



# **Hansard**

## **LEGISLATIVE COUNCIL**

**60th Parliament**

**Tuesday 26 November 2024**



# Members of the Legislative Council

## 60th Parliament

### President

Shaun Leane

### Deputy President

Wendy Lovell

### Leader of the Government in the Legislative Council

Jaclyn Symes

### Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

### Leader of the Opposition in the Legislative Council

Georgie Crozier

### Deputy Leader of the Opposition in the Legislative Council

Evan Mulholland (from 31 August 2023)

Matthew Bach (to 31 August 2023)

Member	Region	Party	Member	Region	Party
Bach, Matthew <sup>1</sup>	North-Eastern Metropolitan	Lib	Luu, Trung	Western Metropolitan	Lib
Batchelor, Ryan	Southern Metropolitan	ALP	Mansfield, Sarah	Western Victoria	Greens
Bath, Melina	Eastern Victoria	Nat	McArthur, Bev	Western Victoria	Lib
Berger, John	Southern Metropolitan	ALP	McCracken, Joe	Western Victoria	Lib
Blandthorn, Lizzie	Western Metropolitan	ALP	McGowan, Nick	North-Eastern Metropolitan	Lib
Bourman, Jeff	Eastern Victoria	SFFP	McIntosh, Tom	Eastern Victoria	ALP
Broad, Gaele	Northern Victoria	Nat	Mulholland, Evan	Northern Metropolitan	Lib
Copsey, Katherine	Southern Metropolitan	Greens	Payne, Rachel	South-Eastern Metropolitan	LCV
Crozier, Georgie	Southern Metropolitan	Lib	Puglielli, Aiv	North-Eastern Metropolitan	Greens
Davis, David	Southern Metropolitan	Lib	Purcell, Georgie	Northern Victoria	AJP
Deeming, Moira <sup>2</sup>	Western Metropolitan	IndLib	Ratnam, Samantha <sup>5</sup>	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem	Northern Metropolitan	DLP
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Gray-Barberio, Anasina <sup>3</sup>	Northern Metropolitan	Greens	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Heath, Renee	Eastern Victoria	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Tierney, Gayle	Western Victoria	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Limbrick, David <sup>4</sup>	South-Eastern Metropolitan	LP	Watt, Sheena	Northern Metropolitan	ALP
Lovell, Wendy	Northern Victoria	Lib	Welch, Richard <sup>6</sup>	North-Eastern Metropolitan	Lib

<sup>1</sup> Resigned 7 December 2023

<sup>2</sup> Lib until 27 March 2023

<sup>3</sup> Appointed 14 November 2024

<sup>4</sup> LDP until 26 July 2023

<sup>5</sup> Resigned 8 November 2024

<sup>6</sup> Appointed 7 February 2024

### Party abbreviations

AJP – Animal Justice Party; ALP – Australian Labor Party; DLP – Democratic Labour Party;

Greens – Australian Greens; IndLib – Independent Liberal; LCV – Legalise Cannabis Victoria;

LDP – Liberal Democratic Party; Lib – Liberal Party of Australia; LP – Libertarian Party;

Nat – National Party of Australia; PHON – Pauline Hanson's One Nation; SFFP – Shooters, Fishers and Farmers Party



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**Tuesday 26 November 2024**

**The PRESIDENT (Shaun Leane) took the chair at 12:02 pm, read the prayer and made an acknowledgement of country.**

*Bills*

**Agriculture and Food Safety Legislation Amendment Bill 2024**

**Duties Amendment (More Homes) Bill 2024**

**Roads and Road Safety Legislation Amendment Bill 2024**

**Subordinate Legislation and Administrative Arrangements Amendment Bill 2024**

**Transport Infrastructure and Planning Legislation Amendment Bill 2024**

*Royal assent*

**The PRESIDENT (12:04):** I have received a message from the Governor, dated 19 November:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the under-mentioned Acts of the present Session presented to her by the Clerk of the Parliaments:

**44/2024** Agriculture and Food Safety Legislation Amendment Act 2024

**45/2024** Duties Amendment (More Homes) Act 2024

**46/2024** Roads and Road Safety Legislation Amendment Act 2024

I have received a further message from the Governor, dated 26 November:

The Governor informs the Legislative Council that she has, on this day, given the Royal Assent to the under-mentioned Acts of the present Session presented to her by the Clerk of the Parliaments:

**47/2024** Subordinate Legislation and Administrative Arrangements Amendment Act 2024

**48/2024** Transport Infrastructure and Planning Legislation Amendment Act 2024

*Questions without notice and ministers statements*

**Windsor Community Children's Centre**

**David DAVIS** (Southern Metropolitan) (12:05): (749) My question is for the Minister for Children. I refer to the Windsor Community Children's Centre and the letter you received from the committee and your response to the committee, which was described on the Save Windsor Community Children's Centre site as 'baffling and disappointing'. Minister, will you confirm that you effectively dismissed the Windsor Community Children's Centre's plea for help?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:05): Thank you, Mr Davis, for your question. I reject the premise of your question at the outset. I certainly know how important it is that every family can access child care and kindergarten in their local area, and as I am sure those opposite are aware, the Victorian government has primary responsibility for kindergarten programs. Indeed we are transforming kindergarten programs. We are transforming childhood education right across this state through our \$14 billion Best Start, Best Life reforms. But I would also note, Mr Davis, and maybe you are confused about this, the Commonwealth government is principally responsible for child care, not the state government. Because the Commonwealth government have not stepped up to the plate and done what they are meant to do in relation to child care, we are doing things as part of our Best Start, Best Life reforms, like building 50 government owned and operated early learning centres. Let me be very clear: child care is a Commonwealth government responsibility, and the local concerns that have been raised in relation to the Windsor community childcare centre predominantly relate to access to community-based childcare provision. They are concerns which I know they have raised with the Commonwealth, and they should

continue to raise them with the Commonwealth because they are primarily the Commonwealth's responsibility.

That said, I can assure the member that the department is continuing to work closely with all of the parties, including the local council, to help ensure that all families have continued access to service provision and most certainly and importantly as part of our responsibilities and our Best Start, Best Life reforms that they have access to a local kindergarten program. But I want to be clear –

**Ingrid Stitt** interjected.

**Lizzie BLANDTHORN:** That is right, as the former minister interjected – for free, a free kindergarten program, which those opposite still cannot actually clear up their position on, whether they support it or they do not support it; it depends on who you talk to. But discussions between the Windsor community childcare centre and Swinburne University of Technology are indeed a matter for those parties, and rezoning questions are currently matters for the Minister for Planning. That said, I was very happy to speak with a member of the Windsor community childcare centre just last sitting week who happened to be here in Parliament attending another event. So these conversations are ongoing.

I remind the chamber that it is a Commonwealth government responsibility, but as is the case, the Victorian government continues to step up where they step out. We are continuing to work to ensure that our Best Start, Best Life reforms are rolled out across the state and that every child has access to free kinder.

**David DAVIS** (Southern Metropolitan) (12:08): The Facebook site of the community children's centre says:

... Minister Lizzie Blandthorn has dismissed the issue, failing to protect WCCC and the land currently zoned for Public Use – Education.

It goes on to say:

This position by Minister Blandthorn is both baffling and disappointing, given that the WCCC operates on Victorian public land zoned for education and has historically provided a balanced mix of ... 50% long day care and 50% kindergarten services.

The lack of state engagement on such a locally significant issue is deeply disappointing for our community.

I therefore ask the minister: will there be free three-year-old kinder at Windsor community childcare centre in 2026 and 2027?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:09): I again thank Mr Davis for his question. I want to be clear: discussions between Windsor Community Children's Centre and the Swinburne University of Technology are a matter for those parties, but what I want to be clear about is that since 2019 we have invested \$2.4 million through more than 75 grants for early childhood in Stonnington.

**David Davis:** On a point of order, President, it is a very specific question about whether there will be three-year-old kinder at this site in 2026 and 2027.

**The PRESIDENT:** I will call the minister.

**Lizzie BLANDTHORN:** This site is not a state government owned site. Commonwealth long day care, as you said, is their responsibility. The service is not a state government service, Mr Davis.

**David Davis:** On a point of order, President, the minister may have inadvertently misled the house. It is a site owned by Swinburne, which is a state government institution.

**The PRESIDENT:** That is a point of debate.

**David Davis:** It is owned by the Victorian taxpayer.



**The PRESIDENT:** There is no point of order. It is a point of debate.

**Lizzie BLANDTHORN:** Let us be clear: since 2019 we have invested \$2.4 million through more than 75 grants for early childhood projects in Stonnington so that every family in Stonnington can have their access –

**David Davis:** On a point of order, President, the minister is heading off on a frolic and ignoring the obvious fact that this is about one specific site. That is the point. She is not relevant.

**The PRESIDENT:** No, that was a point of debate, not a point of order.

**Lizzie BLANDTHORN:** Those opposite do not seem to get it. Child care – long day care, as you said, Mr Davis – is the responsibility of the Commonwealth government. What our government is doing as part of our Best Start, Best Life reforms is ensuring that every child, including every child in Stonnington who is three or four, has access to their kindergarten programs – *(Time expired)*

**David DAVIS** (Southern Metropolitan) (12:11): I move:

That the minister's baffling and disappointing answer be taken into account on the next day of meeting.

**The PRESIDENT:** You know I cannot put that motion. Would you like to try a different one?

**David DAVIS:** I move:

That the minister's answer, such as it was, be taken into account on the next day of meeting.

**Motion agreed to.**

### **Gambling harm**

**Katherine COPSEY** (Southern Metropolitan) (12:11): (750) My question is to the Minister for Corrections. Minister, research tells us that people suffering from gambling harm can engage in fraud or other crimes to repay gambling debts. A study in the ACT estimated that one-third of adults under a custodial sentence engage in gambling at problematic levels. The Victorian Responsible Gambling Foundation undertook research to assess the aggregate burden of harm in our state and included looking at courts and corrections, and one finding was that we do not know the true scale of this problem. For example, the study said:

The jail's ... full of ... young ... women who don't necessarily go in for gambling, who go in drug trafficking ... a consequence of their gambling.

Minister, do you know how many adults currently in custody in Victoria are there because of the harms from gambling?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:12): I thank Ms Copsey for her question and her interest in the harm caused by gambling and addiction. I think it is a major issue that affects our community more broadly, and I know other ministers in this place – Minister Stitt and others – are very interested in this. It is a whole-of-government approach to tackling these vices. In terms of the corrections system, there are almost 6000 prisoners. Obviously I would not have the number of exactly how many would be due to gambling addiction, but we know it is a large number. In fact last week I was at the Vietnamese women's association in Richmond. That is an association that does a lot of work in terms of tackling gambling. One of the major causes for women, especially in the Indochinese community, is gambling debt. That has been one of the number one causes of women entering into our corrections system. It is a large number of people in both the women's and the men's systems. I am proud that as a government we have the lowest rate of incarceration of women of anywhere in the country, and we will continue to do that work because we know that the best way is to divert people away from the criminal justice system, especially when there are issues such as addiction. I do not have the exact figure on hand, as you would appreciate.

**Katherine COPSEY** (Southern Metropolitan) (12:13): Thank you, Minister. I feel you have given a good response to that question. If you are able to come across any figures, we would welcome that, if you wanted to forward them outside the standing orders. You touched on my supplementary. That same research reports frustration at the lack of diversion programs for crimes from gambling harm. For example, one incarcerated person said:

I'd love to see a diversion program. I reckon that would be so good, like they've got for drug and alcohol. Put you on a diversion program rather than put you in prison.

Minister, surely diversion programs would save the state considerable amounts of money and reduce reoffending. Would you support diversion programs for people whose offending behaviour is linked specifically to gambling harm?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:14): I thank Ms Copsey for her supplementary question. In relation to the substantive, I will see what I can provide in relation to the amount of people in our adult corrections system affected by gambling. But more broadly, in terms of gambling harm and early intervention, I think we have invested more than any government in the history of this state in early intervention and prevention programs, for a cross-section of different reasons – being drug and alcohol harm but also gambling being a major cause. As a minister in this portfolio, I always advocate for greater resources and focus on these issues. These are not just justice issues, they are broader community issues. We all know someone that has been affected by gambling harm in our own families and own communities. I think it is an issue that we need to tackle, and we need a whole-of-government approach to solve it.

**The PRESIDENT:** A former member of this chamber Rod Barton is in the gallery.

#### **Ministers statements: emergency services**

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:15): I am going to use the opportunity today to talk about my visit to Heathcote with the Premier. There we met with local volunteers at the recently acquired site on Herriot Street, which is set to become the new co-located home of Heathcote VICSES and the CFA. The current CFA and VICSES facilities in Heathcote were severely affected by the October 2022 floods, and both agencies are facing growing demand as the Heathcote area grows and there is much interest from people to join these organisations. The new facility has been co-designed in consultation with the CFA and SES. It will provide a space for their combined 70 volunteer members to respond to and train and plan for future emergencies. The facility will feature seven drive-through motor bays and two ancillary sheds, and each agency will have their own administrative offices, turnout areas, laundry and stand-down areas as well as shared facilities that include a large training room, kitchen and storage areas.

Heathcote CFA fire brigade has a long and proud history, operating since 1902, and with 45 members they are going to go from strength to strength. They have attended many significant fire events, including Black Saturday bushfires in 2009 and Gippsland fires in 2019–20, and floods in 2010, 2011 and 2022. The Heathcote VICSES unit was established in 1985 and currently has 25 volunteers who respond to a significant number of road crash rescues along the Northern Highway, with 172 requests for assistance each year at the moment. More than \$23 million has been provided by the Labor government for the new emergency services hubs in Heathcote and also Rochester, which as people would be aware, also sustained significant flood damage. While our emergency services prepare for the fire season, Victorians are urged to have their fire and emergency plans ready and prepare for the risks of grass and bush fires as well as, unfortunately, storms and floods. I look forward to keeping the house updated on the progress of these exciting projects.

#### **Child protection**

**Georgie CROZIER** (Southern Metropolitan) (12:17): (751) My question is to the Minister for Children. Minister, a 14-year-old in state care has been described by police as 'one of our most prolific

youth offenders'. Two weeks ago he was bailed for the 50th time. Police have said his offending, including home invasions and car theft, 'just has not stopped' and is putting the lives of innocent motorists at risk. The magistrate that granted him bail suggested his carers 'step up their supervision of him'. Minister, you as minister are responsible for this young boy, so I ask: when are you going to, as the magistrate has suggested, step up the supervision of him before an innocent Victorian is hurt or killed?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:18): I thank Ms Crozier for her question. At the outset can I, as I always do, acknowledge that children involved in the child protection system are indeed amongst some of the most vulnerable children in our community and indeed have often experienced significant trauma, abuse and at times neglect in their lives as well. These vulnerabilities and experiences can lead to offending and subsequent involvement in the youth justice system. But I would remind those opposite that it is important to remember that correlation is not causation, which is something that those opposite fail to understand. It is also important to recognise that residential care provides a home where children live. It is not a custodial setting. I will repeat that: it is not a custodial setting. If you have a corrections question, then it is appropriate to direct it to the Minister for Corrections. If you have questions in relation to sentencing and bail, then you should also direct those to the right place.

My responsibilities relate to the protection of children in care. Let me be clear: children in care should have access to the same opportunities as all other children do in their communities. As you have rightly pointed out at times in this place, children in care should have an opportunity to engage in their education settings, in social settings, in community settings, in activities outside of the home in the same manner as all of their peers. Before the decision is made to place a young person in residential care it is clear that all other options have been explored, because the preference is always that a child be placed with kin or in a family home. The preference is to place those children in those settings, but where children are in residential care, it is the responsibility of the state to ensure that those children have the same opportunities of education, socialisation and community that other children do.

If a person has been released on bail, I will remind you that they are released to a non-custodial setting. It is important to recognise that residential care settings are a home. They are a home for vulnerable children. They are a place where children live; they are not a custodial setting. It is the responsibility of the child protection system to ensure that those children have access to a home, to an education and to the health and wellbeing services that they need to recover from, often, experiences of abuse and neglect but that they also have opportunities for education and social engagement.

**Georgie CROZIER** (Southern Metropolitan) (12:20): Minister, how many children in state care like this boy are on bail?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:21): Thank you, Ms Crozier, for your question. As I have said, children in residential care are children who are living in a home provided by the state. They are in residential care as a place to live and as a place to experience services and to get access to services like education and like health and wellbeing services that they previously did not necessarily always have the best access to. These are children who have in many ways experienced trauma and experienced neglect that have led them to those settings in the first place. Children in residential care are vulnerable children who need our respect and they need those services. They do not need the politics of those opposite, and I am not going to engage with them.

**Georgie Crozier:** On a point of order, President, it was a very specific question that the minister has willfully failed to answer.

**A member** interjected.

**Georgie Crozier:** I will be raising a point of order at the end of question time, then, to have the question reinstated.

**The PRESIDENT:** I will consider those sorts of points of order at the end of question time.

### **Child sexual abuse**

**Rachel PAYNE** (South-Eastern Metropolitan) (12:22): (752) My question is for the Attorney-General. The recent High Court decision of *Bird v. DP* held that the Roman Catholic Diocese of Ballarat could not be held vicariously liable for known historical child sexual abuse because Father Coffey was not an employee. For many survivors of historical child sexual abuse committed in the church or other non-employment settings like foster care and Scouts, this decision limits their ability to access justice. In their ruling the High Court noted that any reformulation of the law would be the responsibility of the legislator, so I ask: will you actively consider legislative reforms to address this step backwards for survivors of institutional child sexual abuse accessing justice?

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:22): I thank Ms Payne for her question. The short and simple answer to your question is yes. To give you some context to where I am up to in that process, I want to acknowledge that for victims and survivors who have been impacted by this decision it is profound. They have long-existing trauma, and this decision, I know, has had an immense impact – in fact I was first alerted to this decision by a victim-survivor, who let me know what had happened and the impact on the community that he seeks to advocate for. Since the decision I have had a lot of people contact me across the legal profession to raise concerns about the decision. As you have indicated, the High Court has indicated that this is a legislative fix, not a legal fix. That is not as straightforward as it sounds. There is consideration of federal laws – whether they be employment laws or IR laws – and then obviously the Wrongs Act reforms, which were something that we brought in in 2017, and considerations of retrospectivity are not something that I can make commitments to now. I will have to undertake a lot of consultation.

I can confirm to the house that we had the Standing Committee of Attorneys-General on Friday, where I raised this matter – because it is not just confined to Victoria, it is a matter for all jurisdictions. I have been tasked with leading the work on bringing some material back to that committee; we meet in February. I will be taking the opportunity to hear from the legal sector in particular, because they will give me lots of different views, and they will all disagree with one another about potentially what the best fix is. I want to have an open discussion about how we can address this, but I want to do that in a way that involves a lot of consultation as well. I am conscious of the impact and I am conscious of the need, but unintended consequences in this space are something that we cannot rush into, unfortunately. I wish there was a quick fix, I really do, but we are going to take some time. I want to consult broadly, and that is the commitment that I gave SCAG to do. There are even mixed views from different Attorneys across the board on what to do when and how, so hopefully that gives you a bit of a snapshot of where I am up to.

**Rachel Payne:** I thank the Attorney for her response, and it actually answered my supplementary question as well.

### **Ministers statements: Deakin University**

**Gayle TIERNEY** (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:25): I rise to recognise a special milestone for Deakin University, one of Victoria's world-class regional universities. Deakin University was established on 10 December 1974, creating regional Victoria's first tertiary institution. This means Deakin University will soon reach and celebrate its 50th anniversary. Over the last century Deakin has made an enormous contribution to our state by connecting working Victorians to jobs through partnerships with industry and business. Deakin now ranks in the top 1 per cent of universities worldwide, with one of the best records of student satisfaction in our state. With campuses in Burwood, in Waurn Ponds, at the Geelong waterfront and in Warrnambool, Deakin has always played a crucial role in education delivery in our regions. This goes back to Deakin's very beginnings, with a strong focus on distance education – what was called distance education in those days. Students were mailed materials and taught in study centres, libraries or ad hoc locations. Off-campus courses were especially popular with women in the

country and rural and working families, where education was made accessible. Regional Deakin student graduates have been able to stay in our regions and find secure employment because of Deakin's regional campuses and its commitment to accessible education. The Allan Labor government has proudly supported Deakin through its higher education state investment fund, with major projects in Warrnambool and Geelong, not to mention Burwood. I am sure that all sides of the chamber will agree that Deakin's growth and success over the last 50 years has been remarkable and deserving of recognition. As minister, I truly wish the university well for its continued success, especially in our Victorian regions.

### Working with children checks

**Georgie CROZIER** (Southern Metropolitan) (12:27): (753) My question again is to the Minister for Children. Minister, Treasury has floated introducing fees for working with children checks as part of Labor's desperate and failing attempt to plug their budget black holes. Has the minister consulted with the Treasurer about the impact of charging parents, volunteers and community workers more for essential checks?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:28): The working with children check does not fall within my portfolio of responsibilities, and those opposite might like to check the general orders.

**Georgie Crozier:** On a point of order, President, I am well aware of whose responsibility this is, but this is in relation to your portfolio that you are responsible for – working with children checks for foster carers and the like who need working with children checks. Have you had that discussion with the Treasurer?

**The PRESIDENT:** Order! You are debating the point of order. The minister's answer is that it is not within her responsibility, and that is her answer.

**Georgie CROZIER** (Southern Metropolitan) (12:28): The minister has responsibility for those working with children. This is in relation to working with children checks, which you actually have to ensure that your workers, foster carers and the like, are complying with. So I will ask: under Labor in the midst of a cost-of-living crisis, child protection workers, parents and volunteers are already being hit with rising costs; do the minister and her department support increasing working with children check fees when the child protection workforce is already under pressure?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:29): I would again remind those opposite that in line with the general orders the Worker Screening Act is not a responsibility that falls within my portfolio. There are many across our community that work with children, and the issues that you raise would be better directed elsewhere.

### Greyhound racing

**Georgie PURCELL** (Northern Victoria) (12:29): (754) My question is for the minister representing the Minister for Racing. My office recently asked Greyhound Racing Victoria why a dog named Long Sleeves was suddenly listed as deceased after having raced without injury. GRV confirmed that he had died after suffering gangrene in his foot. Instead of being euthanised, this dog suffered until his cause of death was likely organ failure from horrific infection. The email response reads:

Not sure if the greyhound was found dead or it simply became ill quickly ...

It later states that GRV are 'satisfied the greyhound was receiving appropriate care in the lead-up to his death.' Despite these conflicting statements, GRV are refusing further investigation. An independent vet has stated that to die from gangrene is inexcusable and would immediately signal neglect. Will the minister force the industry to have this case independently reviewed?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:30): I thank Ms Purcell for her question and her interest. I will make sure that that question is forwarded on to the Minister for Racing in the other place and that in line with the standing orders there is an appropriate response.

**Georgie PURCELL** (Northern Victoria) (12:31): Thank you, Minister, for referring that on. When dogs die racing, they have their status changed on FastTrack to ‘retired’ with a subcategory of ‘deceased’. No cause of death is provided and the date that the status ticked over is omitted from the record. To find out why dogs have died members of the public must email Greyhound Racing Victoria to ask or wait for data from the annual report. In the 2023–24 report, 415 dogs were euthanised away from the track and a further 204 died without euthanasia from illness, injury or natural causes. Will the minister work with GRV to improve the transparency of live data on FastTrack?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:31): I thank Ms Purcell for her supplementary question and for sharing her concern in relation to those matters raised. I will make sure they are forwarded on to the Minister for Racing in the other place and that you get a response in line with the standing orders.

#### **Ministers statements: Australian Vietnamese Women’s Association**

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:32): I rise today to update the house on my recent visit to the Richmond office of the Australian Vietnamese Women’s Association. The association is a fantastic organisation that is making a profound impact within Victoria’s correctional system and the broader Vietnamese community. During my visit I had the privilege of meeting with the chair Ms Bich-Cam Nguyen, who founded the association in 1983 and was recently honoured with an Order of Australia Medal in this year’s King’s Birthday honours. I also met CEO Nicky Chung and her dedicated team, who are advancing the mission of supporting those in need within the Vietnamese community.

The Australian Vietnamese Women’s Association has partnered with Corrections Victoria since 1997 and delivers the Indochinese prisoner support program across both the men’s and women’s systems. This is the only program in Victoria supporting Vietnamese and Indochinese prisoners with pre- and post-release assistance to help people successfully reintegrate back into the community. The program currently operates across eight prisons, providing support to Vietnamese prisoners who often face language barriers, literacy challenges and migration-related trauma. The program funds two dedicated staff and is expected to make more than 150 prison visits each year. Through this work the Australian Vietnamese Women’s Association helps prisoners build skills, access culturally safe services and reintegrate into the community, and that is good for all Victorians.

Beyond corrections, the Australian Vietnamese Women’s Association delivers a broad range of services to the Vietnamese community and employs over 400 people across our state. Their broad range of support services include age and disability support, vocational training, and alcohol and drug support. I want to take this opportunity to thank the Australian Vietnamese Women’s Association, its leadership and its staff for their exceptional work and for being a great partner. They are not only supporting individuals in the justice system but also strengthening families and communities right across the state.

#### **Fire services**

**Evan MULHOLLAND** (Northern Metropolitan) (12:34): (755) My question is to the Attorney-General. The government has budgeted for a \$186 million increase in the state fire services property levy for this year. At the Public Accounts and Estimates Committee last week Victorian taxpayers learned that your department has not yet forecast the additional revenue that may be allocated through the increase in the fire services property levy to CFA or FRV at this stage. Minister, why is the money not being allocated immediately to new trucks and equipment to support our firefighters?

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:34): Can I just clarify, Mr Mulholland: you addressed that question to the Attorney-General; I would propose that I answer it in my capacity as Minister for Emergency Services and also point out that although I can respond, the fire services property levy is also technically a matter for the Treasurer. Obviously as it is a measure that is an investment in our fire services, FRV and CFA, I can assure you, Mr Mulholland, that the money collected from the fire services property levy does not bring in more than what we spend on fire services. We use consolidated revenue to also support our fire services, both our paid and our volunteer services, because we do not make any apologies for investing in the needs of our volunteers and paid fire services, whether it is fleet, equipment or pay and conditions and the like, and when it comes to their budgets each and every year, we consult with FRV and CFA on their priorities.

**Evan MULHOLLAND** (Northern Metropolitan) (12:36): Minister, will you guarantee that every extra dollar raised through the fire services levy increases will be spent on fire services and will not remain in state government general revenue?

