rail Loop East is consistent with the government's estimation. And, you know what, we are getting on and building that project because it is a project that Victorians need, Victorians want and Victorians voted for. It is an opportunity to build 70,000 more homes around each of the six station precincts – 70,000 more homes in exactly the right location, close to jobs, close to services, close to that great public transport that Victorians need. I hope that has clarified for the member for Berwick that he is wrong and that the Parliamentary Budget Office thinks he is wrong as well in his characterisation of that figure.

When it comes to supporting Victoria Police – the question included a reference to supporting Victoria Police – there is \$4.5 billion of additional investment in Victoria Police, 3500 additional Victorian police, and more tools, more resources, including today, continuing to give Victoria Police the powers that they need to keep our community safe. I thank them for that work. We will continue to support them, unlike the Liberal Party when they were in government, who cut funding to Victoria Police.

Brad BATTIN (Berwick) (14:16): Wayne Gatt has also stated that saying thank you is one thing and paying Victoria Police is another, with a fair wage. Victoria Police are fighting for an \$840 million pay rise over the next four years. The cost of the Suburban Rail Loop East could fund that wage

increase 41 times. Why has Labor prioritised the Suburban Rail Loop over decent wages for Victoria Police?

Members interjecting.

The SPEAKER: Order! Member for Berwick, do you want to hear the answer?

Jacinta ALLAN (Bendigo East – Premier) (14:17): The member for Berwick again is wrong.

Brad Battin interjected.

The SPEAKER: Member for Berwick, I ask you to leave the chamber for half an hour.

Jacinta ALLAN: The member for Berwick is wrong both on his numbers –

Brad Battin interjected.

The SPEAKER: Member for Berwick, make that an hour and a half. The member for Berwick will leave the chamber for an hour and a half.

Member for Berwick withdrew from chamber.

Jacinta ALLAN: and in how he reads the budget papers. I reckon the member for Rowville should go and give the member for Berwick a bit of a lesson on how to read the budget papers. There is the capital bit of the budget and there is the output bit of the budget, and I know the member for Rowville knows this.

John Pesutto: On a point of order, Speaker, on relevance, we did look at the budget for the costing of the Suburban Rail Loop: ‘TBC’. You did not even put any funding in there. That is why we had to go to the Parliamentary Budget Office, you circus.

The SPEAKER: There is no point of order.

Jacinta ALLAN: Maybe if the member for Rowville cannot get the message through to the member for Berwick, perhaps the member for Malvern can have a crack. As former Treasurers they would know that there is the capital part of the budget that delivers infrastructure projects and there is the output part of the budget. I know the members for Rowville and Malvern know this, because they cut funding to Victoria Police when they were in government.

The SPEAKER: I again remind members that points of order are not an opportunity to make a statement to the house.

Ministers statements: major events

Steve DIMOPOULOS (Oakleigh – Minister for Environment, Minister for Tourism, Sport and Major Events, Minister for Outdoor Recreation) (14:19): There is something really special about summer in the sporting and events capital of the country. You would not want to spend it anywhere else. No-one does it better than Victoria. You would think that after the AFL grand final and the MotoGP we might be due for a gap in the calendar, but we are just warming up. Our jam-packed major events calendar has something for everyone – live music, the arts, sport, take your pick. We have got the Socceroos this Thursday at AAMI Park against Saudi Arabia. Always Live, the biggest music concert, with more than 65 events across Victoria, is starting at the end of November, hosting big names like Missy Higgins, 90s punk rockers the Offspring and more than 200 local artists supported.

A member interjected.

Steve DIMOPOULOS: Your favourite band. We have taken back the Australian Open golf from our poor cousin New South Wales, and that is starting at the end of November. I know the member for Clarinda cannot wait to get out there and strut his stuff on the green. We have got the blockbuster Boxing Day test against India in December, and after stumps on day 3, as the Premier said yesterday,

you will be able to walk across the road to see the first ever kabaddi league exhibition match played on Australian soil. Kabaddi is a fast-paced, high-intensity contact sport, the second-biggest sport in India behind cricket, with nearly 300 million viewers watching kabaddi.

The Australian Open tennis is in the heart of Melbourne. There is the Cadel Evans Great Ocean Road Race, which I know the members for Geelong and Bellarine cannot wait for. The World Superbike Championship is in the member for Bass's electorate. The Grampians Peaks Trail 100 miler is in the member for Lowan's electorate. And who could forget the Matildas against Chinese Taipei at AAMI Park on 4 December and down at Kardinia Park on the 7th. I could go on; the list is literally endless. All that is to say that we are the sporting and cultural capital of the nation.

Suburban Rail Loop

David SOUTHWICK (Caulfield) (14:21): My question is to the Minister for Transport Infrastructure. Federal Labor minister Catherine King has stated that the release of \$2.2 billion for the Suburban Rail Loop East is contingent on the program meeting the conditions, which include project proposal reports, which have not been received by the Victorian government. Why did the Allan Labor government sign multibillion-dollar contracts –

Juliana Addison interjected.

The SPEAKER: The member for Wendouree can leave the chamber for half an hour.

Juliana Addison interjected.

The SPEAKER: Make that an hour.

Member for Wendouree withdrew from chamber.

David SOUTHWICK: Why did the Allan Labor government sign multibillion-dollar contracts without first providing the required project proposal report to the Commonwealth?

Danny PEARSON (Essendon – Minister for Transport Infrastructure, Minister for the Suburban Rail Loop, Assistant Treasurer, Minister for WorkSafe and the TAC) (14:22): I am delighted to receive a question from the Deputy Leader of the Liberal Party to talk about this exciting project, a project that is going to completely revolutionise and transform Melbourne. The basis of the member's question is wrong. The PPR was provided to the Commonwealth recently, and I am really pleased that we can now get on and deliver this project, because this project will absolutely revolutionise and transform Melbourne. I was delighted to be joined by the Premier and the members for Box Hill and Glen Waverley, the Deputy Speaker, on Sunday out at Box Hill to talk about the fact that Terra Verde has been selected as the consortium to build the twin 10-kilometre tunnels from Glen Waverley to Box Hill. Why this is important is that if you look at Glen Waverley and Box Hill they are vibrant –

David Southwick: On a point of order, Speaker, on relevance, why did the minister sign the contracts without providing the information?

The SPEAKER: A point of order is not an opportunity to repeat the question. The question was answered at the outset.

Danny PEARSON: For the Deputy Leader of the Liberal Party's benefit, that has been provided to the Commonwealth, and we announced on Sunday that we had signed that contract with Terra Verde. Why this is important is that if you look at Box Hill and Glen Waverley – two bustling, vibrant communities – we want to produce more housing for those communities. That is why we are committing to 70,000 additional homes right along the corridor. Why is this important? It is about providing a quality build in great locations, and I am indebted to the great work of my friend the Minister for Planning in revolutionising the way in which we are transforming the way in which buildings are built here in this state, because we want to build buildings that will increase in value, that

will appreciate in value. It will give young Victorians their very first start in life living in a vibrant community like Box Hill, like Burwood, like Glen Waverley, like Cheltenham.

This is all really important. Finally we are going to be able to connect a rail line to some of the largest educational precincts in the nation through the Suburban Rail Loop. Three of the busiest rail lines in Melbourne are Frankston, Cranbourne and Pakenham. They will all be serviced by the Suburban Rail Loop. This is going to be an absolute game changer for Melbourne and Victoria, and it means that we can try and make sure that we can provide more housing.

Those opposite need to get on board. They need to stop blocking – the arrogance of those opposite. This project has been overwhelmingly endorsed by the Victorian people on the last two separate occasions. We do not break promises, like those opposite. We are getting on –

James Newbury: On a point of order, Speaker, the minister is debating the question.

The SPEAKER: The minister to come back to the question.

Danny PEARSON: We are getting on and we are not wasting a day. We are committed to delivering this project, a project that –

Members interjecting.

The SPEAKER: Order! Before I call the Leader of the Opposition on a point of order, I remind members how to raise a point of order correctly.

John Pesutto: On a point of order, Speaker, on relevance, the answer is supposed to be responsive. The question asked why he signed contracts before providing the material to the Commonwealth. The minister has misled the house. He did sign contracts before information was provided to the Commonwealth, so I ask you to draw him back to the question.

The SPEAKER: The minister answered the question at the beginning of his answer. He said the basis of the question was wrong. The minister is answering the question.

Danny PEARSON: Again, we are getting on and delivering this project. This project stacks up and makes sense. As to why the federal government has sought to provide \$2.2 billion in funding – the single biggest infrastructure commitment that it took to the last election – it is because this project stacks up and makes sense. To those opposite, I know you are a train wreck, mate, but we are getting on and delivering this rail line.

David Southwick: On a point of order, Speaker, clearly the minister is debating the question. I ask you to bring him back to answering it.

The SPEAKER: The minister has concluded his answer.

David SOUTHWICK (Caulfield) (14:27): When asked by a journalist where the money for the Suburban Rail Loop is coming from, the minister said today, ‘It’s not like we’ve got to get it in the next budget or else we’re cooked.’ By what date is the money needed before the state’s finances are cooked?

Danny PEARSON (Essendon – Minister for Transport Infrastructure, Minister for the Suburban Rail Loop, Assistant Treasurer, Minister for WorkSafe and the TAC) (14:27): We have been very clear on this. The project will cost between \$30 billion and \$34.5 billion. One-third of the funding will be provided by the state, one-third through value capture and one-third through contributions from the Commonwealth. We have been very clear on this. I am really pleased that we have received \$2.2 billion in funding to date from the Commonwealth. What I have said very clearly about this is that this is a multiyear, multidecade project and there will be plenty of budgets –

David Southwick: On a point of order, Speaker, on relevance, I ask you to bring the minister back to the question: at what date will the finances be cooked because this government clearly cannot manage money?

The SPEAKER: I ask members not to repeat the question. The minister was being relevant to the question that was asked. I cannot direct the minister how to answer the question.

Danny PEARSON: We will be working very closely with the Commonwealth, as we have done every step along the way. There will be plenty of budgets; there will be plenty of opportunities. This is a long-term project, and we are committed to it. Again, we are not going to be taking lectures from those opposite, who wasted their four years in office, did not start or finish a major project – just wasted –

David Southwick: On a point of order, Speaker, the minister is clearly debating the question, and I ask that you bring him back to answering the question: at what date? We just need a date.

The SPEAKER: Minister, I ask you to not attack the opposition and come back to answering the question.

Danny PEARSON: We have said very clearly that this will be funded through state government contribution, value capture and Commonwealth contribution. We said the project will be delivered by 2035. We are on track to deliver just that.

Ministers statements: employment

Tim PALLAS (Werribee – Treasurer, Minister for Industrial Relations, Minister for Economic Growth) (14:29): I recently had the great privilege and honour of attending the official opening of Metcash’s new distribution centre in Truganina, with the member for Kororoit – a \$90 million facility that will service independent grocers and retailers, liquor retailing as well, right across Victoria. It will see something like 800 new jobs created in this community. Not too much earlier, about a month earlier, I also attended the opening of a Coles centre that is going to employ 1000 people at full production. So there we have, in the freight and logistics capital of this nation, a new capital of the freight and logistics capital of the nation: it is Truganina. But that is really only the start of the story.

Our startup community is thriving. We have got over 3500 startups, scale-ups and unicorns calling Victoria home, with the Victorian startup community employing 64,000 people globally and about half of those people here in Victoria. These startups have an estimated value of \$129.3 billion, and to put that into some context, it has grown effectively 20-fold since 2016. Our startup ecosystem has grown by 600 per cent just in terms of raw numbers of startups since 2017. Of course interstate folk may well look at Victoria and see the best coffee, the best events, the best live art, the best music scene and the best Premier, and they would be right. But we do have hidden gems as well. Our startups, our higher education, our business investment and our advanced manufacturing are setting the pace. Why is it that this state is seen as the investment location of the nation? It is because of jobs.

Housing

Darren CHEESEMAN (South Barwon) (14:31): My question is to the Premier. Victorians aspire to a place to call home. Labor has recognised this with the housing statement. Why is it important in delivering Labor’s housing statement that careful, thoughtful decision-making be implemented?

Members interjecting.

The SPEAKER: Order! Members will be respectful in the chamber. The member for Lowan will come to order. The house can do better than this. Would the member for South Barwon repeat the last part of the question, please.

Darren CHEESEMAN: Why is it important in delivering Labor’s housing statement that careful, thoughtful planning and decision-making be implemented?

Jacinta ALLAN (Bendigo East – Premier) (14:32): I thank the member for South Barwon for his question that, from what I could hear through the disorderly interjections of those opposite, went to why it is important that we are looking at building more homes for more Victorians at every opportunity. In terms of why we are building more homes for more Victorians at every opportunity, it is because we know and understand that too many young Victorians – the millennials, if you like – are finding it harder and harder to find their first home, to buy their first home, to start a family and to build their long-term wealth, like other generations that are largely represented here in this chamber. This is a chamber that is largely not represented by millennials. There might be one or two.

A member interjected.

Jacinta ALLAN: Thank you for validating my point. There are one or two.

A member interjected.

Jacinta ALLAN: I do not know. I think you are stretching it a bit, but there are a couple. My point is that we need to make sure that through our policies and programs and projects we are building more opportunities for all Victorians. It is why we are building train lines. It is why we are investing in the Suburban Rail Loop. It is why we are building more schools. It is why we are building more hospitals. Building more homes is absolutely central to building a fairer society for younger generations, the couple of millennials that are in this place and the large number of young Victorians who are looking to us to do something.

We must do something because if we want to live in a fairer place, if we want to live in a community where younger generations get the go of previous generations, we have to give them more opportunities to buy a home in the places they want to live, maybe close to where they grew up. Why is that important? Because you might want to live close to your mum or dad or family members. You might want to be close to the job of your dreams. You might want to be close to a university or TAFE, where you can pursue an education opportunity that puts you on a pathway to your career goal and dream. This is why we are focused on building more homes, understanding that the system at the moment is not working for those millennials and that we have an obligation.

That is why we have announced the off-the-plan stamp duty concessions. The blockers in the upper house will hopefully be cast aside to see that passed. There is huge work that the planning minister is doing – the huge, transformative work, the hard work, the detailed work – in reforming both the planning and the building systems and the work we are doing through the Big Housing Build as well to support those vulnerable Victorians who need the government to build more homes. That is why, for the benefit of the member for South Barwon, we are determined to keep building more homes.

Darren CHEESEMAN (South Barwon) (14:35): I thank the Premier. How does this approach contrast with the last government’s decision-making on Phillip Island and at Fishermans Bend?

Jacinta ALLAN (Bendigo East – Premier) (14:36): I say this: we may have disagreement on policy, we may have disagreement on values, but we always need to make sure that we come to this place with a level of respect for how we engage with each other. We must have a level of respect. And the reason why I say this, going back to my answer to the substantive question, is that particularly younger Victorians are looking to us to roll up our sleeves and do some work on getting on and building more homes, not playing political games for crass, baseless political benefits. Victorians know they can trust this government to get on with the hard work of building more homes. They know they cannot trust those opposite, who continue to be at war with each other whether it is in the party room or the courtroom. We see them continuing to be at war with each other while we are building more homes.

Members interjecting.

The SPEAKER: Order! I remind members that this place has to be based on respect. Irrespective of what your views are or what political party you come from, it is important that you respect members in this chamber.

Ministers statements: healthcare workforce

Mary-Anne THOMAS (Macedon – Leader of the House, Minister for Health, Minister for Health Infrastructure, Minister for Ambulance Services) (14:37): I rise to inform the house that under Labor Victoria’s healthcare workforce has grown by almost 50 per cent. In the 10 years that we have been in government we have recruited an additional 40,000 healthcare workers for our public health system. In fact last year Victoria saw the biggest yearly growth in the state’s history, recording a massive 6.7 per cent increase in new roles, with more than 7000 nurses, doctors and allied healthcare professionals joining our system. This strong pipeline is on the back of our nation-leading investments and reforms, which only Labor governments deliver – nurse-to-patient ratios, our investment to make nursing and midwifery free to study for 10,000 students and being the first government in the country to implement the findings of the Fair Work Commission’s work value case, which is delivering a 28.4 per cent pay rise for our hardworking nurses and midwives. They deserve every cent of that, being historically undervalued for so long.

But it is not just hospital staff where we lead the nation. Our on-road paramedic workforce has also grown by more than 50 per cent, with 2200 more paramedics on the road since we came to government. Indeed we have more registered paramedics here in Victoria than any other state, and our response times are better than those of New South Wales, Queensland, South Australia and Tassie. In an Australian first we will have 25 paramedic practitioners on the road in regional Victoria by the end of 2026, and we are establishing Australia’s first centre of paramedicine in partnership with Victoria University. Unlike those on the other side of the house, our government continues to invest – *(Time expired)*

Road maintenance

Danny O’BRIEN (Gippsland South) (14:40): My question is to the Minister for Roads and Road Safety. A crew of 10 Fulton Hogan workers from Ballarat are in Far North Queensland working on Queensland roads for six weeks because for the first time in decades there is no work for them in Victoria. Why are Victorian road workers having to travel to Queensland to find work when our own roads are in such a disgraceful condition?

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (14:41): I always welcome an opportunity to talk about our record investment in road maintenance. As the member for South Gippsland knows, we are spending \$964 million this year on road maintenance, and that is happening all across Victoria. But let us be really clear –

Members interjecting.

Melissa HORNE: Are we interested in the answer? This is absolutely a historic investment. As you would be aware, we have got new contracts in place, which give us much more information about how we treat the road maintenance program. But we have signed up with national companies as well. So in relation to crew members from Fulton Hogan working all across the country, that is entirely a matter for Fulton Hogan, but what I can tell you is that we have got contractors out across the network. Whether it is on the South Gippsland Highway, whether it is up in Mildura or whether it is out on the Western Highway, we have got crews all across Victoria, with 70 per cent of that work being done in regional Victoria.

Danny O’BRIEN (Gippsland South) (14:42): The department of transport’s annual report tabled last sitting week revealed that road repairs dropped by 95 per cent compared to the previous year. Further, no new road surfacing contracts have been let since the latest blitz was announced. When will

this Labor government stop misleading Victorians about maintenance blitzes and actually fix our roads?

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (14:43): I have said this before in the chamber: we have got shifty numbers by the shifty member being put up before the chamber. However, if we can go back in time to October 2022, I appreciate that the flood events that occurred there are a very inconvenient truth for those on the other side to recognise that this did untold damage to our road network. That is why –

Danny O’Brien: On a point of order, Speaker, the minister is debating the question. If she would like to show us on her government website where the tenders are for this work, that would be appreciated.

The SPEAKER: The minister was being relevant to the question that was asked.

Melissa HORNE: As I said, we have got more data – we have got these contracts in place – to be able to make sure that we have got the appropriate treatment for what the road maintenance task is. As I said, whether you are out on the South Gippsland Highway, whether you are on the Melba Highway or whether you are up in Mildura, there is road maintenance happening.

Ministers statements: Melbourne Cup Carnival

Anthony CARBINES (Ivanhoe – Minister for Police, Minister for Crime Prevention, Minister for Racing) (14:45): I rise to update the house on Australia’s original major event, and of course I am talking about the biggest Melbourne Cup Carnival since 2018, a carnival that directly employed 14,000 Victorians across the carnival week. My friend the Minister for Tourism, Sport and Major Events said that Melbourne is clearly the events capital of the nation, and nowhere was that more obvious than at Flemington last week. It was a privilege to join some 285,000 people that flocked to headquarters for one of the world’s truly great events, a crowd increase of more than 8 per cent on last year. Over 91,000 people attended the Melbourne Cup on the Tuesday, including the Premier, international guests such as Elizabeth Hurley and Sir Bob Geldof, some past tennis stars as well and a number of colleagues in this place. Indeed the federal Leader of the Nationals I do not think is a great national promoter of Victoria, but even Mr Littleproud was moved to say that Victoria does it better than anywhere else. It was great to see the number of young people out having a super day – 45 per cent of general admission tickets sold to people under 35 – and Cup Day general admissions sold out.

But it was not all racing, with the park precinct hosting international acts such as Anastacia and Ronan Keating. The cup carnival crowd raised some \$660,000 for the Poppy Appeal and also for the Good Friday Appeal. Catering served some 60,000 sandwiches, 55,000 pies –

Peter Walsh: On a point of order, Speaker, the minister has given us a long guest list of those who were at the races. I was just wondering if Wayne Gatt was there.

The SPEAKER: There is no point of order.

Anthony CARBINES: 15,000 tonnes of hot chips. Nearly 2 million people tuned in to Nine’s free-to-air coverage, a 12 per cent increase on last year, year on year. Pictures were beamed to 228 international markets – 750 million people. It is why our Major Racing Events Fund of \$15 million is backing racing jobs. Victorian racing is worth \$4.7 billion in this state. It provides 35,000 jobs. The Allan Labor government backs racing jobs in Victoria, the major events capital of the world.

Constituency questions

Eildon electorate

Cindy McLEISH (Eildon) (14:48): (890) My question is for the Minister for Roads and Road Safety. A section of road on the Mansfield-Woods Point Road between Mansfield and Jamieson has

been subject to traffic management since 25 January this year. For almost 10 months locals have had to contend with a traffic light at this point. The traffic light is expected to remain in place until long-term repairs can be undertaken following exploration of the best solutions. How long does it take experts to explore the best solutions to return this section of road to its regular posted speed limit? I assume the reason why there has been no action is because the Labor government is broke and cannot manage money, and this time it is Victorian motorists that are paying the price. It is outrageous that the area of road maintenance being undertaken has fallen by a whopping 95 per cent this year compared to last year. No wonder the section of road has not been repaired. The community and visitors to the area want to know if the government has allocated the funding to fix this section of road.

Thomastown electorate

Bronwyn HALFPENNY (Thomastown) (14:49): (891) My question is for the Minister for Jobs and Industry, and the question I ask is: Minister, what initiatives does the government have in place to support jobseekers, current staff and businesses to upskill and stay ahead in the changing labour market. I have met with constituents in my electorate of Thomastown, and many have raised with me that they are looking for ways to gain the skills to get the jobs they want in this changing labour market. As we know, our workforce is changing and many job opportunities now require applicants to have digital and tech skills to be successful. Having also spoken to employers in my electorate, especially in the industrial estates, they are also looking for ways to upskill their current staff to meet the demands of the changing workforce.

Gippsland South electorate

Danny O'BRIEN (Gippsland South) (14:50): (892) My question is to the Minister for Education. I am pleased he is at the table. My question is: when will the minister fund the rebuild of the Mirboo North schools stadium. I say schools because it is a stadium on the shared site of the Mirboo North primary and secondary schools. This is a stadium built in the 1970s. It is dramatically out of date; it is dangerous. And it is a community-use facility; it is not just used by the two schools. The football club, local basketball, badminton, yoga and various others also use it, and this is part of the problem. It is shoved around between different agencies, but ultimately it is owned by the Department of Education. I had the pleasure of the Minister for Community Sport coming to visit it earlier in the year and having a look, and she is happy to look at it for sport funding, but we actually need the education department to get involved in this. The facility is well and truly out of date, and I ask: when will the minister actually provide funding for this to be rebuilt?

Preston electorate

Nathan LAMBERT (Preston) (14:51): (893) My question is for the Minister for Environment. My question is: what environmental concerns does his department have regarding the use of fake cobwebs as Halloween decorations? I ask that question on behalf of grade 1 students at Reservoir West Primary School who have raised the issue, including Amelia, Tristan, Lola, Kaylee, Oliver, Aidan, Jude, Harley, Eloise, Asha, Pia, Max and Alfie. Amelia, for instance, wrote saying, 'We are begging you to ban fake spider webs, or it will be a disaster.' Tristan wrote saying, 'Fake spider webs are very dangerous because they might hurt or kill our special nature and wildlife.' Then Lola, who I should say has excellent handwriting – better than mine – said, 'We strongly believe that fake spider webs should be banned.' We are very grateful to the minister and his department if they can provide any information for Tristan, Lola, Amelia and the rest of their classmates and indeed the broader Preston and Reservoir community.