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:36): Thank you, Mr Mulholland. I think I effectively answered your question in answer to your initial question because, as I explained, the fire services property levy helps fund fire services provided by both FRV and CFA. Whilst this is the majority of the funding, it is not all of it, and we use consolidated revenue to top it up. Isn't that pretty clear in answering the question that you have asked? Because we are spending more on fire services than the property levy brings in, we are actually using consolidated revenue to fund fire services. So the way you have described it is not the reality of what is happening, and I think I am on the record many times explaining this. I am not quite sure what you have missed. I am more than happy to take you through how it works, but the way you have questioned it shows a misunderstanding of the reality of how we fund fire services.

#### **Anglesea mine rehabilitation**

**Sarah MANSFIELD** (Western Victoria) (12:37): (756) My question is for the Minister for Water. Alcoa is currently developing plans to rehabilitate their coalmine site in Anglesea. In order to do this, they plan to fill the existing mine pit with water. They have applied for a licence from Southern Rural Water to extract 1.5 gigalitres of groundwater per year for 10 years to do this. That is the equivalent of one MCG full of water annually. For context, Barwon Water is licensed to draw just 0.01 gigalitres per year from the same aquifer to supply the Geelong region in times of drought. Decades of water extraction to fuel mining operations by Alcoa at the Anglesea mine has already resulted in the depletion of underground aquifers and acidification of the Anglesea River, depleting the marine ecology and causing several mass fish kills. There is widespread community concern at Anglesea regarding Alcoa's plan to further extract significant volumes of groundwater and the risk to the Anglesea River and environment. Minister, will you intervene to prevent Alcoa obtaining this licence?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:38): Thank you, Dr Mansfield, for that question. There are really strict considerations around environmental impact that form part of discussions around the allocation of water through licensing, and that will be the case in this decision as it is in every other. When we are working to the allocation of water, we also need to take into consideration a range of other factors. This includes community engagement, where appropriate, and the work of independent statutory bodies and agencies.

It is Alcoa's responsibility to develop a mine rehabilitation process and a plan and to make sure that when mines are rehabilitated the objectives of 'safe, stable and sustainable' are at the heart of that work. This is the case not only at the former Anglesea coalmine site but also in the Latrobe Valley, when we are talking about what mine site rehabilitation looks like there, which is something that I have taken you and colleagues in this chamber to on a number of occasions. We also need to make sure that any water used does not have an unacceptable impact on local waterways and any sort of

groundwater-dependent ecosystems as well. That is part of the framework by which these considerations take place, and it is also about any impact on critical water supplies for the region. It is not limited to one particular site but rather to a broader range of considerations.

SRW – Southern Rural Water – has received that application from Alcoa, and that is about amending the groundwater licence. They are working through that assessment process, as they need to do. That will consider impacts that it is appropriate that they are in a position to consider as part of an established process, and that process needs to run its course.

**Sarah MANSFIELD** (Western Victoria) (12:40): I thank the minister for her response. Filling the Alcoa mine pit with water will result in a lake that is highly acidic and too toxic for any recreational activity, let alone swimming. I suspect it will support limited plant and animal life. Some have said it might be a tourist attraction, but Anglesea is not actually that short of tourist attractions, so I do not think a toxic lake is going to add much. Victoria's south-west is already experiencing the impact of climate change, with less water and a drying climate. Alcoa themselves claim the acidification of the Anglesea River is due to climate change; it is contested, but that is their claim. So, Minister, how can the government justify allowing Alcoa to even consider using precious groundwater to fill this mine pit, particularly in the face of climate change?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:41): Thank you, Dr Mansfield, for that supplementary question. Again, I will take you back to the guiding principles of mine rehabilitation, namely that those sites need to be safe, stable and sustainable. There are a range of ways to achieve that, and this is also something that requires consideration of often a spectrum of different options, whether it is a partial or a full fill of a pit or whether it is some other form of remediation, and also whether that occurs through natural inflows or through the supply of water from recycled and other water resources, for example. Again, Southern Rural Water is undertaking that work. It needs to be able to undertake that work by reference to the sorts of considerations that I outlined, including impact to water supplies in the region and any obvious consequences throughout the area that might affect the health or the sustainability of broader waterway impact. Climate change remains a significant consideration across the broader work of the water portfolio. I will continue to focus on that as a priority.

#### **Ministers statements: Victorian Aboriginal Child and Community Agency**

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:42): I rise to update the house on some important correspondence I received from Muriel Bamblett, CEO of the Victorian Aboriginal Child and Community Agency. She writes:

##### **Unfounded imputations and aspersions made about VACCA in the Legislative Assembly and in the Legislative Council**

I write to raise my disgust and disillusion with the statements made about VACCA by Shadow Minister for Child Protection, Ms Roma Britnell, in the Legislative Assembly on 13 November and by the Leader of the Opposition in the Legislative Council, Ms Georgie Crozier on 14 November 2024.

No effort was made by the Opposition to contact VACCA to verify any information before making a series of –

**David Davis:** On a point of order, President, this is not a ministers statement, as I understand it. This seems a very strange, unusual use of a ministers statement, I would argue, to attack the opposition.

**Harriet Shing:** On the point of order, President, this might be an opportunity for Mr Davis to reflect on the preamble to every single question that he has asked in this Parliament since it was sworn in.

**The PRESIDENT:** I can see that some people have their standing orders open. My understanding, as far as a ministers statement goes, is it says that it gives an opportunity for the minister to make a statement. There is no great impediment other than that.



**Lizzie BLANDTHORN:** She writes:

No effort was made by the Opposition to contact VACCA to verify any information before making a series of assertions casting imputations and aspersions about VACCA that had no basis in fact. I have never even met Ms Britnell since she has been the Opposition Spokesperson for Child Protection. Previous opposition spokesperson Mr Matthew Bach took an interest in the work that VACCA does but not once has Ms Britnell taken the time or care, to understand who we are and what we do. In this context it is difficult to see her enquiries in Parliament as genuine concern about the safety and wellbeing of children but rather as a political stunt.

The Opposition should also be aware that section 534 of the *Children, Youth and Families Act* restricts publication of any details about individual children involved with the child protection system. This is to protect their interests and for this reason, VACCA will not make comment on the details raised by Ms Britnell, except to say the information she presented to the Legislative Assembly is not accurate.

I will however address the statement made by Ms Crozier in the Legislative Council “seeking an independent review into VACCA’s systemic problems”. This statement is deeply troubling to us. Not only does it demonstrate disdain for VACCA but also that the Opposition appears to have no real interest in improving outcomes for vulnerable children. If they did, they wouldn’t make a statement that is so clearly untrue. VACCA has a very proud history as a grass roots ...

**The PRESIDENT:** Minister, your time has expired.

**Lizzie BLANDTHORN:** I move, by leave:

That the document be tabled.

**Leave refused.**

**Jaclyn Symes:** On a point of order, President, the minister has sought leave to table a document. That leave has been denied by the opposition. Could her document be incorporated into her answer so that it is on the public record?

*Members interjecting.*

**The PRESIDENT:** Order! I am responding to Minister Symes’s point of order. You would have to seek leave for that incorporation.

**Jaclyn SYMES:** I seek leave to incorporate the letter into the minister’s statement in *Hansard*.

**Leave refused.**

### Written responses

**The PRESIDENT (12:47):** As far as questions go, I thank Minister Erdogan for Ms Purcell’s two questions to the Minister for Racing. I know you have committed to do so under the standing orders.

**Georgie Crozier:** On a point of order, President, it was a very simple question that I asked the Minister for Children regarding an issue. She did not answer that whatsoever, and I would ask that you have it reinstated. There is plenty of time to be providing that to the house.

**The PRESIDENT:** I am always happy to review, and I take it that was the question around how many children in care are on bail. I know not everyone reads my emails, but I did put out an email about the amount of detail to reasonably expect a minister to have during question time. I am a bit concerned with that. I do commit to Ms Crozier to review it, but I just want to flag that.

### Constituency questions

#### Southern Metropolitan Region

**David DAVIS (Southern Metropolitan) (12:49):** (1268) I am very concerned about the steps the state government is taking on these large and extensive planning zones. What I would seek from the Minister for Planning is a definitive statement about how heritage will be treated within these zones. To be clear, there are the 10 zones that have been announced, the large zones; the 25 smaller zones

that have been announced; and the catchment zones around the large zones in my electorate in Boroondara, Stonnington and Monash and down in the south in Glen Eira, Bayside and Kingston. The state government has not been at all clear about how heritage will be treated. So I ask the minister to make a definitive statement to say that all heritage protections will be honoured in full, that no heritage protections will be watered down and that there will not be a wholesale destruction of heritage in our areas, particularly in Southern Metropolitan. In many cases these are very old buildings that have huge significance to the community, and they should not be destroyed.

#### Northern Victoria Region

**Georgie PURCELL** (Northern Victoria) (12:50): (1269) My question is for the Minister for Health. Mitchell shire is Victoria's fastest growing municipality. Its current population of around 61,000 is projected to grow to 176,000 by 2041. Seymour is one of Victoria's most disadvantaged communities, with a socio-economic disadvantage score that places it in the bottom 3 per cent of the state, a suicide rate 150 per cent of Victoria's average and family violence rates three times the statewide average. One in three children are not completing year 12, and one in five homes are not connected to the internet. The council, alongside service providers, have worked to develop the Seymour Community Wellbeing Hub to provide the desperately needed health and wellbeing services. The federal government has funded this project, while not a single cent has been provided by the state government. Will the minister provide the remaining funds?

#### South-Eastern Metropolitan Region

**Ann-Marie HERMANS** (South-Eastern Metropolitan) (12:51): (1270) My question is to the Minister for Education, and I ask: Minister, can you advise whether additional funding beyond this year will be provided to the young parents education program, YPEP? There is an enormous need for the program to continue in the south-east, particularly since more than 50 referrals of young mothers from April to October this year wanting to continue their education have had to be turned away since August this year. The YPEP is the only one in the country, alongside the young mothers transition program, YMTP, which provides education and mentoring support to young mothers up to 22 years of age who want to continue their education and build a life for themselves and their children. The funding of YPEP runs out this year, and it would be totally unfair to our young women to let this most important and beneficial program become redundant when there is such a big uptake of its services.

#### Western Metropolitan Region

**David ETTERSHPANK** (Western Metropolitan) (12:52): (1271) My constituency question is directed to the Minister for Tourism, Sport and Major Events. My constituent has recently moved to Tarneit from the eastern suburbs and is dismayed by the lack of aquatic and recreation centres for her children in the upcoming summer holidays. According to a 2021 report by Infrastructure Victoria, the City of Wyndham has just one ARC for every 48,000 young people, compared with the City of Melbourne, with one ARC for every 5000 young people. The figure is even worse when accounting for the entire state population – for example, the City of Greater Geelong has roughly twice the number of ARCs per resident. According to Life Saving Victoria, Wyndham is also ranked seventh for drownings. My constituent asks: given that councils have limited capacity to delivery new state-of-the-art aquatic facilities, how does the government intend to jump into the deep end and deliver new pools in the west?

#### Northern Victoria Region

**Wendy LOVELL** (Northern Victoria) (12:53): (1272) My question is for the Minister for Roads and Road Safety. When will the government complete Cameron Street and/or Gunns Gully Road from the Hume Freeway to Merriang Road to provide a northern entry and exit point for housing estates on Donnybrook Road? Seven years ago the *Donnybrook–Woodstock Precinct Structure Plan* provided for two roads running east–west parallel to and north of Donnybrook Road – Cameron Street and Gunns Gully Road. These roads will link the housing estates along Donnybrook Road to each other,

provide alternative routes into and out of the housing estates and provide bridge crossings over the railway line. A recent truck collision on Donnybrook Road caused traffic chaos in both directions for hours and prevented residents from returning home, highlighting Labor's serious planning failures. The minister recently stated that the government was working to deliver an interchange at the Hume Freeway and Gunns Gully Road. This must be done as soon as possible, and the minister must inform my constituents when the road will be completed all the way to Merriang Road.

### Western Victoria Region

**Sarah MANSFIELD** (Western Victoria) (12:59): (1273) My constituents in Geelong have expressed frustration with the continued lack of mobile reception or wi-fi when travelling to and from Melbourne on the V/Line service. Commuters travel for at least 2½ hours every day to earn their living. Ideally, the commute could be spent responding to emails or on other work-related administrative tasks, but anyone who has travelled on V/Line recently will know that this is close to impossible. The Victorian Labor government promised to fix these issues back in 2015, dedicating \$18 million to fixing black spots and installing wi-fi on trains, yet the busiest V/Line route in the state still lacks a consistent internet connection. My question for the Minister for Public and Active Transport is: when will Geelong residents be able to have a consistent internet connection on their V/Line commute?

### Western Victoria Region

**Joe McCracken** (Western Victoria) (12:55): (1274) My question is for the Minister for Creative Industries. Going to a concert should not be a difficult business. You should be able to buy a ticket, line up and attend – it is very simple really. Well, not so. With the rise of artificial intelligence – not AI, but artificial intelligence – and bots, concert tickets are purchased within an instant of them being released online. The average person does not stand a chance. Instead, they are forced to purchase, usually, a scalped ticket, quite often with a hefty mark-up. Minister, I ask you: do you have any plans at all to deal with this very significant matter? It disproportionately impacts younger people, who are being squeezed by ruthless scalpers. Will you implement a system very similar to that in other jurisdictions which requires a form of identification to purchase online tickets? Action is needed before young people suffer and the live music industry's credibility is more at risk.

### South-Eastern Metropolitan Region

**David Limbrick** (South-Eastern Metropolitan) (12:56): (1275) My constituency question is for the minister for energy, the environment and climate change in the other place. The boatsheds at Lang Lang on Western Port Bay are privately owned but have been leased to families for many years, many of them from south-eastern Melbourne. Owners have spent tens of thousands of dollars to buy and maintain them. They pay the lease, park fees and council rates, and this is truly a special place for many families in my electorate. They are devastated that the Department of Energy, Environment and Climate Action want to get rid of the boatsheds and have told owners that they cannot fortify or repair their own seawalls. Once the structures have been damaged, they will be demolished. My question for the minister is: has the Lang Lang strategic extractive resource area proposal, allowing a sand mine in the area, which was issued in October this year, had any influence on why DEECA made this decision?

### Southern Metropolitan Region

**Georgie Crozier** (Southern Metropolitan) (12:57): (1276) My question is to the Minister for Planning. At last night's Boroondara council meeting the Boroondara heritage group and the Boroondara community group presented to council and highlighted their concerns about the government's plan or agenda to bulldoze through, as they called it, and to have towers, skyscrapers and multiple buildings throughout the City of Boroondara. That is going to ruin the neighbourhood character, the tree canopy, the livability and the amenity as well as the heritage. The meeting was attended by hundreds of residents, and the government continues to disregard their concerns. This is not isolated to Boroondara; it is Glen Eira, it is Stonnington, it is in parts of Moonee Ponds and

Essendon – it is right across Melbourne. Under Labor you get no voice and you get no choice. As one speaker said, even when you make representations to the local Labor MPs all you get is them sticking to the script and dismissing your concerns. So I ask that the Minister for Planning, together with the Premier, meet with the residents of Boroondara to hear their concerns about the government’s plans.

### North-Eastern Metropolitan Region

**Aiv PUGLIELLI** (North-Eastern Metropolitan) (12:58): (1277) My question is to the Minister for Transport Infrastructure, and it relates to Bungalook Creek, which runs through my region. Major level crossing removal and train station upgrade works have been undertaken around Bungalook Creek for many years, and I understand they are now completed. This area is part of the proposed eastern suburbs creek parkland, which is a remarkable multi-creek setting which connects adjoining green wedges, wetlands, flood plains, flora and fauna corridors, remnant native vegetation and has a history of Aboriginal cultural heritage. For this project to be undertaken it is vital that the health of Bungalook Creek is protected and the area is restored to its natural health. Can you please assure the community that full environmental rehabilitation will be undertaken to remedy the environmental damage caused by these major projects?

### Western Victoria Region

**Bev McARTHUR** (Western Victoria) (12:59): (1278) My question for the Minister for Education concerns the Victorian School Building Authority’s capital works bundle west 2. The bundle includes Whittlesea college, Fitzroy Primary School, Swan Hill North Primary School and the odd one out, Cobden Technical School. Department of Treasury and Finance prequalification includes project size limits, making this bundling damagingly restrictive for small local businesses. In my electorate BDH Constructions has 30 years experience and recently successfully delivered the Colac specialist school. Their contract limit is \$15 million, enough for almost any standalone school, but when works are bundled like this they cannot bid for the Cobden project. Why are they? These are not identical projects – three are primaries, one is a secondary and Cobden is a technical school – nor are they geographically proximate, as Fitzroy is a long way from Cobden. Minister, will you reissue this project to the market, or will you let the VSBA take the easy way out and favour fewer contracts with larger builders?

### Eastern Victoria Region

**Renee HEATH** (Eastern Victoria) (13:00): (1279) My question is for the Minister for Health. Minister, the Lang Lang community is concerned about the future of the community emergency response team, as the house used by CERT volunteers is up for sale. I understand that Ambulance Victoria has stated that the CERT remains operational. However, the community is concerned that AV did not make a commitment about its future. Further, the community has been informed by a CERT volunteer that:

... Ambulance Victoria is getting rid of our volunteers, and the single responder Ambulance Resource Unit ...

Finally, I am informed that Ambulance Victoria has not processed any applications for new recruits over the past 12 months. Minister, can you confirm whether the government has any plans to close the CERT in Lang Lang, and will you commit to investigating why no new applications to join the CERT have been processed for more than a year?

### Northern Metropolitan Region

**Evan MULHOLLAND** (Northern Metropolitan) (13:01): (1280) My constituency question is to the Minister for Police, and it concerns the shocking theft of the Lebanese immigrant statue in Preston in my electorate. Minister, the statue is a much-loved piece of cultural heritage for the local Lebanese community, and the theft last week has been condemned by the World Lebanese Cultural Union, who said that the statue stands as a testament to the contributions of Lebanese immigrants who have supported the nation through its challenging times. It was horrific to see the statue cut off at its feet and stolen. Minister, I join with the cultural union and the local Lebanese community in my electorate

in calling for Victoria Police to investigate thoroughly and ensure the statue is returned and the perpetrators found. I ask that you work with Victoria Police to do so and provide my community with an update.

### Northern Victoria Region

**Gaelle BROAD** (Northern Victoria) (13:02): (1281) My constituency question is for the Minister for Environment. Can the minister please guarantee adequate ongoing funding for the Victorian Landcare facilitator program? After a string of short-term extensions, the current round of funding runs out in March 2026. The Victorian Landcare movement now has more than 745 autonomous local groups that deliver thousands of hectares of revegetation, pest control and biodiversity projects every year. This huge network of 60,000 volunteers is supported by locally based facilitators. In May this year I attended the Victorian Landcare forum in Bendigo. At the forum the minister announced a nine-month extension to facilitator roles. I understand that Landcare Victoria appreciated the extension, but now more long-term clarity is needed for long-term planning and to retain skilled staff. Victoria's Landcare program does great work and deserves to have more certainty regarding their funding.

### Eastern Victoria Region

**Melina BATH** (Eastern Victoria) (13:03): (1282) My constituency question is to the Minister for Environment. Minister, my Gippsland constituent wants to understand what your government is doing to monitor vacancy levels in national parks under your ill-thought-out free camping policy. Without a deposit fee paid, campers are more likely to abandon their booking if the weather becomes inclement or there is a change of mind. An unoccupied site booked and not attended cannot subsequently be rebooked, leaving vacancies in these parks at peak time. A diminished volume of tourists will impact on our local clubs, pubs, cafes, supermarkets and local businesses. Clearly, Minister, this is policy on the back of an envelope. In a cost-of-living crisis, rather than supporting regional businesses you are punishing them. Minister, what is the vacancy level in national parks with a camping policy?

**David Davis:** On a point of order, President, during question time the Minister for Children made an attack on the opposition. It was in the form of a letter from a third-party organisation. The minister is obviously entitled to refer to such letters and so forth and even to quote from them. However, the relevant section in the standing orders dated 2022, 8.04 'Questions without notice', says:

- (3) After every second oral question without notice a Minister may seek the call to make a statement of up to two minutes.

I would argue that given the practice of the house over a long period and the fact that the subsection relating to the ministerial commentary that we have just heard is within the questions without notice section – clearly within that standing order – the rules that would apply to questions without notice should apply in large measure to ministers statements. This would mean an overt attack on the opposition is not part of the process. There have long been precedents for that, and I am happy to go and look for those, but if you could take it on notice.

**The PRESIDENT:** I am happy to look for any precedents, but I have not come across any rulings or precedents around this issue. As I stated at the time, the way I read the standing orders is it says that a minister may take the opportunity to make a statement. There is a time limit, and nothing other than that is bound to it. But I will take on board your point of order and come back after consideration.

### *Petitions*

#### Deer hunting

**Jeff BOURMAN** (Eastern Victoria) presented a petition bearing 2666 signatures:

The petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that aerial culling of deer in areas that can be hunted by recreational hunters needs to end. Aerial culling is extremely expensive, imprecise and animal welfare standards are not kept as animals are shot to stop, not shot

to kill. Aerial culling of deer in western Victoria and other parts of the State is being conducted in areas where recreational hunters have paid license fees to hunt deer. With fees set to increase, this is even more insulting as hunters are expected to pay more for less opportunities. These license fees could be used to fix rural roads and infrastructure rather than wasted on expensive helicopter culling with mixed results. Many hunters use venison to supplement their groceries and given the cost-of-living crisis the culling of these animals is leading to the waste of perfectly good venison that could be used or donated to charities with government assistance. We call on the Government to confine aerial culling to locations where recreational hunters are not allowed and encourage more recreational hunters to get out to help with deer control.

**The petitioners therefore request that the Legislative Council call on the Government to stop the aerial culling of deer in areas that can be hunted by recreational hunters.**

**Jeff BOURMAN:** I move:

That the petition be considered on the next day of meeting.

**Motion agreed to.**

### **Residential planning zones**

**David DAVIS** (Southern Metropolitan) presented a petition bearing 372 signatures:

We, the undersigned citizens of Victoria, respectfully urge the Legislative Council to note:

- the Allan Labor government has announced 10 high-rise high-density zones in the municipalities of Bayside, Boroondara, Brighton, Darebin, Frankston, Glen Eira, Hume, Kingston, Monash, Moonee Valley, Stonnington, Whitehouse and Whittlesea where planning rights will be stripped from councils and communities, high rise development will occur as of right and planning control will be exercised undemocratically by the state government;
- that, in addition to a central activity district with as of right 12 storey development, these zones contain enormous “catchment areas” where planning protections will be removed, where 3 and 6 storey development can occur as of right, where municipal heritage overlays and designations will be overridden resulting in the destruction of thousands of irreplaceable heritage properties and where canopy tree protections will be overridden resulting in the loss of neighbourhood amenity and the exacerbation of heat island effects; and
- these plans are not accompanied by proper health or education service plans or plans for additional open space despite proposed massively increased local populations.

We therefore call on the state government to desist and recommence proper discussions and consultation with local communities and councils and heritage peak bodies in all 10 affected zones prior to taking any further planning actions to implement the announced high-rise high-density zones.

### ***Committees***

#### **Scrutiny of Acts and Regulations Committee**

##### ***Alert Digest No. 16***

**Sonja TERPSTRA** (North-Eastern Metropolitan) (13:07): Pursuant to section 35 of the Parliamentary Committees Act 2003, I table *Alert Digest* No. 16 of 2024, including appendices, from the Scrutiny of Acts and Regulations Committee. I move:

That the report be published.

**Motion agreed to.**

### ***Papers***

#### **Papers**

**Tabled by Clerk:**

Auditor-General – Auditor-General’s Report on the Annual Financial Report of the State of Victoria: 2023–24 (*released on 22 November 2024 – a non-sitting day*) (*Ordered to be published*).

Climate Change Act 2017 –

Victoria’s Climate Science Report 2024, under section 51 of the Act.

## PETITIONS

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Legislative Council

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Victorian Greenhouse Gas Emissions Report 2022, under section 52 of the Act.

Coroners Act 2008 – Report on the statutory review, under section 118A of the Act.

Financial Management Act 1994 – Victorian Budget 2024–25 Quarterly Financial Report No. 1 (*released on 15 November 2024 – a non-sitting day*).

Planning and Environment Act 1987 – Notices of approval of the –

Banyule Planning Scheme – Amendment C174.

Manningham Planning Scheme – Amendment C139.

Melbourne Planning Scheme – Amendments C451 and C464.

Mount Alexander Planning Scheme – Amendment C99.

Pyrenees Planning Scheme – Amendment C55.

Victoria Planning Provisions – Amendment VC263.

Whitehorse Planning Scheme – Amendment C234.

Wyndham Planning Scheme – Amendment C263.

Statutory Rule under the Transport (Compliance and Miscellaneous) Act 1983 – No. 129.

Subordinate Legislation Act 1994 – Documents under section 15 in relation to Statutory Rule Nos. 126, 127 and 128.

Victorian Environmental Assessment Council Act 2001 – Notice of request to the Victorian Environmental Assessment Council for an Assessment of the values of State forests in eastern Victoria, under section 26C of the Act.

Proclamations of the Governor in Council fixing operative dates for the following acts:

Drugs, Poisons and Controlled Substances Amendment (Pill Testing) Act 2024 – Whole Act – 12 November 2024 (*Gazette S610, 12 November 2024*).

Victims of Crime (Financial Assistance Scheme) Act 2022 – Remaining provisions – 18 November 2024 (*Gazette S610, 12 November 2024*).

### *Petitions*

#### **Winchelsea Primary School**

##### **Health services**

#### **Royal Children's Hospital**

##### **Health services**

### *Responses*

**The Clerk:** I have received the following papers for presentation to the house pursuant to standing orders: the Minister for Education's response to the petition titled 'Plan for a new school in Winchelsea' and the Minister for Health's responses to three petitions, 'Cancel plans for hospital amalgamations', 'Reject plans to amalgamate the Royal Children's Hospital with other hospitals' and 'Stop the amalgamation of health services in Seymour'.

### *Business of the house*

#### **Notices**

**Notices of motion given.**

#### **General business**

**David LIMBRICK** (South-Eastern Metropolitan) (13:24): I move, by leave:

That the following general business take precedence on Wednesday 27 November 2024:

(1) notice of motion 663 standing in Sarah Mansfield's name on newly approved coal and gas projects;

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- (2) notice of motion given this day by Sarah Mansfield referring matters relating to the 2024 Victorian local government elections to the Electoral Matters Committee;
- (3) notice of motion given this day by David Limbrick referring matters relating to the use of capsicum spray for personal defence to the Legal and Social Issues Committee;
- (4) notice of motion given this day by David Limbrick establishing a select committee to inquire into climbing and land use restrictions at Mount Arapiles–Tooan State Park;
- (5) notice of motion given this day by Georgie Crozier referring matters relating to the Victorian Curriculum and Assessment Authority’s process errors during the 2024 VCE examinations to the Ombudsman; and
- (6) notice of motion given this day by David Davis on cost and supply reliability concerns with the current integrated services plan and Victoria’s energy road map.

**Motion agreed to.**

### **Standing and sessional orders**

**Sarah MANSFIELD** (Western Victoria) (13:26): I move, by leave:

That so much of standing and sessional orders be suspended to the extent necessary to allow Ms Anasina Gray-Barberio to make her inaugural speech at the conclusion of petitions qualifying for debate on Wednesday 27 November 2024.

**Motion agreed to.**

### *Motions*

#### **Middle East conflict**

**Katherine COPSEY** (Southern Metropolitan) (13:26): I move, by leave:

That this house notes:

- (1) on 21 November 2024 the International Criminal Court (ICC) issued arrest warrants for state of Israel Prime Minister Benjamin Netanyahu, former state of Israel Minister of Defence Yoav Gallant and Hamas leader Mohammed Deif;
- (2) the International Criminal Court prosecutor made a statement which included that ‘based on the evidence presented by my office, the judges have confirmed that there are reasonable grounds to believe that Rome Statute crimes have been committed’;
- (3) the judges of the International Criminal Court found that:
  - (a) with respect to Mohammed Diab Ibrahim al-Masri, known as ‘Deif’, there were reasonable grounds to believe that he is responsible for the crimes against humanity of murder, extermination, torture and rape and other forms of sexual violence, as well as the war crimes of murder, cruel treatment, torture, taking hostages, outrages upon personal dignity and rape and other forms of sexual violence;
  - (b) with respect to Israeli Prime Minister Benjamin Netanyahu and former Israeli Minister of Defence Yoav Gallant, there were reasonable grounds to believe that each has committed the war crime of using starvation as a method of warfare and crimes against humanity of murder, persecution and other inhumane acts as a direct perpetrator acting jointly with others; and
- (4) the ICC also found reasonable grounds to believe that Israeli Prime Minister Benjamin Netanyahu and former Israeli Minister of Defence Yoav Gallant are each responsible for the war crime of intentionally directing attacks against civilians as a superior.

**Leave refused.**

### *Members statements*

#### **Heywood Men’s Shed**

**Jacinta ERMACORA** (Western Victoria) (13:28): I would like to congratulate the Heywood Men’s Shed for winning the Health Volunteer Team of the Year award at the Victorian Public Healthcare Awards. I have had the pleasure of visiting the Heywood Men’s Shed on more than one occasion to see firsthand the work that they do. They host weekly card games and exercise classes,



recycle bicycles, build garden beds and disability access ramps for the local community and members and much more. The members also deliver meals on wheels. They look after the hospital gardens, repair furniture to save it from landfill and fundraise for local community causes. They even have picked up newly employed nurses from the Warrnambool station to bring them back to Heywood for the hospital. Perhaps greater than the practical contributions is the contribution the shed makes to mental health and wellbeing in the Heywood community. It provides a place for men and women to gather, learn, make friends and use their hard-won skills to give back to their community. Heywood Men's Shed represents the strength and positivity of the Heywood community, and I congratulate all involved.

### **Middle East conflict**

**David DAVIS** (Southern Metropolitan) (13:29): I want to rise today to put on record a very serious matter, and that is the International Criminal Court's recent statements regarding Israeli leaders. This is clearly a politically motivated statement, and it brings no credit to the International Criminal Court. It is a court that should be beyond reproach, but I do not believe that I or many people in the Victorian community and the Australian community believe that this judgement, this position of the court has been arrived at satisfactorily. I do believe that it actually weakens the court's position. Clearly Benjamin Netanyahu and others in Israel have every right to defend their position from the attacks that occurred both by Hamas last year, in October, but also more recently by Hezbollah and the Houthis. If states are not able to fairly and reasonably undertake the defence that is needed of their realm, there is a real, real issue. Whilst the court finds that the means used by Israel are unsatisfactory, I reject that, and I think most people do. I think that the court has gone on a frolic, the court has diminished its position and the court has injected itself in a dispute where it has not helped. I say the court should step back and not act in a partisan way.

### **Mooroopna Park Primary School**

**Rikkie-Lee TYRRELL** (Northern Victoria) (13:31): Members will recall my contribution to the house last month, highlighting the work of the principal and the staff of Mooroopna Park Primary School in delivering their school's wonderful healthy food program. The program provides students with breakfast, morning and afternoon tea and a cooked lunch free of charge, all cooked by a full-time chef employed by the school. While many schools provide a food program to students, Mooroopna Park's effort to provide healthy meals to their students has now been recognised at a national level. I am happy to inform the house that Mooroopna Park Primary School was recently awarded the Food for Movement Award at the inaugural Jamie Oliver's Food Hero Awards, Australia. The awards are part of Jamie's mission to improve the diets of children throughout the world, and the Food for Movement category is about kids eating good food and being active to benefit their mind, body and soul. Mooroopna Park Primary School's program was recognised with a Golden Spoon award and \$10,000 in prize money awarded by Jamie to principal Hayden Beaton and wellbeing coordinator Lisa Hueston earlier this month. I congratulate Hayden, Lisa and all the staff at Mooroopna Park on winning this award and thank them for their dedication and hard work to improve the nutrition of their 160 students.

### **Movember**

**Lee TARLAMIS** (South-Eastern Metropolitan) (13:32): The handlebar, the horseshoe, the pencil, the parted pencil, the English, the el bandito, the standard mo – whatever you want to call that thing growing on the top of my lip – it does not matter which mo you grow, as long as you grow a mo for Movember, which is exactly what I am doing. With a few days of Movember remaining, I thought it timely to update you on my attempt to grow a mo as I raise funds and awareness for men's health. While some may mock me, most know that it is for a good cause – to motivate as many people as possible about Movember. Together we can mount a campaign and make a difference, and we can stop men dying too young and improve men's health. But I need your help to raise funds and boost my morale as I motor on with this mo forming above my mouth. As you can see, I have been holding

up my side of the bargain, but we need your support as well. The funds raised will help with game-changing work in men's mental health, medical research and groundbreaking tests and treatment for prostate cancer and testicular cancer.

Since 2003 Movember has funded more than 1250 men's health projects around the world, challenging the status quo, shaking up men's health research and transforming the way the health services reach and support men. Globally there are around 10.8 million men facing life with a prostate cancer diagnosis, and testicular cancer is the most common cancer among young men. Around the world one man dies by suicide every minute of every day, with males accounting for 69 per cent of all suicides. Men are dying on average four and a half years earlier than women and largely for preventable reasons. Together we can stop men dying too young and improve men's health. So if you have not already donated, please do before Movember ends on 30 November.

### **Seaholme Primary School**

**Trung LUU** (Western Metropolitan) (13:34): It is that time of year where we get an opportunity to attend schools to acknowledge and congratulate students for their hard work and achievements. We also encourage them to continue with their schooling. On Friday I had the opportunity to attend Seaholme Primary School in Altona. I want to say thank you to the teachers and the principal for nominating the students for these awards. Besides the awards this year, in partnership with Breakthrough Education, the students also received the sponsorship of Breakthrough Education to have a 12-month tutoring program with their awards. I want to say congratulations to Paige Richardson, Olivia King, Albert Stanley and Lucy Mitchell for receiving the inspirational and academic awards. I also want to acknowledge and thank Breakthrough Education, a specialist tutoring coaching service, and Mr Kevin Xiao, for sponsoring and offering this program for the students.

### **Gambling Harm Awareness Week**

**Katherine COPSEY** (Southern Metropolitan) (13:35): We have just come to the end of another Gambling Harm Awareness Week, with the now familiar messages about making more informed choices. The people who know most about gambling harm, advocates with lived experience of that harm, used the week to call for concrete action, not just more awareness. That means action from those of us in this place to introduce reforms and protections such as mandatory carded play in Victoria and from those in federal Parliament to ban gambling advertising. But just this week we have seen federal Labor refusing again to back our community and stand up to the gambling lobby. By shelving reform of gambling ads they are condemning us all and, most gallingly, another generation of kids to the incessant and harmful barrage of gambling ads that contaminate our nation's love of sport with unhealthy gambling products pushed by a predatory industry. I have spoken many times in this place about Australia having the worst gambling harm figures in the world. But behind those figures is the litany of human misery: poverty, suicide, family violence and homelessness. As Anna Bardsley from GHLEE, Gambling Harm Lived Experience Experts, so clearly puts it:

Gambling companies think Australia is the place to come. 'Come here. Look what they let us do here.'

Why do we have some of the weakest protections in the world? Why do our laws let gambling companies do so much? Because the political class of the old two parties are captured by the gambling industry, which we see so clearly from federal Labor's actions this week. We welcome the introduction into Parliament today of the gambling reforms and look forward to reviewing those.

### **Gendered violence**

**Sonja TERPSTRA** (North-Eastern Metropolitan) (13:37): The campaign for 16 Days of Activism Against Gender-based Violence has begun. The campaign is to help build communities where women are safe and equal, and it all starts with respect. Let me count the 16 ways I have experienced sexism and disrespect in my workplace, some in recent times and some in not so recent times: (1) being talked over in meetings by men; (2) on complaining about sexist behaviour, being told, 'Let's just get through this'; (3) less experienced or knowledgeable male colleagues raising an idea as their own that moments

ago you just raised; (4) being excluded from group discussions by less experienced male colleagues; (5) men reminding you about being part of a team, only to exclude you or ostracise you or ignore you, or being bullied by incompetent men; (6) being the target of character assassination campaigns, lies and mistruths; (7) male colleagues being bystanders and not calling out disrespectful behaviour by others; (8) being victim-blamed; (9) being thrown under a bus and to have less experienced and qualified male colleagues promoted; (10) being gaslit; (11) being sexually harassed more than once; (12) having archaic rules used against you to silence you when calling out sexist, tone-deaf, juvenile and puerile behaviour; (13) ignoring your decades of experience, qualifications and expertise due to fragile egos; (14) toxic microaggressions and passive aggressive actions; (15) overt acts of toxicity like being told you are irrelevant; and (16) to the women who enable it, your actions are visible to us all. It all starts and ends with respect. This is something that this workplace lacks, and it needs to be called out.

### Government performance

**Georgie CROZIER** (Southern Metropolitan) (13:39): It has been a long 10 years under Labor and Jacinta Allan, and it is harder for families and households to pay the bills. It is harder for businesses to do business with the increasing taxes and the debt burden that is being forced upon current Victorians and future generations of Victorians. We have got an out-of-control state debt. In 2014 Victoria's debt stood at just \$22.3 billion, and by 2028 it will hit \$187.8 billion, which is a staggering 742 per cent increase. Interest repayments are up by 327 per cent. Taxes – 56 new or increased taxes have been imposed on Victorians, whether it is a holiday and tourism tax, land tax or increases to payroll tax. It just goes on and on. There has been a 173 per cent increase in tax grabs: payroll tax up by 138 per cent, land tax up by 494 per cent and stamp duty up by a massive 160 per cent. Meanwhile we have got so many things that are going wrong. Our great state is going backwards under Labor. It is in decline. We need to change that, and it is time for a change. In two years time the only way to change that is to vote Liberal.

### Fagg's Mitre 10

**Bev McARTHUR** (Western Victoria) (13:40): I would like to commemorate the 170th anniversary of Fagg's Mitre 10, a remarkable milestone for one of Geelong's most iconic businesses. When Samuel and William Fagg established their modest hardware store in 1854 their vision went far beyond selling tools and materials. They aspired to create a business grounded in quality and trust and a genuine commitment to serving the people of south-western Victoria. Now the business comprises four Mitre 10 stores, including Belmont Timber, across the Geelong region, employing over 200 people. For 170 years this company has weathered change, embraced innovation and remained steadfast in its values. Six generations of the Fagg family have carried forward a proud tradition, ensuring that the business continues to provide not only exceptional products but also an unwavering dedication to customer service. It is the eighth-oldest continuously operating family business in Australia. This longevity is a testament to the Fagg family, who have also served the broader Geelong community in other dedicated and philanthropic ways. Barry serves as a director of the Geelong Football Club board, and Keith is a former mayor of Geelong. Congratulations to Barry, Keith and the entire Fagg family on 170 remarkable years, and here's to many more.

### Parkmore Primary School

**Richard WELCH** (North-Eastern Metropolitan) (13:42): I would like to give a shout-out to Parkmore Primary School. Parkmore Primary hosted their annual community breakfast last week in Forest Hill. Principal Jodie Doble and her team put on a stellar event for the parents and families, locals and supporters of the school, who came and saw showcases of their art, performing arts, sports, PE, aerobics and future problem-solving programs, and of course the sausages and the hash browns were a delicious way to start the day. Best of luck to Parkmore Primary's students and teachers for the rest of the school year. Make sure to start every new year strong.

**Whitehorse Spring Festival**

**Richard WELCH** (North-Eastern Metropolitan) (13:42): It was a little bit more crowded at the Whitehorse Spring Festival. Not even the weather could dampen the spirits of the Whitehorse community. It was fantastic to join John Pesutto and see so many community groups and families come together to enjoy some time together, with good music, good food and lots of families out enjoying the hot weather in between the rains.

**Barmah community plan**

**Wendy LOVELL** (Northern Victoria) (13:43): Last week I attended a meeting of the Barmah community group to discuss their plan for the town's security and prosperity into the future. Barmah is a small but delightful town and the gateway to the Barmah National Park and forest. The community plan includes four platforms: (1) building the community, (2) growing the economy, (3) developing the town, and (4) protecting the natural environment and heritage. Goal (4) includes prioritising levees, flood defences and emergency response procedures, and this goal was the focus of discussions at last week's meeting. During the 2022 floods the Barmah township was cut off for weeks. The caravan park and many homes suffered significant damage, and it was only the work of locals that prevented the town being completely inundated. Residents do not want to see this happen again and want support for a levee to protect their town. The local community is committed to working with the Goulburn Broken Catchment Management Authority and the Shire of Moira to prioritise the levee and flood protection portion of their plan, but the implementation will require state government support and funding. I was encouraged to see locals being proactive about securing and improving Barmah, and I will do whatever I can to help them get the support they need. The Victorian government must take their requests seriously and invest in flood defences in Barmah and other areas of Northern Victoria.

***Business of the house*****Notices of motion**

**Lee TARLAMIS** (South-Eastern Metropolitan) (13:44): I move:

That the consideration of notices of motion, government business, 278 to 685, be postponed until later this day.

**Motion agreed to.**

***Bills*****Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024*****Second reading*****Debate resumed on motion of Harriet Shing:**

That the bill be now read a second time.

**David DAVIS** (Southern Metropolitan) (13:45): I am pleased to rise and make a contribution to the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024 and to note at the outset that the opposition, the Liberals and Nationals, will not oppose this bill. It is a bill that we see has considerable merit. There are some issues we will point to, and we will move some amendments. I am happy for those to be circulated now so that I can talk to them as I am moving through.

**Amendments circulated pursuant to standing orders.**

**David DAVIS:** The bill seeks to set up a tobacco retailer and wholesaler licensing scheme which will enable much stronger, much clearer, regulation of the sector – and goodness, we need it; we need better regulation. The government has let this get away from them very badly indeed. We have seen massive violence and firebombings and a series of gang wars that have created significant damage in the community and significant risk to the community. We are very lucky that we have not had someone

killed in this process. There have been well over a hundred such firebombings and burnings and fires ignited on a range of premises around the state.

I know that Mr Mulholland read a long list into *Hansard*, but even within my own electorate of Southern Metro we saw on the 6th of the 9th 2023 a vacant shop burnt, bombed, at 30–32 Station Street, Oakleigh; on the 21st of the 9th, a tobacconist at 30–32 Station Street, Oakleigh; on the 23rd of the 9th, Bentleigh Smoke Shop & Convenience Store at 362 Centre Road, Bentleigh; on the 7th of the 10th, the Bentleigh Smoke Shop & Convenience Store at 362 Centre Road, Bentleigh; on the 9th of the 2nd, the business, name unknown, at 800 Glen Huntly Road, Caulfield South; on the 11th of the 2nd 2024, Smoke Out Chapel at 228 Chapel Street, Prahran; on the 6th of the 6th 2024, Harry's Mart convenience store, 255 Chapel Street, Prahran; on the 14th of the 7th 2024, the Oakleigh Tobacconist at 2/13 Chester Street, Oakleigh; on the 15th of the 7th, just the day after, the Oakleigh Tobacconist at 2/13 Chester Street, Oakleigh – another round; and on the 21st of the 11th 2024, the Lux Nightclub at 375 Chapel Street, Prahran, which may well have been linked to neighbouring matters.

My point in reading out the list for my electorate is to indicate that well over a hundred of these bombings and burnings have occurred as the state government has failed to stamp out clear disorderly and illegal conduct on a grand scale. It is extraordinary. I do not understand where the police are on this. I simply do not understand how these firebombings can occur in this day and age and apparently with absolute impunity. I am not aware if most of these have seen charges laid and follow-up. There is actually something pretty bad that is going on here.

The opposition was very active at an early point on this. I pay tribute to Mr McCurdy, our Shadow Minister for Consumer Affairs, for his proposals and the measures that he suggested. The coalition intended to introduce a Tobacco Amendment (Stamping Out Fire Bombings) Bill 2024. This bill picks up aspects of this. The licensing is the key step so that there is actually real control to ensure that the government is in a position where, where there is illegality that occurs and where there are changes that are occurring that are untoward and in some cases clearly illegal, the department, the agencies and the police are in a position to actually clamp down and to really crack down and make sure that this does not continue. Picking up the position of the bill, there are a number of clauses that are put into the act. I am reading here from the Scrutiny of Acts and Regulations Committee (SARC) report:

Clause [14] substitutes 'could not reasonably be expected to have been aware' for 'was not aware, and could not reasonably be expected to have been aware' ...

And in the explanatory memorandum it said:

The effect of this substitution is to remove the requirement that a defendant who is an individual must prove that they were not aware that they were contravening section 5C(1A) of the Principal Act. Instead, a defendant must only prove that they could not reasonably be expected to have been aware that they were in [contravention of] ...

that section.

Similar amendments are made for 15, 16 and 19.

Clause [17] substitutes section 11A of the Act dealing with illicit tobacco offences, with four new offences:

- possession of illicit tobacco in new section 11A(1) with a maximum penalty of 120 penalty units in the case of a natural person, and 600 penalty units in the case of a body corporate;
- possession of a commercial quantity of illicit tobacco in new section 11A(2), with a maximum penalty of 840 penalty units or imprisonment for 2 years for a natural person and 4200 penalty units for a body corporate;
- sale or supply of illicit tobacco in new section 11A(3), with a maximum penalty of 120 penalty units for a natural person and 600 penalty units for a body corporate; and
- intentionally or recklessly selling a commercial quantity of illicit tobacco, with a maximum penalty of 1800 penalty units or imprisonment for 15 years in the case of a natural person and 9000 penalty units for a body corporate.

I could go on laying out some of the steps in the bill. As I say, we are not going to oppose the bill. We understand some of the points that have been made by the government. SARC picks up the issue of the delayed commencement and the delegation of legislative power. We seek to move an amendment which will bring the date forward, and it is my understanding that the government will not oppose that amendment and will potentially support that amendment. We do point to the comments under the Parliamentary Committees Act 2003 matters in the SARC report with respect to delayed commencement. The SARC practice note says it is considered best practice to include information and reasons for a possible delayed commencement date in all explanatory materials, and the committee draws the minister's attention to that practice note.

SARC also notes:

... the broad wording of section 34W may give the Regulator significant discretion in making decisions about whether to grant or refuse applications for a licence and applications for the relocation, transfer, variation or renewal of a licence. Therefore, the Bill may provide insufficiently defined powers to the Regulator.

We understand the point that SARC is making here, and we understand the response of the minister that this is, in this circumstance, a reasonable infringement on the rights of individuals. The right to be presumed innocent and the reversal of the onus of proof is part of this bill, and SARC notes:

... that sections 33A(4) and 39A may engage section 17(a)(i) of the PCA in relation to the presumption of innocence and the reversal of the onus of proof.

I think it is important when bills like this go through that these issues are openly confronted, that there is actually a reversal of the onus of proof and that there is actually, in that sense, a reduction in the rights of those presumed to fall foul of these laws. But, as I say, there is good reason for sharper legislation here, and that is we have seen this explosion – and I use that word advisedly – of bombings and burnings across the state, particularly in the metropolitan area. It is clearly a significant point. The statement of compatibility does address some of these issues, and that is important.

SARC goes on to say that the committee notes those sections in the Parliamentary Committees Act 2003, new division 3 of part 3AAB of the act, may engage, again, section 17(a)(i) of the PCA in relation to the possible limitation of the privilege against self-incrimination. Again, I think it is important to note and confirm that these are restrictions on the standard rights that we would normally hold dear, but there are literally good reasons, safety reasons, to ensure that we have got the strongest possible set of powers.

With respect to the strict or absolute liability offences, the committee wrote to the minister to request clarification regarding the intended construction of new offences and the minister has replied. The minister may wish to say something about this in the committee stage. The committee has a practice note that deals with these matters of possible strict or absolute liability offences, and it states:

... it is a matter of concern to the Committee where a Bill provides insufficient or unhelpful explanatory material in respect to the creation of a strict or absolute liability offence.

SARC speaks on this in its *Alert Digest* No. 16, saying that 'strict liability', for the chamber's point here, is:

... if there is no requirement to prove *mens rea* –

that is, the intent –

on the part of the accused but where the defence of 'honest and reasonable mistake of fact' is available. An offence is one of absolute liability if there is no requirement to prove that the accused actually intended to do the act for which they have been charged and the defence of 'honest and reasonable mistake of fact' is unavailable.

When legislation is silent on the question of *mens rea*, there is a presumption that it is required. However, that presumption may be rebutted depending on: the subject matter; the nature of the offence and the punishment; and whether the absence of *mens rea* would assist enforcement.

The Bill introduces a number of new offences ... However, the Committee notes that neither the Explanatory memorandum nor the Statement of Compatibility address the question of whether the new offences inserted into the Act are intended to be construed as creating *mens rea*, strict liability or absolute liability offences.

Again, this may be a matter that the minister could well address directly in the committee stage. The charter issues – the committee decided that the bill was compatible with the charter.

Just to conclude on a couple of these points, the regulation of tobacco sale is still a very important matter. As health minister it was something that I looked at closely, and we worked very hard to try and deal with many of these issues. We did start looking at licensing, actually prior to 2014, and we were actively considering how that could be done to gain better control of a number of the outlets. What has happened since then of course – and I am not pointing the finger entirely at the government here, because it is actually a wider thing than just Victoria – is it has specifically got out of control here in the last three to four years. It has really become something that needs to be dealt with.

This bill will give greater control through the licensing, but we should have no doubt or lack of clarity about the fact that there is a real problem with the supply of illicit tobacco. So many people do purchase it. Part of it is the extreme cost of tobacco now, and part of that is because the costs have been lifted successively over time. There was a very well understood response mechanism where the prices went up and the smoking rates went down, but I think at some point we got to a stage where the prices went up and the smoking rates did not go down but people just began purchasing elsewhere. That is actually what is happening now. It has actually become a matter of hampering the efforts. If you look at these tobacco packets – and I have taken the opportunity to visit a number of these outlets and to examine the offerings – they are very attractively presented boxes of illegal tobacco. They do not have the warnings on that we would all want. I know as health minister I worked collaboratively with other health ministers, and I will mention specifically Nicola Roxon, the then federal Labor minister, but others too in other jurisdictions. There were Jillian Skinner, Lawrence Springborg in Queensland and others. There was actually a high degree of unanimity across the health ministers and across parties and political backgrounds in some of the steps that we needed to take.

In government we did a hell of a lot to move steps forward and we saw a significant decline in the smoking prevalence in Victoria. In 2012 it was down to 13.3 from 14.4 per cent in 2011. Back in 1998, for example, it had been 21.2 per cent. I am not sure of the latest figure now, but it is actually slightly lower than where it was then and it has continued to trend down, but I think we are at a point now where we have got to start to think of new and innovative ways to deal with this.

We did a number of legislative amendments, one ensuring infringements for smoking in cars carrying children; banning smoking on all patrolled beaches, effective 1 December 2012; excluding tobacco products from shopper loyalty and reward programs; banning smoking at outdoor children's playgrounds; banning smoking at outdoor skate parks; banning smoking in areas of public swimming complexes; banning smoking at sporting events during organised under-age sporting events; creating an offence 'to intimidate, threaten or assault inspector' – there actually needed to be greater protection for some of the inspectors, and in a sense we have seen a significant worsening of some of these points; allowing for the form of tobacco price noticeboards to be prescribed; removing the ability to apply for specialist tobacconist certification and thereby obtain tobacco product retail ban exemptions; and allowing greater flexibility for the use and disclosure of tobacco retailer information for communication purposes related to tobacco retailer obligations. We amended the transport conduct regulations, banning smoking on all raised tram platforms and smoking on all train platforms. In early 2013 we amended the tobacco regulations to require new and updated graphic warnings to be used next to price boards and retail outlets. There is a long list of initiatives that were taken.

There were decisions made to ban fruit-flavoured rolling papers and cigarette wraps – cigarillos, as they were called. In the parliamentary precinct, in the health networks, we made sure that there was no smoking allowed in health zones. There is just a long list of steps that were taken. I acknowledge that in many respects these were bipartisan. They were accepted by all sides of politics, and each time

when we brought a bill of that nature to the house we had support across the chamber. I do not recall one division, but we did specifically target the presentation and visibility of tobacco to children. So in places where children were we took the view that smoking ought not be, and we regulated and legislated to that effect across a wide front.

Returning to this bill very specifically, there is going to need to be a lot of thought about how vaping is dealt with. There is going to need to be more thought. I am not sure that the way the federal government has approached this – and I am not trying to be overly critical here, because this is actually a difficult challenge – is actually going to ultimately work. I understand the idea that the pharmacists should be the dispensing point, and as far as it goes that is a reasonable set of thoughts, but I do not think that people are going to be restricted to purchasing vapes through pharmacies. I think we have got a much deeper and more challenging zone for these matters. The thinking, the work and the research will need to be done to find ways to manage vaping but also, as I said earlier in this contribution, to work out how we are going to manage the omnipresence of illegal tobacco now. The effect of the price rises is obviously being blunted. People can go in and instead of paying \$50 or \$60 a packet of cigarettes they can buy them for often around \$20 a packet, and that obviously becomes a very powerful motivator and choice. The evidence that was there 10 or 15 years ago about using price as a mechanism to move people away from tobacco has obviously reached a point of declining effectiveness, perhaps to the point where it is now even counterproductive in reality if not in intent. I am not diminishing the intent of people pressing on these points, but I just think it is now becoming self-evidently true that the price has reached a point where people are making other choices, and they are illegal choices, and this has meant there is a loss of control of the whole situation.