Brighton electorate

James NEWBURY (Brighton) (14:52): (894) My question is to the Premier, and I ask: will the Premier's consultation with Bayside about her intention to allow 20-storey high-rise towers include the planned community walk this Sunday in Church Street, Brighton? The Bayside community has been left reeling after the Premier announced that the state Labor government intends to turn Brighton,

Hampton and Hampton East into mega suburbs filled with high-rise towers. Under Labor's plan the Premier, who lives 150 kilometres away from Melbourne, intends to turn our city into mega Melbourne, making 50 suburbs mega suburbs. As the Premier keeps saying, under Labor Melbourne is set to at least double in population, growing to the size of London by the middle of the century. Labor's plan is without any consultation or mandate. As of today, 4238 residents have signed a petition opposing Labor's attack on Bayside. In addition, 16 residents have voiced their support, which equates to some 99.6 per cent of respondents being opposed to our community being turned into a mega suburb. This weekend a community-organised walk will see Church Street filled. If the Premier has any integrity, she will attend.

Eureka electorate

Michaela SETTLE (Eureka) (14:53): (895) My question is for the Minister for Education. The school breakfast clubs program recently celebrated its 50 millionth breakfast served across the state. I visited Mount Pleasant Primary School on the day we announced that milestone, and the smiles on the faces of those students as they grabbed their toast, their milk bottles and their bowls of Cheerios showed just how much they love this program. As someone who has volunteered for a local breakfast club in the past, I can say firsthand how much the parents and teachers love it as well. I also heard from the principal Carly Middleton about how there is no longer a stigma around school breakfast clubs, especially since the Allan Labor government announced they would be extended to all government schools on an opt-in basis. My question for the minister is: how many schools in the Eureka electorate are benefiting from this wonderful school breakfast clubs program?

Brunswick electorate

Tim READ (Brunswick) (14:54): (896) My question is for the Minister for Public and Active Transport. The federal government's Active Transport Fund is offering states \$100 million in grants for the design and construction of bicycle and walking pathways. An average of 5000 people ride their bikes each day in Merri-bek, but Brunswick has hardly any separated bike lanes. The Upfield shared path is narrow and congested, and closure for level crossing removal will push riders onto the parallel Sydney Road, which would be an ideal candidate for the Active Transport Fund. Will the government be applying for funding from the Active Transport Fund for works in my electorate?

Narre Warren South electorate

Gary MAAS (Narre Warren South) (14:55): (897) My constituency question is for the Treasurer and concerns the off-the-plan stamp duty concessions. Treasurer, how will the recently announced stamp duty concessions help housing issues in my electorate of Narre Warren South? We all know there are housing supply issues in our state, and my area has seen a substantial population growth with people flocking to one of the most livable cities in the world, especially in the outer south-east. Increasing supply should lead to more accessibility and opportunity for first home buyers, while the new stamp duty concessions will widen the scope to anyone buying an apartment, unit or townhouse off the plan. We need to keep producing innovative, practical and responsible initiatives to tackle the housing issue, and to this end I look forward to sharing the Treasurer's response with my community.

Rowville electorate

Kim WELLS (Rowville) (14:56): (898) My question is to the Minister for Water. Can the minister please explain why Melbourne Water has decided to close the Police Road retarding basin and Rowville access path without any public consultation? Residents are feeling like this decision was made unilaterally without consulting any of the local residents who use the path on a daily basis. This track is an essential link for residents in my community who want to walk or cycle between Rowville and Mulgrave, with the only other alternative being to go kilometres out of their way to make what is a short journey. Not only has this caused a significant inconvenience to locals but it is also possibly very dangerous and a safety hazard for the elderly and children, who now have to travel along the very busy Stud Road to get to their destinations. Local residents deserve to be consulted.

Greenvale electorate

Iwan WALTERS (Greenvale) (14:57): (899) My question is for the Minister for Roads and Road Safety. I have recently spoken with several constituents who have expressed concern about the condition of drains on Mickleham Road between Greenvale and Attwood and the accumulation of sitting water in traffic lanes during wet weather due to blocked drains. As a frequent user of Mickleham Road I am familiar with the flooding that can occur and the hazards this creates for road users. The last time these issues arose the minister responded swiftly to my advocacy and initiated a clean-up of the drains, with her department's teams working to scrub out the drains to improve flow. Could the minister please inform me whether another clean-up could be arranged to ensure the safety of all road users and what further interventions could be implemented to ensure the good conditions of drains on this important arterial road? I want to thank every resident who has taken the opportunity to contact me to raise their concerns for the safety of Mickleham Road. I will continue to advocate and work tirelessly on their behalf to respond to road and road safety concerns.

Bridget Vallence: On a point of order, Speaker, in relation to unanswered questions and adjournment matters – adjournment matter 833 to the Minister for Jobs and Industry about taxing manufacturing businesses out of Victoria; also to the Minister for Jobs and Industry, questions on notice 1621, 1622 and 1623; and to the Minister for Skills and TAFE, questions on notice 1357 and 1358 – I would appreciate responses for my constituents.

Rulings from the Chair**Constituency questions**

The SPEAKER (14:58): I have reviewed the constituency questions from Thursday 31 October. The member for Lowan sought an opinion from the Minister for Roads and Road Safety rather than seeking information. I therefore rule the member for Lowan's constituency question out of order. Rather than asking for information, the member for Morwell asked the Minister for Education to make an explanation on a matter, which is an action. The member for Kororoit asked the Minister for Public and Active Transport to investigate a matter, which is also an action. I rule those members' constituency questions out of order. As always, members are welcome to run their constituency questions by me or the clerks before they announce them in the house.

Bills**Aged Care Restrictive Practices Substitute Decision-maker Bill 2024*****Second reading*****Debate resumed.**

Tim BULL (Gippsland East) (14:59): I will pick up where I left off. Over the course of the royal commission we heard numerous stories about substandard care. We heard about staff referring to aged care clients as 'old coots', verballing them and talking about things that they had done that were inappropriate. We heard about substandard care in a range of areas, including provision of food, medication administration misuse and management of skincare and chronic conditions. Of most concern, though, in the royal commission were those areas that were documented that were deliberate acts of abuse. Sadly, we heard that it has taken place in the use of restrictive practices, which is what this bill is about. That is not taking anything away from the enormous number of great staff we have in our aged care facilities, but unfortunately, as is the case with royal commissions, it is to highlight those areas where there is substandard care that needs to be rectified.

In 2019–20 residential aged care services reported 5718 allegations of assault under mandatory reporting requirements in the Aged Care Act 1997. That is an extraordinary number, 5718. But a study conducted by KPMG for the federal Department of Health, which I think that study was for – that is right – estimated that in the same year a further 27,000 to 39,000 additional alleged assaults occurred. The issue is that they are exempt from mandatory reporting because they were resident-on-resident

incidents. The royal commission described this resident-on-resident abuse as a national shame. This is often where restrictive practices need implementation, to stop that resident-on-resident abuse. If misused, restrictive practices, as we know, can result in quite serious physical and psychological harm, and sadly, as the royal commission heard, in some cases it can result in death.

Restrictive practices have been identified as a problem in aged care for well over two decades, and the inappropriate use of unsafe and inhumane practices has continued. As I said earlier in my speech, despite multiple reviews – we have had multiple reports and multiple inquiries highlighting the issues around abuse of restrictive practices – it has continued to be a problem. I stress that probably the most pertinent or crucial line in that royal commission report into abuse was simply those four words: it must stop now.

Following the royal commission, as an interim measure to allow the states that do not have these processes in place a little bit more time, the Commonwealth introduced what it called a temporary hierarchy to guide the identification and appointment of substitute decision-makers. This included substitute decision-makers being appointed based on proximity to the person they were being appointed for but also based on personal connection to the resident – obviously the goal is not to have a stranger appointed to this position. This structure is to be repealed in mid-2025, and by then the states and territories that do not have these processes in place to pick up will need to put it in place. There are three states and territories that do not have systems in place. They are Victoria, Queensland and the Northern Territory. So when this federal hierarchy ceases to exist, we cannot have a legislative gap sitting within those jurisdictions, and that is very much the reason for this bill.

It is always the intention on entry into aged care that a resident has a substitute decision-maker in place. In most cases, the vast majority of cases, this is exactly what occurs. However, there will always be cases where a substitute decision-maker is not in place. That can be for a whole range of reasons. It can be that when the person goes into aged care there is no-one that can be easily identified to take on that role. But we also have residents who have gone into aged care where they have nominated their restrictive practices decision-maker but that person either gets to a situation of being not of sound mind quicker than the person they are making these decisions for or in some cases, sadly, passes away and therefore we have a void in this process.

Once the decision-making capacity of a person who has been nominated has eroded, obviously you need to look for someone to take their place. There needs to be a process in place for the appointment of a decision-making person or entity, and that is what this bill goes into some detail with and outlines.

It is estimated that almost half the people living in retirement homes have one of the many forms of dementia – that is probably the best way of putting it. Given that many cases of dementia are undetected, it is likely to be well over half of the people in nursing homes that are suffering from this affliction. The general summary of the royal commission is that in some cases the levels of care of these people were abysmal – that was the terminology that they used. Again, that is not taking away from the many amazing staff that we have, but as I said, royal commissions will focus on the underbelly of some sectors in an effort to get it right. It simply pointed out that there has been far too high a prevalence of mistreatment and that in a number of settings the quality of care and the standards of care needed to be brought up to scratch.

This bill sets the framework for a substitute decision-maker to be appointed to authorise restrictive practices for people who are in those situations. As stated, substitute decision-makers have preferably been nominated in advance, but that is not always the case. If it has not occurred and there is no substitute decision-maker in place on entry for that client into the nursing home, this bill outlines a clear hierarchy to be followed. A next of kin is hopefully the person that would be first looked at to be identified. If that does not exist, then perhaps there is a person with a close or continuing relationship with the individual, the aged care resident – this can be a spouse obviously, a partner or a primary caregiver. An adult child of the person would fit into this criteria or of course someone who has been a friend for a considerable amount of time. If this cannot be done, there is a process in which VCAT

can appoint a decision-maker, someone that has been identified by others as being as close to that person as possible. It cannot be an employee of the nursing home and also cannot be, for obvious reasons, the determinator of someone who will be administering the restrictive practices, because there would certainly be a conflict. There are other safeguards around that, but they are two of the more important ones. Then if no such person can be located or no such person exists – you have gone through next of kin, you have gone through spouses, you have gone through family members, you have gone through people who may have had a close and enduring friendship and there is just no-one there – as a last resort, VCAT can act as the decision-maker.

Providers who are going through this hierarchy to identify these decision-makers cannot move to the next tier of hierarchy simply because a decision-maker withholds consent. Once this decision-maker is in place, a determination to provide or withhold consent by a valid substitute decision-maker must be respected. What we are saying there is if they think that the practices that are going to be implemented in relation to the aged care client are inappropriate and they say so, that determination must be respected.

Importantly, aged care residents are able to pre-document their preferences for the decision-maker to consider if the time arrives that they have to make that decision on their behalf down the track. I think that that is a very, very positive aspect, because it does give the client the opportunity while they are of sound mind to outline the level of treatment and the type of treatment that they would like to receive.

I asked a question in the bill briefing of what occurs if a person urgently requires the application of restrictive practices and there are hold-ups with VCAT hearings. We pick up the papers every day and we have people in our electorate officers every day talking about the delays that they experience at VCAT.

I was assured that VCAT will expedite these cases. There is an avenue for VCAT to expedite these cases, but in the interim period there is also an avenue for the aged care home in emergency situations to implement restrictive practices when they are required, and that is important. If that is done, their actions will later be reviewed, so there is still that level of accountability that sits around it, but if a nursing home or aged care facility staff member or team needs to take action they can do so. It will be reviewed, and then we have the situation where VCAT can expedite the appointment of that decision-maker.

I was also advised – and although it is not in this bill I am assuming it will be in a separate bill that will come before this chamber either in the last sitting week of this year or early next year – that there will be new criminal penalties created that will make it an offence for someone to coerce a nomination or to fraudulently act as if they are a restrictive practices substitute decision-maker when indeed they are not. That is not covered off in this bill, but if this legislation is to be implemented by July 2025, which we are told it needs to be, that supporting legislation will need to come into this chamber in the interim period.

I want to move on to the hierarchy that is being put in place. This bill does make amendments to the Victorian Civil and Administrative Tribunal Act 1998, which I have touched on, but it gives VCAT the power to act in an oversight capacity around these appointment processes and of course it gives them the power, as I said earlier, to be that determiner of last resort should no person be identified to accept that decision-maker responsibility. VCAT will also have jurisdiction to determine whether an individual has the capacity to make, change or withdraw a nomination and whether an individual is willing and able to act as a substitute decision-maker. Where that is going to be applicable is if someone goes into a nursing home and their partner, their spouse, their child – whoever it is – their close friend is appointed as the decision-maker and then there are concerns about their capacity to make the right decisions and the right determinations, VCAT can then make an assessment on that third party.

This legislation that we are debating today and that I repeat we are supporting here in this chamber today will sit under the Commonwealth Aged Care Act 1997 and Quality of Care Principles 2014. These outline the principles which require providers to only use restrictive practices – this is not in this bill, but I think it is worth recapping on some of these measures – as a last resort. I do not think there would be any member of this chamber that would disagree that restrictive practices should not be used as anything but a last resort. They should be used in the least restrictive form and for the shortest amount of time possible – again, I am sure every member of the chamber would be supportive of that – and only after less restrictive strategies have first been attempted. So, again, that touches on it being a strategy or an action of last resort.

It also demands that aged care providers must consult with a substitute decision-maker when preparing, reviewing or revising the use of restrictive practices. The key word in there is ‘preparing’. Consider the scenario where you have a loved one in an aged care residence and you can see them declining. I am actually going through this at the moment with my own mother. You can then have that discussion with the aged care provider around the appropriate levels of action that need to be taken should your loved one need protection from themselves or should your loved one, God forbid, need to be halted for the protection of other people.

That is a very important element of this bill, I think – that you can actually put those safeguards in place prior to them being needed when you can see the deterioration mentally of your loved one. Providers must also allow substitute decision-makers to consider the giving of consent without coercion and without being put under duress, as should be the case. Independent advocacy support services – and we have some wonderful people in our communities who offer up their time as independent advocates – can also provide advice and provide supports to substitute decision-makers to help them come to the decisions they need to come to in the care of their loved ones.

Existing behavioural support plans consented to at the time of the commencement of this bill – and again, it will come into effect in July next year – will still be considered valid, so if you have done that work with your aged care facility on behalf of your loved one, that plan does not need to be redone because of this legislation; it will sit on the table and it will still be considered alive and eligible. The arrangements around support plans I can certainly relate to. I just went through this process earlier this year with my darling 98-year-old mother, who is currently in the nursing home in Bairnsdale, and sadly I and my six siblings are seeing our dear mother gradually deteriorate in relation to her ability to make decisions on her own behalf and her ability to be rational about that. It is not great, but I am thankful for many things. While she is deteriorating in that area, my lovely mother is in no pain and at 98 years old is still enjoying a laugh and recognises us all, which is a terrific thing. But when reading through this legislation around these behavioural support plans, it resonated with me because of the personal experience of earlier this year. I could certainly relate to that. Whilst I have the utmost respect for the staff in the nursing home where my darling mother is, it was a good exercise to be able to go through to put in place the processes that I feel comfortable with and my siblings feel comfortable with and that we think she will be comfortable with should, God forbid, ever that time arrive where she does need to have her movement, which is what it would likely be, restricted.

Although this bill is solely about the process of appointing a substitute decision-maker on restrictive practices and not the restrictive practices themselves, I think it is worth just putting on the record a brief summary of some of the restrictive practices in place in their recognised forms. When we talk about restrictive practices on our seniors, there are generally five areas. The first one of those is chemical restraint. This is the most common form, and it basically involves the administration of medicines. It involves the administration of antidepressants and antipsychotics. It does not include medications for mental health disorders that are treated separately. They are generally medications that are used for the calming of one of our aged care residents who has become agitated.

The second one is environmental constraint, and this might involve restrictions around movement to a particular place or a particular area. For example, with a client who has maybe been a chef all their life and has a tendency to go to the meal preparation area, for their own safety you might need to keep

them out of that area. You might need to keep tradies out of the maintenance areas where all the tools are stored. I had an interesting situation with an elderly friend of mine who spent all his life on the tools and continually wanted to get into the toolshed at the Paynesville nursing home because he thought he was at work, and unfortunately, restrictive practices had to be applied to keep him out of that toolshed. Environmental restraint is the second one.

The third one is mechanical restraint, and this looks at things like bedrails, to stop people falling out of bed, and restrictive clothing. It might be strapping on one part of the body if a person is self-harming or continually touching a particular part of their body. It can also be used to restrict a part of the body to administer medications that might be required under chemical constraints, which we have already covered off.

The fourth area is physical constraint, and this can include physically restraining a person from going to an area, should they not be going for safety reasons, or restraining a person to administer required medications. And the last area is seclusion, and this is perhaps the most extreme form of restrictive practices, because ‘seclusion’ is basically a nice way of saying ‘solitary confinement’. I am pleased to read in the second-reading speech on this bill that it clearly states that this is never to be used as a punishment and only ever as a last resort when safety comes into question. Of course that is one of the areas where we have the most conjecture.

Deficiencies in regulation of restrictive practices have been identified as a significant human rights issue here in Australia, and there is a stronger and more effective regulatory framework to control their use and practices as a priority. That will predominantly sit at the federal level, as I have discussed. This bill will certainly help with providing another level of oversight, but it will not be the complete answer to all the issues that were raised in the royal commission. It will assist, as I said, as an additional level of oversight, but obviously we need greater oversight over those perpetrators who do the wrong thing when they are presented with that opportunity. There cannot be a more horrible, I do not think, form of abuse than abuse against our senior citizens who can no longer defend themselves. When you see some of that footage of what has occurred, it is absolutely abhorrent, so the more that we can do the better. Again, that is one of the reasons we are supporting this bill.

The Australian Law Reform Commission has recommended that there should be a nationally consistent approach to this. It also said that a consistent approach to restrictive practices in aged care and disability services is desirable, both as a matter of principle and pragmatism. What I am not sure about with this bill is how closely it will align with the similar legislation that we know is going to be forthcoming from Queensland and the Northern Territory, but I hope that we are working together – that our ministers are working together at the different state and territory levels – to ensure that we have a form of consistency across the board.

Restrictive practices should be about respecting and supporting people’s rights, their dignity and indeed their autonomy, and the frameworks we have put in place should provide clarity about the circumstances in which care and treatment can be authorised. In line with this, the royal commission recommended the use of restrictive practices must be based on an assessment by an independent expert, which we agree with. It also said it should be subject to ongoing monitoring and reporting, with the behaviour support plan lodged with the quality regulator. As we have said, restrictive practices should only be used when alternatives fail and to meet a person’s needs and ensure the safety of them and other residents. Any exception that applies, if a restrictive practice is necessary in an emergency, should only apply for the shortest possible period of time. Again, we still need other levels of oversight, primarily introduced at the federal level. I would love to see harsher penalties involved for those perpetrators of these horrendous crimes, but that would be a matter for other legislation and not for this.

Restrictive practices can be a contentious issue, and as we strive towards better safeguards, this is not the only area. We also had the mental health royal commission. Recommendation 54 calls on the state government to end seclusion and restraint in mental health and wellbeing services. The findings of this

royal commission into mental health were tabled three and a half years ago, yet we have seen little solid action on this recommendation to date, so we would hope that at some stage in the future that is forthcoming as well. I will finish my contribution by thanking all the aged care providers, who do do an amazing job. I know much of my speech has been about those who do the wrong thing, but I certainly want to stress that the vast majority, the many loving people who work in our aged care sector, do a fantastic job. This is not aimed at them. I restate that we support this bill.

Sarah CONNOLLY (Laverton) (15:25): I too rise to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. This is a really important bill, and I really wish that my mum was able to sit here today in the chamber, because my mum was an aged care worker for the better part of a decade, much later in her career just before retirement. Mum had a lot to say about being an aged care worker and the type of care and compassion that she provided to people in the late stages of their lives and indeed to folks who had dementia, like my grandma, who was in an aged care facility, and what that was like, having cared many, many years prior for my grandma, who got dementia later in her life. Mum went on and had a career change as an aged care worker working in a dementia unit – how difficult and taxing that was on my mum. Mum had a lot to say, particularly during COVID, about how tough it was to be an aged care worker and – I am sure she would not mind me saying this, because she is not here in the chamber – being a woman in her early 60s, a very youthful early 60s, what that was like having to care for people, particularly in a dementia ward during that time wearing the full PPE gear, and the reaction of people who had dementia and Alzheimer’s towards that. It was a really difficult time.

My mum had a lot to say about the neglect of the aged care sector while it was under a federal Liberal government for nine to 10 years and what that was like. My mum really welcomed a federal Labor government coming into power a couple of years ago, in particular the federal minister the Honourable Anika Wells doing an absolute power of well-overdue work in this sector. I know this bill is not entirely attributed to that, but indeed we are here making changes, really important changes, to help protect really vulnerable elderly Victorians in the later stage of their lives whilst also ensuring that aged care workers have the support and the protections in place that they need to perform a really important job.

I do want to put on record that my mum worked for Bupa and the way in which she was treated as an aged care worker and the way they treated their aged care workers in northern New South Wales. Mum talked to me on a daily basis, and I was reminded of one of the most appalling practices and the absolute disregard for their workers, and this is why it is so important to respect these workers. It led every single day to my mum getting multiple texts because they were unable to get people to turn up for work. People took sick leave and mental health leave or just did not turn up to work because they were treated so poorly as part of that aged care facility. I do hope now that my mum has retired – she had to retire early because she could not take it any longer, how she was treated – that she can see it is a really important, caring, frontline profession looking after very vulnerable Australians. She could not believe the way in which she was treated.

But I digress. That is not wholly what this bill is about, but I do think it is really important, like the previous speaker said, to acknowledge the extraordinary work and the compassion and the care that aged care workers give to our senior and vulnerable Australians and Victorians. Quite often they are our mums and dads. It may well one day be us ending up there. That is why there has been an imperative and an urgency here in this country since the federal Albanese Labor government came to power to go and absolutely overhaul this industry and some of the practices that have taken place.

The main purpose of this bill is to bring out legislation in line with the requirements of the Commonwealth’s Aged Care Act 1997 and establish a hierarchy of decision-makers who will be able, most importantly, to act in Victoria as restrictive practice substitutes.

It is about making sure that when it comes to making those really big decisions about aged care residents, our centres have an order of people to go through to make those decisions. It is about

ensuring that older people have as much autonomy as possible about the decisions that directly concern them. As my mum and dad get older and my in-laws get older they talk to me about the importance of still having that autonomy and that fierce independence of not only decisions that they are making about themselves, including where they will live as they get older, but also the ability to stay at home and be able to look after themselves into the much later years in their life. Autonomy and independence really matter to people.

I would say the aged care sector is hard work, and over the last couple of years all levels of government have had that really important conversation. They have woken up to how important this sector is, and they have had that important conversation about this work and this industry. Indeed our government really does believe that older Victorians should be able to access the high-quality care they need that works for them and that, most importantly, is closer to home. Whether they go into an aged care facility or a retirement village, folks still want to be close to their family. They want to be connected to their children, their grandchildren and their great-grandchildren. It is why our public sector residential aged care services play such an important role in making sure that all Victorians, regardless of where you live or who you are, can access this care.

I feel really proud of the fact that in Victoria we have the largest public sector aged care footprint of any state or territory, considering that the federal government is the primary source of funding and regulation for aged care services. It means that we have taken a hands-on approach to looking after vulnerable folks here in this state who require aged care services. We have not just left it up to the feds, we have been hands-on. We know we need to be in there, and we are committed to providing high-quality care and high-quality services that folks need and deserve. This footprint consists of more than 5400 beds across 171 facilities, with 90 per cent of them being in rural and regional areas. In more than 50 of them our public sector aged care providers are the only providers and at the same time a major employer for those towns.