This bill is an important step. Again, I pay tribute to Tim McCurdy and the Liberals and Nationals, who have led the way on this. The government was initially resistant to the ideas that were put forward about licensing and ensuring that there were very tough new penalties. This bill has got some good things in it, as I say, and I think that it is an important step forward. To talk briefly about the amendment, this will bring forward the day of operation. We think it can be done more quickly. We think there is urgency about getting these matters into operation. It is bringing it forward by a year, and I understand the government – I will hear the minister's commentary in a little while – is not unsupportive of the intent and is likely to be supportive of these amendments.

**Ryan BATCHELOR** (Southern Metropolitan) (14:07): I am very pleased to rise to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. It is an important bill. It will introduce to Victoria important long-awaited reforms to strengthen the system of tobacco control that exists here in this state. Victoria has been a world leader in tobacco control since the 1980s. I will get to that a little bit later in my speech, but I think it is important to reflect on that at the top – that this is yet another example of Victoria taking the steps necessary to support public health and support those in the community who suffer harm from tobacco.

Cigarettes have the distinction of being perhaps the only legally available product that, when you use it exactly as the manufacturer intends, is going to kill you. In fact tobacco kills two out of three people who use cigarettes as they are intended to be used, and that is a damning indictment of them as a product but also a reminder to us that, beyond the contemporary and real controversies that exist with respect to tobacco stores, arson and related issues, the core issue in relation to this bill is putting in place further measures to deal with the harm that comes because of tobacco consumption in our community. 18,000 Australians – slightly higher – are killed each year due to smoking, and nearly 4500 Victorians die every year from smoking-related injuries. That works out to be 85 people a week dying in Victoria because of tobacco-related disease and tobacco-related industry, and they are dying on average 10 years earlier than people who do not smoke, from cancer – from lung, throat, mouth, nose, voice box, pancreatic, liver, stomach and kidney cancer; the list of cancers goes on and on. They die from heart disease, from cardiovascular disease, and they die from stroke and emphysema, because smoking of cigarettes is a particularly pernicious cocktail that we inhale into one of the most sensitive parts of our body, and that is our lungs. A cigarette is a vehicle for the transfer of toxins from a



manufactured product to the insides of our body and into our bloodstream, and it is laced with addictive substances. Toxins and addiction are what cigarettes deliver; they kill people, and they harm them. If this legislation helps reduce the harm, it should be supported, for no other reason than it should reduce the harm that comes from the consumption of these products.

But it is not just the people who smoke cigarettes that are subject to the harms from cigarettes; it is others in the community as well. People who choose not to smoke face risk from smokers who do. A couple of the great things that this state has been at the forefront of over the last 30 years of our efforts on tobacco control, and Mr Davis mentioned some of them in his contribution, have been the restrictions and limitations that we put in place to stop people suffering harms from other people smoking. That has been a really important feature of the action that this state and this Parliament have taken, on a bipartisan basis on most occasions – I think on all occasions – which seeks to ensure that that harm is not spread to people who do not even choose to participate in the activity, who are exercising a choice not to be exposed to harm. We have a duty, we have an obligation, to protect those people as well, particularly children – children raised in environments where there is smoking and who are more likely to suffer from respiratory diseases. Those lists go on.

We have made these changes obviously in the last 30 years, since the passage of the Tobacco Act 1987 here in Victoria, from restrictions on advertising, restrictions on advertising at points of sale, restrictions on places where people can consume cigarettes and restrictions on the ability to entice future users and get them hooked on a deadly cycle of addiction through to the limitations on product placement in television, for example, and limitations on how packaging can be displayed and on false claims about ‘smooth’ and ‘light’ and ‘easy’ and ‘fresh’ that tobacco companies were using to cloud the reality of cigarettes being a deadly cocktail of toxins – in many respects the same tactics that are being used today by the tobacco industry to get a new generation addicted to vaping. I will come back to that a bit later. We have seen repeated moves, consistent moves, in Victoria and also at the Commonwealth level – and credit is due to governments of all persuasions for advancing the cause of tobacco control. What this bill demonstrates is that our work is not complete, that the task is not over. We do know that there are a lot of Victorians who continue to smoke – around 12 per cent, it is estimated, smoke at some point on a regular basis, at least weekly. We know that that is higher for certain populations, and we certainly have an obligation to do whatever we can to reduce those rates.

The legislation before us today, the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024, makes a number of significant and important changes to the Tobacco Act 1987. Most importantly and significantly, it introduces a comprehensive licensing scheme for the sale of tobacco in Victoria. Similarly, other states – New South Wales is moving as well – have measures in place such as the one that is being put in in Victoria. It will prohibit the retail and wholesale sale of tobacco products by any person without a licence granted under the provisions of the Tobacco Act. It will introduce powers for the regulator to impose conditions on tobacco licensees, as well as suitability requirements, to ensure that licences cannot be held by anyone who is not a fit and proper person in accordance with the requirements of the scheme, and the regulator will have broad powers to consider whether an applicant is an appropriate person to hold a licence. That means that from the commencement of these provisions a licensing scheme will be in place that can accept applications from tobacco businesses so that those who are existing businesses involved in the retail and wholesale sale of tobacco products will be able to make an application to get a licence under that scheme.

We clearly have a problem here in Victoria with the sale of illegal tobacco, in that criminal elements, organised crime, have seized upon the tobacco trade as a way to make money to fund other sorts of activities. We need to combat that illegal tobacco industry and the harm that it is bringing not only to those involved in the process but the innocent bystanders, many of whom, quite literally, are sleeping unaware near the sites of these tobacco businesses that are being targeted by criminal activity and are suffering the consequences.

The bill will introduce new offences and strengthen penalties to ensure that Victoria has some of the strongest illicit tobacco offences in the country. It will introduce inspection and enforcement powers

for licensing of 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 focused on, detecting and investigating serious organised crime associated with illicit tobacco, and the bill will help strengthen police efforts to crack down on illicit tobacco by providing police officers with the ability to exercise enforcement powers under the licensing scheme, including obtaining search warrants, entering premises and seizing illicit items to support detention and the enforcement of serious criminal activity.

The bill will also modernise and broaden the scope of what is considered illicit tobacco to align with the Commonwealth tobacco legislation and remove barriers to enforcing illicit tobacco offences. The current legislation provides for separate illicit tobacco offences depending on whether the item is smuggled or an excisable good, which can be difficult for an inspector to determine, preventing enforcement from being undertaken. Clarity is going to help enforcement, and that is what this bill is providing for.

While it is important to investigate, obviously, the supply chains for the importation of tobacco products, this expanded definition of these matters will allow enforcement agencies to act based on the packaging and product compliance without necessarily having to undertake the complex surveillance investigation to determine whether duties have been paid. There are serious offences in this bill that are backed by strong penalties – the strongest penalties in the country – for those who commit them. For possession offences, which apply only to tobacco supply businesses, the penalty for possessing illicit tobacco is 120 penalty units for a natural person or 600 penalty units for a body corporate. The penalty for a business possessing a commercial quantity of illicit tobacco is up to 840 penalty units and five years in jail, and 4200 penalty units for a body corporate. There are serious supply offences, both supplying illicit tobacco and supplying a commercial quantity of illicit tobacco offences, with jail terms in place as well.

Mr Davis will move an amendment on behalf of the opposition to clarify some matters with respect to the commencement dates in the legislation. In the debate in the other place the government made it clear that our intent has always been for the licensing scheme to commence from mid next year, so mid-2025, with the enforcement of penalties for unlicensed retailers commencing in early 2026. So the amendment that Mr Davis has circulated to clarify the commencement dates is consistent with the government's stated policy position and will be supported by the government.

I just want to come, finally, to the question of vaping. It is a topic that I am particularly concerned about. It is a topic that I have made several speeches on now in this Parliament, including in my inaugural speech, to highlight what I think is one of the biggest public health challenges that our state and our nation faces and particularly that our nation's children face. Vaping is being used as a Trojan Horse for the tobacco industry to get a new generation addicted to nicotine. Vapes are not safe. They are not a health tool. They are a tool of addiction that is using flavours and gimmicks and a less detectable smell and a less offensive smell to hook a new generation of people to the consumption of nicotine. The great lie that has been told is that somehow vapes are a tool to help. It is a lie that has been peddled by the tobacco industry, and some people, unfortunately, have taken the bait. Vapes are not a tool to help; they are a tool to get addicted. They are a new mechanism to supply deadly toxins into the lungs of young people. A recent study in the UK shows the number of children who vape who have never smoked is skyrocketing, so the plans from big tobacco are working. Our kids are suffering, and we have got to act to stop it.

This bill is a step in the right direction, to help with that action. The Commonwealth is taking steps in the right direction. I hope they work, and if they do not, we are going to have to redouble our efforts to make sure that action continues to be taken. Just like here in Victoria our tobacco control efforts did not stop with the passage of the 1987 act, today our commitment to ending harm from vaping cannot stop with the actions that the Commonwealth has taken and this state has taken through this bill. I wholeheartedly commend it to the house.

**Gaelle BROAD** (Northern Victoria) (14:22): I am pleased to have the opportunity to speak about the Tobacco Amendment (Tobacco Retailer and Wholesaler Licencing Scheme) Bill 2024. The purposes of this bill are several: to safeguard the suitability of licensed retailers and wholesalers of tobacco products, to promote and enforce retailer and wholesaler compliance with controls of the lawful sale and promotion of tobacco products under the act and to uphold the integrity of the tobacco retailer and wholesaler licensing scheme by deterring unlawful conduct.

I want at the outset to commend Tim McCurdy, my Nationals colleague, for his continued advocacy on this very issue of introducing a licensing scheme. It is one that he has raised a number of times, and it has been very disappointing to see how slow the government has been to act on this issue. I know from the Scrutiny of Acts and Regulations Committee and *Alert Digest* No. 16 it was reported that:

The Committee notes that the provisions of the Bill are subject to a delayed commencement of more than 12 months. Paragraph A(iii) of the Committee's *Practice Note* provides that where a Bill (or part of a Bill) is subject to delayed commencement, the Committee expects Parliament to be provided with an explanation as to why this is necessary or desirable.

It is important to mention that because we are not clear on why it is taking so long, first of all, for the legislation to be introduced and for the actual commencement date. As it says on the front page of the explanatory memorandum:

If a provision of the Bill does not come into operation before 1 July 2026 ...

So we are pleased to put forward some amendments to see that introduced much sooner.

We know that over 110 stores now have been impacted by these tobacco wars, and it is devastating not just to those businesses directly but to the communities and the people around them. I know in Bendigo in January this year we had a car go right into Bendigo mall. It struck the tobacco store there, and the shops are still closed in that area. It is devastating to have that happen in regional Victoria, but I know it has been happening a lot in Melbourne. Just recently there were concerns raised by residents in Eaglehawk because a tobacco store has opened there. I have spoken to a number of residents and visited the main street there, and I have heard back from constituents as well who have flagged how they are very concerned. There is a historic building right next to the tobacco store as well. They feel it is a very high risk because the community is left exposed, because we have just a lack of legislation in this state to address this issue. Local residents have signed a petition that they put forward to the local council to express their concern. In Bendigo the damage to the stores was estimated to be worth about \$4 million.

It is worth again pointing out how long it has taken the government to act on this. I know the *Herald Sun* reported on 29 July:

Victoria Police is begging the state government to urgently legislate a tobacco licensing scheme to stem violence, extortion and arson attacks that continue to plague the state.

The force said Victoria is the "epicentre" of the national crisis because it is the only jurisdiction that does not have such a scheme.

A wholesale and retail tobacco licence program was recommended more than two years ago, but the state government has failed to act on that advice. It is important to note that committee inquiry report. The same article goes on to say that:

MP Danny Pearson wrote to the Commissioner for Better Regulation in October 2021 requesting an independent review of Victoria's approach to illicit tobacco.

It reported back in May 2022 recommending a licensing scheme overseen by the state government, enhanced investigation and enforcement powers and stronger penalties.

But nothing has been implemented and criminals –

it goes on to say –

... are flourishing, raking in millions of dollars each week.

This is what we have seen under this government. Crime seems to continue, and the government is very slow. Just last week in Bendigo our police walked out. They are at breaking point. We saw the same in Shepparton. They have raised concerns with me about a number of areas. I know the weaker bail laws have been an issue. They are very concerned that they do a lot of work to get offenders off the street only for them to go to court and then be back on the street 24 hours later. The permit to protest is another issue that the government has not taken action on. We have seen a huge escalation in the number of protests being held in Melbourne, and again, police have limited ability to respond in those situations. It has had a huge impact on the city, but it is also drawing resources from regional areas, resources that we need in regional areas. Police officers are having to come to Melbourne to assist with that.

Again, we see problems with the tobacco licensing scheme taking so long to implement. It is important to mention as well that the Premier did say back in March that they would take urgent action to address the tobacco licensing scheme, but here we are much later in the year, in November, and it is only just coming in now. Mr Batchelor, during his contribution, referred to Victoria being a world leader on tobacco control, but I certainly question that, as we have seen 110 stores burnt to the ground.

We do not oppose this bill. We are certainly keen to see the amendments introduced to commence from 1 July 2025, but it has been very clear that the government has been very slow to act. Labor certainly cannot manage crime, and Victorians are paying the price. As the *Age* reported in October 2023, last year:

Victoria is now the only jurisdiction in Australia that does not require a licence to open a tobacco shop.

It is extraordinary that we have rules in place for liquor licensing but that it has taken this long for the government to act, so I certainly do not oppose this bill, and I ask for the chamber's support with the amendments.

**David LIMBRICK** (South-Eastern Metropolitan) (14:30): I also rise to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. I think it is important when we look at the disaster that is tobacco policy in Australia – it is not just Victoria, it is our whole nation that has this disastrous policy – to look at the incentives for why organised crime exists in this market, unlike other normal countries with better policies than Australia. Countries like Sweden, which has almost eliminated smoking through its policies, do not have arson attacks every weekend. I note that the recent inquiry in this Parliament did not even look at foreign countries that have better policy than us – countries like New Zealand, which has a much better policy than us. What has caused it is the ever-increasing and massive federal excise tax on tobacco and the prohibition on vaping. How has this incentivised organised crime to get into this black market? It has created an incentive because the price that criminals can smuggle tobacco into Australia and sell it for at a huge profit is still far below the retail price of legal tobacco. They can make massive profits and still sell the cigarettes quite cheaply. My understanding is that the going price is around \$15 a packet, compared to \$40, \$50 or \$60 a packet for the legal ones. Only very wealthy people can afford legal tobacco in Australia, which is why the black market is increasing so rapidly.

The other huge mistake that the federal and state governments made was to prohibit vaping. Unlike Mr Batchelor's comments before about big tobacco being behind vaping, that is not the case at all. In fact the only big tobacco vapes are the ones that are approved and regulated by the TGA, rather unsurprisingly. Most vapes in Australia are black market, and they come from Shenzhen in China; they are not manufactured by big tobacco at all. In fact for the chemist scheme that was announced and is now in operation, my understanding is only 3500 people have actually used that service – a tiny, tiny, tiny percentage of the market. The rest of the market is controlled by organised crime, as organised crime regulates tobacco in this state, not the government. Sadly, this was all predicted. This all kicked off, really, back in 2016 when a bill went through the federal Parliament to increase tobacco excise. Everyone thought it was a great idea, because no-one wants people to smoke. There were two senators who stood against it. One, I am proud to say, was Senator Leyonhjelm from the Libertarian

Party. The other one was Senator Burston. Everyone else supported it. Now, at the time, organised crime still existed, but they were a small proportion of the market, unlike today, where they basically control the market. Here is what Senator Leyonhjelm had to say at the time:

Another effect of the tax increase will be the continued growth of the illegal tobacco market. This accounts for about 14 per cent of the total tobacco market, as measured by KPMG. The government receives no revenue from the organised crime gangs that run this market and is now missing out on over a billion dollars a year in tobacco excise.

Senator Fawcett from the Liberal Party was quite confident that they had solved all this and it was fine. He said:

I believe we have taken the appropriate steps to make sure that any unintended consequences like illicit trade are dealt with.

Who was correct? Of course Senator Leyonhjelm was correct, because we have since seen an explosion in organised crime. My understanding is that there have been over 150 arson attacks now and at least two assassinations and potentially a third. I have not seen the details of that, but there have been assassinations as well. And these are only the crimes that we can see. I expect there are many, many other crimes not being reported, and why are they not being reported? Because the people in control of this market are some of the most violent people in this state. An arson attack is like a tap on the shoulder to these people. These people are some of the most violent criminals we have in this state.

We have the existing system, which is a complete disaster, and we have ignored the successful efforts of other jurisdictions like Sweden, which now has a smoking rate below 5 per cent, which under WHO guidelines means that they have effectively eliminated tobacco consumption. They have not done it through massive taxes – in fact their cigarettes cost half the price of what they do in Australia. They have done it through other methods – through allowing these snus pouches, which have a similar risk profile to nicotine lozenges that you can buy at the supermarket, yet for some mysterious reason they are prohibited goods in Australia.

The government, in order to deal with this, rather than scream at the federal government like they should be doing to review the tobacco excise and to legalise vaping as a pathway out of tobacco as a harm reduction initiative – like what New Zealand has done, very successfully – want to crack down on it and increase penalties, and these penalties are huge. They also want a licensing scheme. Notwithstanding the fact that criminals do not really care about licensing schemes, so only the good guys who already follow the law are going to take part in it, many of the places that sell tobacco are not tobacconists. They are \$2 shops – discount shops – they are Asian grocers and they are even carpet stores. I have heard of a carpet store. When this bill passes, I predict – and quite confidently predict – that you will incentivise these violent people to move into new premises that are not called tobacconists, and they will not have a tobacco licence.

The other problem with this bill is these penalties that we are setting up. I do not think that the government has actually given consideration to just how dangerous this is. They are setting up very significant jail terms and fines in the order of hundreds of thousands of dollars – millions, in the case of businesses and corporations. They are very significant.

**Michael Galea** interjected.

**David LIMBRICK:** I will take up Mr Galea's interjection. He says, 'As they should be.' I would ask people to consider the incentives that this creates. If some of the most violent criminals in this state are faced with the prospect of a \$300,000 fine, what will they do in order to avoid that? They will commit some very, very serious crimes. In fact we have a precedent for this in the United States. Under prohibition of alcohol in the 1920s they had a very similar problem. They tried to prohibit alcohol during Prohibition, and of course people still kept consuming alcohol and of course people kept supplying alcohol – organised crime, of course. The people that used to drink wine and beer then all drank spirits, and the government said, 'We're going to crack down on this.' They built a new

regulatory agency, and they got all these inspectors – similar to what we are doing here – and organised crime increased the amount of violence. They increased the amount of corruption that went on.

I am pretty sure it costs a lot less than \$300,000 to corrupt a government official. I do not know what the going price to take out a hit on someone is, but I am pretty sure it is less than \$300,000. These criminal organisations maintain control of the market by threatening people with violence, and when you put in an incentive of \$300,000 – or a million dollars in the case of a business – you are setting up an incentive. They will do anything to stop it, and they are capable of anything. Arson is nothing to these people. Murder is nothing to these people. What this bill is doing is setting the scene for a bloodbath in Victoria. The Libertarian Party will not support this bill. It is wrong, it will result in catastrophic effects in Victoria and I condemn it.

**Jacinta ERMACORA** (Western Victoria) (14:38): I am pleased to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. This bill will amend the Tobacco Act 1987 to introduce a tobacco business licensing scheme. It will prohibit the sale of tobacco by any unlicensed person, ensure those who hold licences are suitable people to do so and also enable the imposition of conditions on licences and establish a regulatory scheme with sufficient powers to enable effective oversight. It will also increase penalties, introduce new offences to close existing loopholes and simplify enforcement.

This bill addresses growing concerns about illicit tobacco and the businesses suspected of distributing it. Not only is it a crime prevention bill; it is also, though, a health promotion bill, because we know that tobacco is not a safe product, and I think that has been covered very well by some people in this chamber already, including Mr Batchelor. This bill introduces a new licensing scheme that is designed to discourage unsuitable individuals from operating tobacco businesses. The introduction of this licensing scheme is also designed to support Victoria Police to combat illicit tobacco through improved intelligence and licensing enforcement powers. The bill incorporates the key recommendations from the Commissioner for Better Regulation's 2021 review into illicit tobacco. It also draws on insights from the 2024 Public Accounts and Estimates Committee inquiry into vaping and tobacco controls. These measures align with recent Commonwealth legislation restricting the sale and supply of vapes to pharmacies. These reforms aim to reduce smoking and vaping rates in line with the objectives of the *National Tobacco Strategy*.

We have seen the incursion of these illegal activities in my own home town of Warrnambool. Last month police raided two Warrnambool tobacco shops suspected of selling illegal tobacco. The Warrnambool *Standard* newspaper reported that in raids on 16 October:

Three people have been arrested, and thousands of dollars in cash and at least 26,000 cigarettes seized in raids at two Warrnambool tobacco shops yesterday.

...

The investigation is ongoing ...

and is expected to focus on those charged, allegedly, with dealing with proceeds of crime. However, the *Standard* also reported on 28 October that the two stores are back open for business and doing a brisk trade after being raided 12 days earlier. It is understood both stores are leased by a Melbourne business. It is exactly this kind of activity that this bill is aimed at helping Victoria Police tackle. The Premier announced in March that the government would introduce a bill by the end of the year, and we have done that.

Smoking remains the most significant contributor to the burden of disease and to death, including cancer, stroke, cardiovascular disease and kidney disease. The Heart Foundation reports on the prevalence of risk factors of cardiovascular disease on its website. North-west Victoria is the worst in Australia for current smoking risk of cardiovascular disease – that is, cardiovascular disease caused by smoking. Warrnambool and the south-west region are the seventh-worst in the nation. Tragically, this contributes to these two regions having a coronary heart disease mortality rate of 73 and 72 people

per 100,000 compared to the Victorian average of 60 people per 100,000. According to a 2018 report commissioned by Quit Victoria, smoking cost the Victorian economy \$3.7 billion in tangible costs such as health care and an additional \$5.8 billion in intangible costs associated with the loss of life every year.

This bill very much tightens up on the accountability associated with selling cigarettes. It establishes a licensing scheme that will prohibit the retail and wholesale of tobacco products by any person without a licence. The regulator will be empowered to impose conditions on tobacco licences as well as suitability requirements to ensure the licences cannot be held by anyone who is not a fit and proper person. Applicants will be required to provide all known names, date of birth and residential addresses and the address of the proposed premises. They will also need to provide the names, dates of birth and addresses of their associates, including relatives and business partners. The regulator may require police checks from the applicant and any associate of the applicant. This is, if nothing else, a record-keeping system where individuals who may, subsequent to achieving a licence, be potentially involved in some kind of crime activity can then be easily identified and chased down. The regulator will be in a position to cancel a licence if conditions are breached or the licensee is no longer a suitable person. In particular 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. They may also disqualify a person or body corporate from holding a licence for up to five years.

The Chief Commissioner of Police must be consulted on new licence and transfer applications and may raise objections or provide other input. If the Chief Commissioner of Police has information regarding the licensee or any associate's suitability, they may apply for the licence to be varied or cancelled. Confidential and sensitive information from Victoria Police will be subject to similar controls as the Drugs, Poisons and Controlled Substances Act 1981, the Private Security Act 2004 and other licensing regimes. This bill is required so we can establish the regulatory capability to effectively determine whether someone is a fit and proper person, and this means from the middle of next year there will be a licensing scheme in place that will be ready to accept applications from tobacco businesses. From early 2026 there will be inspectors on the ground making sure businesses have a licence.

This bill will broaden the scope of what is considered illicit tobacco to align with the Commonwealth tobacco legislation and remove barriers of enforcement. Current legislation provides for separate offences depending on whether the item is a smuggled or an excisable good. In practice this can be difficult to determine, and enforcement is also challenging because it requires investigation of the tobacco supply chain to prove that items were smuggled in and duties were not paid. The bill removes that distinction to focus on the supply of illicit tobacco, regardless of whether it is smuggled or not. Illicit tobacco can often be identified by noncompliance with packaging requirements, such as health warnings. As my colleague Mr Batchelor mentioned, Australia and particularly Victoria have led the world on warnings on tobacco packaging, and if I remember correctly, I think Nicola Roxon was a big player in that space as a former federal Labor minister.

This bill introduces new offences for possessing or supplying illicit tobacco and imposes the strongest penalties in the country for those who commit these possession offences, which only apply to tobacco supply businesses. The bill also introduces inspection and enforcement powers for licensing inspectors. Inspectors will have the power to enter premises to check compliance and be able to seize illicit tobacco. Victoria Police will continue to be responsible for detecting and investigating serious and organised crime associated with illicit tobacco. This bill will provide them with the tools to do so far more effectively whilst at the same time reducing the availability of illicit tobacco in the marketplace in our state. This bill will help strengthen the efforts by police by providing police officers with the ability to exercise enforcement powers, and I just want to say thank you to Victoria Police. In particular the licensing scheme is a key part of our robust, multifaceted approach to illicit tobacco.

The Chief Commissioner of Police himself has acknowledged that a licensing system would ensure that only fit and proper individuals operate tobacco shops, but it will not completely solve the problem.

That is why Victoria Police is taking targeted action against the illicit tobacco trade through Taskforce Lunar, making arrests and seizing large quantities of illicit items. This has definitely occurred in my own regional community. Taskforce Lunar is delivering results, with over 200 search warrants executed, 80 offenders arrested and the seizure of cash, vapes and illegal tobacco products worth \$37 million as at September 2024. This side of the house understands that these kinds of dedicated taskforces are not possible unless you invest in Victoria Police. I very much thank the police. I have heard about what it is like to be on a taskforce in any kind of government organisation, and they are very focused, very hardworking and often doing original and innovative work to meet the challenges of a new form in the ever-changing forms of criminality that are always emerging.

When it comes to keeping our community safe and healthy, this bill sits within a context of the very strong commitment of our government towards health and harm minimisation for our community but also strengthening the responses and tools that police have to address organised crime, mobsters and the like. These tougher laws give police resources, and part of our \$4.5 billion investment in Victoria Police is funding more than 3600 new police officers. When the opposition was last in power, they slashed \$100 million from the Victoria Police budget and did not fund a single new police officer. In closing, I would like to thank our hardworking police officers for the work that they do every day to hold criminals to account and to keep our community safe. In particular I want to thank police officers: there is an impact that working with violence and trauma on a regular basis has on them, and I would like to acknowledge that and express my appreciation.

**Evan MULHOLLAND** (Northern Metropolitan) (14:53): I rise to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. I would like to start by thanking my colleagues in the other place Tim McCurdy and Danny O'Brien, and Mr Davis, who has carriage of this bill in this place. It is about time, I have got to say at the start of my contribution, because it is something that we in the opposition have been calling for for some time. It is indeed very important and a very hot topic in my electorate of Northern Metropolitan Region because, out of all the upper house regions, which we are all in this place fortunate to represent, I would hazard a guess – in fact I know – that my electorate of Northern Metropolitan Region has been the most affected by the string of tobacco bombings that have gone on across the state for years now. The northern suburbs have really borne the brunt of this illicit tobacco turf war that has erupted under Labor's watch.

Just to go through some of the ways in which it has impacted my electorate, since March 2023 a small business or a business in the northern suburbs has been set ablaze around once every two weeks. So since March 2023 a business has been set ablaze in the northern suburbs around every two weeks, which is absolutely shocking. I will go through the list of them: six small businesses in Glenroy, four small businesses in Moonee Ponds, four small businesses in Hadfield, three small businesses in Docklands, three small businesses in Meadow Heights, three small businesses in Fawkner, three small businesses in Thornbury, two small businesses in Epping, two small businesses in Greenvale, two small businesses in Thomastown, two small businesses in Brunswick, one small business in Collingwood, one small business in Lalor, one small business in Coburg, one small business in Richmond, one small business in Craigieburn, one small business in Pascoe Vale South which was firebombed twice, one small business in Mickleham and one small business in Roxburgh Park recently, and I will just speak about that as it was just around the corner from where my office is.

I spoke to Hussein from Kasr Sweets, which is quite popular with locals in Roxburgh Park, otherwise known as 'Roxy', and many of my constituents enjoy catching up there over some delicious Lebanese sweets. Unfortunately, Hussein and his business and his customers are the latest victims of Labor's failure to deal properly with this issue. I have spoken to many other business owners in Meadow Heights. The milk bar up the road from my office indeed has been firebombed twice and is now out of action again after going through the process of rebuilding and recovering. I am pleased to hear from Hussein himself that they are looking at as quickly as possible refurbishing, rebuilding and reopening Kasr Sweets. I am sure it will be of great delight to many in my community in the northern suburbs to head back there for some sweets, some shisha, some tea, as is the common tradition in the north.



The roll-on effects to other businesses cannot be overstated. I have chatted to many business owners across the north. I spoke to friends in Craigieburn at the old Craigieburn Plaza, and they have had a tobacco shop set up underneath them. They are a real estate agent and they are very concerned. It is not just the businesses I have read out; it is the surrounding businesses as well that are really affected and impacted by this illicit tobacco war that has occurred under Labor's watch in terms of ancillary damage but also affected trade due to the damage that has occurred to local shopping strips. Local neighbourhood shopping strips have become war zones due to Labor's inaction on this issue.

Just last week I met with a barber who was setting up a barber shop at their new premises because the old one was actually next to a shop that had been firebombed and had been out of action for many, many weeks. If one shop is bombed and then the others close, this impacts the viability of the whole suburban shopping strip and the amenity and safety of whole communities. As Mr McCurdy said in the other place:

110 shops – as I say, that is 110 livelihoods. There are probably 220 neighbours of those shops – one on each side – whether you are a hairdresser or a cafe or something on the other side of each of those tobacconists. There are a lot of livelihoods at stake ...

This is something that really impacts my community, and as a result I am, as you can imagine, quite frustrated and angry that it has taken the government so long to act. Every other state in Australia has introduced some form of licensing scheme except for Victoria. We have lagged behind the rest of the country for many, many years, and it is time something was done. So it is about time, but I am still rightly frustrated it has taken so long. I do feel sorry for the innocent victims in all of this, in the illicit tobacco wars that have set ablaze so many community shopping strips. It is really worrying indeed for the local community. It is something constantly raised with me when I am out and about on my weekly listening posts up in the northern suburbs about their local shopping strip. Indeed I was chatting to a fish and chip shop owner in Greenvale recently, where the shop next door got set ablaze. They had to close for a couple of days, but they are really concerned that it might happen again.

Of course this fear is breathing down the neck of our community, because there is no certainty and there has been no action on this. We have waited and waited and called for the government to do something for a long time. It was three years ago that the government commissioned a report through Better Regulation Victoria. A year later they suggested a licensing scheme would be the first thing that needed to happen. But of course, as we see too often from this government, the report was never released and was kept secret, because they are as addicted to secrecy as they are addicted to debt. It has been two years of inaction since the report was released, and it is my electorate that has suffered the most as a result of Labor's inaction in this space.

The coalition has tried to help the government help itself, recently introducing a private members bill to do exactly what this bill would do and more. The Liberals and Nationals do support the introduction of a licensing scheme for the sale of tobacco products; the implementation of a fit and proper person test to ensure suitability to hold a tobacco retail licence; the creation of search and seizure laws for Victoria Police related to tobacco products; and penalties for first-time offenders of up to 5000 penalty units, the equivalent of \$1 million, and penalties for second and subsequent offences of up to two years in prison – all commonsense reforms that would go a long way to stopping lawlessness plaguing the northern suburbs and plaguing Melbourne and Victoria as a whole. Indeed I want to note the contribution of my colleague Mrs Broad, who noted that it is not an issue just pertaining to Melbourne but indeed that it has spread into regional communities as well, which usually do not expect things like this in their quiet towns.

The Allan Labor government has certainly managed to address some of the issues that we put in our bill and that we wanted to see in this bill. I am pleased that some of those things are being addressed. I know this bill has belatedly come about because of the pressure put on it by the Liberals and Nationals. The government is good at ignoring problems until it is too late, but it could not ignore this one any longer. Recently we saw a business in Pascoe Vale bombed two days in a row, leaving little

for the business to salvage, permanently destroying the shop and damaging surrounding shops as well. From what I understand it is a process called ‘earn or burn’, where actually on these kinds of occasions it is the people who are doing the right thing, who are selling legal tobacco and who refuse to partake in the illegal trade that will be warned and then bombed and then asked to change their mind and then bombed again completely. We have seen a lot of examples where businesses have been bombed two days in a row – in Pascoe Vale South, and it has also happened in Hadfield and Fawkner. That is usually the reason why.

Innocent small business owners who are doing the right things are not being protected by regulation that is in place. We will be moving some amendments, as outlined by Mr Davis, trying to speed up when the bill will start. We do not want it coming into effect deep into 2026. We want it to hit the ground running. The northern suburbs cannot wait. As I stated, once every two weeks in the northern suburbs there is a tobacco store firebombing. I note a number of reception centres in the northern suburbs have been firebombed. It does not just relate to tobacco shops. Shisha bars are a favourite of many in the northern suburbs. As I mentioned, I was speaking to Hussein from Kasr Sweets in Roxburgh Park, a beloved community establishment. I have been there before, as have many in the northern suburbs. I was pleased to hear from Hussein himself that they are looking at reopening Kasr Sweets in Roxburgh Park, because the community really, really enjoy good Lebanese sweets and some good tea. Perhaps I can join Mr Erdogan there at the reopening. It would be fantastic to support Hussein and to support the community, who love Kasr Sweets.

This bill is a step in the right direction towards solving the crime crisis that Labor has spent a decade in power and the last two years doing nothing to solve. Two and a half years after this government said that this was needed, we are finally getting started. In that time this Labor government has announced and then cancelled the regional Commonwealth Games in a shorter period of time than they took to receive a report into this crisis and then finally act with a bill that the Liberals and Nationals have been urging them to deliver. That is how botched this whole process is. The community is crying out for this. The northern suburbs and my community are crying out for these tobacco wars to end and these firebombings to end that are ripping apart suburban streets. We are not opposing this bill, but the Liberals and Nationals do wish that the government had not sat on their hands for so long while communities across Melbourne and in my electorate of the northern suburbs in particular were so badly impacted by this crisis entirely of Labor’s making.

**Sarah MANSFIELD** (Western Victoria) (15:08): First, I would like to thank the minister’s team for bringing this legislation and meeting with the Greens several times to discuss the bill after it was introduced. We have actually been calling for a tobacco licensing scheme in Victoria for several years, and we welcome the introduction of this legislation now. Of course it has not only been the Greens and other parties, I am aware, who have been calling for a tobacco licensing scheme. Key stakeholders like Quit Victoria, VicHealth and Cancer Council Victoria have also called for this, as well as the police, Better Regulation Victoria and Parliament’s own Public Accounts and Estimates Committee.

As has been noted many times, it is embarrassing for Victoria to be the only Australian state or territory with no tobacco registration or licensing scheme on the books, and we have seen the tobacco shop free-for-all and crime wave that has flourished as a result. Several other members have highlighted exactly what that has looked like in their electorates. We do note that the bill has only been brought on because of the arson and firebombings targeting tobacco shops rather than for public health reasons, but we will not look a gift horse in the mouth. We are happy to see this legislation brought forward regardless of the motivation that ultimately spurred the government to do it. We also recognise the importance of putting an end to these tobacco wars, which are causing disruption to the community and impacting people and businesses who have had the misfortune of being too closely located to a targeted tobacco shop.

The Greens are happy to see this legislation introduced and we will be supporting it, but it is really important that we do not forget the public health importance of properly regulating tobacco. That is why we will also be moving some amendments that we believe will strengthen this bill before us

today. Tobacco is the leading cause of preventable disease and death in Australia and a huge burden on our ailing health system. At \$27 billion for output funding for our health system and \$16 billion for health infrastructure, at the moment health spending represents about half of our state budget. It is right that the state government should be prioritising good health care for Victorians, but imagine how much better off our overworked ambulance crews and crowded emergency departments could be if we did something to prevent – to prevent – these preventable diseases. A properly executed tobacco licensing scheme, keeping public health at the centre of its operations, could go a long way to achieving this.

In recent years there has been a disturbing rise in the incidence of the use of nicotine products, including vaping, particularly among young people, something that has already been well aired. During the Public Accounts and Estimates Committee inquiry into vaping and tobacco controls VicHealth told the committee of the great progress Victoria has made with driving down rates of smoking, although this is now at risk due to the uptake of vaping, which makes people three times more likely to take up tobacco smoking. The committee report notes that young people between the ages of 14 and 17 form a material share of the tobacco market, which is of course not only terrible from a health perspective but also illegal. Illicit tobacco sellers have a financial incentive to get young people hooked on this addictive product because the younger they can get them hooked, the more years they will spend purchasing their products. The PAEC inquiry heard that illicit tobacco could make up as much as 40 per cent of the current overall tobacco market, at the same time as the federal excise revenue from tobacco has dropped significantly without a corresponding decrease in rates of smoking. This tells us that people have turned away from legal tobacco and towards the black market, which has been selling much cheaper tobacco with impunity, and clearly demonstrates the need for a strong system of licensing and regulation, with penalties high enough to outweigh the potential profits. We know that rates of smoking and vaping are different across different socio-economic groups and geographic groups, so we also welcome the fact that data collection will occur through licensed retailers and look forward to that data collection and analysis being used to further drive down tobacco consumption.

Today I am introducing amendments on behalf of the Greens to strengthen this bill on public health grounds. I ask that those amendments be circulated now.

**Amendments circulated pursuant to standing orders.**

**Sarah MANSFIELD:** These amendments do not confer any new power on the regulator. It is really important that we are clear about that: there is no new power being provided to the regulator. But they are important in clearly specifying that this tobacco licensing scheme will include public health considerations. All three amendments are quite similar in allowing the regulator to consider public health in its assessment of applications to obtain or vary a tobacco licence. The first amendment specifies that the regulator may impose a variation on an existing tobacco licence if it considers that imposing such a variation will strengthen public health or public safety. Examples include – and these are just examples and not what our amendments will do; they are just examples of what would be enabled potentially by these amendments – changing operating hours or otherwise varying conditions under which a retailer can operate, based on public health or safety considerations. The second amendment, similarly, specifies that the regulator may impose a variation on an existing tobacco licence following a show cause notice if it considers that imposing such a variation will strengthen public health or public safety. The third amendment specifies that the regulator may refuse to grant a licence application, relocation application, variation application or renewal application if the regulator considers that granting the application in question would endanger public health or safety. For example, if there are already too many tobacco shops in a given area or a tobacco shop being proposed is too close to a school, the regulator would be able to reject the application.

Again, these are just examples of the sorts of considerations a regulator might take into account when approving or deciding to issue a licence or place conditions on that licence. We are not specifying what those exact public health considerations need to be, we just want these taken into account, and we think that is a really sensible, reasonable approach for a regulator to be taking on an issue like this.

It really should have public health at the heart of what it is trying to achieve with this licensing scheme. They are really, as I said, I think quite sensible amendments. They do not radically change the bill. They serve to clearly state that the regulator will be empowered to have both a public health and public safety lens when assessing applications.

We are quite keen to hear more detail about a number of concerns we have heard from health stakeholders. We want to know how they are going to be dealt with through the regulations provided for in this bill, including but not limited to what is going to happen with prohibition on licensed wholesalers selling to unlicensed retailers; prohibition on licensees hiring people under 18 to sell tobacco products; and vending machines and online sales of tobacco, both of which I understand are banned in South Australia. We would also like assurances that individuals will not be targeted with heavy fines and jail time for personal-use possession and for selling just a couple of loose cigarettes on the street. These are not the people this legislation should be targeting, and we know too often they are when legislation like this is introduced.

Noting the long lead time before enforcement begins in 2026, there are still actions that can be taken to reduce illicit tobacco selling in Victoria. What we really want to understand is what the government plans to do between now and the official enforcement of the licensing scheme to crack down on illicit tobacco sales. I understand that there may be some amendments moved that change that date; we would welcome that. We think this scheme cannot come soon enough. But in the interim, we cannot just wait for this scheme to come into place. We should be taking other actions, and I would encourage the government to explain to us what they plan to do about that. I am going to have some more questions about this and some of these issues during the committee stage of the bill. But just to conclude, we welcome and support this much-overdue legislation. I would urge everyone to support our amendments, which we believe really just serve to strengthen the bill that is before us today.

**Michael GALEA** (South-Eastern Metropolitan) (15:18): I rise to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024, and I rise to speak in favour of this bill, a bill which has had a considerable amount of work go into it. I know that from the minister's office and from the department, and indeed it has had a great deal of interest and involvement from the minister herself. This is a very important bill before us today, and it is an important bill to get right. I think the bill that is before us today is reflective of the work that has gone into it. Indeed not just within government but across other parts of the Parliament we have seen much work take place with regard to what is a very profoundly important issue, and that is regulating in a much more effective and much more targeted way the sorts of issues that we have been seeing particularly with the sales of illicit tobacco.

One such piece of work that has been undertaken in this Parliament is a very important report conducted by the Public Accounts and Estimates Committee, which I was privileged to take part in. That is the report into vaping and tobacco controls, which was tabled in this place earlier this year, in August. It was an inquiry which was very illuminating for many of us on the committee. Indeed the government members were particularly engaged and our Greens colleague was particularly engaged. Our opposition members intermittently came along to the inquiry as well, which was appreciated when they were there. I know for all of us who had the opportunity to hear from stakeholders and witnesses – ranging from school students, anti-smoking advocates, public health professionals to the industry itself, Victoria Police and the Australian Border Force – it gave a very much more insightful look into and a much deeper focus on this issue. I do encourage all members who have yet to have the opportunity to engage with the report of the PAEC into this very important subject; I strongly invite them to engage with its recommendations and findings as well, many of which have also helped to form part of the basis for the legislation, the bill, before us today.

Of those recommendations, many go across various different parts of government, but the most important things that relate to this particular bill are those provisions that relate to the licensing system itself and the Victorian system. I know my colleagues have already gone through the ways in which this state will have some of the strongest penalties, if not the strongest penalties, in the nation. But this

has been looked at through the lens of interstate and other jurisdictional legislation around Australia and what those jurisdictions have done, successfully or otherwise, to address this problem. The legislation before us today truly encapsulates all of that work as well and is designed to make sure that Victoria, whilst having the strongest approach, also has an approach that will be effective. Again, I encourage members in particular to engage with that report.

They might not have been our first witnesses that we had before us, but on our first day of hearings up in the regional city of Shepparton – we heard from a great many representatives, including Victoria Police – we also heard from a terrific local state secondary college. We had teachers as well as students from Greater Shepparton Secondary College come and talk to us about this issue, about both illicit tobacco and vaping. The questions that we put to them around the availability and cultural attitudes to it led to some particularly illuminating answers, noting in the first instance that when it comes to the question of availability, it was widespread. Everyone knew where to get them from; everyone knew which shops would sell vapes to under-18s. It was, I think it is quite fair to say, an open secret amongst the young cohort in Greater Shepparton that came and spoke to us.

I think the most concerning bit of evidence that we heard from them was in fact the evidence around cultural attitudes, and it was surprising. We asked them about the attitudes. These were very impressive school captains in year 12 at Greater Shepparton, who have presumably now finished their exams, and I wish them all the best for their further studies or other opportunities they might pursue next year. But these school captains who are in year 12 told the committee that at their age level it is actually seen to be quite uncool, and the reason that vaping is seen to be quite uncool is because it is seen as something that younger kids do. That was quite startling to a few of us. Again, the Labor and Greens members were present on that day, and to all of us there it was quite a startling thing to hear that it is in fact younger high school students who are more commonly partaking in vaping and older high school students see it as a younger kid thing to do.

Indeed it was a few days later or maybe even the next day – when the Legal and Social Issues Committee also conducted a hearing in Shepparton and had the opportunity to ask some primary school teachers about what they had seen with regard to trends among their students when it comes to vaping – that, again, it was quite shocking to hear that it was commonplace in many schools for kids as young as those in grade 4 to be quite regularly vaping and for many kids in grade 4 and onwards to be vaping. For this to be something that kids are taking up in grade 4 and then ageing out of in their early teens is quite concerning indeed, particularly when, as my colleague Mr Batchelor went through, we do not know many of the substances in these products and whether any particular batch could have a particularly concerning dose of nicotine or any other toxic substance. These are young people inhaling these chemicals, and we do not know what is in these products. I was not quite sure I wanted to know the answer, but I did have the opportunity to ask some of these teachers as well in particular at what age they start. Grade 4 seems to be when it becomes commonplace, and the response was that you pretty much never see preps or grade 1s do it, but above that it is definitely happening. You would see grade 2s or 3s and that, frankly –

**Melina Bath** interjected.

**Michael GALEA:** Quite right, Ms Bath, it is scary. That is also part of exactly why we have this legislation before us today: to address the illicit tobacco but also the illicit whatever else is in these products, be it cigarettes or vapes or whatever else is being sold. It is part of and does complement the federal reforms which have been announced and have now come into effect from earlier this year to arrest the scourge of vaping, particularly as it affects young Victorians and young Australians. It was a very timely opportunity for PAEC to engage with this issue, and I was pleased to take part in formulating some of those recommendations, which has led to them being considered as part of the legislation before us today.

Community concern on this issue is something that is quite rightly there for all to see, be it in the prevalence of these products on our streets or in the organised crime that is driving many of these sales

and the outrageous incidents and attacks that we are seeing right across metropolitan Melbourne and right across regional Victoria too. This is legislation that is designed to be tough and to address that.

I note Mr Limbrick's comments as well. I always enjoy debating these subjects with Mr Limbrick, but he has come out and spoken against these penalties being so tough. I would say the alternative is that you make the penalties weak. And if you make the penalties weak – if you make it nothing more than being slapped on the wrist – it is not going to have any impact and it is not actually going to do anything to address the problems that we are here to address. This is an important issue. We have a government that is committed to addressing this issue, and that is why I think the balance that we have in this bill has got that right.

We know, as my colleague Mr Batchelor has gone into great detail on, that smoking is a considerable contributor to cancer, stroke, cardiovascular disease and kidney disease. We know that it also costs the Victorian economy \$3.7 billion a year in tangible costs such as health care and an additional \$5.8 billion in intangible costs associated with loss of life as a result of smoking each and every year. If we see the decades-long efforts to reduce smoking rates in this country undermined and reversed, we will see our community's health diminish, we will see more loved ones die, and we will be worse off individually and collectively in almost every way.

This new licensing scheme will deter unsuitable people from seeking to run a tobacco business. It will contribute, through intelligence and licensing enforcement action, to supporting all of our important law enforcement agencies, including Victoria Police, to combat serious and organised crime. Specifically, what the bill before us today will do is it will introduce a tobacco business licensing scheme. This will effectively amend the Tobacco Act 1987. The licensing scheme will prohibit the retail and wholesale sale of tobacco products by any person who does not have a licence. It will safeguard the suitability of licensed retailers and wholesalers of tobacco products. It will minimise and mitigate the risks associated with the sale of tobacco. It will also provide sufficient powers to enable efficient and effective regulatory oversight. The regulator will have broad powers to consider whether an applicant is an appropriate person to hold a licence. The information to be provided to the regulator to apply for a licence will be set out in regulations which will be developed in the aftermath of the passage of this bill. This will include information necessary for the regulator to undertake a suitability assessment of the applicant – such as known names, dates of birth and residential addresses – along with the address of the proposed premises to be licensed.

Applicants will also need to provide names, dates of birth and addresses of an applicant's associates, including close relatives and business partners. They may require police checks from the applicant and any associate of the applicant if they deem it appropriate. The Chief Commissioner of Police must be consulted on new licence and transfer applications. The regulator must also provide these applications to the Chief Commissioner of Police, who may at their discretion raise objections or provide other input. Additionally, the chief commissioner may also apply to the regulator for the variation, suspension or cancellation of an existing licence if they have information regarding the licensee or an associate's suitability to hold a licence. In accordance with that and indeed in accordance with action by the regulator, the bill also provides that in certain circumstances the regulator may vary, suspend or cancel a tobacco licence if a licensee or an associate of them 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. Therefore a tobacco licence can be suspended or cancelled following a short show cause notice. It also provides that the regulator can immediately suspend a licence for up to 90 days in response to a serious contravention of the Tobacco Act. They may also disqualify a person or indeed a body corporate from holding a licence for up to five years.

This is a bill before us today which will set out significant penalties, as I foreshadowed earlier, and as have already been referenced by other members of this chamber. In doing so it will effectively set up an effective deterrent that is going to significantly support the enforcement action of the regulator but also indeed of law enforcement agencies as well, most importantly Victoria Police. We know that they have done considerable work already, whether it be through day-to-day operations or through

Taskforce Lunar to address this problem, and having had the chance to view some of the compounded materials that were shipped in through the Port of Melbourne that had been seized by the Australian Border Force – quite a considerable haul and in many ways just a drop in the ocean – that sort of enforcement activity in and of itself will never be sufficiently effective, and that is exactly why we need these interventions at the retail level as part of a multifaceted response to this issue. This bill is a bill that will deliver a swift and decisive response to the illicit tobacco trade that Victorians have been growing increasingly tired of. The new licensing scheme, including some of the toughest penalties in Australia, will act to deter and punish those who engage in the sale of illicit tobacco and vape products. For these reasons I commend the bill to the house.

**Melina BATH** (Eastern Victoria) (15:33): I am pleased to rise to make a brief contribution on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024, and in doing so I would like to put on record my thanks to the Liberal and Nationals Shadow Minister for Consumer Affairs and my colleague member for Ovens Valley Mr Tim McCurdy for in effect pushing the lever on the Allan government on this overdue bill. In fact it was only a few weeks ago in the lower house Mr McCurdy proposed a private members bill called the Tobacco Amendment (Stamping Out Fire Bombings) Bill 2024 that was rejected by Labor, but now we see overwhelmingly the contents of that bill reflected in today's bill, and so we certainly do not object to this bill, although there are amendments that I will speak to that through Mr McCurdy working with the government and the crossbench independents hopefully they are going to support.

But in relation to the illicit tobacco market, those illegally imported into Australia or illegally grown in our country, it is quite frightening, I am sure, if you own a property, a flat or a bedroom above one of these shops that have been firebombed, one of the 110 firebombed shopfronts. It must be incredibly frightening and also frustrating for small business people trying to run a business of this nature, and here we are in downtown Victoria. Indeed we are the only state that seems to be having this frustration in terms of firebombings of these businesses. Back in 2021 Better Regulation Victoria's report actually endorsed, supported, called for and recommended the introduction of a licensing scheme for tobacco retailers and wholesalers. We have seen a snippet of that report and we have seen the summary of it, but it has not ever been tabled. It was a government-driven inquiry and report, but we have not seen it, other than to say that certainly regulating illicit tobacco is complex. I am sure that is the case. What we have seen on a regular basis is the flourishing of this illicit substance insofar as it is fuelling organised crime. It is certainly creating distress and costs in a resources capacity as well. That Better Regulation Victoria report also called for increased penalties, and we have seen some of those reflected in this bill here today.

I heard my colleague over there Mr Galea speak about the Public Accounts and Estimates Committee vaping and tobacco controls inquiry report of 2024 by the members of PAEC, and one of the findings, finding 8 in that report, speaks about the overall value of tobacco in Victoria in 2023 and estimates that as being around \$6 billion in sales but also considers the percentage, or proportion, of illicit tobacco sales and that market. Finding 8 says that it is somewhat difficult and contested, but if you look at the \$6 billion then the illicit market ranged between 6 per cent and 40 per cent. If you do the maths on that, that is well over \$2 billion in that stream. So if you are a gang, if you think that you want to and can get away with this sort of organised crime and its darker side, then certainly there is some profit to be made. That is what part of this bill seeks to stamp out. Where there have been licensing schemes across other states we have seen a significant reduction in those sorts of firebombings; therefore people can feel safer if they have their apartment above or beside these shops.

Having a chat with some of my independent supermarkets in Gippsland last week in preparation for this bill with my good colleague Mr McCurdy in Bass, down in that area there, we learned about the decline in sales overall from a supermarket point of view. That could be reflective of two things. We know that overall the rates of smoking over the past two decades have reduced, but if you are seeing that it could be up to 40 per cent of those sales that have shifted into the illicit market then it is not

surprising that some of our supermarkets are seeing that decline. There are certainly excises and tariffs on those, and therefore in a cost-of-living crisis people are turning to the cheapest form that they can.