I do have to say that I am really proud of the fact that our state-run facilities are governed by nation-leading nurse-to-resident ratios. I remember when we introduced this my mum said, 'Thank God.' She knew that it would make a difference. She knew what it was like working in an aged care facility where the buzzer was going off all night minute after minute because they did not have enough aged care workers or even nurses within the residential care facility to be able to help residents bathe and have a wash before bed, to turn them over so they did not end up with bed ulcers, to make sure that they had had dinner or to even just help them put on the TV.

I think one of the things in the national conversation that I felt we were finally talking about is that an aged care facility to us is about being a service and a facility. They are sort of really cold words. For people that live in these places, this is their home. That room is their home; the dining room is their kitchen. They may no longer be able to cook meals for themselves, but they certainly deserve the dignity of being able to be assisted to sit at a dining table and eat proper food in the aged care home. Being able to have the national conversation around that really highlighted the need to improve a lot of things, like the type of food that was being served at these facilities. I know that the nurse-to-resident ratio was really important. It was something that my mum talked to me daily about – she had a lot of grievances of the place that she worked – right up until the day that she left. She talked about the difference that that would make not only for aged care workers but, really importantly, for the residents that call those places home. That was a really good thing.

I will run out of time, but I do have to say this is a really great bill. This is a really, really important bill that is being brought before the house. I commend the minister, and I would like to give a big shout-out and thank all of the aged care workers that look after folks right across Victoria.

Roma BRITNELL (South-West Coast) (15:35): I rise to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. This is a bill that seeks to establish a framework to explicitly identify and authorise a substitute decision-maker in the event a residential aged care provider requires consent for the use of restrictive practices when a care recipient is in a residential

aged care facility and does not have the capacity to provide that consent. Whilst I support this bill, I really do not think we give the aged care personnel, the medical staff and the mental health practitioners the tools to manage those who actually are suffering and need to have restraints put in place. Despite the promises of this Labor government, the mental health and aged care systems are broken. We have a legislative responsibility and duty of care to all vulnerable members of the community, and from my experience I think we have lost the balance. Clearly we should always take responsibility for using chemical or physical constraints on anyone very seriously. However, we also need to give health professionals and families the ability to make decisions and support them. Health professionals tell me how frustrated they are and that they feel they cannot provide a sufficient duty of care to people in their care, because the pendulum has swung too far in favour of clients rights and away from patient care. Patients are now called clients, and we seem to have lost sight of the duty of care that was once extended to patients.

I have personally been dealing with a very difficult situation – the story of my own mother, who is currently in an aged care facility and is not receiving essential psychiatric care. The individual staff, the carers, the cleaners – everyone is doing a wonderful job, but it is a difficult situation that she is in, due to the psychiatric aspect of it. The last two years have been a battle. She is suffering from paranoia and psychosis, effectively living in a horror movie in her own imagination where she believes she is under siege, being attacked, abused and tortured. As part of her care arrangements I regularly have to sign off on her physical restraints. Due to her behaviour my mother has been placed in the memory support unit or, as we are call it there, the dementia unit, but continually manages to leave. Facility staff tell me they are unable to help physically once she is out of the locked unit, as the Aged Care Act 1997 prevents them from physically restraining her. On one occasion Mum escaped from the facility. She did not tell anyone. She booked herself into a motel room during the night. Her paranoia escalated, she believed she was being attacked and stalked and she called for help. The motel owners called the police. When they arrived, she turned on them and refused to cooperate. They did not want to put her in the police van at 2 am at 92 years of age, so they called me. When I arrived she turned on me. That was my first real awareness of how significant mum's paranoia, psychosis and delirium were.

So began many incidents over the next 12 months, and here are a few. My mother has reported my father to the police for abuse. They interview him and deduce that the allegations are false. She runs away from family when we take her out on outings, approaches strangers and claims that she is at risk and being abused. The good Samaritans call the police. The police call me. She gets to the police station, and the police have to do this reporting thing. She rejects advances from family, who are trying to help her, because of her extreme state of paranoia. These episodes are becoming more and more bizarre. One time Mum smuggled a screwdriver into the aged care facility. She then went on a rampage attacking staff as she believed in her paranoid state that they were trying to kill her. On another she took off from the aged care facility and again could not be restrained, because no-one could touch her, and stood in the middle of the freeway until police and ambulance somehow coaxed her off. She accused a man, who could not speak and who had dementia, of sexual assault. Quarterly I continually sign consent giving the staff the use of physical restraint. Mum continuously accuses the doctors and staff of drugging her. She accuses the doctors, staff and her family of trying to kill her. I have begged staff to get psychiatric help and treatment for my mother. I have begged them to administer available antipsychotic drugs. My hope is of course to get my mother back, the loving woman she once was.

There are drugs that could treat my mother's psychosis and paranoia. But because she is treated as a client, she refuses to consent, and the staff tell me they are unable to administer these chemical restraint drugs against her will as it would infringe on her human rights.

She is also refusing to take her cardiac medication because she does not trust the staff and thinks she is being tricked, so she is putting her physical health and wellbeing at risk because she thinks it is unsafe. We are not going to drug her for psychosis, but we are allowing her to not be physically well – it makes no sense. She is causing this physical damage to herself because staff cannot demonstrate

a duty of care. The health system is unable to administer essential drugs for my mother without approval because of her client rights. She is in physical and mental pain and unable to be treated.

As a former nurse, I feel like I am leaving a patient in excruciating pain. I have never walked past a broken leg, for example, without administering support and pethidine – the drug of choice when you are needing to alleviate someone’s pain – but I have to walk past my mother and can do absolutely nothing to alleviate her suffering. As a daughter, I am at my wits’ end and have exhausted every avenue.

The nurses tell me they cannot touch her when she escapes the facility, because of legislation. One day my son had to manhandle his grandmother because nobody else could, a very confronting event for a young man. The police, ambulance, medical staff and nursing staff are all unable to assist. They get called time and time again and have to take all their reports. It is actually an incredible use of resources. They said they are scared that they will be deregistered or their employment jeopardised. It is obvious my mother is experiencing intense mental pain, brought on by her age.

In January this year, after a year of this, I asked for a meeting to try and find a solution. There were 17 health professionals in attendance – psychiatric professionals, the head of the psych unit, nurses, doctors, psychiatrists, health support workers and an elder abuse rights representative. Yes, I did say 17. The conclusion was that because of legislation there is nothing that any of them or I – or anyone – can do to help her. Of course no-one would put that in writing.

This circus has been going on for two years. I was recently told my mother is too difficult for the facility to handle. Firstly they said they would send her to a psychiatric ward, where she would be committed. This is yet to happen because my mother has to accept voluntarily to go. Yes, that is the madness of all this. She refuses, as she does not think there is anything wrong with her. The idea of her going to a geriatric psych unit scares the hell out of me, but my mother’s current suffering scares me more. I just want my mother back, if that is at all possible, but if it is not, I would like her to be treated adequately to relieve her suffering.

We need to do more – it is as simple as that. The health staff do an incredible job, but they are absolutely hamstrung by a lack of legislation and a lack of staff. Whether it is aged care facilities working with mental health in this state or the mental health of patients in the mental health system, we just are not doing enough. I think that tells the story of many, many families who are frustrated and who cannot the assistance they need.

The Royal Commission into Victoria’s Mental Health System had so many recommendations, and the fact that we are still taking this levy from the community, really, to pay for a better system and delivering no better care is an absolute disgrace. Recently one mother told me her son will either be the next Gargasoulas or he will be dead. He was undiagnosed because they said he was no longer a schizophrenic, and he had been that since he was 17. At 40, just a month ago, he was found dead in the squalor of his home, which he had ransacked so many times. These are families that cannot tell their stories, because they are really hard to tell. I am really sorry I got emotional, but they are really hard to tell. The frustration and the pain and suffering you witness as a family when you have a person who is suddenly in this mental health system and the mental health system cannot cope and the government is saying they will make it better and they have had recommendations from royal commissions and they are not implementing them – it is simply criminal. I see the amount of money – I think it is a billion dollars – in the next budget that this government have put forward, and then I see people saying that they need help. Families approach me time and time again with young children or old people who are not getting any mental health support when they need it. We can change all the legislation we like around restraints and constraints, but when the staff do not have the government backing them in and really using lived experience to make changes, then unfortunately what we are seeing is inaction and a government who is doing nothing.

Bronwyn HALFPENNY (Thomastown) (15:45): Ms Britnell, I got a bit emotional when you were telling your family story, and I am really sorry. We all know people, and it is a sad area, whether it is aged care and things like dementia or it is mental ill health. It is about creating that balance between the rights of the individual, the rights of the family and the right to have autonomy in decision-making. For us as a government and for all of us in the Parliament as lawmakers it is about trying to get that balance right and really listening to the experts, to the lived experience and to the health practitioners and coming up with something that we hope in this case will make a big difference in the way residents in aged care homes are treated in respect of aged care restrictive practices. Just going back to the bill and what it means, the bill will establish a hierarchy or list of decision-makers who can act in Victoria as restrictive practices substitute decision-makers. This is really giving the right to the person in aged care to give informed consent and, in a situation where they may not have the capacity to make a decision around restrictive practices, to be able to nominate others. Mostly of course they will be family members and people close to them or friends that they have known for a long time.

In terms of what restrictive practices are, they are things around restraint and how an individual has to be restrained for the purpose of preventing them from harming themselves or harming others. There are definitions and a list that looks at chemical restraint, environmental restraint – where you are and what sort of room you are in – mechanical restraint, physical restraint and seclusion. Of course after some of the most horrific acts during the COVID pandemic and some of the situations that we saw residents in aged care places going through and having to experience, there was a Royal Commission into Aged Care Quality and Safety and the rights of the elderly. One of the issues raised in that was how to ensure that aged care residents did have more say in terms of nominating, in the event that they cannot decide, those people that they had the most trust in and believed would do the right thing on their behalf, and this is what this legislation is about. During the pandemic there were two aged care facilities that I had a bit to do with. They were St Basil's and Epping Gardens, and of course we have all heard about the terrible treatment of residents in those places. We have to do better and make sure that the rights of the elderly are protected as well as providing them with proper places to live with good quality care as well as respect for those people in care.

There was a gap around being able to nominate decision-makers for restrictive practices decisions, and this is what this legislation is talking about. It allows the aged care provider to identify those substitute decision-makers other than the resident, and then there would be an order of precedence. There are nominees appointed by the aged care resident themselves in advance, then there are those next of kin identified based on close relationships and the last of that is a decision-maker appointed by VCAT should there be no other decision-maker available.

As I understand, the Council on the Ageing – COTA – and seniors rights organisations have supported this legislative change in Victoria. They do have a view that there ought to be some stronger provisions, but they also see that is really an area within the federal sphere and that is where that should be. This legislation means that they are supporting it, which is good. I know the Elder Rights Advocacy organisation. I have had a bit to do with them in recent times doing work in the Thomastown electorate. They do a lot of visiting of elderly residents who maybe want to remain in their own homes but are not really connected or do not have a lot of family nearby. All these organisations do really good work both in caring for, supporting and involving elderly Victorians. Then of course we also have legislation like this, which looks at alternative care settings and other supports for individuals but also tries to balance the rights of our elderly Victorians as well as to ensure that we have provisions in the event of people not being able to make those sorts of decisions for themselves.

I have gone through what restrictive practices are and how the hierarchy would work, and that would be of course that first the person nominates who they would prefer to make these decisions and very last is the more technical or legislative appointed organisation or person that would be making the decision. It is always better to have people that you know – family – that can support you through what is happening, and that is most important when it comes to these sorts of acts that we are looking at here, which of course nobody wants to see implemented, but there are cases and times where there is

no choice and this has to be done. This legislation is probably one that we look at and say, ‘This is quite sad,’ but we also have to ensure that in all circumstances people find themselves in that there is some sort of protection in the way things are used. It makes it clearer for the health professionals and those that are running aged care facilities. Everyone knows where they stand, everyone sort of knows what they can and cannot do, and that is what we are looking to do here.

The bill also provides a number of safeguards to protect vulnerable older people. For example, there are criminal offences included within this legislation, and that is specifically to say that if you induce through dishonesty, undue influence or threats a substitute decision-maker nomination, then there are serious penalties for that – criminal penalties. Also if you knowingly make a false or misleading statement in relation to another person’s substitute decision-maker nomination or attempt to change that nomination by deceit or force or whatever, that is a criminal offence, just to make sure. We would hope that these things do not happen, but you have always got to make sure that you cover all bases to make sure that the person is at the centre of the care. In a society where we want to respect and look after elderly Victorians, just like all Victorians, there needs to be both penalties as well as very strict legislative procedures to follow. There are also further offences that try to prevent coercion, threats, violence or abuse in the case of nominating decision-makers. These are all contained in the legislation. It also ensures that it is not only just family members or people close, but that there are actions from employees and agents.

I think the fact that organisations such as COTA and seniors groups are supporting this legislation is a very good thing, because it is really important to bring on such stakeholders that do represent the interests of older Victorians. I have even had quite a bit to do in the past with COTA, which does really great work raising the issues experienced by older people. I know that they often take part in many parliamentary inquiries and provide submissions and provide information to governments, which of course is so valuable.

Wayne FARNHAM (Narracan) (15:55): I am pleased to rise today on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. Really this bill has been brought forward due to the Royal Commission into Aged Care Quality and Safety, which the Commonwealth coalition government did in 2021. Aged care, as everyone in this chamber would be aware, is probably one of the biggest sectors, not just in Victoria but in the country. Aged care is always emotive. There will be a lot of people in this chamber and those probably sitting watching in their offices who have parents in aged care at the moment, and all we want for our parents when they get older – because they have looked after us our whole life – is the best care available for them. Unfortunately, though, as people get older and certain conditions come on board, it does make the management of aged care very, very important – not just for the facility but for the individual person. What this is about is that that individual person has the best quality of life and consents to the way they are treated, especially in their later years, when they might have dementia or any of those types of things setting in.

It is always sad for a family to watch their loved ones degenerate over time. You quite often see as they get older – it could be their early 80s or mid-to-late 80s – that they start to degenerate, and it happens before your eyes. It can be quite upsetting. So to get restrictive practices right is extremely important, and this is what we are doing today. That is why the coalition on this side support this bill, because it is based on the recommendations from the royal commission.

When the royal commission completed its work, one of the comments in its report was:

Restrictive practices have been identified as a problem in aged care in Australia for more than 20 years. The inappropriate use of unsafe and inhumane restrictive practices in residential aged care has continued, despite multiple reviews and reports highlighting the problem. It must stop now.

I think that is a very important statement that was made by the royal commission. It must stop. This is why this is a good bill and this is why we support the bill 100 per cent, because this will give people a say and consent too. I think part of the problem – and we have seen it probably in the news every now and again – is when we get a horror story out of an aged care facility. Now, I am not by any means

implying that all aged care facilities are bad. I actually think that, like any sector, you get 98 per cent doing the right thing and have the patients' care to the fore, but unfortunately in every sector we have that very small percentage that do not follow the rules or may not be quite as caring as we would like them to be. At least this restrictive practices substitute decision-maker bill goes to the point of consent, and it is very important to have that.

There are, as previous speakers have pointed out, five main types of restraint. Chemical restraint is the most common form. It involves medications – antidepressants, antipsychotics – and it does not include medications for mental health disorders that are treated separately. Now, that is a bit of a problem. We just heard the member for South-West Coast talk about her experience with her mother and the challenges she is facing around getting mental health disorders treated. It is sad to hear that someone has to go through that.

The second one is obviously an environmental restraint, which generally involves restriction of movement to a particular space – for example, a room – or exclusion from a certain space such as a meal area or a maintenance area with tools. All these restraints – we have mechanical restraint, physical restraint and seclusion, being probably the most extreme – are there for a reason. They are there mainly to possibly stop the person from hurting themselves or hurting others. But the fact that now we have consent and the hierarchy around it to make the decisions is important. As I said earlier, we have heard those stories – unfortunately it does happen – where something has happened to an aged care resident and the family has not been told about it for three or four days; it has been reported as 'an incident happened three days ago'. This provision makes it better for the aged care facility because it gives them a very clear set of guidelines for what should be happening and who the decision-makers will be. It says here that substitute decision-makers should preferably be nominated in advance and in writing by the aged care resident, and this is the case for almost all the clients. This is a really important point because, when people get older and they have still got all their faculties – that is the best way to put it – if they can make that decision and put that in writing, then the aged care facility has that clear direction: I want these people to make decisions for me.

A next of kin is to be identified based on someone who has a close and continuing relationship with the aged care resident – like a spouse or partner, primary caregiver, adult child or a person who has a long and enduring relationship. These are all really important. The classic example would be where, when an aged care resident is upset, the facility can make a phone call and talk to someone and say, 'Listen, we need to restrain your loved one. We're thinking of one of these five methods.' That gives the person that has the relationship with the person in the aged care facility the up-front information, which is really important. There would be nothing more upsetting than if your parents or your loved had had an episode and you visited them, walked in and found them restrained to a bed when you did not know this was going to happen. That would be quite upsetting not only for the aged care resident but for the loved one coming in to visit them – when all of a sudden they find them in restraints, and they had no idea. This really does give clear guidelines to aged care facilities on how they can restrain a person and what they need to do to follow it up. I also think, for the loved ones of those people, it gives them comfort to know that they will be consulted in the decision-making on this.

My only point here, and I do not know if this will be problematic or not – I hope not – is about, if no person exists, as a last resort VCAT acting as the decision-maker. I do like the bill and I support the bill, but the only reason I have a little bit of hesitation around this is the current load that VCAT has. I suppose in my mind I am wondering how this is going to work. Are we going to have designated people in VCAT that will be available to make these decisions? Because they need to be made relatively instantaneously; it is not something you want to be put on hold about for two days or even 2 hours for that matter. Just for my own curiosity I would like to know how that is going to work, because we do know that VCAT is under pressure. They have a lot to deal with at the moment. Just that last piece is really the only piece that concerns me, and how is that going to be made up? Will it be a phone call to a VCAT officer to say, 'Look, we need to restrain this person. They're doing A, B, C. We suggest this method. Do you agree?' I hope that the availability is almost instantaneous, because

you would hate to see that delay cause a problem for the resident or someone else or put someone else in danger.

Other than that, we support this bill. We believe it is a good bill, and it is going on the back of the royal commission.

Josh BULL (Sunbury) (16:05): Thank you very much, Acting Speaker, for the opportunity to contribute to debate on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. As has been mentioned by previous speakers and in contributions thus far, the matters before the house this afternoon go to working with those that work in aged care, knowing and understanding that both as a government and as a Parliament we need to ensure that we are providing those safe settings, the very best settings, for those that are experiencing a time in their life that is challenging, making sure that we are listening to the reports that have been referenced in relation to the bill but also knowing and understanding that in many of these settings there are challenging and complex environments. Both members of this house and those that are in the Legislative Council, the other place, work with local communities and across local organisations, speaking to those that are in an aged care setting. Of course we all draw on our personal experiences when we come to this place, and wanting the very best care, the very best support and the opportunity for a loved and dignified existence for our loved ones as they age is something that I am sure is shared right across this house.

I do want to take the opportunity to reference the work of Gerard Mansour. When I was the Parliamentary Secretary for Carers and Volunteers I had the great privilege of working really closely with Gerard. After 10 years as the state's inaugural Commissioner for Senior Victorians he finished his final term in 2023, and in that tenure he worked really closely with the government, being responsible and providing important independent advice on issues relevant to senior Victorians and also being a strong and powerful voice. He was someone that I know I spoke to a lot about many of these issues that we know were prevalent within the community. I worked with him and many others on some significant achievements, such as the launch of the *Ageing Well in a Changing World* report in 2020. Obviously, the year 2020 was a catastrophic year globally with the arrival of the pandemic, but I do remember speaking to Gerard on Zoom many times, and the knowledge, the importance, the contribution and in many ways the measures that were taken through that work were things that I know were very much valued by me as parliamentary secretary and widely across government.

The bill before us this afternoon establishes a hierarchy of decision-makers who can act in this state as restrictive practices substitute decision-makers in residential aged care in line with requirements under the Commonwealth Aged Care Act 1997. We know with the legislative framework that many of the practices that are contained within this bill go right across not just our state but the country. They go to some federal requirements that we know are important not just in our state but in others. The bill will allow aged care providers to identify substitute decision-makers through a hierarchy. Under the bill, decision-makers will be identified in the following order of precedence: substitute decision-makers nominated by the aged care resident; next of kin, identified based on close relationships; and a decision-maker appointed by VCAT should no other decision-maker be available.

The bill will ensure that our older people have as much autonomy as possible around decisions that concern them. I know from working with local communities, but also from just being a Victorian and being somebody who has seen people age throughout their course of life, the importance of autonomy, of listening and of understanding as those challenges arise which inevitably we will all face that go to the care of community and loved ones and family, and that is something that should always be at the forefront of what is needed.

The bill is in response to the Royal Commission – others have mentioned this in their contributions – into Aged Care Quality and Safety, and the Commonwealth introduced new requirements for restrictive practises to be used only with the informed consent of the aged care recipient. For aged care residents who may not have capacity to make decisions, such as cases of advanced dementia, a substitute decision maker can provide this consent.

Unlike other jurisdictions, Victoria does not have legislation that explicitly authorises substitute decision-makers to consent to the use of restrictive practices in residential aged care, and this is why – others have mentioned this as well – we have progressed the bill to clarify who in Victoria can act as restrictive practice substitute decision-makers. The current situation, which has been outlined, goes to the care and support that are surrounding those that are ageing, and those that I mentioned earlier – loved ones, family and friends, those within our local community – are of course incredibly important. What we want to say is that our government believes that older people within our community, our seniors, should be able to access high-quality care that is appropriate for their needs close to home. That is all about making sure that we are working with agencies and working right across government to provide for those settings that give the best support and indeed the care of our local communities.

I do want to take the opportunity to thank those who work incredibly hard within the sector, those who of course I have had personal experiences with, and I am sure you and many others within the house have had the same experiences. It does not take much in many instances to see some of the very troubling – and they are troubling in many instances – headlines that occur and hear about some cases which we need to be aware of and of course we need to address. This is one of the reasons why this is this bill is incredibly important, but we should not of course make the mistake of not recognising the fact that there are so many who do terrific work within local communities within these settings and so many people who give and give and provide for the important care, as people age in their life, that they rightfully are entitled to.

We have made some significant investments and major reforms within this space, and this piece of legislation goes to building on some of those commitments to providing for those within our community that need support through investments that have been mentioned in previous budgets and a whole range of other initiatives and particularly some of the work that has been done by our seniors groups – another area we know and understand, and some of the best conversations over a lovely cup of coffee can be with a local seniors group.

I want to give a particular shout-out to many in our community who speak to me about these issues. They are always conversations that are had in great spirit but are also conversations that are had with the intention of making sure that we are providing for the best care, both as a state and a government. I think there should constantly be a process of continued engagement whereby we are working with those in the sector that experience the job on the front line and of course with community representatives and advocates. For those reasons and many others, I happily commend the bill to the house.

Kim O'KEEFFE (Shepparton) (16:15): I rise to make a contribution to the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. The purpose of this bill is to provide for the appointment of restrictive practices substitute decision-makers for the purposes of the Aged Care Act 1997 of the Commonwealth. In addition, the bill makes related amendments to the Victorian Civil and Administrative Tribunal Act 1998 and for other purposes. The federal government in 2021 introduced new legislative requirements for residential aged care providers. Under the requirements, aged care providers are required to seek informed consent from substitute decision-makers to authorise the use of restrictive practices where a resident lacks capacity. As an interim measure the federal government introduced a temporary hierarchy to guide identification and appointment of substitute decision-makers. This hierarchy has been in place in Victoria for more than two years now, and aged care providers as well as residents have relied on it. However, currently as a state we do not have legislation that identifies and authorises substitute decision-makers to consent to the use of restrictive practices in residential aged care.