The other thing that is quite interesting – and we heard other speakers speak about vaping and e-cigarettes – is that proportionally the rates of consumption of those types of products is on the rise, and the most rapid rise in the past decade has been in the adolescent space and among young adults. In fact between 18 and 24 there has been a fourfold increase in vaping and e-cigarette use. I just recall doing a little bit of research back in 2016 when there was a tobacco bill. I went into great detail about some of the subjective nature of what can be in these products. It seemed to spark a great deal of outrage from a number of people who felt that, although I had done the research on some of the contents, it was outrageous that I would be picking on somebody who wanted to consume e-cigarettes. Whilst it is legal and we know that there have been changes federally through that process, we also see most alarmingly – and we heard the speaker before me speak to this – that you have got children as young as young primary school children engaging in this.

Let me turn to some of the aspects of the bill. One of the concerns that we have in relation to this, which hopefully will be improved through the process of amendments today, is that the bill in its current state does not come into effect until July 2026. That is too slow by our account given the urgency of the issue. How would those continued businesses, apartments and lives be impacted if there were to be that 18-month delay? As I said, Mr McCurdy on behalf of the Liberals and Nationals has put forward amendments so that much of it is going to be brought forward to July 2025 – so next July instead of 2026.

One of the parts to this bill is licensing. It includes tobacco and e-cigarettes. It also includes a fit and proper person test, and it outlines penalties for possession and sale of these tobacco products and significant fines that I will go into in a moment. But we have seen mayhem, and Mr Mulholland is right, 110 is a scary amount of firebombings, but it has not just encompassed metropolitan Melbourne, although we have seen it right across Thornbury, Coburg and Footscray. It has also occurred in Wangaratta and Ballarat, and I heard my colleague Mrs Broad speak about the Bendigo incident. In Moe we have had them a couple of times last year and this year. In Morwell we saw it in February, in Wonthaggi in August this year, and we have seen it in Dromana, Skye and Mornington as well.

Some of the concern that people have was reported in an article in the *Herald Sun* of 1 October 2024:

The state government did nothing and now Victoria holds the title of being the only state or territory in Australia without such a scheme.

...

As Victoria Police say, it is a miracle innocent lives have not been lost in the rampaging violence.

...

“This chaos is playing out right in front of the government,” an industry insider said.

But closer to home for me, it is very concerning for people, again not only businesses but community members and also the police, who have to redirect all their resources. If you go into country Victoria you know how stretched our hardworking VicPol officers are, and if having to turn out to these sorts of firebombings and incidents can be diminished then that is a very good thing.

In the South Gippsland *Sentinel-Times* of 20 August we saw an article about a ramraid in South Dudley near Wonthaggi which said:

Local retailers fear it might simply have been a “shot across the bows” of the new shop after signs went up ... advertising “... tobacco ...”

as well as other things.

We saw that on 19 August Wonthaggi fire brigade was alerted and came to that particular South Dudley bombing, where they saw that a car had crashed through the shopfront window where this



ramraid occurred. So I am just wanting to put on record that unfortunately it certainly is not isolated to metropolitan Melbourne.

We also see the terror that has been reported over time, and that certainly is something that this bill needs to address, and it needs to have addressed it yesterday. I want to just drill down very briefly in the last few moments of my contribution to talk about some of those fines and penalties: \$23,000 for an individual possessing illicit tobacco; up to an \$800,000 fine for a body corporate possessing a commercial quantity of illicit tobacco, and that is something that I think is still somewhat undefined; and also \$1 million for a body corporate selling a commercial amount of illicit tobacco. There seems to be still a lack of clarity on registration costs in relation to the definition of commercial quantities, and also – I have just read about a business in Wonthaggi who was opening up, who was selling sweets and chocolates and the like, as well as tobacco – certainly these businesses when they become licensed need to be protected, and they also need to not be priced out of existence, priced out of actually operating and employing people in our regions, by overly high licensing fees. There needs to be that enforcement. It needs to involve Victoria Police, which it will. It needs to have licensing inspectors, but also it needs to be an appropriate measure that people can afford if they are in small business.

In summary, I am very pleased to support the amendments from Mr McCurdy to bring forward the evolution and implementation of this bill put in by Labor. It is disappointing that it has taken this long, but certainly the Nationals will wish it a speedy passage after some amendments, and we do not oppose this bill.

**Rachel PAYNE** (South-Eastern Metropolitan) (15:47): I rise to make a contribution to the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024 on behalf of Legalise Cannabis Victoria. I cannot contribute to this bill without first acknowledging the massive failing that has led us to where we are today. Seemingly every week we hear of another firebombing. It is genuine gang warfare on our streets, with cars ramming into buildings and so much violence, all in the name of the illicit tobacco trade. Ordinary Victorians are increasingly caught in the crossfire. Local businesses suffer thousands of dollars in damage thanks simply to being next door to a tobacconist.

We appreciate that these scenes of violence have rightly stoked fear in the community, and there is immense pressure on government to act, but with that being said, we are fearful that this bill, much like the firebombings themselves, will end up hurting ordinary Victorians. There are legitimate businesses out there – mum-and-dad shops, many of them with English as a second language – and they sell illicit tobacco. That is the reality of the situation. They are not some sort of criminal overlord; they are simply trying to make a living in a market that is increasingly saturated with illicit tobacco. This government is at risk of targeting these kinds of people with imprisonment and hundreds of thousands of dollars in fines. We are now the only state without a tobacco licensing scheme. We have tried many times. Thanks to their own inaction, this government has enabled a fully established illicit market within our state. Finally, when they do decide to act, they do so while championing the toughest penalties in the country and a half-baked plan for implementation. Thanks to this tough-on-crime stance, I now have no doubt this legislation will sail through with the support of the opposition, free of any real conversation about harm reduction and public health.

In consulting on this bill, we spoke with Deakin University criminologist James Martin, who addressed the nuances of regulating these kinds of markets. When you focus on enforcement and penalties, you do not meaningfully address supply and demand. Often what you actually do is push out the good actors from the illicit market and leave the most hardened criminals, who then escalate their violence. We agree that this bill seems to be a reactive short-term solution that could very well create more harm. There is also much of this scheme that will only be ironed out at a later stage. We will not be able to be involved in these later stages and do not know what they could include, which is something that concerns us deeply. When we speak about our concerns and lack of trust, we are speaking from experience. As the Legalise Cannabis Party we have a unique perspective on the harms a tough-on-crime approach can have when trying to regulate the illicit drug market. After seeing the many harms

of the war on drugs, can you really blame us for being sceptical about the war on illicit tobacco? These crackdowns never really seem to work.

It has been so promising to see the government's language around cannabis shift in the last decade. They increasingly recognise that a health-led and harm reduction focus leads to better outcomes for all. That is why this bill is particularly frustrating for us. It feels as if all of those lessons that have been so hard fought for are being ignored because it is convenient. We appreciate that an unregulated market and the absence of a licensing scheme have made public health and harm reduction efforts more difficult; however, we would be remiss not to mention the role of the Commonwealth government in landing us in this situation. The tobacco excise is astronomical and vapes are now more restricted than cigarettes. It is frankly ridiculous. In other countries where they are close to being smoke-free, like New Zealand, vapes are regulated in a commonsense way and endorsed as a smoking cessation tool. We encourage the Victorian government to stand up to their federal counterparts and raise these issues, because in the meantime people like my friend who is currently battling cancer cannot access a herb vaporiser for her medicinal cannabis. That is right, it is a dry herb vaporiser – it has no nicotine; it is essentially a heating element – and she is treated like a criminal just for trying to buy one.

It is disappointing that the Victorian government has not had the confidence to come out and call out the Commonwealth government for playing a major role in creating the illicit tobacco market. Their excise on tobacco criminalises the poor and their regulation of vapes has made a tool for smoking cessation incredibly hard to access, harder than even cigarettes themselves. This is going to create a huge group of people who will have to do one of two things: they have to either foot the high cost of regular cigarettes in the midst of a cost-of-living crisis or stop smoking. The third option would be that they go to some of these organised crime gangs and buy their cigarettes direct. The latest national drug strategy household survey continues to tell us that those who smoke tend to be older and live in the most disadvantaged socio-economic areas. This legislation should address smoking cessation supports through improved accessibility to health care and cessation services. Instead, it is silent on these issues. At the end of the day this market only exists because there is a demand for it, and unless we address the demand we are not going to get to the core of the issue. We have broad concerns about the approach in this bill, and we do not believe it will hit the mark in reducing organised crime. That is why, despite our support for a licensing system, we cannot support this bill.

To begin with, we have concerns about the practicalities of the implementation of a licensing scheme. One of these concerns relates to the role VCAT will play in dispute resolution. VCAT is already overrun and subject to significant delays, blowing out disputes by months and sometimes years. This bill sets up VCAT as the body to which complaints can be escalated for a review. It is not fanciful to expect that, in the process of trying to license an unknown number of thousands of tobacco retailers and wholesalers, there could be hundreds of people who will use this review process. We need some assurances that the government will address this by providing additional resourcing and funding to VCAT. Let us be realistic about the demands that already exist and how without further action this bill will worsen those demands. We do not know how many licence applicants there will be. So for the government to claim they can get this regulator set up and all of these licences assessed within a six-month window is ambitious, to say the least.

Our concerns also include the general tone of not only this bill but the broader commentary by the government. As I have already touched on, we have seen such a positive shift in the way this government shapes its drug policy, focusing on public health and harm reduction, which is why we are so concerned about how the centrepiece of this bill is a tough-on-crime approach, so much so that we feel harm reduction has been left out of the conversation altogether. We will be raising a number of these concerns during the committee-of-the-whole stage and hope that the government is able to provide some assurances. This bill will not decrease demand for illicit tobacco, and it will not inform and educate Victorians on harm reduction. For these reasons, we will not be supporting this bill.

**Sheena WATT** (Northern Metropolitan) (15:55): Thank you very much for the opportunity to rise and speak in support of the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing

Scheme) Bill 2024. This bill does represent an essential step forward in our efforts to protect Victorians from the really devastating health, social and economic impacts of tobacco and related products. Can I say it really does reflect our collective responsibility to safeguard public health while addressing the environmental and criminal consequences of an industry that has long evaded full accountability. Accountability cannot simply rely on self-regulation or reactive measures such as policing crime after it has already impacted our communities. This legislation does take a proactive and practical approach to addressing these issues. This bill introduces tough regulatory mechanisms. It aims to deter criminal activity before it is exploited by organised crime. These measures enhance oversight, but they also strengthen our ability to prevent harm, making our community safer and more resilient.

We know that the harm caused by tobacco use remains significant despite decades of public health interventions. This really builds upon the extensive work this government has done towards tobacco control in Victoria by introducing a robust licensing framework, strengthening enforcement provisions and addressing the emergence of new challenges such as illicit tobacco and vaping rates in the bill before us. Smoking continues to be the single greatest contributor to preventable death and disease in Victoria. It is directly linked to severely negative health outcomes, including cancer, cardiovascular disease and respiratory illness. According to a report from 2018 commissioned by Quit Victoria, the cost of smoking to the Victorian economy is absolutely staggering: \$3.7 billion in tangible costs such as health care and \$5.8 billion in intangible costs such as loss of life. Look, I do not know how they calculate that, because for the families affected it is priceless, frankly. The devastation caused to those left behind is priceless. The numbers only tell part of the story. Behind them are families grieving the loss of a loved one. There are individuals facing chronic illnesses and communities bearing the burden of caring for those affected. Smoking rates have declined significantly from 19.2 per cent in 2001 to 7.6 per cent in 2022–23, but the pace of that reduction is really slowing. I think that is worth reflecting on today. This bill is crucial to reinvigorating our efforts and addressing the ongoing challenges posed by tobacco use.

Among the communities most affected by smoking and vaping are First Nations people, something that I have certainly seen firsthand amongst my mob. Smoking prevalence amongst First Nations populations remains significantly higher than for the general population. It does contribute quite significantly to the stark disparities in life expectancy and chronic disease rates. We know that tobacco use exacerbates illnesses such as diabetes, kidney disease and cardiovascular conditions, which are already prevalent in communities. Addressing this disparity requires more than an awareness campaign; it demands systemic changes that make tobacco products less accessible and disrupt the supply chains of illicit tobacco and the harm they cause to communities. The bill empowers regulators to do just that, ensuring that tobacco retailers and wholesalers meet some really stringent suitability criteria. We absolutely must remain committed to closing the gap in healthcare outcomes for First Nations people, and this legislation is a critical tool in achieving that goal.

I am going to take a moment to give a shout-out again, because I cannot help myself, to the Victorian Aboriginal Community Controlled Health Organisation (VACCHO), who do play a critical role in reducing smoking rates amongst mob and recognising that smoking rates remain three times the national average amongst Aboriginal and Torres Strait Islander people. VACCHO supports its member services in developing and implementing effective tobacco cessation policies and programs. To everyone involved in tackling Indigenous smoking at VACCHO and amongst their membership, can I give you my best and utmost respect, because what you are doing is incredibly challenging work but so vital. To the Victorian Aboriginal Health Service, who have helped a range of folks that I know, thank you, and please keep doing what you are doing. To the workers that have to have those tough conversations with folks that come in, I am so happy to know that you are a trusted place for advice and support. So many of those that are coming to you, though, are those wanting to quit vapes, wanting to get off the illegal and illicit tobacco products that are just so prevalent now in our community, so that is why I know that this bill out there will change lives. I also want to take a moment to acknowledge VicHealth and the work they do in promoting smoking cessation. They were created all those years ago with the very aim to reduce smoking rates amongst the Victorian community. To the

team there, my respect to you. I know the work that you do and how valuable it is, so thank you very much.

I want to say this bill does primarily focus on tobacco, I acknowledge that, but it also addresses the growing issue of vaping. On a quick walk around Brunswick, where you will find my electorate office, you will see so many discarded vape wrappers and those used disposable vapes. They litter our streets, they are in our stormwater drains, they are ugly and they are in our gardens. I cannot stand them. They are absolutely everywhere. And it is worth knowing not only that they are everywhere, but also that the batteries within them contain some really toxic materials, including lithium. I do know that they have been disposed of in the wrong way and can contribute to fires, so to all the workers that put their lives at risk trying to deal with the waste of vaping, can I just say thank you. To those in our emergency services, the bill before us is hoping to make your lives a little safer and helping to ensure that you come home from work each and every day. It is true that those that import these products are not actually held to the accountability that community demands for the dangers that they pose initially but also on their disposal later on. I think that is worth noting today.

There is so much waste being created by these products. It is absolutely everywhere, and I just want to see that being pulled up. It is a good time, can I just say, to remind folks that vapes should never be put in your recycling or your garbage bin at home or work. They are a fire hazard. Vapes can only be recycled or disposed of through some specialised programs or services. I am not sure that too many vape users know that, so I am just going to take a moment to remind you. It is safe to remove the battery, and there are many battery recycling programs around and council drop-offs and whatnot for vapes. But the truth is that they should be safely disposed of and recycled.

There is more to this bill, and I know that there are more speakers, but I will just highlight that this is a bill that introduces a licensing scheme entirely designed to prevent unsuitable individuals from entering the tobacco market. By requiring suitability assessments, including criminal history checks and police consultations, this legislation creates a really robust barrier against the infiltration of organised crime. It also strengthens the penalties for illicit tobacco offences, with fines of up to \$165,975 for individuals and more than \$800,000 for corporations as well as potential imprisonment for up to five years. These measures position Victoria really as the leader in combating the illicit tobacco trade.

There was of course an inquiry that was done recently by the Public Accounts and Estimates Committee, and I thank the members of that committee for that work. I know that we have got two of those members in the chamber right now. I acknowledge their work and thank them for listening to the evidence that came out, whether that was from the AMA, Cancer Council Victoria, Quit Victoria or others, really citing the potential for a licensing framework to reduce illicit tobacco sales and improve public health outcomes. This is one that I know has sparked lots of community conversations, but the safety of our community must always come first. Can I take the opportunity to urge all members to support this legislation by passing it today. It is a significant step towards a healthier, safer and more equitable Victoria. I finish off by saying that I commend the bill to the house.

**Nick McGOWAN** (North-Eastern Metropolitan) (16:07): I am a bit grumpy today, I have to be honest. I do not know why I am grumpy. I think it is because I was up late last night watching a Netflix series I did not need to watch about the tsunami in 2004, and – invariably – it was not just one episode, it was episodes, plural. I did not realise that when I first started watching, so that has put me in a particularly sleep-deprived condition today. That condition of course has lent itself to me, in my senior years, being very grumpy. I will try and disperse the grumpiness and just be lovely – comical even. I am not capable of comedy, but I am going to give it a shot because I think if there is any debate we are going to have in this final week of the year, it is on this bill, which deserves a sense of comedy or at least a sense of cheeky comedy, because I have to agree with much of what the crossbenchers have had to say today.

For any government to come in this place and straight-facedly claim in any way, shape or form the high ground on this issue, on vapes, is comical. It is absolutely comical. They have done nothing on this issue for years – not months, not days, not weeks but years. And it is actually worse than that. I am still trying to be comedic when I say this, but imagine you had a report from an authority that is supposed to advise on these matters – say it was in 2021, for example – and it suggested that the government do exactly this. Wouldn't it be almost comical if you ignored that report for years and years and years and then came out later and, as a government, said, 'Well, we're swift. We're proactive. Look at what we're doing.' If that does not show that this Labor government has a sense of humour, I will never know what does. My goodness. I will have to nominate them. I know Victoria is the home of the comedy club and the comedy week and the comedy festival. Well, I have to nominate the minister as perhaps the best comedian.

I will tell you what, I saw Dave Hughes just recently at my local cricket club in Mitcham and he was sensational. But even he was not anywhere near as funny as the minister has been on this one, because for the minister, in all straight-facedness, to stand in front of the arranged media as he did and then claim that somehow this government is at the forefront, clearly he did not get the memo. Clearly he did not realise at some point that Victoria is the worst performing state in the country when it comes to vapes – the worst. They have done precisely – and if only Hansard could pick up the silence. If there was any way of them illustrating in the *Hansard* silence or nothing, we would probably have not pages but I suspect volumes, and if it assisted I would stay and just be silent for the next 11 minutes and 54 seconds – as that is precisely what this government has done. Day after day, week after week, month after month and – wait for it – year after year, comically, having received a report in 2021, it was as though that was dating back to Adam and Eve. Well, that is not when Adam and Eve started, but with this government perhaps that is when they think it occurred, because their knowledge base did not even precede that date; it did not even precede 2021. What are we dealing with here? I mean, this is a manifest failure of duty, and then to point the finger at the federal government.

We had little bit of that today. Unfortunately, the minister has left the chamber, but she has already got stuck into Albo today in question time, and I share her analysis that the childcare system is absolutely moribund under this Albanese Labor government; I share that sentiment. I share her criticism of the Labor government, because I think she is spot on. She nailed it in question time; she absolutely nailed it. It was polite to see and it was refreshing to see that we had a Labor minister prepared to stand up to the Labor government federally and call them out on their absolute failure in terms of child care. Well, not more than a couple of hours later we have the same state Labor government – keep in mind, anyone who is watching this at home or abroad or perhaps in the years ahead, if they have got nothing better to do but go through the annals of history and look at the *Hansard* of this day, you should also understand very clearly that the members of the federal Labor Party and the members of the state Labor Party are the same. If that was not another comedy twist for you, I do not know what is – they are the same party. As they say in French, there is not even beaucoup de chapeaux – there are not even that many hats. They wear the same hat; they are the same people, the very same people – the same people who now criticise, in effect, themselves.

Maybe they should ease up on themselves. But on this count, when it comes to vapes, there should be no easing, despite my attempt to lend comedy to this discussion, in part because of my sleep-deprived bad mood and in part because if you were to deal with this issue too seriously then you might actually find yourself in all kinds of difficulty. I will just use that word – difficulty. Because as previous speakers have already spoken to, 110 instances of firebombing and suddenly this government goes, 'Aha, we've got it. We'll fix this. We'll come up with a scheme, and we'll call ourselves world-leading – probably universe leading.' But the sad thing is they are the last; they are actually the last on the entire planet. When we federated in 1901, the states could not have come up with such comedy. Six states, two territories, and these guys think they are the first. I know the local newspapers are not distributed anymore in the suburbs and the news travels perhaps not as fast as it once did, although arguably social media does. But surely someone could have said to the minister: 'Oh, Minister. Yes,

Minister. Minister, we're the last state in the country to have any sort of system around this at all. We're the last. We don't regulate at all, Minister. We're not the first but the last.'

I tell you what: I think they have taken a leaf out of Trump's book. I think if they just keep saying it and they repeat it time and again and again and again, the public might actually hear it and believe it. They might somehow believe that this government is cutting edge and that it is actually proactive. I hate putting those two words together for this government. I mean, you cannot argue you are proactive if almost six years ago your own body suggested you do exactly this. To this day they have refused, in another comedy twist. It is more like a twist of a knife than it is a comedy twist, but I am going to say it is a comedy twist because I am reverting back to my good mood. In this comedy twist, they still refuse to release the whole of that report. What sort of government does that?

**David Davis:** Haven't they done that?

**Nick McGOWAN:** 'Haven't they done that?' No, they have not done that. Sadly, they have not done it.

**David Davis** interjected.

**Nick McGOWAN:** That is right. Then I hear those opposites using phrases like 'strengthening the ability to prevent harm'. Are they serious? I mean, I do not mind if we get up here and we all engage in a bit of vaudeville. I do not mind. Even my good colleague Mr Mulholland is a bit of a thespian at heart. I understand that; I can cater to it, I can listen to it and I can watch it. Occasionally I will go to Broadway or maybe I will go to the East End, if I am lucky enough, when I am overseas. But to engage in this level of acting – I know we are only a couple months away from the Academy Awards and everyone would love an Oscar, but 'not everyone can get an Oscar' would be my message to the minister. I might have to do a backflip right here in front of everyone, because his press conference and their presentation of their solution to this new problem was truly remarkable. It would make Daniel Day-Lewis cry in admiration or adoration at the capacity of someone to straight-faced stare a camera down the lens and pretend like this is good work: 'We are protecting Victorians; we are preventing harm.' Preventing harm – oh, my goodness. No harm was prevented from this announcement.

And, wait for it, at the end of the announcement when the press conference actually occurred was the zinger. It is like the comedy triple, the treble, or whatever word there is for that. My vocabulary is not that big or sophisticated, clearly. But then there was the comedy treble – I am going to call it the treble – that they would not even institute it until, what was it, 2026. What were they smoking? It could have been a vape, because it was unregulated. It could have been numerous vapes, like in the cartoons. You know, like in Mickey Mouse or – probably not Mickey Mouse – Tom and Jerry. This is what they have allowed to happen under their watch.

I heard another member refer to the Public Account and Estimates Committee report on this matter. I did not have a lot to do with that PAEC inquiry intentionally, because why on earth am I going to step in and do this government's work for it. God knows they have enough members. If they want us to do the work, simply have their members resign or have by-elections. I am only too happy for that to happen. The quicker that happens, the quicker we can all move on and do the work they do not want to do, because clearly for five years straight they have not wanted to do that work.

In the meantime what they have allowed to flourish in this state – as is said by members opposite, and I am referring now to the crossbench – is a fully illicit market in all sorts of things. I have got to try and keep this light, but when I keep it light and I talk about the fact that they have allowed this illicit market, number one, they have allowed the underworld and all sorts of criminality to dominate it. Unlike any other industry, it has flourished in Victoria. It has not flourished in every other state and territory of this country, just here – just here with this government that says it is keen to prevent harm. Why is that? Is that causation? Is their lack of acting, is their failure to actually implement any policy whatsoever in this policy vacuum, a complete failure? It is. This government has not just dropped the ball on this issue, it was never on the court. They never, ever stumped up in any way, shape or form,

and now, with their comedy treble, they announce that they will do something in 2026, in a craven way, in an election year. Reasonable minds, reasonable people, may well ask in the course of history why the state of Victoria was so lax, so wilfully neglectful, and why they failed to act for such a very, very, very long time.

I will never understand it, because what we actually have seen now is this Labor government give birth to generations of children who are hooked on vapes – all kinds of vapes, not just the kinds of vapes that were initially intended to assist those with medical issues and pain relief. We have now actually let it rip. We have let it rip for the better part of, well, more than a decade in all reality, because vapes did not come onto the market in 2021, I can tell you that. It does not take Einstein to work that out. It does not take Einstein to work this sort of stuff out.

What we have in this bill – and I will just look at how many pages it is in total – is a lengthy 137-page admission of policy and governance failure, abject failure, by the Labor Party here in Victoria, who have for years and years and years done absolutely nothing when the other states in the country marched forward, when the other states in the country protected their citizens, particularly the vulnerable, and protected their children. They provided not only a regime in terms of the administration and use of vapes, but they also were proactive in policing such. That has not been the case here in Victoria. There has been nothing proactive about this legislation. The Labor Party have been brought here kicking and screaming every step of the way.

I will never fully understand why a good many members of the government, why a good many and well-intentioned members of the Labor Party, allowed their own party, their own ministers, their own cabinets, to so abjectly fail the people of Victoria or to so abjectly fail to prevent harm to the people of Victoria. While we might stomach that failure, what no Victorian should stomach in this place is any sense of pride, fulfilment or promotion, or some delusional sense that this Labor government have now done us some kind of favour, because the truth is they are being dragged kicking and screaming to this point. If it were not for the opposition, it would be taking 12 months further to get to the point at which they should have been over a decade ago and so simply and so monumentally failed to accomplish.

Not only has this Labor Party turned its back on the workers of Victoria, it has turned its back in this action on every young person, every young woman, every young man and every family. Everyone in this state the Labor Party have turned their backs on, while they have allowed criminality to run rampant in Victoria and while they have allowed the firebombing of 120 premises, including in my own electorate of Ringwood, including in Mitcham, Nunawading and other places right around the state. No Victorian should ever forget that we did not have to be here and that Victoria is the last state to take this action.

**Trung LUU** (Western Metropolitan) (16:22): I rise to speak on the Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024. The bill proposes changes to the Tobacco Act 1987, setting up a new licensing system for tobacco retailers and wholesalers. The Liberal–National parties do not oppose the bill, but we do have certain concerns, particularly those relating to enforcement and combating organised crime syndicates. We recognise the bill's intention to introduce a licensing scheme, improve regulatory oversight and introduce tougher penalties for illegal tobacco trading. The issue lies with the execution and enforcement of this piece of legislation in a timely manner. The second issue is that Victoria Police are currently understaffed, with over 1000 vacancies and over 1100 tobacco stores across our state.