It is important that as a state we have legislation in place that addresses this gap by ensuring that we have frameworks that are clearly set out, ensuring that aged care residents receive appropriate supports. This bill seeks to establish a framework for identifying who can act as a restrictive practices substitute decision-maker. It does this by prescribing a hierarchy of decision-maker based on close and personal relationship to the aged care resident. Under the bill the hierarchy will only be engaged when the aged

care resident does not have the capacity to provide consent for themselves. Under current legislation, providers are expected to seek informed consent from the aged care resident first and only seek out a substitute decision-maker if the aged care resident does not have the capacity. Instead this bill will allow aged care providers to identify substitute decision-makers through a hierarchy. Decision-makers will be identified in the following order of procedure: a substitute decision-maker nominated in advance and in writing by the aged care resident; a next of kin, who is to be identified based on someone who has a close and continuing relationship with the aged care resident; or finally, a decision-maker appointed by VCAT, should no other decision-maker be available. If no such person exists, as a last resort VCAT can act as the decision-maker.

It is important that providers cannot move to the next tier of the hierarchy simply because the decision-maker withholds consent. A decision to provide or withhold consent by a valid substitute decision-maker must be respected, but also the decision-maker must be someone who is willing and able to act at the time when a decision is required. They cannot be employed by the provider or have been involved in the development, implementation or review of the aged care resident's behavioural support plan as an employee or agent of the aged care provider. The bill seeks to ensure that individuals have as much autonomy as possible around decisions that concern them through the nomination function. This is critically important because, as the bill prescribes, nominations by aged care residents must be in writing and witnessed appropriately to ensure that there is clarity and consistency around who such decision-makers are. New criminal penalties will also be created that will make it an offence for someone to coerce a nomination or to fraudulently act as if they are a nominee.

The bill also makes minor amendments to the Victorian Civil and Administrative Tribunal Act 1998. VCAT will act in an oversight capacity, including resolving disputes around nominations, appointments or decisions in line with legislative principles. The amendments in the bill will empower VCAT to act in an oversight capacity for the appointment of a substitute decision-maker and to act as a decision-maker of last resort should there be no other decision-maker who was reasonably identified. Aged care residents will be assumed to have capacity to make change or withdraw a nomination unless it is demonstrated otherwise. Under the bill VCAT will have jurisdiction to determine whether an individual has the capacity to make, change or withdraw a nomination and whether an individual is willing and able to act as a substitute decision-maker. Hopefully in these instances under the bill, as well as the hierarchy, any matter that has to be heard by VCAT can have some level of urgency applied in order for a decision to be made quickly.

It is important that aged care providers make decisions and act in accordance with the Commonwealth legislation, including both the Aged Care Act and the quality-of-care principles. Section 15FA of the quality-of-care principles requires providers to only use restrictive practices as a last resort in the least restrictive form for the shortest amount of time possible, only issuing restrictive practices after less restrictive strategies have been attempted first.

The aged care provider must adhere to the Commonwealth requirements regarding determining whether an individual has capacity to provide informed consent for the use of restrictive practices or whether they require a substitute decision-maker. Under section 15HA of the principles, providers must assess the aged care resident's behavioural support needs, and if restrictive practices are required, then providers must document this assessment and details of the proposed use of restrictive practices within a behavioural support plan. In addition to both of these sections, section 15HG requires that aged care providers must consult with the substitute decision-maker when preparing, reviewing or revising the use of restrictive practices.

In practice, substitute decision-makers can ask the aged care provider questions to satisfy themselves that they understand what they would be consenting to and whether it meets the Commonwealth requirements for appropriate use. Substitute decision-makers will be able to exercise their discretion to consent or withhold consent for the use of the restrictive practices. Aged care providers must allow for substitute decision-makers to consider the giving of consent without coercion or duress. The bill does not change how aged care providers can use restrictive practices in emergencies, such as in cases

of immediate threat to life or harm. Aged care providers must still uphold their responsibilities under the Aged Care Act and the Quality of Care Principles, including on mandatory reporting and notification of emergency use.

Independent advocacy and support services will continue to have a role in assisting substitute decision-makers to make decisions about their loved ones living in residential aged care, including decisions related to financial matters, living arrangements and medical treatment decisions. As required, Victorians will be able to seek help from organisations such as Victoria Legal Aid, the Older Persons Advocacy Network and Seniors Rights Victoria, as appropriate.

I have seen firsthand the support a family member needs once they get to the stage of life of moving into aged care. My Uncle George never had a family of his own, and he was a very private person. He did not like to make a fuss, and he was a very independent man all of his life. My husband Brendan is his nephew, and he became his primary support person and next of kin. My husband did a wonderful job taking care of Uncle George – taking him to medical appointments, optometrist visits and even shopping for his favourite Tim Tams. Brendan recalls those times with such fondness. But as Uncle George aged and went into high care, I saw the importance of my husband's role, having to make so many important decisions, and at times it can be really stressful because you want what is the very best for your loved one. Moving Uncle George into high care was a very stressful time, but it was the right decision. Uncle George passed away 12 months ago, and there would be many people like our uncle who do not have a family, as I mentioned, of their own. When someone else has to step in to make decisions when that person is no longer able, we now know that VCAT can assist.

The bill before the house is a step in the right direction by addressing the legislative gap we currently have as a state. By legislating a clear framework, it will ensure that aged care residents can receive appropriate behavioural supports in accordance with the Aged Care Act. Importantly, people entering or living in residential aged care can make decisions about their future care knowing that should the time come, a trusted and close loved one will have the ability to act in their best interest. It is crucial that we do as much as we can to support the elderly and their families to ensure that they are protected and that they are given the respect and the support they need to make the decisions that impact on them so greatly.

In closing, we know that there have been many issues with substantive care in aged care facilities, and this needs to be rectified. Aged care is a critical service for many vulnerable members of our community. I wish to acknowledge the many hardworking aged care workers. I have visited many of our local aged care residents many times. Like many industries, we know that there are staff shortages, which have an enormous impact on both the staff and the residents. We need to provide as much support as we can to ensure we are supporting people's rights in aged care with dignity and respect and that they get the level of care they need and deserve.

Paul MERCURIO (Hastings) (16:23): I am very happy today to rise in support of and speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. It is a very important bill, and it is about time that it has come, which I think is terrific. It is also a fairly narrow bill, so I do apologise if I repeat some things other people have said. It has been really great to hear some of the debate and also incredibly moving with some of the stories. I will talk about my lack of experience in terms of aged care and my mother and the journey we are about to undertake a little bit later if I get to it.

This bill addresses a critical gap in our aged care system, and it offers an essential layer of protection and respect for some of our most vulnerable citizens. Of course my mother comes to mind, although I do not look at her as vulnerable; she is a very feisty lady and always fun. This bill comes in response to recommendations from the Royal Commission into Aged Care Quality and Safety, which highlighted significant shortcomings in protecting the rights and dignity of aged care residents.

In recent years the Commonwealth introduced new standards through the Aged Care Act 1997 to ensure that restrictive practice measures are used only when necessary to manage behaviours that may pose a risk and are employed with the informed consent of the resident or an authorised decision-maker. These practices include quite a few different things, including measures like medication or physical restraints. They can be sensitive and impact a resident's freedom. However, in cases where residents cannot provide consent themselves, clear rules are needed on who can make these decisions on their behalf.

Currently, Victoria lacks specific legislation that authorises a substitute decision-maker to provide consent for restrictive practices in aged care settings. In the absence of such legislation a temporary hierarchy was introduced, but this temporary arrangement has left many families, carers and providers without clear or lasting guidance. Restrictive practices are actions that limit a person's freedom or choices. They are things like locking doors, using rail beds or medications to manage difficult behaviours. These measures should only ever be used as a last resort and only when there is no other way to protect the safety of the resident and, importantly, other residents and also healthcare workers. Importantly, they require informed consent, just as any of us would expect if we were in their place. Yet in Victoria we currently do not have legislation that says who can give this consent on behalf of residents who are unable to make decisions for themselves. In other areas of health we have clear frameworks that guide who can make decisions if a person cannot, but aged care restrictive practices have not been covered. This gap in the law has left residents, their families and aged care providers in a very difficult, precarious and uncertain situation.

This bill gives us a straightforward solution. It sets out a clear order of hierarchy of who can make decisions for a resident who cannot give consent on their own. And so here is how it works: first, it respects the wishes of resident by allowing them to nominate their own substitute decision-maker in advance; second, if there is no prior nomination, it looks to those closest to the residents, like their spouse or primary carer or adult children; and finally, if there is no-one available or willing from the resident's close circle, VCAT can appoint someone with a trusted relationship to act as a decision-maker. By establishing this hierarchy, the bill gives families peace of mind that, if the time comes, someone close to their loved one, and preferably someone that their loved one has chosen, will be able to step in and make the best decision on their behalf. It gives certainty to everyone involved, from the resident and family to the aged care provider. This bill also introduces strict protections to make sure that no-one is pressured or tricked into choosing a decision-maker. It is now a criminal offence to try to manipulate someone's choice of decision-maker or to lie about it. VCAT will also have oversight powers to step in if there are concerns about the appointed decision-maker's actions. We know that elder abuse can be a serious issue, especially when it comes to vulnerable people in aged care, and this bill aims to prevent abuse by stopping anyone who has harmed or posed a threat to a resident from becoming their substitute decision-maker. These safeguards are vital to protect the wellbeing of our aged care residents.

This bill is not only necessary, it is overdue. It aligns Victoria's laws with the Commonwealth's Aged Care Act, which requires aged care providers to seek informed consent for restrictive practices. Without a clear law in Victoria, families and providers have faced confusion and residents' rights have sometimes been compromised. This bill resolves that issue with a permanent solution that ensures compliance with national standards while upholding the dignity of our older citizens. The hierarchy does not include guardians or attorneys, because the Guardianship and Administration Act 2019 and the Powers of Attorney Act 2014 in Victoria do not authorise these roles to make decisions specifically about the use of restrictive practices. Under these acts, guardians and attorneys are empowered to provide informed consent based on what the person they represent would decide if they were able to do so.

Restrictive practices often conflict with the core principles of these roles, which are grounded in respecting and supporting the will and preferences of the individual as outlined in sections 8 and 9 of the Guardianship and Administration Act 2019 and section 21 of the Powers of Attorney Act 2014.

Guardians are appointed to make decisions on behalf of someone else in a manner that respects the individual's known will and preferences, only intervening when it is necessary to prevent serious harm. Likewise, attorneys under an enduring power of attorney must act in ways that respect and promote the person's wellbeing and wishes and share alignment with the individual's personal values.

To uphold the integrity of the guardianship and power of attorney frameworks while meeting the requirements specified in the Aged Care Act 1997, a tailored arrangement has been implemented. This arrangement includes essential safeguards to protect the rights and interests of older adults in Victoria, ensuring their dignity and autonomy are respected in aged care settings without undermining the principles guiding guardians and attorneys. This bill places the resident's preferences at the centre. By prioritising the resident's own choice of substitute decision-maker, the bill upholds the autonomy and dignity of older Victorians. This ensures that even if a resident cannot make decisions directly, their own wishes are still respected as much as possible.

As I said, my mum is 88. She recently had a mastectomy – I hope you do not mind me telling people that, Mum. She is an incredibly strong woman, but we did have that discussion about power of attorney and also that other discussion: 'What happens if the operation doesn't go well, if I don't come out of it?' We had that discussion about what my mum wanted and what she preferred. My brother and I have started discussions about my mum and her future also in terms of what would be going on if she goes into residential aged care. What this bill will also do, I think, is stop family infighting. I know my sister – who will not be reading *Hansard*, because she lives in America – will not be able to assist or be the person that will have say over what happens with my mum. My brother and I – my brother lives in Sydney and I live here – as I said, have been talking about the future for Mum and what might happen. My brother and I get on very well, but we do not always agree on the same thing, and I think this bill is important because we will go to our mother and we will ask her who she would like to represent her in terms of restrictive practices. We can be assured that we are fulfilling Mum's wishes – we are doing what she wants.

Somewhere one would hope that there will be the knowledge within Mum and that she feels safe in that wherever she may go. Heaven help her if she gets dementia – I know the member for South-West Coast spoke emotionally and really poignantly about her experience with her mother, and I think that would be an incredibly difficult thing to stand by and watch. I have some good friends whose mother did the same thing – she got dementia and was very violent and spiteful towards their kids. I am hoping with my mum, if she ever gets a little bit grumpy, she will know that with my brother or me – whoever she decides to be the person to make these decisions – she is in safe hands and that she is loved. So I certainly commend this bill to the house.

Dylan WIGHT (Tarneit) (16:33): It gives me great pleasure to rise this afternoon to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. It is a bill that raises the important matter of the dignity, rights and welfare of our older Victorians. Just before I get into the substantive content of the bill, I would ask the house to indulge me just for a moment while I thank the hardworking staff at residential care facilities across Tarneit, Hoppers Crossing and more broadly in Victoria. These facilities include but are not limited to the John Atchison Centre in Hoppers Crossing, Sunset Views Manor in Tarneit, Lifestyle Seasons in Tarneit and of course Tarneit Skies retirement village.

I thank them for all the hard work that they do taking care of and providing dignity to older citizens. In my time as the member for Tarneit I have also had the pleasure of working with residents from a number of these local aged care facilities. They are incredible people with a wealth of knowledge, so I wanted to start by thanking both residents and staff at those aged care facilities.

This is a piece of legislation arising from the recommendations of the 2021 Royal Commission into Aged Care Quality and Safety, which laid bare the systematic failures in our aged care system as it stands at the moment. It is a piece of legislation that is aimed at taking care of and fulfilling the wishes of our oldest citizens and at times some of our most vulnerable citizens. It is a piece of legislation that

I think is incredibly timely and incredibly appropriate given the mountain of evidence that we heard during that royal commission, and I think this government fulfilling those recommendations is incredibly important.

One of the key findings of that royal commission was the need for robust mechanisms to ensure that restrictive practices are used appropriately and only with informed consent. I have not had a situation in my life yet where I have had to deal with this sort of situation for a loved one, but if I am ever in the position where I do, I will be incredibly thankful that we have responded to these recommendations and brought forward this incredibly important piece of legislation.

Until now Victoria has lacked specific legislation to address this need and to address the restrictive practices angle or framework within this sector and has instead relied on temporary Commonwealth measures. So I think it is appropriate today that we bring forward specific legislation to deal with what is a very specific issue. The Commonwealth's temporary hierarchy has provided interim guidance, but of course it is not a long-term solution. Without a permanent framework we risk leaving aged care residents and providers in legal limbo, which could of course compromise the quality of care and lead to significant and several disputes. Other states and territories have already taken steps to address this gap. This does bring us into line with other jurisdictions, with other states, in Australia, and it is imperative that we follow suit and that we pass this piece of legislation to ensure the necessary protections for our aged care residents.

This bill establishes a permanent, clear and person-centred hierarchy of substitute decision-makers, ensuring that decisions about restrictive practices are made lawfully and with the residents' best interests at heart. Beyond addressing legal gaps, this bill is a testament to our commitment to the rights of older Victorians. It acknowledges the complexities of aged care and the delicate balance required to protect both the safety and autonomy of the residents. By legislating a clear hierarchy we provide certainty to aged care providers, residents and of course their families and we uphold the highest standards of care and accountability in this incredibly vital sector.

The bill, as we have heard, is of course all about strengthening the legislative framework for those aged care facilities and it is of course about looking after some of our oldest Victorians and looking after the families that have loved ones in aged care facilities. It is once again all about the dignity, the rights and the welfare of our oldest Victorians. It fills a significant gap, ensuring that aged care residents who lack capacity to make decisions about restrictive practices are supported by a clear lawful process for appointing a substitute decision-maker. Every person has the right to have ownership of their own care, so in the case where they are no longer able to do so we must make sure that there is a safe substitute decision-making process that will provide the best possible outcomes for that individual.

The bill also aligns Victoria's laws with the requirements set forth by the Commonwealth, specifically following the amendments to the Aged Care Act of 1997. The importance of this bill cannot be overstated. Restrictive practices such as physical or chemical restraints involve significant limitations on an individual's autonomy and freedom, not to mention just the traumatic nature of them. While these measures may be necessary in certain situations, they must be applied judiciously and with informed consent. This bill ensures that aged care providers and substitute decision-makers act in the best interests of residents, safeguarding their rights while also providing the necessary protections for their wellbeing.

We spoke this morning as part of the contributions on the government business program about the fact that we had an incredibly important government business program this week. This aged care bill, the Aged Care Restrictive Practices Substitute Decision-maker Bill, is a really clear example of that. It is about protecting the rights of some of Victoria's oldest residents. It is about protecting the rights of potentially some of Victoria's most vulnerable people – people that are ageing, people that may have dementia, people that may have other illnesses – and making sure that their dignity is protected through this legislation, which is not just protecting the rights of some of Victoria's oldest and most vulnerable

but also protecting the rights of their families and their loved ones as well. It addresses key recommendations from the royal commission, some of the evidence from which was pretty harrowing. I note that there is bipartisan support on this, which I think is appropriate. This is an incredibly important piece of legislation. It is an important piece of the puzzle in the framework that makes up aged care, and I commend it to the house.

Juliana ADDISON (Wendouree) (16:43): I too am pleased to be able to stand before the house today to speak in support of the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, which will introduce clear guidelines for who has decision-making power regarding the use of restrictive practices. This is a very important and necessary bill to safeguard the dignity, the respect and the care of vulnerable Victorians in aged care settings. I note that it was a recommendation of the Royal Commission into Aged Care Quality and Safety, which I will talk about further in my contribution today.

I welcome the support of the opposition for this bill. I did think that there would be more opposition speakers given their discussions regarding the government business program in the debate earlier today, but alas I am on my feet and delighted to be contributing at this time in the debate.

I would really like to thank the many, many dedicated, skilled and hardworking staff across our aged care sector, who do such a great job in both our public and private aged care settings. In my electorate of Wendouree we have got Bupa Aged Care in Delacombe, we have got Nazareth House at Lake Wendouree, we have got Calvary Kelaston in Wendouree, we have got Pineview in Black Hill and a number of others in the neighbouring electorate of Eureka but particularly Mercy Place in Ballarat East. The aged care workforce plays such an important role in our community. I particularly want to acknowledge the many members of our multicultural communities as well who work in aged care. Many of them are the backbone of aged care in Victoria, and I really want to thank them for the roles that they do.

My mum, as many of you know, was a physiotherapist, and she worked predominantly with the youngest members of our community, in disability. But when I was in primary school she also worked at Nazareth House. So whenever there was a day off, guess where I spent it? It was with Mum at Nazareth House. So I spent a lot of time at Nazareth House, both there with Mum and with my grandmother Eileen Dickinson, who spent her final years at Nazareth House. So it is part of Ballarat and part of my electorate that I do have firsthand experience of, as well as that connection with Mum working at Nazy, as we like to call it.

I wish to thank the Minister for Ageing and her ministerial office as well as the Department of Health for the work that they have completed in bringing this bill to the house. I can see that Kitty is in the house at the moment, who does a great job, as does Harriet, who was just here earlier – another outstanding member of the minister's office.

I am proud that Victoria has the largest public sector aged care involvement of any state or territory in Australia, with over 171 facilities, 90 per cent of which are in regional and rural Victoria. In my electorate of Wendouree we have many, many public sector aged care beds, and across Ballarat Grampians Health operates 429 beds across 10 residential aged care facilities and more than 600 beds across the Grampians region. So the largest provider of public aged care comes from my health service, Grampians Health, one that I was very proud to be on the board of. Only Labor governments support these public sector residential aged care services by topping up Commonwealth funding to ensure appropriate access to care and maintenance of Victoria's nurse-to-resident ratios that we are so proud of.

Our government also funds new and upgraded facilities, including over \$500,000 for improvements to Talbot Place in my electorate of Wendouree. I have often visited Talbot Place, and it is really great to see that that investment continues to be put into Talbot Place so that it is a nice place in which to age and be cared for. This is one of several public sector residential aged care services in my electorate,

and it is so important that the elderly members of my community have a place to access quality care and a comfortable, supportive and social place to live. Just while I am talking about Talbot Place, a shout-out to the wonderful members of the Sebastopol and District Lions Club, who recently transformed the outdoor area at Talbot Place with the assistance of Bunnings Delacombe and the Ballarat East Community Men's Shed. It is fantastic to see local community groups contribute to our aged care residential homes, making them an even better place to live.

Additionally, the public sector residential aged care services, PSRACS, and the community kitchen garden initiative are brightening the lives of aged care residents through grants to construct and improve kitchen gardens at several local services. The grants program was established following recommendations from the Royal Commission into Aged Care Quality and Safety concerning community engagement, social isolation and resident wellbeing. It has led to \$133,000 in grants for Grampians Health Ballarat Aged Care facilities, including Bill Crawford Lodge, Talbot Place aged care, Steele Haughton at the Queen Elizabeth Centre, James Thomas Court and Jack Lonsdale Lodge in Sebastopol, Hailey House in Ballarat North and the Queen Elizabeth Village Hostel and PS Hobson nursing home in Wendouree.

Since our government was elected it has invested over \$700 million in Victoria's public sector residential aged care. Older Victorians deserve our care and support, and I am proud that our government is investing in exactly that.

The bill which is before us for consideration today comes in the wake of the federal aged care legislative changes regarding the use of restrictive practices. In the aged care setting, restrictive practices are actions which restrict a person's rights or freedom of movement. They include chemical restraints, which include medications prescribed with the purpose of managing behaviours rather than for management of a specific medical condition. They also include environmental restraints, mechanical restraints and physical restraints. Restrictive practices also include seclusion, which can only be used if all other options for behavioural management, including other restrictive practices, have been exhausted, so it really is to be done only as a matter of last resort. While all of these practices may be used in other circumstances or for other means, they become restrictive practices when they are specifically intended to modify a person's practices. As such, they are to be used sparingly and only with great consideration. Restrictive practices must be a last resort, used only when necessary and implemented for as little time and with as little restriction as possible.

Oversight of aged care, including restrictive practices, is the responsibility of the Commonwealth. Changes to federal legislation in 2021 introduced a requirement for aged care providers to seek consent before implementing restrictive practices. This is applicable for the use of restrictive practices in all situations bar unanticipated emergencies, in which case other stringent disclosure and reporting requirements come into play. Who is able to provide or withhold consent on a care recipient's behalf is determined by the Commonwealth's temporary hierarchy and includes a succession of family members, carers, friends and others. But this hierarchy is only temporary while each individual state and territory organise their own processes for identifying substitute decision-makers, which is what this bill is all about and why we are debating it today.

This bill will introduce the new Aged Care Restrictive Practices Substitute Decision-maker Act 2024, in addition to amending the Victorian Civil and Administrative Tribunal Act 1998. Together these will clarify who may provide consent for the use of restrictive practices in Victoria under the Commonwealth Aged Care Act 1997. A bill overview in the last 30 seconds: a restrictive practices nominee is someone nominated in advance by the care recipients; a temporary restrictive practices substitute decision-maker is close family or a carer; a VCAT-appointed nominee is someone who has a close personal or professional relationship; and there is VCAT themselves. In closing, I welcome the Aged Care Restrictive Practices Substitute Decision-maker Bill, and I commend this bill to the house.

Pauline RICHARDS (Cranbourne) (16:53): Acting Speaker Kathage, I am so pleased to see you in the chair undertaking a really important role. I am very pleased to have the opportunity to rise to

speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, and I am always very pleased to follow on from the member for Wendouree, who has added a new word to my vernacular, which I will get to in a minute – I think it was Nazcare.

Juliana Addison interjected.

Pauline RICHARDS: Nazy House. I am going to be talking about Nazy House as well. I thought it was called Nazareth House, but it is now forever going to be called Nazy House.

I am also going to pay credit to many of the speakers on this important bill. They have been really heartfelt about why aged care is extraordinarily important, and I will pay credit to the many people who have made contributions.