Since 2021 Better Regulation Victoria recommended for the Allan Labor government to act. This included establishing a licensing scheme, providing clear and effective regulatory oversight, enhancing investigation and enforcement powers and providing for increased deterrence via stronger penalties. During that time criminal gangs have infiltrated and controlled the tobacco market. Over 100 tobacco stores have been the target of the violent firebombing campaign in the turf war – a war for control of the tobacco trade. We are seeing organised crime syndicates raking in millions, and the

government's delay has fuelled these criminal activities. I will give you the size and magnitude of the money involved. Police seized over 200,000 vapes worth in excess of \$8 million in Box Hill South just last month, and over in the west in my suburbs police have arrested a key player in a tobacco-smuggling syndicate. A search warrant conducted on the accused's house resulted in the seizure of luxury cars, including a Lamborghini, and in excess of 600,000 cigarettes. The market value of these is in the millions of dollars, and there was \$75,000 in cash, some of which was hidden in nappies.

All over the state criminals have taken control and driven out legitimate businesses, but even worse, this black market is not just about tobacco. It is funding other illegal activities, such as drug trafficking, sex trafficking and terrorism. Australian Border Force Commander McKern has made it quite clear that illicit tobacco does not just harm our economies, it funds transnational crime syndicates, including drug trafficking, sex trafficking, corruption and terrorism. Let us not forget the economic impacts. It is not difficult to see why people turn to illegal tobacco when legal cigarettes cost up to \$75 a packet and in the black market the product sells for as little as \$15 a packet. For many Victorians struggling with the cost of living, these are just cheaper options to accommodate their habits. We would ask: has taxing smokers to stop smoking gone past its effectiveness? It is not just about saving a few dollars; it is about fuelling criminal activities and lawlessness in our communities.

The current Tobacco Act 1987 penalties, as we know, are insufficient. A \$23,000 fine for illegal tobacco sale is insignificant compared to the millions of dollars these criminals are making. Look at the seizure in Box Hill South: it was worth in the millions of dollars, and for the defendants, the accused, a fine of \$23,000 would hardly make a dent in their operations. This bill addresses a much-needed shortfall, with new penalties for selling tobacco without a licence. Under this new section 33A an individual faces a fine up to \$166,000 or five years in prison, while a corporation could face penalties of \$830,000.

This bill also gives licensing inspectors more power to seize tobacco products and gather evidence of violations. It ensures that criminals can no longer enter the tobacco business, by requiring criminal history checks for applicants. But the concern is the effectiveness of the execution when you have Victoria Police stretched thin, with over a thousand vacancies, stations struggling to allocate units to patrol every shift and watch house counters that are not manned 24 hours. With an estimate of 12 inspectors alone, that means each licensing inspector will be responsible for monitoring 91 tobacco stores, and that is a tough ask.

In closing, this bill is a step in the right direction. After years of inaction, shops across our state going up in smoke and the unyielding media pressure, the Labor government is finally scrambling to put something in place to restore order. We are pleased to see the bill's new regulatory framework; criminal gangs, however, have already infiltrated the market, causing significant harm and damage. I seek that the chamber supports the Liberal–Nationals' amendments to move the effective date 12 months forward to combat the organised crime syndicates that are currently dictating an illegal tobacco market. The reality is it will take more than tough penalties to combat organised crime and to undo the harm.

**Council divided on motion:**

*Ayes (34):* Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, Katherine Copsey, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Anasina Gray-Barberio, Renee Heath, Ann-Marie Hermans, Shaun Leane, Wendy Lovell, Trung Luu, Sarah Mansfield, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

*Noes (3):* David Ettershank, David Limbrick, Rachel Payne

**Motion agreed to.**



**Read second time.**

**Committed.**

*Committee*

**Clause 1 (16:36)**

**David DAVIS:** I have just got a relatively small number of questions, which if it is convenient, we may do on clause 1, the objectives. My first question is: how does the government intend to audit and ascertain the number of tobacco outlets in Victoria before the implementation of the scheme? The follow-on questions on that that the minister might want to respond to at the same time are: when will this take place and with what resources, and will these businesses be noted on a public record or individually contacted about the licensing scheme?

**Lizzie BLANDTHORN:** Those are issues that are anticipated to be dealt with through the regulatory impact statement (RIS) process, and that will begin as soon as possible and be as fulsome as possible.

**David DAVIS:** That is good of the minister to respond to that. Are there resources that have been allocated for this? The government must have some idea of a timeline on the contracting of businesses. I would have thought also it is legitimate to ask whether there will be some noting of these on the public record, or is it just going to be a list held in the department?

**Lizzie BLANDTHORN:** I am advised that there is a dedicated business unit within the department that will be doing this work and that the RIS process will run until, it is anticipated, about July next year.

**David DAVIS:** So there are staff that are dedicated to it. Perhaps you can tell us how many and what cost that is estimated to be.

**Lizzie BLANDTHORN:** The total number is yet to be determined, Mr Davis. They are in the process of ramping up, pending the passage of this legislation, to then have the –

**David DAVIS:** Single numbers or dozens?

**Lizzie BLANDTHORN:** I can take further advice on notice if you like, but the advice that I have at the moment is there is a dedicated business unit and in response to the passage of this legislation the necessary resources would then continue to be applied to make sure that the job can be done by July next year.

**David DAVIS:** I would appreciate if we could work out the number that is involved. You must, for example, know the number that is there now and estimated numbers for the future. Will the public record only consist of businesses that hold a licence? For example, will businesses that breach their licence conditions or trade without one be noted in the government's public database?

**Lizzie BLANDTHORN:** Just the register of licensed businesses, I am advised, Mr Davis.

**David DAVIS:** Minister, with the new dates around the commencement of the bill, what steps will be taken to ensure that businesses are informed about the need to register for a licence before July 2025?

**Lizzie BLANDTHORN:** There are dedicated comms resources that will be able to ensure that businesses do understand, particularly in relation to the commencement and their obligations, responsibilities and opportunities.

**David DAVIS:** I just have a final question: what feedback has the Chief Commissioner of Police provided to the government on this bill? One aspect of that might be particularly around resourcing for providing feedback on applications, but more generally too.

**Lizzie BLANDTHORN:** The chief commissioner has indicated his support for the bill, and of course that is a matter of public record. There will obviously be the communications plan that supports

the introduction of the legislation and the regulatory scheme, and the commissioner has been supportive of those moves.

**David LIMBRICK:** My first question to the minister is – my office has had the Parliamentary Budget Office look at the size of the vaping market, and they estimate it to be about half a billion dollars a year in Victoria: how does this bill address the vaping market, which is also controlled by organised crime?

**Lizzie BLANDTHORN:** Vapes, my advice is, are regulated by the Commonwealth. This piece of legislation is dealing with those bits that we can as a state government responsibility. The regulation of vapes is a matter for the Commonwealth.

**David LIMBRICK:** Just to clarify then, this bill has no effect on the vaping market at a state level?

**Lizzie BLANDTHORN:** As I indicated, Mr Limbrick, the regulation of vapes is a Commonwealth issue, and that is where it obviously stands at this point in time.

**David LIMBRICK:** I thank the minister for clarifying that. To the tobacco market, the tobacco black market which we are talking about in this bill, what does the government estimate the size of that market in Victoria is at the moment?

**Lizzie BLANDTHORN:** Mr Limbrick, my advice is that the estimate of both legal and illegal is between 5000 and 9000.

**David LIMBRICK:** I am not sure I understood the minister's response – 5000 to 9000. I was talking about size, as in – sorry, maybe I should have made myself clearer. The financial size of the market is what I was referring to, not the number of retailers.

**Lizzie BLANDTHORN:** We do not have something that we can provide you now, but we can take that question on notice.

**David LIMBRICK:** I will not speculate. I will wait for the minister's response. We have seen many arson attacks. Obviously this bill is a response to the violence that we have seen happening in Victoria. Could the minister please outline the government's understanding of the process which results in an arson attack in Victoria? There is a chain of events that lead to someone getting firebombed. What is the government's understanding of the processes behind this?

**Lizzie BLANDTHORN:** Mr Limbrick, I would not begin to hypothesise about that. Let me take some advice from the box; just a moment. Mr Limbrick, every case of an arson attack or firebombing is obviously different, and it would be inappropriate for me, with limited information availability about every individual case that might have occurred, to hypothesise about that process.

**David LIMBRICK:** Let me suggest that there is a well-known process, and in fact Mr Mulholland referred to it in his contribution: the earn-or-burn dilemma that tobacconists are faced with. What happens, in my understanding, is a tobacconist may be selling legal tobacco quite legitimately and a representative of organised crime comes into their shop and tells them, 'You are selling our product now,' and they have a choice: they can choose to sell their product, sell the illegal products, or they can choose not to and their shop gets set on fire. Basically, that is how it works. The reason I bring this up is that many of these people that are selling the illegal tobacco are actually under duress – under threat of arson or perhaps other violence. How will this scheme work for those people who are selling illicit tobacco but under duress? Will they still be liable for these very severe penalties contained in this bill? They would be selling illegal tobacco, but they are under threat.

**Lizzie BLANDTHORN:** The purpose of the bill is obviously to create a licensing scheme for businesses, and the regulator will indeed be focused on retail settings, but it is the aim of the bill to ensure that there is a regulatory scheme that affects people. It would be on a case-by-case basis in terms of penalties and a matter for the courts obviously to ultimately determine, but it is intended to set up a regulatory scheme that is for the betterment of all involved, including those who may have

otherwise been victims. I have also just received some advice – in answer to your last question, if it is helpful, Mr Limbrick – that the total value of the market is estimated at \$6 billion.

**David LIMBRICK:** Can I just confirm from the minister, is that for Victoria or Australia, that \$6 billion figure?

**Lizzie BLANDTHORN:** Let me clarify, thank you. Victoria.

**David LIMBRICK:** Can I also clarify: is that only the black market or is that the total legal and illegal market?

**Lizzie BLANDTHORN:** My advice is that is the total value.

**David LIMBRICK:** I thank the minister for that clarification. Obviously, again, this bill is a response to widespread criminal activity. Does the government have visibility of the syndicates that are behind these bombings – have they been identified, and how many of them are there? Could the minister maybe provide some insights into what the government understands about these criminal organisations that are conducting this supply chain, effectively?

**Lizzie BLANDTHORN:** That would be a matter for the Victoria Police intelligence, who would obviously then share it with the regulator in the establishment of the scheme and whatnot. But in terms of who currently holds that intelligence, that is a matter for Victoria Police.

**David LIMBRICK:** I thank the minister for her answer. I sort of thought that might be the response. On another question I was going to ask, I might get the same response, but I will ask it anyway. These are large numbers, a large amount of money. Does the government have any insight into which industries it is being laundered through? These are extremely large volumes of money. I do not think it is being laundered through local fruit and veggie shops, as we have seen in the past. Does the government have any insight into where these billions of dollars of black market money are being laundered?

**Lizzie BLANDTHORN:** Mr Limbrick, that would also be a matter for Victoria Police, as I suspect you suspected. But that would be intelligence that they would then share with the regulator.

**David LIMBRICK:** The inspectors that will be set up as part of this regime – how will their safety be guaranteed? They are effectively going up against extremely violent people. Everyone knows about the arson attacks. There have also been assassinations. I totally expect that there are many, many, many other violent crimes being committed that are not being detected, because people do not like to talk about this because they could end up dead. What will be done to ensure their safety?

**Lizzie BLANDTHORN:** The tobacco regulator, obviously established within the Department of Justice and Community Safety, firstly, will employ the dedicated licensing inspectors, as you identify. It would then be the responsibility of DJCS to have the appropriate policies, training and workplace safety guides in place to support the safety of those officers.

**David LIMBRICK:** The reason I ask about safety is because many of these inspection operations are handled by councils at the moment. I will not name any, but I have spoken to council officers and they have said that some of their people have been threatened by organised crime and therefore they are in a position where they cannot send these people out to work, because if they get harmed they would be responsible. Wouldn't this new regime be subject to the same sorts of problems? If an inspector is threatened, surely their manager or whoever is in charge could not in good conscience send them to work.

**Lizzie BLANDTHORN:** As I said in response to your previous question, these inspectors will obviously be recruited by the Department of Justice and Community Safety. They will be employed by them and trained by them, and there will be the appropriate policies and guidance in place to ensure that they do everything that they can do to protect their safety. Of course the normal workplace safety parameters – legislative and otherwise – that exist around that would obviously also come into play.

**David LIMBRICK:** This new bureaucracy that is being set up with a large number of inspectors is intended to – I do not believe it will disrupt very much, but nevertheless it is intended to – disrupt criminal markets in the order of billions of dollars; therefore there is a great incentive to corrupt this bureaucracy. What integrity and oversight measures will be put in place to ensure that this bureaucracy will not be corrupted? I will point to history here. I mentioned during my second-reading speech the historical example of alcohol prohibition in the United States. They set up a specialist agency to deal with alcohol distribution at the time, and organised crime immediately attempted to infiltrate and corrupt the inspectors. I read some quote the other day where the head of the operation spent entire days dismissing officers because they had been corrupted.

**Lizzie BLANDTHORN:** The other factor I would point out, which goes to your subsequent question and also your previous question, is that unlike council officers, these inspectors have been hired specifically to do this job rather than just taking on this job. I think there is a fundamental difference in the way in which they are employed and the way in which they are trained and guided through that role, and then of course all the normal oversight measures that are in place when it comes to the Victorian public service also exist as well. But I think fundamentally these inspectors have been employed to do a very specific job that they have been recruited for, trained for and supported through, unlike some of the other council employees, for example, that might just happen to take on these roles in what they think is the best interests of the community.

**David LIMBRICK:** Will these inspectors be armed?

**Lizzie BLANDTHORN:** No.

**David LIMBRICK:** Does the government have any evidence from comparable jurisdictions that have similar schemes whereby this type of licensing and oversight regime has resulted in reductions in organised crime?

**Lizzie BLANDTHORN:** The advice is that the various options and other schemes were all duly considered in the establishment of this proposal, but the advice of Victoria Police and others is that this way forward is the way forward that will be of assistance to the Victorian community.

**David LIMBRICK:** I am not sure I understood that. Does that mean that we are world leading in this respect?

**Lizzie BLANDTHORN:** Again, I would not be drawn down a hypothetical path. Obviously we are seeking to introduce a scheme that is a new scheme. Our penalties are certainly the strongest in the country, but the implementation of the scheme will bear those comparisons out, if you like.

**David LIMBRICK:** I will go to something about the definitions. With regard to something in the bill – commercial quantity – can the minister give any insights into what it actually considers to be a commercial quantity of illicit tobacco?

**Lizzie BLANDTHORN:** That will be settled through the regulatory process in consultation with Victoria Police.

**David LIMBRICK:** Has there been any modelling on how much this new regulator will cost?

**Lizzie BLANDTHORN:** Obviously, this will be subject to a regulatory impact statement process. The RIS process will bear those things out.

**David LIMBRICK:** Can I just confirm my understanding of that. We do not know how much it is going to cost at this point, and that will be determined as part of the regulatory impact statement. Is that correct?

**Lizzie BLANDTHORN:** Further to my earlier answer, obviously the RIS process will work through the number of participants and so forth in the scheme, which will then give rise to the overall cost of the scheme. But it is also based on a cost recovery model.

**David LIMBRICK:** So the cost recovery model will mean that the licensed tobacconists will pay for their own regulation. Okay. But I assume that also means that the black market ones will not be paying anything of course, because they will not be licensed, which brings me to my next question. How will the government deal with – and I spoke about this in my second-reading speech – a large number of retailers that sell tobacco not actually being tobacconists? In fact it is often a hidden product. How will the government deal with these sorts of situations? Some examples I gave were discount shops, like \$2 shops, where it is quite common to be selling illegal tobacco or vapes; Asian grocers; and as I mentioned, I even heard about a carpet store that was selling it. There are many different types of stores, as we have seen by the variety of arson attacks we have had. How do we deal with these stores that are not tobacconists and would never be registered as tobacconists or licensed as tobacconists?

**Lizzie BLANDTHORN:** Under the scheme, if you sell tobacco you will need a licence.

**David LIMBRICK:** I understand that, but these people are criminals, so they are not going to get a licence. Presumably they will have to be detected somehow. Is it the intention that these inspectors would detect these illegal outlets, or is that something that Victoria Police would do?

**Lizzie BLANDTHORN:** Obviously, as I said earlier, we will have the strongest penalties in the country. We will have the inspectors. We will also be sharing intelligence with Victoria Police. AUSTRAC obviously also plays a role in sharing some of that intelligence with the regulator as well. It will be a collective effort.

**David LIMBRICK:** Has the government given consideration to some of the concerns that I raised in my second-reading speech around these very large penalties, in that effectively they will incentivise what I believe to be more violent activities? Let us say I have a discount shop and I am selling illegal tobacco at that discount shop. All of a sudden, for anyone that would give intelligence to either this new regulator or the police, I am suddenly incentivised – in the order of \$160,000, or if I am a business far more than that – to stop them somehow. Has the government given consideration to these sorts of incentives and what the consequences of those incentives might be? To my mind they are very, very dangerous.

**Lizzie BLANDTHORN:** There is certainly no evidence to support the contention that you are putting, but large fines certainly are needed in order to apply an appropriate noncompliance cost to bad faith actors in the scheme. As we have said, we will have the inspectors, Victoria Police and others working collectively and sharing intelligence to ensure that this scheme works as intended, which is to protect those who are doing the right thing and to ensure that those who do not are held to account.

**David LIMBRICK:** How will the government be determining the success of this new model? What will be the measures whereby success will be determined? Will we see no more arson attacks in Victoria? Will we see this black market disappear? I am wondering: in five years time when we do the review, if we have an independent person doing the review, what will be the benchmarks that they will look at to say this succeeded or it did not?

**Lizzie BLANDTHORN:** As you identified, there will be a review of the scheme conducted after five years of its operation, and that will certainly provide an opportunity to review the scheme and determine if it has effectively achieved its objectives of ensuring that tobacco is only sold by licence-holders who have been determined suitable to hold a licence and that sufficient powers have been provided to the regulator to enable appropriate regulatory oversight as well.

**David LIMBRICK:** I have seen varying estimates that between 30 and 40 per cent of the market at the moment is black market. Could I conclude then at what percentage this would be considered successful? In my second-reading speech, before these taxes were hiked, I quoted Senator Leyonhjelm at the time, and at the time the black market was estimated to be 14 per cent. Would this be successful if we got it back to 14 per cent? What sort of number are we looking at here to say we have succeeded

in undermining this market? Clearly it is a very high number and rising, is my understanding, at the moment.

**Lizzie BLANDTHORN:** I will not be drawn into hypotheticals when we are talking about this. There is a five-year review, because that is an appropriate time at which to do an assessment and determine whether or not the scheme has been effective. The operation of the scheme, though, will be closely monitored from its implementation, and if identified, critical issues can be addressed at any time without that review. Metrics in comparable schemes include things like enforcement actions, inspections completed and client satisfaction, for example. But as I said, whilst constantly monitored from implementation, the five-year review will give the opportunity to assess the success of the scheme.

**David LIMBRICK:** To my point before that many of the people selling tobacco are not tobacconists, does the government predict that the initiation of this licensing scheme will actually incentivise organised crime to move away from selling at tobacconists and at these other retailers? That would be my conclusion by looking at that. You would incentivise people to be selling tobacco at places that are not considered tobacconists normally.

**Lizzie BLANDTHORN:** I am not sure if I fully appreciated your question, Mr Limbrick, so if I did not, please pull me up. As I said in response to what seems like a similar question earlier, if you sell tobacco, you will require a licence, whatever type of other retailer you might be. Therefore on the implementation of the scheme – to go to the conversation we were just having about the success of the scheme, about compliance, enforcement et cetera – those elements will be measured for each and every type of business that is selling tobacco.

**David LIMBRICK:** Clearly this new regulator will need to keep a very close eye on it to prevent corruption. Unfortunately, corruption may exist. Who will be responsible for investigating allegations of corruption within the new regulator if in fact it does become corrupted somehow?

**Lizzie BLANDTHORN:** The usual oversight and compliance bodies that are appropriate in other such comparable schemes would also be appropriate in this instance – Victoria Police, the Ombudsman and ultimately IBAC. Where there is an oversight or integrity issue, there are appropriate forums for it to be raised.

**Sarah MANSFIELD:** I have got a number of questions. Some of them have a similar stem but they are about different things, so you might just have to bear with me on some of them. Just to start with, I understand that there is going to be an amendment to bring the commencement date forward, but it still will not commence until 1 July 2025 if that amendment is successful. In any case, the current legislation, unamended, says it is not coming into effect until 1 July 2026. I am just wondering what is going to happen between now and then to get this operational. What is the timeframe for each stage of implementation?

**Lizzie BLANDTHORN:** The bill will commence in two stages. The first stage is the establishment of the licensing scheme and the regulator, allowing for the appointment and training of licensing inspectors. This will allow for licence applications to be made and determined in advance of the requirement for businesses to hold a licence. Stage 1 will also amend existing offences and powers in the Tobacco Act 1987 and repeal the e-cigarette and specialist tobacconist provisions. The second stage will then introduce the licensing offences and the enforcement powers of licensing inspectors, enabling penalties to be applied to tobacco suppliers operating without a licence. This staged process will enable regulations to be made to support the licensing scheme. As I said earlier in response to Mr Davis, the work for the regulatory scheme is intended to be done by July next year. The staged approach also allows for the appropriate information technology solutions, the communications to stakeholders and any other new regulatory functions that need to be developed.

**Sarah MANSFIELD:** Just on the development of the regulations, how is that going to occur? Will there be engagement specifically with public health stakeholders like Quit Victoria? What is the process for reviewing those regulations and updating and amending them as required?

**Lizzie BLANDTHORN:** As I said, the RIS will take place over the coming months with the intention of that work happening by July next year. That will involve the usual opportunities to respond to the impact statement and whatnot and the consultation that is appropriate, that is designed to go alongside the process of a regulatory impact statement.

**Sarah MANSFIELD:** Just on that, I am curious to know: will public health stakeholders in particular be involved in the development of those regulations?

**Lizzie BLANDTHORN:** For clarity, the regulatory impact statement is a public process and Engage Vic, for example, is commonly used as a consultation forum for that.

**Sarah MANSFIELD:** Will the licence conditions include a prohibition on supply to unlicensed retailers?

**Lizzie BLANDTHORN:** Yes, there will be one.

**Sarah MANSFIELD:** I have got a few of these. Will the licence conditions include a prohibition on tobacco sales by people under 18?

**Lizzie BLANDTHORN:** Maybe, subject to the regulatory impact statement.

**Sarah MANSFIELD:** Will the licence conditions include a prohibition on tobacco sales by vending machine?

**Lizzie BLANDTHORN:** There will be a category that captures the vending machines in terms of licences, so premises that have a tobacco vending machine will be required to hold a tobacco licence.

**Sarah MANSFIELD:** Will licence conditions include a prohibition on online tobacco sales?

**Lizzie BLANDTHORN:** Conditions on retail licences may include placing additional requirements on online retailers.

**Sarah MANSFIELD:** Will the regulator have the power to deny licences on public health grounds?

**Lizzie BLANDTHORN:** As compared to other licensing schemes, the regulator may be directed to consider public health considerations through ministerial directions and decision-making guidelines, and the power to issue these guidelines is at clause 12 of the bill in the proposed sections 35A and 35B.

**Sarah MANSFIELD:** Similarly, will the regulator have the power to deny a request for variation or impose a variation on public health grounds? I suspect they are similar.

**Lizzie BLANDTHORN:** As I said, there can be a ministerial direction and decision-making guidelines that will ensure that the regulator is directed to consider public health considerations, and again I would point you to the same power. But there are no restrictions on what they can consider.

**Sarah MANSFIELD:** Will individuals be equally penalised for selling illicit tobacco in non-commercial quantities – for example, someone selling a couple of loose cigarettes on the street – or will the penalty consider the scale of the crime?

**Lizzie BLANDTHORN:** The purpose of the bill is obviously to create a licensing scheme for businesses, so it is the intention that the regulator will be focused on retail settings.

**David LIMBRICK:** In a similar vein to Dr Mansfield's question, if this scheme is successful – let us say it is totally successful – it will result in all tobacco consumers either giving up tobacco or going

on to legal tobacco. But the reason that they smoke black market tobacco is because often they do not have a lot of money. We know that vulnerable communities, as was pointed out by Ms Watt and others, are far more likely to be smokers. What consideration has been given by the government to the financial impact on these vulnerable communities if this scheme is successful?

**Lizzie BLANDTHORN:** Do you mean in relation to people who may buy illicit tobacco, in relation to the penalties?

**David LIMBRICK:** No.

**Lizzie BLANDTHORN:** No?

**David LIMBRICK:** Apologies. For clarification, I mean for the people that cannot afford \$50 to \$60 a pack for legal cigarettes and buy the black market ones for \$15 a pack or \$20 or whatever the cost is. Clearly if they continue smoking they are going to have a very significant financial impact on their personal finances, and I was wondering what sort of consideration has been given to these vulnerable communities that are going to have a very large financial impact on their lives?

**Lizzie BLANDTHORN:** I guess in a sense this is a bill where we have had to balance the interests of all parts of the community, and obviously there could be the sorts of effects that you are talking about, but in the best interests of the community as a whole this is where we think the balance sits. I would note that in terms of penalties, though, it is not intended that there be penalties for possessing illicit tobacco in those types of instances, for example. But ultimately this bill is a decision about what is in the best interests of the community as a whole.

**David LIMBRICK:** I also am hopeful that tobacco consumers are not penalised in any way. Is it the government's intention that tobacco consumers will not suffer any penalties under this new scheme?

**Lizzie BLANDTHORN:** The penalties for possessing illicit tobacco only apply to tobacco supply businesses, not to the individuals who may be consuming them. The intention is a regulatory scheme that works to protect the whole community with a scheme that provides licensing for the safety of everyone.

**David LIMBRICK:** I thank the minister for that answer. It sort of does beg the question and goes back to my earlier question about what a commercial quantity is, though. Let us say I am a tobacco consumer, I find a black market supplier and I stock up – I buy a few cartons. I mean, that could happen; that would not surprise me at all. Let us say I buy two or three cartons. Would someone stocking up on a few cartons of cigarettes be considered as having a commercial quantity? I am sure the government agrees with me on this that we do not want consumers of tobacco penalised here. How are we going to ensure that these people who are buying tobacco for their personal use are not penalised – who might be in that situation I am talking about and might have stocked up and have a large supply?