I do want to firstly thank the Minister for Ageing in the other place for the always detailed and cautious and considered role that she undertakes as a legislator, and this is another example of what is really important. With the member for South-West Coast here I do want to pay credit for the contribution that was made on this bill earlier. It was really important to be able to hear those really heartfelt contributions, and I was listening carefully, so I pay credit to her for that. Of course, I was also pleased to hear the Member for Tarneit and others and, as I said, the Member for Wendouree.

I rise to support this bill, which will establish a hierarchy of decision-makers that aged care providers must refer to when identifying who can act as a restrictive practices substitute decision-maker under the Commonwealth Aged Care Act 1997. It will give the Victorian Civil and Administrative Tribunal powers to make orders to oversee the appointment of decision-makers, resolve disputes and act as a decision-maker of last resort. This bill also creates new offences for inducing a decision-making nomination or fraudulently acting as a decision-maker.

I have some very important stakeholders in my life. I often talk about those stakeholders, and I am going to, before moving on to other elements of this bill, make sure that I acquit the consideration of my mother and my mother's contribution on this bill. I do not think my mother would mind me saying she is 92 years old and was singing *Kumbaya* to a group of a hundred of my brother's nearest and dearest on Sunday at my brother's 60th birthday. To say she is well and full of the joy of life would be an understatement. We did hear *Kumbaya* a lot as children. So when I saw that my brother had a muso performing at his 60th – and happy birthday, Marty – we were not surprised to find my mother getting pretty close to that singer-songwriter and taking the opportunity to contribute what I know to be a tune that is not just important to my childhood but something that was well received by the 100 or so people of my age who were there.

My mother is currently living her best life in Nazareth House in Camberwell. The text conversation I had with my mother – my mum, Margaret – was to ask if she wanted me to say something about the people she lives with and the care that she receives, and my mother very enthusiastically texted back with great speed, as is her inclination, and asked me to single out Jenny Emmanoulidis, who is the manager at Nazareth House; the Sisters of Nazareth broadly; and particularly Sister Margaret, who does not just share my mother's first name but also shares a great joy in life. When I visited last, on Cup Day, there was great enthusiasm as everyone was watching the cup wearing hats, and there was a great sweep being undertaken.

What I now know to be, from the member for Wendouree, referred to as Nazy House but I thought of as Nazareth House is a place where there is great care, great love and great consideration. From the writing group to every other activity that you could imagine that takes place there, this is a place full of life and full of joy. So thank you, Nazareth House, for the wonderful care that goes into consideration for my mother. My father, before he passed away, had been at Samarinda. Bob Stensholt is the chair at Samarinda. Bob Stensholt is somebody who is known well to many people in this place, and I can tell you that the role he played at Samarinda was incredibly important. That is me making sure that the important stakeholders in my family know that they are on my mind and certainly are people I consult with when it comes to this important legislation.

Back to the community I serve in Cranbourne – which we know is a large and growing community – it is a young community but it also has a great many aged care facilities. There are some community members that I consult with always when it comes to aged care, and so with this legislation, as usual, I heard from Liz Barton, who is a very formidable previous member. She is a retired nurse. I am going to say ‘retired’ in inverted commas because although she is theoretically retired, she is very busy and very active. One of the many parts of her excellent work is as part of the Aged Care Justice group.

She was a palliative care nurse and now actually also is grandmother, and I was very pleased to have a very fulsome set of questions from Liz, because she wanted to get to the absolute detail of what this legislation does and how it impacts on people in aged care. I am always interested in what Liz has to say, and I know the minister for aged care has taken the time as well to meet with Liz, because it is people who are at the front line, including people who are retired nurses, who we ought to listen to to make sure that when we are formulating policies and legislation we are getting the levers right. It also gives me an opportunity to say how always grateful I am to Hannah Spanswick, of course previously the state assistant secretary of the Australian Nursing and Midwifery Federation, for the important work she does in bringing me up to speed on what is happening in aged care, somebody well known to many of us as well.

Back to this legislation, of course this does fulfil a legislative gap. We know that there was an important Royal Commission into Aged Care Quality and Safety. I do note it was a royal commission that went for many years and was a really incredibly detailed piece of work, and I do commend those people who did make contributions to the royal commission into aged care. We know that this legislation does in fact respond to one of the recommendations of the royal commission. In 2021 the Commonwealth government implemented its legislative amendments to how restrictive practices are regulated in residential aged care settings, with a new requirement for aged care providers to seek informed consent from the care recipient or their substitute decision-maker before they can use restrictive practices. This bill will introduce rules that will require informed consent in aged care, but this temporary hierarchy for decision-makers that is set in place by the Commonwealth is set to expire, so without this bill there would be uncertainty in Victoria about who can make decisions on behalf of aged care residents when they lack the capacity to do so.

So again, we are given the opportunity to understand that this bill will give the Victorian Civil and Administrative Tribunal powers to make orders to oversee the appointment of decision-makers, resolve disputes and act as a decision-maker of last resort. I could not help but check the hierarchy of decision-makers, and as the youngest child in a family of four, I was curious to see how the hierarchy works. Maybe this is an opportunity for me to thank my oldest sister, who has really been a person who has stepped in in so many ways. Next of kin is defined in the legislation as ‘the spouse or domestic partner of the care recipient’. In the context of my family, as with so many, my mother is widowed, so the primary carer of the care recipient obviously logically would be the next person, and then the oldest adult child of the care recipient. My sister certainly fills that role with extraordinary care and love and sacrifice indeed in my family, and I am conscious of that, especially in the context of me being the youngest in the family, so in terms of it being in descending order, it does feel like perhaps sometimes that burden falls very much to those that are the oldest in families.

Just in the last seconds I have got left, I am very pleased about the role our government is taking in providing culturally appropriate care. Indian aged care – expressions of interest have gone out on that particular really important commitment. I commend this bill to the house.

Luba GRIGOROVITCH (Kororoit) (17:04): I stand quite proudly to speak to this bill, and I do so because it obviously takes in part of our most vulnerable cohort in society. I think anything increasing the quality of life for our eldest Victorians is of the utmost importance, and the rights of older Victorians are also incredibly important. I want to thank all of the aged care workers out there. They do an incredible job day in, day out, and it is not something that is easy. I also want to thank the minister in the other place for all of the work that has gone towards this.

But before I do go into the substantial part of the bill, I want to talk about and acknowledge the tragic death of a man at his workplace yesterday and the horrifying circumstances surrounding it. I do so because early yesterday morning a 36-year-old installation technician was crushed to death beneath a turbine blade while performing his work at the Golden Plains Wind Farm in Rokewood, west of Geelong.

The turbine supplier is the company Vestas, and just two weeks ago union delegates from three different unions had met with Vestas to raise serious safety concerns, telling Vestas it was only dumb luck that nobody had been killed yet onsite. I am told that their near misses had been happening at the Golden Plains site since day one, and this is just tragic and completely unacceptable. In September small parts fell from some turbines, triggering a WorkSafe investigation, and yet even after being alerted by these unions it is clear that Vestas chose to neglect their duty to deliver adequate health and safety standards for the workers on site. As a consequence this man will never go home to see his parents, his family or his friends again.

Every workplace death is preventable, and it is clear that this man's death was preventable. I hope that the WorkSafe investigation into this will bring complete answers and justice. This tragic incident highlights yet again the crucial role which unions play in upholding health and safety standards, not just for the workers who belong to them but crucially also for the people who use these worker services. I raise this in speaking to this bill because every worker deserves to go to work to be safe, to be respected at work and most importantly to come home safe from work. This is no truer than in aged care, where our incredible aged care workers, together with their union, the mighty Health Services Union, help look after the elderly and help to provide them with a good quality of life in every way imaginable. It is part of why I am so proud to speak to this legislation today, the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. This bill establishes a hierarchy of decision-makers that aged care providers must refer to when identifying who can act as a restrictive practices substitute decision-maker under the Commonwealth's Aged Care Act 1997. The bill will give the Victorian Civil and Administrative Tribunal powers to make orders to oversee the appointment of decision-makers, resolve disputes and act as a decision-maker of last resort. The bill also creates new offences for inducing a decision-making nomination or fraudulently acting as a decision-maker.

My grandpa was in an aged care facility prior to passing, St George's nursing home in Altona Meadows. It was a wonderful facility, and the nurses there were really salt of the earth people. They were fantastic, looking after him day and night. Unfortunately my grandpa Beepa had dementia. He was never abusive or anything like that, but I must say he was incredibly forgetful. However, there is no way that my family or he would ever want to think that he would be abusive or nasty to any of the staff, and I am so pleased that that did not happen. None of us would want that for any of our family members or for our older Victorians, who we all look after and care for so deeply. By introducing this legislation our hope is that the life of the patient, the family and of course the worker will be made better.

In response to the Royal Commission into Aged Care Quality and Safety the Commonwealth introduced new requirements for restrictive practices to be used only with the informed consent of the aged care recipient. For aged care residents who may not have capacity to make decisions, such as in the case of advanced dementia, a substitute decision-maker can provide this consent. Unlike other jurisdictions, Victoria does not have legislation that explicitly authorises substitute decision-makers to consent to the use of restrictive practices in residential aged care. This is why we have progressed this bill to clarify who in Victoria can act as restrictive practices substitute decision-makers. This bill is necessary to ensure that care recipients in residential aged care settings have choice – choice in who they want to act as a substitute decision-maker and, where there is no nominee, who can be appointed as a substitute decision-maker. It will ensure that residents can trust that, should the time come, a loved one will be able to act in their best interests.

This bill in no way overrides the Commonwealth legislation, but rather it will ensure that all residential aged care providers are able to be compliant with its requirements. Under the Commonwealth Aged

Care Act 1997 there are five categories of restrictive practices. These are chemical restraint, environmental restraint, mechanical restraint, physical restraint and seclusion. Restrictive practices can be used only where necessary for the least amount of time in the least restrictive form and only as a last resort, where all other options have been explored.

Recently I visited Arcare Aged Care facility, which is in Burnside in my electorate of Kororoit. I was the guest of honour at a morning tea, and it was a wonderful afternoon. I enjoyed chatting to the residents about a range of issues, and I am due to visit there again just prior to Christmas. I look forward to discussing this legislation with them at that time so that they properly know their rights.

Victoria currently does not have legislation to authorise substitute decision-makers. The Commonwealth introduced a temporary hierarchy to guide the identification and appointment of a decision-maker based on proximity and personal connection to the resident, and consequently Victoria has had the temporary hierarchy in place since 2022. The hierarchy within the bill will operate very similarly to that of the Commonwealth's temporary legislative instrument. This bill will form a clear framework for identifying who can act as a restrictive practices substitute decision-maker by prescribing a hierarchy of decision-makers based largely on close and personal relationships. Under this bill, decision-makers will be identified in the following order: substitute decision-makers, a next of kin and a decision-maker appointed by VCAT should there be no other decision-makers made available. The bill differs from the temporary arrangement by providing more clarity around how the next of kin is defined and how an aged care provider can identify one person from several potential decision-makers through a clear order of priority based on proximity of relationships. As a very last resort, VCAT will be able to also make decisions to authorise restrictive practices if there are no other suitable decision-makers available.

This approach enshrines a person-centred approach by prioritising the nomination of an aged care resident in the first instance. Aged care residents will also be able to document their preferences for the decision-maker to consider when making these decisions. The decision-maker must be willing to and able to act at a time a decision is required. If there is no nomination in place or the nominee is not willing and able to act as decision-maker, aged care providers will need to identify a decision-maker in accordance with the order of the hierarchy. Importantly, providers cannot shop around for consent – that is, they cannot move to the next tier of hierarchy simply because a decision-maker withholds consent. A decision to provide or withhold consent by a valid substitute decision-maker must be respected. Most crucially, this bill provides a permanent solution to the legislative gap, providing aged care recipients, their loved ones and supporters and aged care providers certainty around substitute decision-making appointments. As a very last resort, VCAT will be able to make decisions to authorise restrictive practices if there are no other suitable decisions.

This legislation is fantastic: it is working with organisations, it is talking to communities and it is wanting the very best care for our loved ones at the age that they crucially need it. Our most vulnerable Victorians are of course our youngest ones and our oldest ones, and this legislation makes sure that we look out for them. They are our most vulnerable in society. We need to give our elderly autonomy, and that is part of what this legislation aims to do. Thank you again to all of the aged care workers. These are rights for older Victorians and rights that they need. This legislation will help make aged care more humane and decent for everybody who uses it, and that means all of us when we reach the end of our lives. That is why I am so proud to commend this legislation today.

Martin CAMERON (Morwell) (17:13): I am thrilled to rise and talk about the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. I would firstly like to thank the member for East Gippsland for sitting down and actually taking us through what this means on our side of the house. It was great for him to be able to relay his story about his 98-year-old mother and to have someone that is going through those aged care issues now. It was great to be able to call on his knowledge about how this all does work. The one thing that we do know – I think everybody that stood up in this chamber spoke about it – is how we need to make sure that our ageing community, when they are in these situations, are respected as they travel through the later years of their life, and

that if they are in need of some help, like going into aged care facilities, we have the structures in place to make sure that these do work.

Like everyone else, I give a shout-out to the workers that work in aged care, because it can be a tough job, and it can also be a very rewarding job as well. A big shout-out to them right across Victoria, but particularly in the Latrobe Valley and out through Gippsland. We have some wonderful organisations down there, and if you are lucky enough to have your parents as they get older in life, you want to return the favour of them looking after you when you were younger and you want to make sure that in their latter years they are well taken care of.

The bill stems from, obviously, the royal commission that was conducted. Back in the day we all did hear some horror stories. You would like to think now that we have weeded those institutions out. You have only got to see aged care facilities in my region now to know just how really wonderful they are for our ageing community and how they respectfully take care of our parents, whether it is both your parents going in or whether one of your parents has passed away and you need that full-time help and care for the other parent. We want to make sure, and I know I want to make sure, for anybody that has to reach in to our aged care services that it is done properly, it is done right and it is done respectfully.

In my job before this one I used to do a lot of plumbing inside aged care facilities.

Danny O'Brien interjected.

Martin CAMERON: It is how I got elected. They still all have to vote, member for Gippsland South. They all need to vote. If they can put a smiley face to their plumber who is running for Parliament, all the better. I have been inside these facilities and seen them firsthand. When you go in as a family you are sort of ushered around a little bit and into the room where your parents could be or into a common area. I was lucky enough to have access to virtually all areas in these facilities. Across the journey from when I first started there were a few dubious providers who fortunately are no longer with us. When you walk through now, from 18 months ago, you are able to see the food that these people eat and the conditions that they stay in and live in, and these are great facilities for them to be able to go and spend the latter years of their life. It gives you a lot of heart as a son looking after your elderly parents or your grandparents as they go through, so it is great that we are discussing this today.

In 2021 the former federal coalition government introduced new legislative requirements for residential aged care providers to seek informed consent from substitute decision-makers to authorise the use of restrictive practices where a resident lacks capacity to give informed dissent. You always think to yourself that you are probably going to outlive your parents, and you can have that consent in place with whatever it is, whether it is going into an aged care facility or if they are living at home. But if we are inside that aged care facility, sometimes the people that are in there do not have that next of kin in place, so it is great to see we are putting protective areas around that. This was in response, as I said before, to the 2021 Royal Commission into Aged Care Quality and Safety. The member for Gippsland East spoke in his contribution about the substitute decision-makers preferably being nominated in advance in writing by the aged care residents to make sure that these services were all in place, if they had the time to be able to do it. Sometimes everyone is busy and you do not have these things in place, and unforeseen circumstances do take place.

I will pop back to my journey as a plumber because there is one story that I do have about when I was inside an aged care facility many, many years ago. There were two elderly gentlemen that sort of did not get on a lot, and they used to do some not terrible stuff to each other but they used to want to upset each other.

One of these gentlemen had a massive, big Australian flag in his room. It went missing one day and it was missing for about two weeks. I was called in to unblock a toilet in the facility, so I went in there and we ended up having to dig it up. The flag that I pulled out of the drain, which had been put in by one particular gentleman because he was having terse words with another particular gentleman, must have taken him days to flush down this toilet, because the flag was huge. He did get the flag down

there, and I did get it out, and it was washed and returned to this particular resident in an aged care facility in Traralgon. So they do have a sense of humour at some stages, but retribution, I am told, was swiftly sought, and the perpetrator of the flag incident might have found that his clothes when they were returned may have been a little bit itchy when he did put his clothes on the following week. So they do have some fun inside these areas. I hope that if I get to the stage where I am in an aged care facility I can have a sense of humour and provide light entertainment for the staff that are looking after me.

I do note the restrictive practices guidelines. This might come in for me. It might be Martin from Morwell or it might be Wayne from Narracan that has to be locked out of certain areas because we are trying to get our hands on power tools and plumbing equipment because we are former tradies and we might think we are still up to being those tradies.

Danny O'Brien interjected.

Martin CAMERON: Farnham – he might be very close to needing to go in sometimes, the member for Narracan. We can see the overarching aspect of this bill is making sure that we do have certain safety measures in place for our elderly. Hopefully, everyone here will move through and live to a ripe old age, and it might be that we do need to be in these facilities. I do hope that these particular changes that we do make today as we speak about this bill – I said before and the member for Gippsland East said we support this bill going through so we can have these safety measures in place. The one thing we do know is we are all going to age, and age gracefully, hopefully –

Jade Benham: Not me.

Martin CAMERON: No, maybe not the member for Mildura. Maybe the processes we are putting in today we might be needing to use. So, as I said, we support the bill and commend it to the house.

Steve McGHIE (Melton) (17:23): Today I rise to contribute to the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. It probably will not surprise many in the house that aged care is very important to me. Every day it gets a bit more important, and just listening to the member for Morwell I think if I went into an aged care facility I probably would not be let out. I think they would go for restraints straightaway, but not to worry – I will stay away from those places.

Firstly, I want to thank the Minister for Ageing, Minister Stitt in the other place, and her staff for bringing this bill forward. I really appreciate that, and it is timely that this bill is brought on today. The bill introduces a structured hierarchy of substitute decision-makers in Victoria for restrictive practices in residential aged care, which brings us into alignment with the Commonwealth's Aged Care Act 1997. Of course the Council on the Ageing support this bill, and I think that is great.

I am just going to go back to the 1980s and 90s and my days as a paramedic and the experiences that I had with aged care facilities. We heard some terrible stories before the royal commission. My experiences were that all of the things that we are talking about today in regard to restrictive practices occurred, and I witnessed them on many occasions, going in and out of aged care facilities: the residents being tied to chairs for most of the day with a meal stuck in front of them, some of them with their face down in the meal and not even being helped to feed, and restraints and rails on beds and things like that, restraining them. Of course some of this was under the premise of the safety of those individuals or safety of staff or safety of other residents, and there is no doubt there were some situations where it was about safety. We see a lot of aged care facilities now that are almost gated facilities because of the safety of the residents, because a number of them do go wandering, and it is really hard.

What is important is that they have enough staff, and the extension of the nurse–patient ratio was really important in regard to having qualified staff to deal with the clinical and the medical situations of the residents within these facilities. While COVID was terrible at the time, I suppose one thing that came out of COVID was that it continued to highlight the issues in aged care facilities and some of the

terrible circumstances – you know, putting our elderly people behind bricks and mortar. I have got to suggest that in aged care, like any health and welfare thing, profits should not come before people. Surely people's welfare is the priority, and profits should not be part of the equation. As I said, the extension of the nurse–patient ratio in aged care facilities has been very helpful. On a day shift now I think it is one to seven, and a nurse has to be in charge during the day in public aged care.

Of course, as has already been raised, there are the staff that work in aged care. It is a really demanding area. Just on that, there was an Australian government workforce report back in 2016, and more than 52 per cent of people living in permanent residential aged care had dementia and nearly half had depression. It just goes to show the types of residents that we are talking about and the conditions that they have and how difficult it might be. If we turn the clock back to 1998, 60 per cent of the residents needed high care, but that grew to 83.5 per cent in 2016. I would hate to think what it is today. As I said, those figures came about from the workforce data report conducted by the federal government at the time.

This legislation will help protect residents' rights, allowing them to choose trusted individuals to make future decisions, and it will ensure aged care providers operate within the Commonwealth guidelines. It is clearly about care, dignity and respect, and that is the fundamental thing. Respect has got to be the key issue in dealing with the residents of aged care facilities.

The bill addresses a legislative gap in Victoria that arose after the Commonwealth amended the Aged Care Act 1997, requiring informed consent from substitute decision-makers for the use of restrictive practices when an aged care resident lacks capacity. Of course those restrictive practices, like chemical, environmental, mechanical and physical restraints, as well as seclusion, should only be used as a last resort. As I said before, in my experience of going into aged care facilities I have seen all of those aspects being used on residents, and sometimes not for a last-resort situation; they were being used as a priority to be able to manage the numbers of people within those facilities and also, the staff would say, for their own safety. But it was more about not having enough staff in the facilities to be able to deal with the number of residents and with the complexities of the interactions between the residents.

The member for Morwell referred to a story about two gentlemen and the flag down the toilet and all that sort of stuff. You could write a book with some of the stories about aged care facilities and how residents relate to each other, in more ways than one – and intimately relate to each other, whether they like it or not. People wander through the residences at different times, and we have seen serious cases in regard to the interactions of some of the residents.

The bill introduces two new criminal offences, specifically making it a crime for someone to induce through dishonesty, undue influence or threats a substitute decision-maker nomination; and knowingly make a false or misleading statement in relation to another person's substitute decision-maker nomination or attempted substitute decision-maker nomination. These offences ensure that any individual who coerces or forces a decision-maker appointment or fraudulently acts as a substitute decision-maker can be held accountable for their actions and will face the justice system.

Restrictive practices in aged care are measures that limit a resident's rights or freedom of movement and are intended to manage behaviours that can pose safety risks. As I say, historically we have hidden behind the issue of safety as the priority reason for doing some of these things in regard to these restrictive practices. The Commonwealth Aged Care Act 1997 has defined it and characterises these practices into five types, and we referred to them previously: chemical restraint broadly encompasses medications; environmental restraints like locked doors; mechanical restraints like harnesses or bed rails; physical restraints, which includes the use of force when necessary; and of course seclusion, which was utilised quite regularly. All the above are utilised regularly, even up to this day.

Under the Aged Care Act the use of chemical restraints is permitted only when a medical practitioner has prescribed the medication specifically for this purpose and informed consent has been obtained

from either the aged care recipient or their substitute decision-maker. Medical practitioners are required to adhere to all the legal obligations regarding prescriptions in these circumstances. As I say, previously it was utilised to make it more convenient for the medicos or for the staff or for the aged care facility to be able to manage the number of residents and the complexities around their issues.

It would be remiss of me not to mention the incredible work of our very own former commissioner for senior Victorians Gerard Mansour. Mr Mansour had four terms over a period of 10 years. He served as our first commissioner for senior Victorians and acted as a vital conduit between the community and the Victorian government. His work for senior Victorians and his advocacy against elder abuse is surely something that I am going to appreciate every day for a long time. I think some of the things that he did have made it a much better place for aged care residents.

This bill is really important. I am pleased it has come on this week. I commend the minister in regard to bringing this bill forward. This is about the protection of people within residential aged care, and that should be the priority. I commend this bill to the house.

Natalie HUTCHINS (Sydenham – Minister for Jobs and Industry, Minister for Treaty and First Peoples, Minister for Women) (17:33): I move:

That the debate be now adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned until later this day.

Roads and Road Safety Legislation Amendment Bill 2024

Council's amendments

Message from Council relating to following amendments considered:

1. Clause 1, page 2, after line 14 insert –
 - “(va) to provide for discretion for a court in cancelling or disqualifying the licence or learner permit of a person who commits an offence against section 49(1)(bb), (h) or (i) of the **Road Safety Act 1986** if it relates to the use of a prescription drug which is a legal medicinal cannabis product;”.
2. Clause 2, line 6, omit “subsection (3)” and insert “subsections (2A) and (3)”.
3. Clause 2, after line 8 insert –
 - “(2A) If Division 6 of Part 2 does not come into operation before 1 March 2025, it comes into operation on that day.”.
4. Clause 2, line 9, after “this Act” insert “(other than Division 6 of Part 2)”.
5. Insert the following New Clause to follow clause 9 –
 - 9A New section 99D inserted**
 - After section 99C of the **Road Safety Act 1986** insert –
 - “99D Reporting incidence of camera detected no-truck zone offences**
 - (1) As soon as practicable after the end of each calendar year elapsing during the reporting period, the Minister must cause to be published on the Department’s Internet site the following information in respect of that year –
 - (a) the number of heavy vehicles detected in a no-truck zone by a prescribed no-truck zone camera; and
 - (b) the number of alleged camera detected no-truck zone offences for which an official warning was served; and
 - (c) the number of alleged camera detected no-truck zone offences for which an infringement notice was served; and

- (d) of the alleged camera detected no-truck zone offences for which a proceeding was commenced in a court, the number within each of the following classes –
 - (i) a penalty was imposed;
 - (ii) a community correction order was imposed;
 - (iii) any other sentence was imposed;
 - (iv) the accused in the proceeding was found not guilty of an offence against section 65BA(1);
 - (v) the proceeding was withdrawn or dismissed for any reason; and
 - (e) the number of alleged camera detected no-truck zone offences to which an exception under section 65BA(2) applied; and
 - (f) the prescribed matters (if any).
- (2) In this section –
- camera detected no-truck zone offence* means an offence against section 65BA(1) detected by a prescribed no-truck zone camera;
- community correction order* has the same meaning as in section 3(1) of the Sentencing Act 1991;
- official warning* has the same meaning as in section 3(1) of the Infringements Act 2006;
- reporting period* means the period of five calendar years commencing on 1 January following the day on which this section comes into operation.
- (3) This section is **repealed** on the seventh anniversary of the day on which it comes into operation.”.

6. Insert the following New Division to follow clause 42 –

‘Division 6 – Use of a prescription drug which is a legal medicinal cannabis product

42A Definitions

In section 3(1) of the **Road Safety Act 1986**, in the definition of *drug-driving infringement*, after “(1E)” insert “or (1F)”.

42B Provisions about cancellation and disqualification

- (1) In section 50(1E) of the **Road Safety Act 1986**, for “On convicting” substitute “Subject to subsection (1F), on convicting”.
- (2) After section 50(1E) of the **Road Safety Act 1986** insert –
 - “(1F) If an offence under section 49(1)(bb), (h) or (i) is in relation to the use of a prescription drug that is a legal medicinal cannabis product by a person in accordance with a prescription or other authority, on convicting the person, or finding the person guilty of an offence under section 49(1)(bb), (h) or (i) –
 - (a) subsection (1E) does not apply; and
 - (b) the court may, if the offender holds a driver licence or learner permit, cancel that licence or permit and, whether or not the offender holds a driver licence or learner permit, disqualify the offender from obtaining one for –
 - (i) in the case of a first offence, a period not less than 6 months; and
 - (ii) in the case of a subsequent offence, a period not less than 12 months.”.

42C Previous convictions

In section 50AA of the **Road Safety Act 1986** in item 4 of the Table, for “and (1E)” substitute “, (1E) and (1F)”.

42D New section 58BA inserted

After section 58B of the **Road Safety Act 1986** insert –

“58BA Review of amendments made by Division 6 of Part 2 of the Roads and Roads Safety Legislation Amendment Act 2024

- (1) The Minister must cause a review to be conducted of the operation of the amendments made to this Act by Division 6 of Part 2 of the **Roads and Roads Safety Legislation Amendment Act 2024**.
- (2) The review must be commenced after the second anniversary of the commencement of Division 6 of Part 2 of the **Roads and Roads Safety Legislation Amendment Act 2024**.
- (3) The Minister must cause a copy of the review to be laid before each House of the Parliament no later than 3 years after the commencement of Division 6 of Part 2 of the **Roads and Roads Safety Legislation Amendment Act 2024**.”.

Melissa HORNE (Williamstown – Minister for Casino, Gaming and Liquor Regulation, Minister for Local Government, Minister for Ports and Freight, Minister for Roads and Road Safety) (17:34): I move:

That the amendments be agreed to.

These amendments are so important to me, particularly as the member for Williamstown and also being in the chamber with my good friend the member for Footscray, because the key thing in this is around ensuring that there is reporting of incidents of camera-detected no-truck zone offences. In the inner west we know that having trucks moving in and out of the port has had such an impact on our community, because whilst we live next to Australia’s largest container port, we also bear the brunt of those trucks moving in and out of our suburbs.

That is why when the West Gate Tunnel Project comes on board sometime next year and we have those six roads where there will be complete 24/7 truck bans, we need to have that detection in there as well. Having that reporting of incidents will be a game changer. It will be a game changer for the communities in Footscray. It will be a game changer for the communities in Yarraville and in Newport and surrounds. So I really speak to these amendments and think that these amendments will be an incredible addition to the bill.

Danny O’BRIEN (Gippsland South) (17:35): I am also pleased just to be very brief on these amendments. I am disappointed that the minister did not refer to this as the ‘Save Katie’ bill, but I am sure that the member for Footscray and the member for Williamstown are very interested to see this legislation pass. As stated in the previous debate here in the chamber, we have no issue with this legislation. The opposition was not of a mind particularly to support the Greens in any way, shape or form on these particular amendments, but we were largely ambivalent about them. Obviously the government has come to an arrangement to have these amendments passed. These amendments, as I understand them, are basically reporting mechanisms providing reporting metrics such as the number of trucks detected, trucks exempt, fines issued, warnings issued and proceedings before a court, for example, for the new inner-west no-truck zones. The opposition does not have any concerns about this and is happy for them to pass and form part of the bill, and we look forward to seeing how successful the bill is in both policy and political terms.

Motion agreed to.

The ACTING SPEAKER (Lauren Kathage): A message will now be sent to the Legislative Council informing them of the house’s decision.

Duties Amendment (More Homes) Bill 2024*Council’s agreement*

The ACTING SPEAKER (Lauren Kathage) (17:37): I have received a message from the Legislative Council agreeing to the Duties Amendment (More Homes) Bill 2024 without amendment.

Aged Care Restrictive Practices Substitute Decision-maker Bill 2024*Second reading***Debate resumed on motion of Mary-Anne Thomas:**

That this bill be now read a second time.

Jade BENHAM (Mildura) (17:37): I am more than happy to rise today to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, because once you start thinking about aged care this is something that, speaking to the member for Gippsland East, the sector is supportive of. But it has been heartbreaking and gut-wrenching to listen to some personal stories, particularly from the member for South-West Coast earlier today – stories regarding the need for this legislation, even though it does not come into effect until 1 July next year.

The bill's sole objective of course is to establish the framework for the appointment of substitute decision-makers to authorise the use of restrictive practices where a resident lacks capacity and who can act as restrictive practices substitute decision-makers. It was heartbreaking listening to the member for South-West Coast, and I thought it would also give me an opportunity to talk about my maternal grandmother, who went through the aged care system from one facility to the next over a 15-year, probably more like a 20-year, diagnosis period of Alzheimer's.

I saw the challenges that my own mother faced as her main caregiver in not only trying to get her into the right care in regional and rural Victoria but find appropriate care for someone who was slowly declining and in the very early stages of Alzheimer's. It is a slow and gradual decline, and some days you have to laugh, otherwise you will cry. It is difficult to find appropriate care. The only facility, after Nan had lived with us for, gosh, a number of years, was an hour and a bit down the road, so my mum every weekend would drive an hour to see her, to take her clothes and all of that kind of stuff, and then after she broke her hip she was moved to the Swan Hill District Health extended care unit (ECU).

[NAME AWAITING VERIFICATION]

There have been many members today acknowledging the staff that they have had interactions with in the aged care sector. I know Selena is still at Swan Hill District Health, and my mum in particular is very, very grateful to Selena for the care and the rest of the staff as well both at Northaven and Swan Hill District Health. But I think my sister and I, given there are only the two of us, are eternally grateful to my mother for the care that she showed too and the challenges that she had to face with being that sole caregiver, despite her brothers being around but located all over the state. I was located overseas and in Melbourne for much of that time. So my mother was really left on her own to face this on her own. It is hard watching your parent go through that.

My grandmother was a powerhouse of a woman. She grew up in Natya. She was the daughter of a World War I veteran who was allocated some land after winning a military medal. They lived in Kooloonong, and she went to the Natya school, which is long gone. But she was a powerhouse, and she was beautiful, looking at old photos. She was an A-grade netball umpire, the only one in northern Victoria at that stage for a long, long time. It took until the 1980s or 1990s until some followed in her footsteps. Watching someone like that, who has been so vivacious throughout their entire life – and the decline, like I said, is so gradual in something like Alzheimer's, and every case is obviously very, very different – and full of life completely lose the capacity to understand that the person in the mirror that she is talking to and calls the 'old woman' is her, when she still believes that she is a 15-year-old girl on the farm, is really challenging. And essentially there was only my dad to support Mum. I think my sister and I are eternally grateful for everything that she did. Nan actually died while I was living overseas many years ago. And she had by then lost – she had not recognised me for a long time. She recognised my dad but did not recognise Mum a lot. But ageing is such an awful process. Like I said, I am not going to age gracefully. A long as I have the capacity to, I am going to do it as disgracefully as I possibly can. So now that is on the record too.

But I did just want to take a moment to recognise not only the frontline staff that care for our ageing and our elderly but the family members who are the silent heroes in the aged care sector. We try to keep them at home for as long as we can, and that is getting easier. This was – gosh, I was overseas – 20 years ago, and there was no choice of facility, there was no choice of doctors. There was no choice of anything, really, and trying to get the ability of power of attorney or a decision-maker was really tough. Even getting any sort of consultation was really tough. So it is not only our aged care workers – who certainly will have some stories to tell, as well as the plumbers and the tradies that service these facilities – but the family members who are often the silent heroes, who dedicate so much of their lives.

When Nan went into the ECU, Mum was in there every night to feed her, to take her treats. That was every single night, and then on weekends they would have outings, all while she was working. She was a real estate agent at the time and then bought into a small business. It is hard, and I do not think anyone has ever really acknowledged that. I just wanted to get that on the record and also to offer my support for this bill.

The Royal Commission into Aged Care Quality and Safety stated that restrictive practices had been identified as a problem in aged care for over 20 years, so we are making progress. You look back at some of the stories over the decades, and you can see why there has been inappropriate use or unsafe restrictive practices in aged care. Recommendation 17(b)(v) also adds that they can only be used:

in accordance with ... State or Territory laws and with the documented informed consent of the person receiving care or someone authorised by law to give consent on that person's behalf

Hopefully this will close a gap. There is still work to do in the aged care sector, but we are making progress. Again, I acknowledge the contribution by the member for South-West Coast. The carers and family members really are everyday heroes. Life – jeez, it is difficult when those loved ones are at that stage, but you are needed. I commend the efforts of everyone that cares for family members at that stage of life.

Chris COUZENS (Geelong) (17:46): I am pleased to rise to contribute to the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. Can I start by thanking Minister Stitt in the other place and her team for this important work that they have done. I have to say I followed the Royal Commission into Aged Care Quality and Safety – it was a very long royal commission from memory – and listened to some of that evidence that was given. Like pretty much everyone in this country, I was shocked at some of the stories we heard. As the member for Melton in his contribution mentioned, people were being tied to chairs and food was put in front of them. These were horrific stories that we were hearing. I think we must do whatever we can to ensure that those most vulnerable people in our community are kept safe where you would expect them to be in a safe and secure environment – that that is always maintained. And we must ensure that older people, as I said, who are some of the most vulnerable people in our community, get what they deserve, and that is a safe, secure and comfortable environment where they are cared for.

We know that in response to the royal commission, which was into aged care quality and safety, the Commonwealth introduced new requirements for restrictive practices to be used only with the informed consent of the aged care recipient. Obviously because of the evidence that was given, this was a recommendation that was taken seriously. We have taken it seriously here in Victoria, and we believe that for aged care residents who may not have capacity to make decisions, such as in cases of advanced dementia, a substitute decision-maker can provide that consent.

Having had both of my parents in nursing homes in recent years – my mother died during COVID in a nursing home, not from COVID, and then my father at a later time went into an aged care facility and died some months later – I have to say that the care they received was exceptional. I had no concerns with that.

In the Geelong region we have a number of state providers in aged care who do an absolutely incredible job. We have the McKellar Centre run by Barwon Health, which is a fantastic facility. They provide the best possible level of aged care at their North Geelong site but also around the region, so a huge shout-out to them.

I think when we are talking about these things we need to be talking about the workforce as well and the incredible work that they do every day looking after people in aged care facilities. Most are highly skilled and want to do the right thing, but we did hear during the royal commission that there were people employed that had no experience in aged care and that actually were doing the wrong things, but doing the wrong things without realising it. In those facilities, which were basically run by the Commonwealth, we saw what happened during the COVID period as well.

A bill like this is about ensuring that we do whatever is possible. I know our state-run facilities are very safe, secure environments for older people, for vulnerable people. It is really important that we continue to provide that. I think Victoria provides the most state aged care facilities in the country, so we know the importance of it and we know the importance of nurse-to-patient ratios. We introduced that legislation some years back. These are really important components to providing that safe care, and we know that because we heard some of the horror stories during that royal commission of people living in aged care that did not have a qualified nurse in the facility or did not have anybody with any qualifications. Some of the serious issues that occurred occurred because people that were working in those facilities were not qualified and did not have any understanding of what was meant to be happening, whether it was medication or just general care – ensuring that people were not left in their beds for days on end. All those things came to light through that royal commission.

For aged care residents it is really important for them if they do not have the capacity to make those decisions that they have somebody that can. Unlike other jurisdictions, Victoria does not have legislation that explicitly authorises substitute decision-makers to consent to the use of restrictive practices in residential aged care. This is why we have progressed this bill – to clarify who in Victoria can act as a restrictive practices substitute decision-maker.

As I said, the evidence that was given to the royal commission really reminds us of our responsibility to ensure that we do protect the most vulnerable in our community. As I said, I do want to give a shout-out to the aged care workers that are out there doing an amazing job every day. I know they are in our state facilities in my region. The work that they do and the support that they provide to those residents is incredible.

We want to make sure that older people can access the high-quality care that is appropriate for their needs and close to their home as well. Our public sector residential aged care services play an important role in ensuring that no matter who you are or where you live you can access the high-quality and safe care that you deserve. These services are an important safety net. They are often a provider of the last resort, providing care for residents with complex clinical needs or who are experiencing socio-economic disadvantage that would otherwise prevent them from accessing the care that they need and deserve. I think those state facilities are providing that care, particularly for low socio-economic people and their families. But I think in the royal commission, from what I recall, there were circumstances of private aged care providers not providing a great service to people in aged care. So I do not think it is a matter of who can pay and who cannot, I think it is a matter of making sure that we have regulations that protect older people – those most vulnerable in our community – and ensure that we are looking at every aspect possible – like in this bill, where if a person cannot make decisions themselves, someone is appointed to do that.

This is what this bill is all about, and that came about through the royal commission, which we know brought out many, many issues for those in our communities not just across Victoria but across the country, so dealing with those is really important.

Whilst the Commonwealth government is the primary funder and regulator of aged care services, Victoria has the largest public sector aged care footprint of any state or territory, and of course we are really proud of that and I am really proud of what Barwon Health in my region contributes to our community of Geelong. Our public sector manages more than 5400 beds across 171 facilities in the state. Ninety per cent of these facilities are in rural and regional areas, and in more than 50 rural communities the service is the sole provider and a major employer in the town. Obviously, they are really important in those communities, and I think probably in those rural areas there is more scrutiny. People who live there are working there, and although Geelong is a big region, people do talk to each other about these sorts of things and what is happening in particular aged care facilities. I am really proud that in the Geelong region Barwon Health are providing those state-run facilities to the best of their ability. I commend the bill to the house.

Eden FOSTER (Mulgrave) (17:56): I am pleased today to rise in support of the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, and I thank the Minister for Ageing in the other place for this bill. Part of being a Labor member and being a part of this government is holding key values – recognising people’s autonomy, agency and dignity – and this is especially important for our ageing people. Our ageing Victorians have these rights too and deserve to be treated with respect, and that is what this bill seeks to ensure.

This Labor government has an excellent record when it comes to aged care and is not afraid to talk about it. Victoria’s public sector residential aged care services are vital to providing access to high-quality and safe aged care services for everyone, with the Victorian government being the largest public provider of residential aged care in Australia, managing 171 facilities and over 5400 beds. The Victorian government has invested a record-breaking amount in Victoria’s public sector residential aged care services, over \$700 million, including more than \$275 million to replace outdated aged care homes with modern and purpose-built facilities in metropolitan Melbourne.

But even more substantial than the metropolitan funding and additions is the Victorian government’s commitment to rural and regional public sector residential aged care services, contributing more than \$370 million to replace and refurbish and \$20 million as part of the facility renewals program. Ninety per cent of Victoria’s public sector residential aged care services are facilities that are in rural and regional areas, filling what would otherwise be an aged care shortfall in Victoria. They are the sole provider in over 50 regional communities, whilst also providing a key source of employment.

Central to this bill is honouring the values of dignity, autonomy and agency for our older Victorians. During my time as the member for Mulgrave I have come into contact with many ageing Victorians who are living wonderfully fulfilling lives. I was privileged enough to visit the Sir Weary Dunlop retirement village and aged care in Wheelers Hill to witness the great work being done there. I came at one of the best times too: every Thursday at 4 pm residents of the retirement village enjoy a beverage and a chance to connect with fellow residents in a relaxed environment, allowing for social interactions and leisure time, which all Victorians have the right to.

Dignity, autonomy and agency are important things and are central to the bill in seeking to bring requirements for restrictive practices into line with the Royal Commission into Aged Care Quality and Safety. With this in mind the bill seeks to ensure that informed consent is central to when restrictive practices are used, whilst acknowledging that not all aged care residents may have the ability to fully consent. In an ideal circumstance all aged care residents would have a clearly written decision-maker nominee when it comes to restrictive practices, but we understand that sometimes circumstances are out of our control.

Medical issues can move very fast, as I am personally experiencing. One minute you are fit and healthy and the next minute you get the call from your specialist to say you have cancer. We never know when and how health issues may affect us, and as it stands, Victoria does not currently have legislation that accounts for this when it comes to restrictive practices.

This is why this bill will establish a hierarchy of decision-makers who can act in Victoria as restrictive practice decision-makers, because at times in aged care, like for those with dementia, you may not be able to consent – hence the importance of substitute decision-makers. The proposed hierarchy will include at first a substitute decision-maker nominee, someone who the aged care resident has personally nominated in advance through writing. In the event that no nominee has been written down by the aged care resident in advance, next is someone who is the next of kin, who has a close and continuing relationship with the care recipient and who is willing and reasonably available to make restrictive practice decisions on behalf of the resident. This can include the resident's spouse or domestic partner, their primary carer, their children, their parents or their siblings. If an aged care patient has no next of kin, VCAT will have the authority to pick a decision-maker and as a last resort can operate if appropriate as a substitute decision-maker. This may be complex, but again, it is important that dignity, agency and respect is exercised for Victorians in aged care homes, especially when restrictive practices are being used. The hierarchy has the depth to ensure that the aged care resident is foregrounded in choosing a decision-maker and ensuring as much autonomy can be afforded to the resident as possible.

Of particular importance is the care that was taken in drafting this bill. This includes the provision that states those with a family violence order cannot act as the decision-maker. This is consistent with the Allan Labor government's approach to the prevention of family violence, which is leading the nation in prevention. The Allan Labor government has already implemented all 227 recommendations of the Royal Commission into Family Violence. The Allan Labor government's ambitious agenda of reforms included the creation of Respect Victoria, the first ever agency dedicated to preventing violence and family violence, as well as opening 36 Orange Doors and implementing new minimum lengths for family violence intervention orders. Through all legislation the Allan Labor government is cognisant of the effects that the scourge of violence and family violence has on the community and individuals. There may be some on the other side that perhaps might oppose this bill, but I am hearing that there is collaboration here and agreement with this, which is fantastic to see.

I can assure those that might have some questions about this that safeguards have been put in place. This government has read the shocking findings of the royal commission and is fully aware that some older people may be vulnerable to elder abuse and coercive control, and this government is seeking to do whatever it can to minimise conditions where that can happen. As part of the bill's safeguards, on top of family violence order provisions there are also provisions surrounding employees or agents of the aged care provider, ensuring that anyone involved in restrictive practice, be it assessing or executing restrictive practices, will not be able to act as a substitute decision-maker. The bill also includes two new criminal offences to protect vulnerable older people, with offences that will ensure that those coercing or forcing decision-maker appointments, or those that seek to fraudulently act as substitute decision-makers, will be held accountable and punished for seeking to compromise vulnerable older people. This includes making it a crime to induce, using threats or dishonesty, a substitute decision-maker or to make false or misleading statements knowingly in relation to another person's substitute decision-maker nomination or attempted substitute decision-maker nomination.

I would also like to give a special shout-out to some of the public sector residential aged care services that Monash Health in my area delivers and that assist many of the families in the Mulgrave electorate. The Allambie Nursing Home, the Kingston Centre, the Mooraleigh Hostel, the Chestnut Gardens aged care home and the Yarraman Nursing Home are all so vital to the south-east's aged care support, and I thank all those that play a role in working in these facilities.

Again, it is the workforce in these facilities that make them the best in Australia. These facilities are all supported by nation-leading nurse-to-resident ratios, with staff that are all paid above enterprise bargaining agreement rates. The care provided by this workforce is what allows for the high quality seen in Victoria, with a special emphasis on the nurse-to-resident ratios and the minimum staffing ratios.

It is also important not to misinterpret key elements of this bill. This bill does not regulate how restrictive practices are being applied and used; this remains the responsibility of the Commonwealth. This bill does not legislate how but instead focuses on the framework of how those who cannot consent to restrictive practices still can have some sense of personal agency through the selection of an authorised decision-maker.

I would like to finish by foregrounding and making clear the central themes of this bill. It is about autonomy, it is about agency, and at its core it is about dignity – treating each other with dignity and respecting one another. This is what is central to the bill, providing this to our older people, and I commend this bill to the house.

Matt FREGON (Ashwood) (18:06): I rise this afternoon to make a contribution on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. In its essence, as discussed by others, this bill will establish a hierarchy of decision-makers who can act in Victoria as restrictive practices substitute decision-makers in residential aged care. What does that actually mean on the ground for people who either are coming to the twilight of their lives or have family who are doing so? It is one of those parts of our lives where you do not really know what you need until you need it.

My family has had a little bit of experience with the aged care sector in the last five or six years. My father, who passed away earlier this year, had frontotemporal dementia for the last five years. As a family we have gone from the very start of that to using every assistance that our wonderful system can provide, and it did highlight some of the challenges that our society has with our aged care sector.

I guess I will make my comments in regard to the substitute decision-makers in this bill. Preferably, decisions would be made by the aged care recipient themselves, when they can, to dictate what will happen with them. I think it is crucial that that agency is enshrined for people. With a family like mine, where my grandfather got dementia and my father got dementia – I have got something to look forward to; hopefully not for a little while – I can imagine that in maybe 20 years from now I am going to have to start thinking about, ‘What if this happens to me?’ And my family and my kids will have to be thinking the same thing.

In the case of my grandfather, he would come in and out of his dementia and he would realise what was happening sometimes, and he did not like it too much. I can remember – this is going back 20 or 30 years now – I got a call. I was living with my grandparents at the time. My pop was not that well, and I got a call from my nan, who was in tears – I was at work – because he had thrown an axe at Nan. To put it in picture, Pop was about 80. I do not think he had thrown the axe too far, but when it came to restrictive practices, hiding sharp implements was a good step at that time in our family, because for people with dementia, like in the case of my grandfather, when they realise what is happening, it is not a lot of fun, and so they can act out.

And so there are times when you do need to have restrictions on those people, whether they be, as the bill specifies, chemical or environmental restraints, like the use of locked doors, or mechanical, such as the use of harnesses or bed rails or physical restraint. Nobody wants to do those things to anybody, but the reality is that sometimes it is necessary. There was another time that my nan rang – I was at work as well – because he had thrown a TV. Again, I do not think he threw the TV too hard or too far. But it does highlight that as much as we do not want to restrict anyone’s freedom, no matter what their medical situation, there are times when it needs to be done. I go back to the order of precedence in this. It is very important – especially if you are looking forward, obviously not longingly, to a potential prognosis of you losing yourself in dementia – to give people more agency at the start of that disease to know who they are entrusting. Obviously that is the most important choice.

In the case of my father, who had frontotemporal dementia, by the time we realised that there was something really going on, he probably did not have the cognisance to really make those choices. My mother would not have had it any other way, as a lot of people would, and she would not let him go into a home. She looked after him for five years, and that was easier at the start and very difficult at

the end. There was no question in our circumstances who would be in charge, but that does not work for everybody – not everyone has what my father had. I had been doing the finances for five years. My sister happens to be a lawyer and does all the legal stuff, so that is handy. We had the power of attorney sorted out. We were in a very lucky position that we could be there and we could assist Mum, but carers do so much work.

Having a next of kin identified based on close relationships, as it says in the bill, when that ability, like my father's, is taken away from you by the disease that you have got, having the ability to know that it is someone close to you, it is someone you trust, and in a situation where a family can come together – that is the next best thing. But not everyone has that either. There are times where practitioners, the state, need to come in because there is no-one else. I think our aged care sector and our aged care workers – whether they be public, private, faith-based organisations or whatever – by and large do everything they can to benefit the people that are in their care, and they do a fantastic job. While I have got the moment, I could not speak higher of the care and support that Uniting AgeWell gave my mother, and the family doctor – everyone chipped in.

I would say, though – and again this is federal, and I am not necessarily having a go at our federal government – that the current system for dementia that we have in funding care is not adequate to the costs of looking after someone, and we discovered this. For the last six months of my father's life, he was pretty well in a bed, or he would get moved to the chair in the morning and he would get moved back to the bed in the evening. He would be changed, he would be fed and we had care coming in. He worked as a pharmacist. He made good money. We were in a very luxurious position. We could afford to pay whatever it cost. He deserved all of that and good on him. But for the last five or six months – again, we were looking after him at home, and there is a lot of privilege there – the cost to Mum effectively was about 16 grand a month.

Again, we could afford that, and I am not begrudging it. We got the money that we got from the government and then we paid whatever else it was, and he deserved every cent. But we are very lucky. Most people do not have anywhere near that amount of money to care for a loved one. Yet we all expect that we will have dignity for every day that we are on this earth. I think as a country we could do a little bit more in regard to funding for that care. As I said, I have no complaints with Uniting AgeWell. They were fantastic. It is a very stressful situation for people to go through end of life with a loved one, much more stressful if you happen to be the loved one themselves. I am glad to hear that the opposition are with us on this; I appreciate that. I think it is a good bill. I commend it to the house.

Iwan WALTERS (Greenvale) (18:16): It is a pleasure to rise to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, particularly after the contribution of the Deputy Speaker. A lot of the themes that he discussed I think are resonant to all of us in this house who have had family members experience dementia. As I will reference later in my contribution, in the context of an ageing society the incidence of dementia is rising as a consequence of people living for longer. The shards of fate and the quirks of genetics mean that none of us really know what future awaits us, and in the context of aged care and dementia we do not know who among us may be afflicted by that disease in later years. There is that expectation that we will be treated with dignity, as we would wish our family members to be treated with dignity, so I thank the Deputy Speaker for his contribution.

I do at the outset pick up on some of his comments in relation to the federal responsibilities in this sphere. This is a very welcome bill and it is an important bill, and I am glad that it will enjoy bipartisan support, but the bill in itself does not provide for any regulation or oversight of the use of restrictive practices or aged care services more broadly. They are in the remit of the Commonwealth, primarily via the Aged Care Act 1997 and the amendments made to that subsequent to the Royal Commission into Aged Care Quality and Safety that was instigated by the previous federal government. That is in contrast with the regulation of restrictive practices in the context of disability services in Victoria, for example, Acting Speaker Mullahy. This Parliament has passed a number of pieces of legislation even in the time that you and I have been here, picking up on another royal commission, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, and the lessons

out of that on the need for appropriate regulation and oversight of restrictive practices in disability accommodation and to ensure that they are there as a last resort. I think that last resort point is really critical, both in the context of disability services and accommodation but also in the context of aged care.

As the Deputy Speaker in his contribution referenced in the context of some of his family members, there are instances where people who are afflicted by dementia are confused and frightened and exhibit behaviours which they would not have if they were, as it were, *compos mentis* and their previous selves, and that confusion and fear can lead to violence. There is a case before a New South Wales court at the moment of a tragic incident in Cooma, and I am not going to talk about that in too much detail because it is clearly *sub judice*. There is that story and so many others – including what the Deputy Speaker has talked about and what I have experienced in my own family – where loved ones demonstrate behaviours that are so divorced from what you would associate as being their normal personality and where they exhibit that violence. It is born of a confusion and of a fear from not knowing who they are or where they are.

I think it is important to say as well at the outset that that is the reality that aged care workers are grappling with on a daily basis. I pay tribute to our aged care workers in Victoria, many of whom are employed directly by the state government, who are providing care for the residents of the some 9000 beds that are provided directly by the state government – disproportionately in rural and regional areas, where often that public aged care is the only form of care that is available in those towns. I thank those aged care workers for the incredibly important work that they do and the genuine care that they provide, because it is a difficult job, it is an important job and it is something which so many of us will come to depend on ourselves and so many of our family members either have depended or will depend upon. It is something that we owe a significant debt of gratitude for, because it is work that is not paid well enough.

That is one of the findings, clearly, out of the royal commission. It has been an area that has had poor regulation; it is an area where the use of restrictive practices has been I think inadequately oversights, to mangle a phrase, which is a really difficult environment in part because of the challenging behaviours that some people living with dementia can exhibit.

We have heard a lot about the nature of this bill, the way in which it provides for a hierarchy of decision-makers and, as the Deputy Speaker again was saying in his contribution, seeks to provide agency to people while they have the capacity to use it and to appoint nominees, to nominate next of kin, while this bill also provides in that last resort decision-makers to be appointed by VCAT if there are no nominees or next of kin. It really provides clarity for the operators of aged care facilities and those who work within them and also includes new offences for inducing decision-making nomination or fraudulently acting as a decision-maker, so really strengthening the consequences for malfeasance in this space, which is so important.

We know of course that the bill has its origins in that royal commission that I spoke of earlier. In Victoria we have had a temporary hierarchy in place since 2022 but no legislative underpinning for that hierarchy. It is so important that we bring that through this house and the other place as quickly as possible to provide certainty to the operators of aged care facilities and those who work within them but also confidence to families and indeed Victorians who may be ageing and, as with all of us, may find themselves living in residential aged care facilities in due course.

What I want to really dwell upon is the need for restrictive practices to be a last resort. As I say, the incidence of dementia in our community is growing. Because of the many advances that have been made in the fields of public health and preventable medicine, we are living on average for longer. The corollary of that longevity, though, is that the diseases of ageing are becoming more prevalent – diseases like dementia perhaps visibly, although maybe it is not visible. Maybe that is part of the problem. Maybe the fact that so many Victorians who live with dementia are living in residential aged care facilities means that it is not necessarily front of mind for perhaps us as legislators but also the

community more broadly, when it is something which is so prevalent and will impact many of us directly in our later years but, as I say, touches upon so many families.

That is why I think the bill is really important because it touches upon the principle of how we would want to be treated. It is a really practical application of the golden rule, if you like. It is not an abstract one. We talk about doing unto others as we would have done unto ourselves quite a lot in those abstract terms. This is really practical and relevant because one of the immutable facts of life is that we will all get older and we will indeed leave this mortal coil at some point, and along the way we do not know who among us may be affected by dementia at some point and lose that sense of personhood and agency that is integral to the human experience. The Deputy Speaker spoke very eloquently about that as well.

What would we want for ourselves in that circumstance? What is it that we would want for our family members? It is not abstract. These are the shards of fate that exist. My grandmother lived with dementia in her later years. I think we as a family were blessed in the sense that Nanna was not violent. In part that was because she was at home for most of that journey with family members who loved and cared for her and provided that familiarity to the greatest extent possible. There was a sense of surety that surrounded her.

I was in a position a few years ago where I was the only member of my extended family who was close to my grandfather in his last years. He did not suffer from dementia, but he suffered from ageing. He became old and he became frail, and he was in and out of hospital. I was there with him for a lot of that experience. It was in another jurisdiction where, frankly, the hospital care and the social care was not as good as it is in Victoria and Australia. I recall very vividly the experience of being with him on a geriatric ward and the terror that surrounded him, the shrieks and the screams and the deep distress of so many of the other patients on that ward who were suffering from dementia, who did not know where they were, why they were there and who were encumbered by restrictive practices. It was really quite confronting to see and experience. It drove home to me the need to ensure that, wherever possible, we have appropriate regulation in the application of those restrictive practices and, in the context of this bill, to ensure that wherever possible there is agency for those who are experiencing dementia. This bill, with the hierarchy that it imposes, gives them that right at the earliest possible opportunity and then builds in some safeguards once people have dementia and may not have that agency directly. I commend the bill to the house.

Anthony CIANFLONE (Pascoe Vale) (18:26): I too rise to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. In doing so I would like to of course commend the Minister for Ageing, Minister Stitt in the other place, for bringing this bill to the Parliament. I acknowledge her office, departments and stakeholders for their work in progressing these reforms.

I would also like to particularly acknowledge some of the other contributions that we have heard through this really wideranging and in-depth debate, particularly the member for South-West Coast, who is at the table, for her very heartfelt contribution in relation to her story and her family's experience with respect to her mother, who we all acknowledge and sympathise with in many different ways. Thank you for sharing that. The member for Ashwood shared a very in-depth recent experience of his family with respect to his father, who passed away as of April this year. Also I thank the member for Greenvale for his very insightful and thought-provoking contribution in relation to the fact that all of us will end up, whether we want to or not, at the end of life's journey one day and some of us may experience it more healthily than others. Ensuring we progress reforms such as the ones contained in this bill today in a manner that makes that provision for all of us, regardless of how we are at that stage in life, with that capacity to make decisions, informed or otherwise, is very, very important.

I would like to also acknowledge the contribution generally of our aged and elderly community in helping us build a modern, vibrant and prosperous Victoria that we are so fortunate to have inherited. Yesterday we commemorated 11 November on Remembrance Day. Every year on the 11th day of the 11th month at 11 am we pause to remember the anniversary of when the guns fell silent on the Western

Front, marking the end of World War I. But we also pause to reflect on the sacrifices of generations of veterans, men and women who diligently served our country, state and community when called upon to do so.

Along with giving thanks to our service personnel, it is also the contribution of generations of previous Victorian elders that we must never forget but continue to respect, elders from our First Nations communities who for 60,000 years provided custodianship to the lands we have now founded our communities on; our first settlers, pioneers and early generations of migrants who went on to create and build the modern Australia we now inherit; and the generations of culturally and linguistically diverse migrants who worked hard and who continue to contribute to make Victoria an even more vibrant place. When combined it really is the contributions and sacrifices of our elders across our community who we should remain eternally grateful to and thankful for.

That is why we must continue to do all that we can as policymakers to ensure that we treat and support our older, elderly, retiree and pensioner communities as best we can so that all Victorians can be supported to age well, live healthy, active and purposeful lives as they grow older, and to ensure older Victorians are able to safely age at home or in appropriate care settings with the opportunity to maintain independence, dignity and connection to family, friends and community, whether they have the capacity to decide for themselves, as I said earlier, or not. For elderly residents who may not have the health means or capacity to remain in their own homes, we know that aged care homes, accommodation and facilities play that critical role in delivering aged care for old Victorians who would otherwise struggle to find and afford appropriate care.

As highlighted through the Commonwealth 2021 Royal Commission into Aged Care Quality and Safety, Australia's aged care system has long provided subsidised care and support to older people. It is a large and complex system that has evolved over time, with Australia's demographics significantly influencing demand for the provision of care and types of care. The aged care sector is now, as the member for Greenvale pointed out, experiencing an ageing population with increasing frailty as Australians live longer than ever before.

It is projected that the number of Australians aged 85 years and over will increase from 515,000, or 2 per cent of the population today, to more than 1.5 million by 2058, or almost 4 per cent of the population. With advanced age comes greater frailty, with older people more likely to have more than one health condition as their life expectancy increases, namely around memory and mobility disorders, including dementia and Alzheimer's more predominantly. The commission also identified that the aged care sector is one of Australia's largest employer and service industries, with the most recent national aged care workforce census finding that the sector was home to 366,000 paid workers, making up 84 per cent of the sector, and 68,000 volunteers, or 16 per cent of the sector. At a state level we have got the *Ageing Well in Victoria* strategy to guide our work as a government. In 2021 we had 1.5 million Victorians aged 60 and over, or 22 per cent the population, and by 2046 it is anticipated that this age cohort will increase by 60 per cent to more than 2.3 million people and that over 25 per cent of the population will be over the age of 60 by then. Of course our ageing well strategy sets out our aspirations and key policy initiatives to help support that growing community cohort.

At a local level, at Merri-bek in my community we are supporting through council our elderly community through the *Living and Ageing Well in Merri-bek* framework. We currently have quite a high proportion of residents in all age groups over 75, which is higher than the Melbourne and Australian averages. Empty nesters and retirees aged 60 to 69 account for 12,900 residents, or 7.6 per cent of our community, and over 12,400 residents are considered seniors, aged between 70 and 84 years of age, making up 7.3 per cent of our community. Over 4600 residents are aged 85 years and over, or 2.7 per cent of our community, compared to 2 per cent across greater Melbourne.

Council does magnificent work in this space. I have got to commend them in that respect. They continue to engage their aged services in-house, contrary to some of the federal government reforms in recent years, and council's Meals on Wheels program last year delivered almost 60,000 meals to

local residents. The Bob Hawke community centre just behind Sydney Road, which has been going strong for many years, continues to produce and operate to deliver those meals to this very day. In June the council also hosted a northern elder abuse prevention network event at the town hall in partnership with Merri Health. Of course, as we have seen through the Australian Commonwealth government's Royal Commission into Aged Care Quality and Safety, there have been a number of issues, to say the least, that have been highlighted that require urgent attention, more so at a federal level but which also have a flow-on effect at a state level, which brings me to the bill today.

One of those most concerning areas of shortcoming across the sector relates to the use, or the overuse, of restrictive practices, which are actions that restrict the rights and freedom of movement of an aged care resident and are intended to manage the behaviour of an aged care resident which poses a risk to safety for aged care residents, staff and visitors, and supposedly they are to be used as a last resort. The five categories with respect to restrictive practices include chemical restraint, such as the use of medication; environmental restraint, such as use of locked doors; mechanical restraint, such as the use of harnesses or bed rails; physical restraints, such as the use of force; and seclusion. Restrictive practices can only be used where necessary for the least amount of time in the least restrictive form and only as a last resort where all other options have been explored, and I draw the chamber's attention to page 93 in particular of the royal commission's report, which goes through the issues around restrictive practices in quite some detail and informs the recommendations and in many ways sets the framework for today's reforms, because this bill will basically bring Victoria into line with the federal reforms that have been introduced that really do provide that clear consistency at a state and a national level as to how, when and why these practices can be utilised.

With the time I have, I would also like to pay tribute to the aged care home services and workers across my community for the roles they play in supporting our older residents. I would like to acknowledge Dorothy Impey Home at 317A O'Hea Street in Pascoe Vale. It is a community not-for-profit aged care facility with the complex named after long-time Coburg resident and former mayoress Dorothy Impey. First opening its doors in 1971, the home emerged and grew out of the early work of Dorothy alongside the Coburg Benevolent Society, Rotary and community support, and created a dedicated hostel-type accommodation and aged care facility, which was originally further north up on Cumberland Road. But in 2009 Dorothy Impey Home relocated to its new modern expanded facility on O'Hea Street, bound by Cumberland Road and Eastgate Street, now supporting just under 100 residents in its state-of-the-art facility.

It is just over the road from my place as well. Guided by their motto of 'Tapestry of caring', the home has continued to be led and guided by Dorothy's daughter, Heather Gray, who literally was born into the job through the family and continues to do a great job to this very day. It supports many of our local homes with their aged care workers and it services many neighbouring training organisations, including the Victorian Co-operative on Children's Services for Ethnic Groups. VICSEG was established in 1981 and focuses its efforts on training and skilling-up newly arrived migrants and refugees in sectors of skills demand, including aged care, and including currently providing a certificate III in ageing and disability support.

It was an absolute pleasure, to say the least, to have welcomed the Premier last week, on 6 November, to officially open VICSEG's new jobs, skills and learning hub on the corner of Sydney Road, Munro Street and Harding Street. Expanding from their spiritual home further down Munro Street, VICSEG's newest home will help accommodate 60 local jobs of their 160 statewide staff and support local job skill outcomes, including for the aged sector, while also supporting important Coburg Central revitalisation efforts.

Commendations to all who welcomed the Premier, including Maree Raftis, John Raftis, and Casper Zika, and those from our multicultural communities who provided a really warm welcome, including the Italian, Pakistani, Filipino, Lebanese, Persian, Iranian, Punjab/Indian, Sri Lankan, Chinese and Iraqi communities.

Alison MARCHANT (Bellarine) (18:36): It is a pleasure to rise and speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. I would like to start at the outset by saying thank you to those who have given really thoughtful contributions today on this bill.

Whether it is today or tomorrow or in years to come, we are all going to face the challenges of ageing. Each day we are all a bit older, and hopefully a bit wiser, but as we age we will need to face those questions of our care, our health and our independence. I know as a community and a society we do care deeply about the dignity, the comfort and the rights of those who we love and, indeed, their own futures as we all move into those older stages of life. For many, the prospect of entering an aged care facility may be very daunting, a period of transition that means a shift in routines and environments and maybe even personal autonomy. However, when we ensure that there are choices in that decision-making and choices remain central to that care, we can preserve the individuality and dignity of those in the aged care setting. When individuals have choice in their care and their daily routines – it might be meals, social activities or their care plans – they continue to shape their own lives. These choices reinforce that autonomy, giving them control over their experiences in a way that truly gives aged care the continuity of their unique journey rather than a loss of independence.

Choices in aged care can lead to better mental and physical wellbeing. Studies have shown this – that when people have a say in the care, they are happier, healthier and more engaged. They feel respected, seen and valued. Families too find peace when they know their loved ones are supported in making decisions that reflect their wishes. Knowing that their parents or grandparents can decide what they want in their care plan can bring comfort and alleviate concerns for families in knowing that their loved ones are valued.

But in the event that a family member cannot make those decisions, there are further choices to be made, and this is the conversation that we are having today in this place. This does impact countless families and communities. The decisions that we make for our loved ones when they can no longer make decisions for themselves never involve easy conversation, but they are ones that we must face with empathy, responsibility and dignity. For many, there will come a time that cognitive decline or health challenges diminish their capacity to make decisions around their own care. When that time arrives, families, caregivers and professionals do face those profound responsibilities.

I would like to acknowledge the critical role of care providers and those who work in the aged care space. Doctors, nurses, aged care staff and social workers are all integral to providing that guidance, expertise and care. They are not only offering medical insight but providing passionate care that aligns with the dignity and respect that each person deserves.

We have heard a little bit today about the Royal Commission into Aged Care Quality and Safety, which investigated the Australian aged care system. Through that process there were significant concerns about the quality of care, the safety and the transparency. The commission's findings revealed widespread neglect, inadequate staffing, overuse of chemical and physical restraints, which are what we are speaking to today, and a failure to support residents dignity and wellbeing. That final report offered nearly 150 recommendations for substantial reform to improve the standard of care, and I will note that the federal government has begun that journey of major reform to protect the safety, dignity and wellbeing of all of our older Australians. One of the areas, though, addressed in the royal commission was the restrictive practices – methods like physical restraints or sedatives often used to manage behaviours in aged care settings. In response to this the Commonwealth introduced new regulatory requirements aimed at ensuring that restrictive practices were only used as a last resort and under strict conditions.

I just want to talk a little bit about what this bill today does. This bill will establish a hierarchy of decision-makers who can act as a restrictive practice substitute decision-maker in a residential aged care setting in line with the requirements under the Commonwealth Aged Care Act 1997. This bill will allow aged care providers to identify a substitute decision-maker through that hierarchy, and under this bill decision-makers will be identified in the following order of precedence: a substitute decision-

maker nominated by the aged care resident, a next of kin identified based on a close relationship and then further a decision-maker appointed maybe by VCAT should no other decision-maker be available. This bill is much needed in that for aged care residents who may not have that capacity to make decisions, such as in the instance of dementia, a substitute decision-maker can provide consent. It really is necessary to ensure that aged care recipients in that aged care setting have choice over who they want to act as a substitute decision-maker and, where there is no such nominee, who can be appointed as such. It will ensure that residents can trust that, if the time does come, a loved one will be able to act in their best interest.

This bill will ensure that all aged care providers are able to be compliant with the requirements of legislation. It will ensure, as I have said, that there is that trust that we can have someone that will act in our best interest, and the bill will ensure that the aged care providers can have that framework to go to. I do want to, though, just make clear that restrictive practices are actions that are intended to manage the behaviour of aged care residents which may pose a risk to the safety of themselves, staff or visitors. There are five categories that allow restrictive practices: chemical restraints such as medication, environmental restraints, mechanical restraints, physical restraints and seclusion. These are a last resort, where all other options have been explored. This approach today does give appropriate safeguards to protect the rights and interests of people who are living in residential aged care settings.

In conclusion, I would like to just reflect a little bit on a personal situation. I am currently in the situation where I am starting to have a conversation with my own parents. They are both fit. They both still work, volunteer and keep active. But with a recent medical episode we have had to start having the conversation about how at some point they may need assistance at home. Caring for any ageing parent is filled with that love and responsibility but a lot of worry. As our parents age we are in the reverse role, finding ourselves in the role of asking how to best support those who have raised us. I often feel, and I am sure others do, that weight of responsibility, ensuring that they have that comfort and dignity that they deserve. It does come with a bit of anxiety. Are we making the right decisions? Are we doing enough? Is it what they would like? How would they feel about the decisions being made? And if it does come to a point where care is needed, maybe in an aged care home, how will that transition look and feel for all involved?

Making these decisions is not easy, but our loved ones also may need round-the-clock care, and they need those resources to still continue to enjoy a life safely and comfortably. Although this bill does take a piece of legislation that has been devolved from the Commonwealth to the state, I think in this place we would all agree that every Australian and every older Australian should feel confident about accessing that care – high quality and safe care – where it is needed, whether it is at home or in residential care. In the end, how we care for our ageing loved ones I think speaks volumes to who we are as a society and as a community, and I would like to think that we will choose compassion when dealing with this issue. They may be our parents or our grandparents, and it is clear that we need to treat them with the respect, compassion and dignity that they have earned.

Jordan CRUGNALE (Bass) (18:46): I rise to also speak on this bill and at the outset I acknowledge the very moving, very personal, very raw and emotional contributions from many members sitting in the chamber over the course of the day – the member for Mildura, the member for South-West Coast, the Deputy Speaker, the member for Geelong. It is something that we all will face, and we want to make sure that we have that dignity and comfort and respect, and also we acknowledge the journey that the person who is going into aged care has had over the course of their life. Comfort and dignity and compassion are words that have come up in many contributions.

On a personal level, my father went into a nursing home. He is no longer with us. We tried to keep him at home as long as possible, even when he burnt the coffee machine, which he did all the time anyway growing up. It was more around chainsawing the lawn, which was very long, when the lawnmower was not working. It was just one of those signs that it was probably time. This was over in Western Australia, and as much as I would have loved to have him over here, the family thought it best to keep him in the home town. It was really fortunate, as he was dealing with dementia when I

went to visit him what turned out to be three weeks before he passed away, that I had a beautiful week with him where I actually took him out of where he was, and we went on a car trip. He was saying he had issues with his teeth, and I said, 'Well, we'll go to the dentist.' Of course he would not have remembered that the next day, but they had him ready at 9 o'clock and I said, 'Let's just get in the car and go for a drive.' He remembered every landmark of where we grew up. Down at the beach where we used to swim, he really loved looking at the kids playing, remembering that he used to swim with us and teach us how to swim. We had Frank Sinatra playing in the car and *I Did It My Way* came on, and I said to him, 'I'm going to sing this at your funeral. It's just perfect; it just encapsulates you to a tee.' Whilst I did not sing it, we did play it at his funeral three weeks later. He never wanted to go into a home. He was up a ladder up until he was about 87, chainsawing. The chainsaw itself had a few cuts where he had gone from branch to branch and cut the chainsaw. I think he would have probably preferred just falling off a ladder and his life ending at that point, really. But that was just the journey that he was on. Having those moments with him a couple of weeks before he died was very treasured.

This bill also places residents' preferences at the centre and prioritises the residents' own choice of substitute decision-making, as has been spoken about. It upholds the autonomy and dignity of older Victorians, and this ensures that even if a resident cannot make decisions directly, their own wishes are still respected as much as possible.

Also there are a lot of people that are not elders in the community that are having to go into aged care or are having dementia at a very, very young age, and that is a topic for another conversation.

Our government recognises the importance of aged care and ensuring that it is funded properly. Since 2015–16 we have invested more than \$700 million in public sector residential aged care facilities. I want to acknowledge a few in my electorate. The Kooweerup Regional Health Service have a beautiful aged care service. It is safe, secure, caring and comfortable; it is set in verdant surrounds; it is really homely and welcoming; and everyone that works in that facility is just gold – an absolute gem. There are pianos placed in different sections, and it is one of those places that are truly supported by the nurses, support workers, doctors, allied health, cleaners, cooks – everyone that works there. The staff in these services wrap their arms around the family as well, because it can be a really difficult journey to go through. In the Bass Coast I have Kirrak House and Griffiths Point Lodge. Griffiths Point Lodge is in a very beautiful setting overlooking San Remo in Western Port Bay, and Kirrak House is in Wonthaggi. The staff at our aged care services are dedicated, they care, and as I said they are a beautiful support to families. They really do keep residents at the centre.

With this bill we have spoken about the hierarchy – that is actually in response to the Royal Commission into Aged Care Quality and Safety. The Commonwealth introduced new requirements for restrictive practices to be used only with the consent of the aged care recipient, or their substitute decision-maker if the resident does not have capacity to provide consent. The substitute decision-maker is determined by state or territory law. Victoria's existing legislation does not cover who can act on behalf of another person in relation to consenting to restrictive practices in residential aged care. Under the Aged Care Act 1997 the aged care provider is required to seek informed consent for the use of restrictive practices, either from the care recipient or from the substitute decision-maker if they do not have the capacity. The burden to ensure that informed consent is received falls on the aged care provider, and the aged care provider must be satisfied that the aged care recipient has the capacity to understand the reason for the proposed intervention, the available options and the risks and benefits of those options; has come to a considered decision; and is able to communicate the decision. If the individual is not able to understand, make or communicate a decision, even with appropriate support, then they do not have the capacity to provide informed consent for themselves.

People will be supported to make decisions. Older Victorians will be able to access existing supports to assist them in making advance decisions around their care and substitute decision-makers. Independent advocacy and support services will continue to have a role in assisting decision-makers to make decisions about their loved ones living in residential aged care, and as needed Victorians will continue to be able to seek help from organisations such as Victoria Legal Aid; the Older Persons

Advocacy Network, who are amazing; and Seniors Rights Victoria. Under the *Quality of Care Principles 2014* substitute decision-makers must receive a copy of the behavioural support plan. Aged care providers must also consult with substitute decision-makers on this plan, which will include allowing decision-makers to ask questions, review details of the proposed restrictive practices and work with a provider to develop appropriate behavioural supports for the care recipient.

The bill provides much-needed clarity, in summation, for aged care providers, who often face difficult situations where it is unclear who has the authority to make decisions. It also gives families reassurance that decisions will be made by those who know and care about the resident, or by VCAT if necessary. The bill will come into effect in July 2025, allowing time for everyone involved – residents, families and aged care providers – to prepare. This timeline means that we can engage with the sector and educate and inform everyone about the new processes as well. Supporting materials will be provided to help everyone understand and work within the new framework. This bill is about respect, protection and clarity. It gives aged care residents the assurance that their wishes will be respected and that their safety is protected. It gives their families peace of mind knowing that there is a clear process in place to make these tough decisions, and it provides aged care providers with clarity so they can focus on what truly matters – the quality of care. I commend the bill to the house.

Belinda WILSON (Narre Warren North) (18:56): I have had the pleasure, I guess, or a lovely afternoon listening to people's stories in this chamber. It is interesting because on both sides of this chamber many people think that we do not like each other or do not know each other and do not know our stories. I think what has been quite lovely and endearing is that this bill has brought a really personal aspect to everyone today. I am really pleased that the member for South-West Coast is in the chamber. I wanted to say your story was heart-wrenching, and I am sorry for what you are going through. I just want to let you know that we are thinking of you, and I know that all of us that heard your contribution felt your pain. I cannot imagine what you are going through, so I really hope that it improves.

As daughters and children to our parents, it is always difficult to see them age and get old. We do not think we are ageing or getting old, and then suddenly our grandparents are not there anymore and we turn then to our parents ageing. They are hard things to face. For me, it was my grandma. I was very, very close with my grandma, and she had a major stroke. This all happened about 10 years ago. She was incredible for her age. She was 88, very fit, went out every day on her own, and then suddenly overnight she had a major stroke and she became a different person. We wanted to give her the best care we could. We always said we would never put her into care, but for us that option was taken away. I know the member for Ashwood spoke about how expensive aged care can be, and we went through that process. For us, we were able to visit her every day, between my mum and me, over a five-year period, where we fed her and gave her company. It was difficult to see other people in that place that never got a visitor. The care shifted; it was different for them. I think because we were around so much they could see how much care and love we had. That is not to say that other people in her facility did not have any care or love. I think what is interesting when people go into care is that they think they will be looked after, but the visitors drop away. That is hard.

I think COVID showed us very strongly, through that period, our aged care system and its flaws. I think many of those flaws came to light. I know that our federal government has been working really hard to try and fill those gaps and make some major changes to our aged care system, which I know our state government really supports and we feel really strongly about. Aged care is challenging. I know that there have been many contributions about dementia. There have been many contributions about people not being able to walk anymore and being on lifting hoists, about people with one partner with dementia, with one very well and one looking after the other one. I think the other thing that happens with aged care is that once one partner falls or has an episode we suddenly see the gaps in the second partner. That is what happens.

Business interrupted under sessional orders.

Adjournment

The DEPUTY SPEAKER: The question is:

That the house now adjourns.

Caulfield Racecourse Reserve

David SOUTHWICK (Caulfield) (19:00): (911) My adjournment tonight is to the Premier, and the action that I seek is that the Premier intervene to guarantee that the Caulfield and surrounds community get their fair share and proper access to the Caulfield Racecourse Reserve. This is an issue that I have been talking about for a long time now. I have been working with the member for Oakleigh, the Minister for Environment and Minister for Tourism, Sport and Major Events, who is in a neighbouring electorate, and he oversees a number of the uses of the land reserve at the Caulfield Racecourse Reserve. Unfortunately, we have an issue in terms of managing racing and also the open space. We heard the Minister for Racing today get up and talk very proudly about the importance of racing, and we acknowledge and support that, but at the same time we need to ensure that outside of racing the locals around Caulfield get access to the racetrack. That was the idea about Caulfield Racecourse Reserve Trust, the act, and that is the goodwill that has been working alongside. Unfortunately, there is a stalemate between the Minister for Racing and the Minister for Environment in getting that access.

At the moment, if there is a race day, the Caulfield Racecourse Reserve middle is closed for two days before the races, and if you have a Wednesday meet and a Saturday meet, that means the locals have no access to the racecourse for the whole week, which is absolutely pointless, particularly when you see racing going to 31 race days, up from 24 last year. We are talking about potentially night racing and more racing at Caulfield. We have got to get the balance right to ensure that locals get access to the middle of the racecourse. I know we have a new board at the racecourse, and I look forward to also working with the Melbourne Racing Club in trying to get a solution with all of this, but it is really important we have an act of Parliament that ensures that an important part of the use of the reserve is public open space. The public are being locked out not only during race days but two days before the race days. I would ask the Premier to intervene. Let us get a meeting organised and let us ensure that finally the locals of Caulfield get proper access to the middle of the racecourse. We would love money as well. We know money is tight, but at the very least let us ensure that Caulfield racecourse is open to residents so they can walk their dogs, go for a walk and get better use of the public space.

Sneydes–Point Cook roads, Point Cook

Mathew HILAKARI (Point Cook) (19:02): (912) My adjournment matter is for the Minister for Roads and Road Safety, and the action that I seek from the minister is to join me at the intersection of Sneydes Road and Point Cook Road. This intersection, of course, is one of the most important in the community that I represent because of safety, and the minister has been there several times with me already. She has made a fantastic effort in making sure the department actually understands just how important this road intersection is. She may have seen her life flash before her eyes as I led her across the intersection at one point in time, but it does really just bring home how important the roads are for the community that I represent and those of so many others in this house. I look forward to seeing the minister in the electorate.

Country Fire Authority

Annabelle CLEELAND (Euroa) (19:03): (913) My adjournment this evening is for the Minister for Emergency Services, and the action I seek is for the government to reduce the amount that CFA volunteers are paying towards the fire services levy. The fire services levy, which is currently paid by all Victorian landowners, was increased significantly by Labor in this year's state budget. For what was supposed to be a contribution to the state's fire service levy, our local CFA brigades seem to be getting the rough end of the stick. Our brigades are suffering from a lack of investment, delays of crucial infrastructure and vehicle upgrades and a massively declining volunteer force. With the release

of the rates notice earlier this year, property owners began seeing the impact this recent increase was having on their bills and they were understandably upset. Many of these property owners are themselves volunteer firefighters and are now paying out of pocket for a levy that will never end up assisting their local brigade. This government said the impact of the fire levy increase on household bills would be minimal, but I asked the members of our community to explain how much they are paying and what impact the cost is having on their life.

[QUOTES AND NAMES AWAITING VERIFICATION]

Will Dukka said:

As a farmer and CFA volunteer, it is infuriating to see the fire services levy on our rates, knowing that the very people who volunteer to fight fires are being charged for services that do not even support us. Our fire truck is 30 years old.

Dennis and Dianne Mackerel of Kithbrook said:

The sharp increase in the fire levy has jumped a staggering \$300 year on year. As someone who has volunteered with the CFA for over 50 years, this feels like a slap in the face.

Gary McLarty of Seymour said:

The fire levy has become a heavy burden on farmers, with little to no return. Despite the levy being collected across Victoria, we have no idea where or how it is spent. My total rate bill has now hit \$18,000. This is another unfair tax that is out of control. As a volunteer firefighter we are being told our budget has been cut, yet I am paying an additional \$831 in the levy.

Claire Toohey from Colbinabbin said:

We're facing an unsustainable burden, an additional \$1800 in fire services levy and \$7000 in overall rate increases. Without immediate action, these rate increases threaten the very survival of our farming operation.

Our volunteer firefighters and farmers have made it clear that they deserve better. While they are left with the higher bills, the volunteer CFA brigades that they are so proud to be a part of continue to suffer from neglect under the Allan Labor government. This government cannot manage our emergency services, and unfortunately it is our regional volunteers and brigades that will pay the price this fire season.

Apprenticeships

Gary MAAS (Narre Warren South) (19:06): (914) The adjournment matter I wish to raise is for the attention of the Minister for Skills and TAFE in the other place, and it concerns the apprenticeships taskforce report. The action that I seek is that the minister provide an update on the Allan Labor government's response to the apprenticeships taskforce report, which will support apprentices in my electorate of Narre Warren South. We need our tradies now more than ever, and we need more of them. They keep our state running, from all small maintenance issues to large projects, including building our homes, businesses and the Big Build infrastructure.

Part of keeping the place running is upskilling and educating the next generation of tradies through TAFE courses and apprenticeships. It is so important that they receive the support and workplace rights that every worker deserves. The apprenticeships taskforce recommended reforms to address issues including safety, harassment, training quality and fairness of work. This builds on our work in other areas such as workers' mental health as well.

I recently spoke at the Incolink Bluehats conference, where the need for workers to be supported on these issues, including their mental health, was heavily discussed, and it really was a terrific forum. These were once traditionally blokey jobs that did not report workplace issues. Thankfully, now more women are joining the trades workforce and men are starting to understand the importance of talking about their problems, including reporting alleged misconduct. The state government's response to the apprenticeships taskforce report should lead to better and more productive workplaces, where

workers' rights are respected and support is easily accessible. I look forward to sharing the minister's response with my community.

Police resources

Roma BRITNELL (South-West Coast) (19:08): (915) My adjournment matter is to the Minister for Police, and the action I seek is to strengthen the bail and move-on powers and to give police effective tools to manage antisocial behaviour. Unfortunately the number of incidents of public nuisance behaviours, thefts, violence, vandalism, public drunkenness and other acts of intimidation on the streets of Warrnambool has exploded. A small number of people are holding the town to ransom. Whilst traders understand the mental health issues that are often underlying these behaviours, they are at their wits end. Traders are very concerned about the safety of their staff, customers and themselves.

The police are trying their best and have increased foot patrols, but without the necessary tools and laws, the problem does not get solved. There is a continuous cycle of offending by a core group of individuals. Following the change to public drunkenness laws the avenue available to local police is to drive the offender to the drunk tank in Collingwood. Recently a man smashed a shop window in a cafe, which had just been taken over by a new owner, and he was taken into custody by the police, then bailed. Two days later he was walking up the street and saw a lady with an infant in a pram. He was heard to say, 'I'm going to kick that baby,' which he did. He then smashed another window by throwing his skateboard through it. Again he was taken into custody by the police, and bailed yet again.

If a person is prepared to attack a baby, it begs the question: what are they capable of doing next? Yet he was bailed. No wonder the mother of the baby is scared. Two days later he was again causing havoc in the shopping precinct, holding up traffic and causing mayhem through his intimidating behaviour. In another example last week, a shop assistant called the police and ambulance eight days in a row for the same person each day.

On four of those days she was unconscious on the footpath.

The emergency services personnel do not have the tools, laws or facilities to handle the complex issues at stake here. These are people who urgently need mental services intervention. Their behaviour whilst not receiving treatment is negatively impacting the daily lives of traders and the public. There are no boundaries, consequences or treatment given to them, so their behaviours continue like a revolving door. But this is terrifying to the honest people who are trying to work in the shops amid all this frightening intimidation going on around them on a daily basis. This is why I have been campaigning for stronger police laws and for a rehabilitation facility in South-West Coast.

This week the traders are launching a petition to gather public support for the strengthening of laws so that the police can do their job. The petition will be in many businesses around Warrnambool, so I encourage people to get out, support the traders and sign it. That way we will keep the pressure on the government so they change the laws.

Broadmeadows electorate schools

Kathleen MATTHEWS-WARD (Broadmeadows) (19:11): (916) My adjournment matter this evening is for the Minister for Children, and the action I seek is for her to join me on a visit to check out the building progress at the new 130-place early learning centre at Moomba Park Primary School in Fawkner. From next year the centre will offer child care and three- and four-year-old kinder with fabulous outdoor play areas, maternal and child health, a room for community meetings and a playgroup. It has been so exciting to watch the building go up – one of the first of the 50 government-owned and government-run early learning and childcare centres being built as part of the Victorian government's Best Start, Best Life program, as promised at the election.

Work is also progressing well on another election commitment of mine in Fawkner, the \$14.5 million investment in John Fawkner College, which will deliver world-class science, technology, arts and food

tech buildings and new classrooms. I enjoyed our visit to the opening of the \$1.7 million extension at Lorne Street Kindergarten with the minister recently, and it was great to see the \$8.1 million investment in new buildings at the adjoining Fawkner Primary, delivering great education for our local kids. I look forward to being in Fawkner again with the minister. Education remains my number one priority, and I am so proud of Labor's investment in both education and early years.

Housing

Gabrielle DE VIETRI (Richmond) (19:12): (917) My adjournment is for the Minister for Housing, and the action I seek is to review the definition of 'affordable housing' to ensure that it is genuinely affordable. What does affordable housing actually mean? For most people it means that you can pay for the home that you live in, put food on the table, go to the doctor, maybe even save a little for emergencies or for the future. Experts define it as paying at most 30 per cent of your income on rent or a mortgage. But for Labor the word 'affordable' has lost all meaning.

The law says that 'affordable' can be anything that is appropriate for people earning up to \$74,000 a year or families earning up to \$154,000 a year. But get this: the government has left what it considers appropriate entirely up to developers. Homes Victoria have made the perverse promise that so-called affordable homes under them will be never more than market rent – in a housing crisis where market rent is through the roof. But do not worry, they have capped it at 30 per cent of the median income. But that is not the tenant's income – no, that would make it genuinely affordable. They have capped it at the median income for the area, which means that if you earn less than the median income – well, you would not be eligible for one of the government's so-called affordable homes in the first place, but if you were, you would be guaranteed to be living in housing stress.

Let us take a closer look at one of the government's so-called affordable homes. These two-bedroom units in Coburg are advertised for \$530 a week, \$10 more than the median rent in the area. Whoever lives there would have to earn \$92,000 a year just to avoid rental stress. Make it make sense. Under this smoke-and-mirrors definition, Labor is selling off vast tracts of public land with the promise that developers will build 10 per cent affordable housing. Never mind the 90 per cent considered in the unaffordable category, under the current laws this poxy commitment will never deliver genuinely affordable housing, because whatever is built by developers will be determined by profit unless we demand a social return. That is why the Greens are calling for the government to build public housing on public land and to make 'affordable' genuinely affordable.

Breast cancer

Pauline RICHARDS (Cranbourne) (19:14): (918) My adjournment is to the Minister for Health, and the action I seek is an update on how the Victorian government is supporting women with metastatic breast cancer. On Sunday 8 September we lost our darling, silly, sassy, smart, supersavvy and stoic Janine Callanan after a fierce battle with metastatic cancer.

[NAMES AWAITING VERIFICATION]

Janine was so full of love, and I felt that love in the room at Ringwood Private Hospital in her final days, when she brought so many people together. I am in awe of the love from J's family, who shared her with us, especially in those last precious days, including Vanessa, Leigh and all the Queens and St James children. I am grateful to have watched this woman demonstrate how to have a great love in her life – in her partner and husband John Sexton. Both of their eyes sparkled when they spoke to and about each other. J had great love for her parents, Paul and Norma, her brothers and sisters, Megan, Paul, Kate, Sean and Patrick and of course her many cousins, nieces and nephews, who she followed with pride. J had huge love for her friends, because Janine was a ripper friend, and that is what I miss most. But more than any other part of her life, the one role she loved most was as a mother to her five children. So to Matilda, Charlie, George, Henry and Mary: she loved you fiercely. And her children are so much like her mother.

Twenty-two years ago I met this woman at kinder. She was always just on time but usually a little bit late, and alongside Beth Barclay and Leeann Cairnduff we became each other's village. Janine loved being a mother, and she loved to make us feel good about ourselves. She never used words like 'validate', because she was not a Kumbaya type, but I reckon that was exactly what she did with her smile as big as Christmas, sparkling wit and gentle encouragement that we were good enough. I could have sold tickets to a spot beside Janine on a Saturday watching netball or on Sunday at soccer.

Janine was first diagnosed with cancer 11 years ago and continued to have a huge life with metastatic breast cancer since 2018. And when I said she lived with cancer, did she ever. In the last year alone she worked in a job she loved at the Australian Council for Educational Research alongside her lovely friend Rose Knight. She travelled to Europe and Vietnam. She was an accomplished historian, including on the SBS program *Who Do You Think You Are?* with Heather Ewart. And of course she continued raising her family and raising awareness and support for metastatic breast cancer, including with her beloved Thursday Girls. She walked 5 kilometres just six weeks before we lost her. I pay credit to Janine Margaret Callanan for always being more about action than talk, and I very much look forward to the minister's response.

West Gippsland Hospital

Wayne FARNHAM (Narracan) (19:17): (919) My adjournment this evening is for the Minister for Health, and the action I seek is that the minister give my electorate a firm date for when the West Gippsland Hospital will start. In 2022 the state government made a commitment to building a new West Gippsland Hospital. That hospital was to start in 2024. With seven weeks left to go, no start will happen. I had the unfortunate situation on Sunday to be in the palliative care ward with my father, who passed away Sunday morning. I was sitting there listening to my father and I had said my goodbyes, and he said to me, 'Son, one thing in your job, never let go of your integrity.' So I am asking this government to stand by theirs. They promised to start this hospital in 2024 and to deliver this hospital in 2028.

I was sitting in that ward with my father. It is in a renovated balcony in that hospital. That hospital was built in 1939. I have a large family; I have five sisters and two brothers. We all had to file in there and say goodbye in a very cramped little room. The staff were excellent as they always are. But my family was angry, and rightly so, that we had to say goodbye to our father in these conditions. It is not good enough from this government to promise one thing and not deliver. It is not good enough that I know more of my constituents will have to suffer the indignity of sitting in that crap room saying goodbye to their family. So I am asking the minister to give us a firm date on when this will actually start. I am asking the minister to do what my father said and keep their integrity intact – and also the Treasurer and the Premier. There are three people responsible for this. I want them to stand up and deliver what they said they were going to do.

It is not political capital when you see people going through what they had to go through. This is people's lives. Man up and build the hospital like you said you were going to do.

Kororoit electorate open space

Luba GRIGOROVITCH (Kororoit) (19:20): (920) My adjournment is for the Minister for Environment. The action I seek is for the minister to join me on a tour of Aintree Reserve and the wetlands at Featherwood Park. This is a beautiful part of Victoria's environment, and it is in Kororoit, and I believe that the minister would benefit from doing a walk through the area with me and some of the local members there, who are rightly very proud of what nature has to offer here in Kororoit. I will say I have been lucky enough to go for a walk in this area on a number of occasions, and it is truly worth the visit, so I look forward to the minister joining me and speaking with the locals.

Responses

Vicki WARD (Eltham – Minister for Prevention of Family Violence, Minister for Employment) (19:20): The member for Caulfield had an action for the Premier, which was to intervene to ensure

locals are able to access the Caulfield Racecourse Reserve. The member for Point Cook had an action for the Minister for Roads and Road Safety to join him at a local intersection to continue the conversation regarding safety improvements. The member for Euroa had an action for the Minister for Emergency Services to reduce the amount CFA volunteers are paying for the fire services levy. The member for Narre Warren South had an adjournment matter for the Minister for Skills and TAFE and asked the minister to give an update on the apprentices taskforce report. The member for South-West Coast had an action for the Minister for Police seeking the strengthening of move-on laws and a rehabilitation facility for South-West Coast.

The member for Broadmeadows invited the Minister for Children to come and visit the new 130-place early learning facility that has just been built in her community, of which she is very proud. The member for Richmond had an adjournment for the Minister for Housing seeking to review the definition of affordable housing. The member for Cranbourne – thank you for your words regarding your very loved friend – has an adjournment matter for the Minister for Health seeking to find out more information about the support the government is providing for women with metastatic breast cancer. The member for Narracan – and I am deeply sorry for your loss – had a matter for the Minister for Health regarding wanting to know when the hospital in Gippsland will be built. The member for Kororoit had an adjournment matter for the Minister for Environment to have a tour of a local park and the wetlands.

The DEPUTY SPEAKER: The house stands adjourned until tomorrow morning.

House adjourned 7:22 pm.