**Lizzie BLANDTHORN:** I refer you to my earlier answer that commercial quantity will be something that is determined in consideration and consultation with Victoria Police and others. Possession offences only apply to retailers, and it is intended that this be a scheme that regulates retailers.

**David LIMBRICK:** I just want to clarify: a retailer can be someone who is licensed or would be outside of this scheme also, is that correct? So someone who is selling without a licence is also a retailer. Is that correct?

**Lizzie BLANDTHORN:** Retailers are those selling tobacco, and to sell tobacco, you will need a licence, whatever other retail business you might be involved in.

**Rachel PAYNE:** Minister, under this bill a person may apply to VCAT for an internal review of a decision. As I touched on in my speech, it is fair to expect a substantial number of appeals to be lodged



when the scheme comes into effect. Given that VCAT is already overworked and subject to lengthy delays, will it be provided with additional resources to ensure it can handle its role in this licensing scheme?

**Lizzie BLANDTHORN:** The requirement that decisions are initially subject to internal review will mitigate some of that demand that you referred to in relation to VCAT. The government will seek to ensure that agencies are appropriately resourced to meet the demand, including VCAT, as I indicated in response to Mr Davis's question earlier.

**Rachel PAYNE:** Given we do not know how many licence applicants there will be – I think the number you floated earlier was between 5000 and 9000 – and a regulator has yet to be established, we are hesitant to believe the government will be able to fulfil their commitment to have all licences assessed within six months. On what basis does the government believe it will be able to deliver on this commitment?

**Lizzie BLANDTHORN:** The government is taking several steps to ensure that licence applications can be processed in the initial licensing period, including developing simple digital forms and communications to businesses, and the government will also ensure that the regulator is appropriately resourced to deal with the demand. The bill includes some transitional arrangements which enable a tobacco retailer or wholesaler to continue to trade if they have applied for a licence before stage 2 of the scheme commences, but the regulator has not yet determined their application.

**Rachel PAYNE:** Research shows that without addressing demand in an illicit market, a focus on enforcement and penalties can actually escalate violence. I ask: beyond punitive measures, what is being done to address demand for illicit tobacco?

**Lizzie BLANDTHORN:** Reducing demand for tobacco will continue to be within the remit of the Department of Health as a public health issue.

**Rachel PAYNE:** Just on public health, the purposes in this bill do not include anything related to public health or harm reduction. We are concerned that this government is fixated on being tough on crime to the detriment of a well-rounded response to the illicit tobacco market, so I ask: why have matters like public health and harm reduction not been included as a purpose in this major piece of legislation?

**Lizzie BLANDTHORN:** Harm reduction is an objective of the Tobacco Act and the legislation under which the licensing enforcement regime will sit. As I also indicated in one of my responses earlier, there will still also be the opportunity for the regulator to consider public health. As per comparable licensing schemes, the regulator may be directed to consider public health considerations through ministerial directions and guidelines, as I indicated in a response to Dr Mansfield.

**Rachel PAYNE:** We understand that regulations will provide for a broad range of conditions to which licences are subject, and I do know that you sort of touched on this with some of the commentary you provided to Mr Limbrick. Are you able to provide any further information on what other conditions are being considered beyond those in the bill?

**Lizzie BLANDTHORN:** General conditions will be considered through the regulation-making process. That may include things like a requirement to only buy and sell tobacco from licensed wholesalers and retailers and also record-keeping requirements, by way of example.

**Rachel PAYNE:** As a result of the increasingly high excise on tobacco and the restrictions on access to vapes, the Commonwealth government has played a major role in increasing the illicit tobacco market, which I discussed in my contribution in the second-reading debate. Will the Victorian government hold the Commonwealth government accountable and call on them to consider reforms in these areas?

**Lizzie BLANDTHORN:** This remains a matter for the Commonwealth government.

**Rachel PAYNE:** Mr Limbrick did touch on this, but the changes in this bill will force a significant number of people off tobacco because they cannot afford the legal alternative. These people will need to access healthcare and cessation support services, things not addressed in this bill. What is the government doing to ensure these services are adequately resourced to deal with this influx of demand?

**Lizzie BLANDTHORN:** Cessation services continue to be the remit of the Department of Health and their commitment to public health. Ensuring that we do assist people who are in such positions as you describe remains part of their overall objective.

**David LIMBRICK:** Just one final question: with this whole issue we have with organised crime selling tobacco in Victoria and indeed throughout Australia, what is the government's understanding of the root cause of that incentive that causes organised crime to get involved in the first place?

**Lizzie BLANDTHORN:** I would simply say that, as I have indicated previously, intelligence will be shared across organisations, from the inspectors associated with the regulator through to VicPol, but it is not for me to hypothesise about such issues. That will be based on the intelligence of Victoria Police and other appropriate agencies.

**Clause agreed to.**

**Clause 2 (17:29)**

**David DAVIS:** I move:

1. Clause 2, lines 11 to 15, omit all words and expressions on these lines and substitute –
  - “(1) Subject to subsections (2) and (3), this Act comes into operation on a day or days to be proclaimed.
  - (2) If a provision of this Act (other than Division 3 of Part 3) does not come into operation before 1 July 2025, it comes into operation on that day.
  - (3) If Division 3 of Part 3 does not come into operation before 1 July 2026, it comes into operation on that day.”.

This amendment, as has been discussed, changes the operative date. It is an amendment to clause 2 and it has been circulated.

**Lizzie BLANDTHORN:** As spoken to by members in the other place, the government's intent has always been for the licensing scheme to commence from mid next year, with the enforcement of penalties for unlicensed retailers to commence by early 2026. This amendment is consistent with government policy and is supported by the government.

**David DAVIS:** I just record our thanks to the government on that and for the work that Tim McCurdy has done.

**Amendment agreed to; amended clause agreed to; clauses 3 to 7 agreed to.**

**Clause 8 (17:31)**

**Sarah MANSFIELD:** I move:

1. Clause 8, page 18, after line 11 insert –
  - “(6) Without limiting the grounds on which the Regulator may vary a licence under this section, the Regulator may do so if the Regulator considers that not making the variation would be adverse to public health or public safety having regard to –
    - (a) the number of licensed tobacco premises already in the vicinity of the proposed licenced tobacco premises; or
    - (b) the proximity of the proposed licensed tobacco premises to premises frequented by children.”.

## 2. Clause 8, page 18, after line 25 insert –

“(3) Without limiting the grounds on which the Regulator may vary a licence under this section, the Regulator may do so if the Regulator considers that not making the variation would be adverse to public health or public safety having regard to –

- (a) the number of licensed tobacco premises already in the vicinity of the proposed licensed tobacco premises; or
- (b) the proximity of the proposed licensed tobacco premises to premises frequented by children.”.

## 3. Clause 8, page 40, after line 8 insert –

“(3) In addition to subsection (1), and without limiting the grounds on which the Regulator may refuse to grant an application, the Regulator may refuse to grant a licence application, relocation application, variation application or renewal application if the Regulator considers that the granting of the application would be adverse to public health or public safety having regard to –

- (a) the number of licensed tobacco premises already in the vicinity of the proposed licensed tobacco premises; or
- (b) the proximity of the proposed licensed tobacco premises to premises frequented by children.”.

As I outlined in my second-reading speech, the original point of tobacco licensing always came from a public health perspective, but we feel that the government with this bill has ignored this crucial preventative element and introduced what is essentially an anti-bikie tobacco licensing scheme rather than a public health one. This government has spent a lot of time concerning itself with the criminal activity surrounding tobacco sales, and it feels like it has almost forgotten the pressing aspects of tobacco harm. The property damage is certainly something that is of concern. We all agree on that, but we should also all agree that it is extremely concerning that 4400 Victorian lives were lost directly related to smoking. The Greens amendment is to include this essential missing ingredient from the bill, which is including public health limitations on holding a tobacco retail and wholesale licence with a view to reducing public harm within the community. We think these are sensible amendments. They do not radically change the bill. They instead serve to clearly state that the regulator will consider and prioritise public health and safety when assessing tobacco licence applicants. My hope is that everyone in here can agree that public health protections within this tobacco amendment are appropriate considering the significant harm caused by tobacco products within the community.

**Lizzie BLANDTHORN:** Active discouragement of the smoking of tobacco remains an objective of the substantive act. The licensing scheme proposed by the bill is consistent with this object. As noted by VicHealth CEO Dr Sandro Demaio, a licensing scheme will remove dishonest sellers from the market, ensuring they are not peddling poison to schoolchildren or selling illicit tobacco. These are, as the bill already includes, levers that can be used to prevent harm, consistent with the intent of the amendment moved by the Greens. Namely, clause 12 inserts a new section 35A, which enables the minister to direct the regulator in relation to the performance of its functions, and a new section 35B, which enables the minister to issue decision-making guidelines in respect of the licensing of tobacco supply businesses. In the context of analogous licensing schemes, directions and decision-making guidelines have been issued to require regulators to take into consideration public health matters in making licensing decisions. Clause 8 inserts a new section 34ZD, which enables the regulator to impose conditions on licensees. In the context of comparable licensing schemes, conditions have been applied to licences to manage the public health risks of their operation. Accordingly, this amendment is not supported.

**David DAVIS:** The opposition will not support this particular amendment. We agree with the government’s position that the primary act actually does have sufficient coverage. However, the amendment has been brought to the chamber and has got a sensible intent, and to that extent we are not unsupportive, and I think the minister’s statement is actually helpful in that regard, so to the extent that you have brought the amendment and we have got a clear statement, I think that is valuable.

**David LIMBRICK:** The Libertarian Party will not be supporting this amendment either, although I am actually sympathetic to many of the concerns brought by Dr Mansfield. However, I do not see anything in this bill that is really about public health. It is about enforcement, as was stated by Dr Mansfield, and I do not think this amendment would do much to change that.

**Council divided on amendments:**

*Ayes (7):* Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

*Noes (31):* Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

**Amendments negatived.**

**Clause agreed to; clauses 9 to 73 agreed to.**

**Reported to house with amendment.**

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:42): I move:

That the report be now adopted.

**Motion agreed to.**

**Report adopted.**

*Third reading*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:43): I move:

That the bill be now read a third time and do pass.

**Council divided on motion:**

*Ayes (34):* Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, Katherine Copsey, Georgie Crozier, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Anasina Gray-Barberio, Renee Heath, Ann-Marie Hermans, Shaun Leane, Wendy Lovell, Trung Luu, Sarah Mansfield, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

*Noes (4):* Moira Deeming, David Ettershank, David Limbrick, Rachel Payne

**Motion agreed to.**

**Read third time.**

**The PRESIDENT:** Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill with amendment.

*Business of the house***Orders of the day**

**Lee TARLAMIS** (South-Eastern Metropolitan) (17:47): I move:

That the consideration of orders of the day, government business, 2 to 4, be postponed until later this day.

**Motion agreed to.**

*Bills***Aged Care Restrictive Practices Substitute Decision-maker Bill 2024***Second reading***Debate resumed on motion of Harriet Shing:**

That the bill be now read a second time.

**Georgie CROZIER** (Southern Metropolitan) (17:47): I am pleased to be able to rise and speak to the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024, because this is an important bill that we are debating. As members will recall, the federal government held a royal commission into aged care. There were significant concerns that were raised around the aged care sector over a number of years, and the then federal government called a royal commission. That was a very thorough process and really did expose some very big failings within the system and areas of improvement that were required. One of the areas that was identified in response to the royal commission was the restrictive practices, and I will speak about that in a little bit more detail.

In 2021 in response to the Royal Commission into Aged Care Quality and Safety, which I have referred to, the federal coalition government introduced a framework for the appointment of substitute decision-makers in relation to restrictive practices in residential aged care. Those restrictive practices have been identified as a problem in aged care. As the royal commission said in their final report, they have been a problem 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.

That is why this bill is important – to go to assisting in what that framework and what this restrictive practices component means. While guidelines around the use of restrictive practices fall mainly under the jurisdiction of the Commonwealth, recommendation 17 of the royal commission states that restrictive practices can 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

Hence why we are in the house debating this bill. The Commonwealth established a temporary hierarchy, which has been in place since 2022. It was originally due to cease in December of this year, 2024, but it has been extended until 1 July 2025. Victoria needs to have its own legislation to avoid the gap in relation to the substitute decision-maker process. There was a great deal of information received by the royal commission over the period that it had hearings and was going through its process, importantly, about the use and abuse of restrictive practices. Inappropriate use can lead to serious psychological and physical harm or even death. Some of those restrictive practices in residential aged care, as has been identified by the federal department, should only be used as a last resort to help prevent harm to older people in aged care and their carers. As they have highlighted, a restrictive practice is any action that restricts the rights and freedoms of movement of a care recipient. There are five types of restrictive practices. They are chemical restraint, environmental restraint, mechanical restraint, physical restraint and seclusion.

In July 2021 amendments to the Aged Care Act 1997 and the Quality of Care Principles 2014 came into effect. They were designed to regulate and strengthen restrictive practices arrangements for the

Australian funded government-approved aged care providers. That was around looking at safeguarding care recipients. I make mention of this because the federal government set up the aged care clinical advisory committee, which had a number of very eminent members, one of whom used to sit in this house, my great friend Mrs Andrea Coote. She has a great deal of experience in this area and was a shadow minister for ageing. That committee was really providing expert advice to the federal government around aged care. It was a very important committee – Mrs Coote was the chair – and they did extraordinary work. From time to time I would speak with her to understand exactly what improvements were being made, and she would often say just how far they had come – there were some heartbreaking stories – and really how well the committee had been working in looking to improve outcomes for residents in aged care facilities.

Can I say that as someone who has had a parent in an aged care facility recently our experience with the aged care facility was outstanding. Our family could not be happier with the care that my father received. The wonderful care that they gave him was just extraordinary. It is something that I will not forget, nor will our family forget. It was terribly moving after he died earlier this year – how they approached us and genuinely cared for our father. We were the lucky ones who had a very positive experience, and my father was terribly lucky at the age of nearly 97 to have all his mental faculties. But that is not always the case for people with dementia. That is why this bill is terribly important, so that those people that are vulnerable in those situations do have a hierarchy of care that can assist them with making those decisions on their behalf. That is why this is a terribly important piece of legislation, so that the safeguards and, as I said, the gaps that have been identified by state and territory legislation can come into place.

That is what this bill does. It establishes the process for the appointment of substitute decision-makers to authorise the use of restrictive practices in aged care when a resident lacks capacity to give informed consent. It brings Victorian law in line with the Commonwealth Aged Care Act and Quality of Care Principles, some of which I have just referred to. These principles include the requirement for aged care providers to only use restrictive practices as a last resort. They must be the least restrictive form for the shortest amount of time possible and only used after less restrictive measures have been attempted. As I have said, the appointment process has a hierarchy to be followed by providers when considering who should be in the position of that decision-maker. The hierarchy is a decision-maker nominated in advance in writing by the aged care resident if they have the capacity to do so; the next of kin, which is someone who has a close and continuing relationship with the aged care resident from a specific list, including spouse, partner, primary carer, oldest adult child, eldest parent or eldest sibling; or an appointee by VCAT should no other decision-maker be available. That sometimes happens if the next of kin or someone who has had that responsibility suddenly dies and there is no-one there able to make those decisions on behalf of the resident. That also includes someone with a close and enduring relationship beyond the definition of ‘next of kin’ – a GP or a close friend or the like.

The VCAT order – as a last resort VCAT has the power to act as the decision-maker if no other decision-maker is reasonably identifiable. They will also have the ability or the 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. These are very important elements of this legislation so that safeguards are in place when the need for a substitute arises, as I said, in case that resident is incapable of making the decisions.

I have spoken about a number of things. There is one thing that I wanted to raise, which was raised in the debate by Mr Bull, the Shadow Minister for Disability, Ageing and Carers. I will raise it in debate now, and the minister might be able to respond to that in summing up rather than going into it in the committee. Mr Bull, in his contribution, asked questions around the penalties. I will quote from his contribution:

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 –

well, now that we are in the last week, I do not think a bill is coming into this place –

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 –

and I have spoken about that gap that the federal government has highlighted –

that supporting legislation will need to come into this chamber in the interim period.

The question I really have – and I wonder if we could get some clarification from the government – is: will there be additional legislation coming into Parliament in the first six months before 1 July 2025 to cover off those issues around penalties for fraudulently acting? That is the question I wanted to understand, because the shadow minister was so advised but there is not really any clarification around whether that is the case. We assume that it is the case, to cover off the gap that is in this current legislation which is not addressed, but if the government could provide those answers.

As I said at the outset, this is an important bill we are debating today. It is part of the Commonwealth legislation and the work that has been carried out at the federal level. It is important that all states and territories come on board to have those issues resolved so there is not that gap, so that vulnerable elderly residents in aged care facilities do have the support and they do have people in place to assist in any decision-making that is required in those very important times of their life where they need the dignity and they need the security and they need the assurances that they are being cared for properly and appropriately and that government has done all they can to assist in that process, and that is what this bill does.

**David ETTERSHANK** (Western Metropolitan) (17:59): I rise to make a brief contribution to the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. Following a recommendation of the Royal Commission into Aged Care Quality and Safety, the Commonwealth introduced legislation in 2021 requiring residential aged care providers to seek consent from substitute decision-makers to authorise the use of restrictive practices, pending complementary legislation at a state and territorial level. The bill before the house is that legislation. It establishes who can act as a decision-maker to give consent to restrictive practices in residential aged care settings when a care recipient is unable to give consent.

While the scope of the bill is limited to who can give consent to restrictive practices, I thought it would be useful to talk briefly about what restrictive practices actually are. When we talk about restrictive practices, we are talking about actions taken by an aged care provider and their staff that principally involve restraint of a resident who may be presenting with, for example, challenging behaviours that could pose a risk to themselves, other residents or staff. The restraint may take the form of physical or mechanical restraint, chemical restraint or seclusion in a secure place. In lay terms, restraint could mean strapping a resident to their bed or to furniture, it could mean sedating a patient so that they are virtually incapacitated, or it could mean simply locking them in a room. There are times when this type of restraint is necessary, but it must occur in the context of an appropriate behaviour management plan and in consultation with the resident or their representative, and it must always be a last resort. Restrictive practices are an extremely challenging issue in residential aged care. Unfortunately, there have been cases where restraint has been used by aged care providers as an alternative to having adequately trained and on-duty staff, something that was repeatedly exposed in the lead-up to and during the royal commission into aged care.

The issue of appropriate restraint becomes even more problematic when a resident's mental state precludes them from making informed decisions – for example, if the resident is impaired by neurodegenerative conditions such as advanced Alzheimer's or dementia. For residents and their families and service providers this loss of competency by the resident, be it permanent or intermittent, can be an agonising conundrum. In this very difficult situation the consent for restrictive practices needs to be obtained by a substitute decision-maker. This bill establishes a hierarchy of who can be

that decision-maker, starting with nominees who are chosen by the aged care recipient in advance, and this is obviously the preferred option. That is followed by a choice of next of kin, who would be identified through an agreed order of precedence identified in the bill. Then finally, if there is no-one else, VCAT can appoint the decision-maker and also act to resolve any disputes.

The bill establishes new offences and penalties for inducing a decision-making nomination or fraudulently acting as a decision-maker. Legalise Cannabis is supportive of the bill. It aligns Victorian law with the requirements of the Commonwealth legislation and gives certainty to both providers and recipients of residential aged care services. Stakeholders from the aged care sector have raised a few concerns about the bill, and I will be seeking to get some clarity and guidance for the benefit of the residential aged care services sector during the committee-of-the-whole stage.

**John BERGER** (Southern Metropolitan) (18:04): Today I rise to speak on the Aged Care Restrictive Practices Substitute Decision-maker Bill 2024. Thanks to the minister in the other place, Minister Thomas – Minister for Health, Minister for Health Infrastructure and Minister for Ambulance Services – and her team for getting this done. The bill concerns the establishment of a framework for appointing restrictive practices substitute decision-makers. It is a standalone piece of legislation that will function independently from but in parallel with other legislative frameworks for a substitute decision-maker. The bill will provide clarity for the meaning of restrictive practices substitute decision-maker. It will outline the responsibilities for aged care workers that utilise restrictive practices, and it will introduce a consent hierarchy like that which is used in medical treatment decision-making and which must be used when there has been no restrictive practices substitute decision-maker appointed. Finally, it will introduce criminal penalties that will make it an offence for someone to coerce a nomination or to fraudulently act as if they were a nominee.

This bill protects, prioritises and safeguards the autonomy of individuals using aged care services where restrictive practices may be employed. Restrictive practices in aged care facilities refer to any action that restricts the rights and freedoms of any individual under their care. They are oftentimes an unpleasant and intimidating course of action for both the individual and their carer. They are not therapeutic interventions. They include chemical restraint, environmental restraint, mechanical restraint, physical restraint and seclusion. Therefore they are always the last resort and only used to prevent the individual and their carer from experiencing harm. Aged care service providers undertake strict procedures to ensure that they are used appropriately. These include processes such as having the restrictive practice approved by a health practitioner after undertaking a documented assessment of the resident; obtaining informed consent from the person or their restrictive practices substitute decision-maker; using the least restrictive form of intervention for the shortest possible time; using restrictive practices that are proportionate to the perceived risk or harm; documenting alternative strategies to restrictive practices along with why they are unsuccessful; ensuring that they are used in line with the rights and responsibilities of care recipients outlined in the Charter of Aged Care Rights; and regularly monitoring for stress, harm, adverse events, changes in wellbeing and the ability to perform daily living activities.

The bill also makes necessary legislative changes to safeguard this autonomy by expanding upon the existing framework for reporting restrictive practices substitute decision-makers. A restrictive practices decision-maker refers to a person who can give informed consent to the use of restrictive practices in relation to a care recipient in a residential aged care facility in Victoria. The framework fills legislative gaps, and these amendments institute a temporary hierarchy that has been in place since 2022 and is set to be repealed on 1 December 2024. The Commonwealth government is committed to extending this arrangement, however, instead looking to repeal it in 2026. This bill will act to replace this temporary hierarchy. With that, I commend the bill to the house.

**Ryan BATCHELOR** (Southern Metropolitan) (18:07): I will make a very brief contribution on this legislation. The use of restrictive practices in aged care settings is exceptionally challenging. The Royal Commission into Aged Care Quality and Safety uncovered some very horrific practices, and the Commonwealth has rightly set about the task of regulating those practices, their use in aged care



settings, how and what can be done. This legislation seeks to provide a framework so that substitute decision-makers can be appointed in cases where aged care residents lack the capacity to make the decisions themselves. Neurogenerative decline, Alzheimer's, dementia – these are exceptionally challenging issues and questions that many in the community face, and I know those of us who have and have had relatives with these neurodegenerative conditions in aged care find these sets of circumstances very challenging. We know how much anguish and grief families go through to make the right decisions for the ones that they care about when they lack the capacity to make those decisions for themselves. This legislation is an important part of putting a framework in place to help make sure that practice is done appropriately, with proper oversight, proper conditions and the fundamental best interests of those residents at heart. With difficult issues, it is good to see that such sensitive work is being conducted by both the state ministers and the federal ministers. I commend the bill to the house.

**Jacinta ERMACORA** (Western Victoria) (18:09): I will also make a very brief contribution. As they grow older some people experience age-related illnesses that require choices, not just about medical care but also about keeping people safe from their own behaviour, health professionals safe and the community safe. For elderly people with conditions, for example, that disinhibit social norms or who simply cannot remember where they are, some form of restraint is part of the very difficult decision-making that needs to occur.

As a society we all benefit from the value of treating people with dignity and respect as they grow old, and this continues to apply in residential aged care. The Royal Commission into Aged Care Quality and Safety found that there was an overuse of restrictive practices in residential aged facilities. In response to that the amendments introduced new legislative requirements for residential aged care providers to seek informed consent for substantive decision-makers. The Commonwealth government are not continuing with their responsibility in this space, that has been agreed, hence the need for this bill today.

The bill specifically addresses the circumstances where restraint needs to be addressed in a decision-making process. The appointed substitute decision-maker is someone who is able to consent to restrictive practices – and they might be chemical or environmental restraint, mechanical restraint, physical restraint or seclusion. Restrictive practices are not a form of medical treatment and are not used to provide therapeutic benefit to aged care residents. Therefore it is not appropriate to use the Medical Treatment Planning and Decisions Act 2016 to identify how to deal with these issues. The act empowers decision-makers to provide informed consent based on the principle of what the person they are acting on behalf of would decide if they had the capacity.

The bill establishes a permanent framework for identifying and authorising substitute decision-makers. The bill establishes a hierarchy for who can act as a restrictive practices substitute decision-maker under the act, and that hierarchy – just very briefly – addresses vulnerable individuals and ensures that they are protected, that decisions are being made by the most appropriate person, that there is a clear process for decision-making and that accountability and transparency are maintained.

I note, just in closing, that the Council on the Ageing and Seniors Rights Victoria are supportive of the majority of what this bill is intended to do. I therefore support the bill.

**Tom McINTOSH** (Eastern Victoria) (18:12): This bill will establish a hierarchy of decision-makers who can act in Victoria as restrictive practices substitute decision-makers in residential aged care in line with requirements under the Commonwealth's Aged Care Act 1997. The bill will allow aged care providers to identify substitute decision-makers through a hierarchy. 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 close relationships and a decision-maker appointed by VCAT should no other decision-maker be available. The bill will ensure older people have as much autonomy as possible around decisions that concern them.

This bill is needed because it is in response to the Royal Commission into Aged Care Quality and Safety. The Commonwealth introduced new requirements for restrictive practices to be only used with the informed consent of the aged care recipient. For aged care residents who may not have the capacity to make decisions, such as in cases of advanced dementia, a substitute decision-maker can provide this consent. The bill is necessary to ensure that care recipients in residential aged care settings have choice in who they want to act as a substitute decision-maker, and where there is no such nominee, to identify who can be appointed as a substitute decision-maker. It will ensure that residents can trust, should the time come, that a loved one will be able to act in their interest. This bill will ensure that all residential aged care providers are able to be compliant with the requirement of Commonwealth legislation. I am happy to support this bill. It is an important piece of legislation. Given that we all have loved ones – and indeed ourselves – who at that time in their lives will likely need these services, I am glad to support it here in the house.

**Ingrid STITT** (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:14): I thank all members for their very succinct contributions, and I will try and be succinct as well. I think it is really important from the outset to recognise that this is part of working with the Commonwealth, who have introduced some really significant reforms to the aged care system following on from the Royal Commission into Aged Care Quality and Safety, which we, I think, have to acknowledge did uncover some fairly shocking examples of care not being to the standard that it ought to be. Of course the amendments that we are introducing today are part of that reform journey that we are on, and it is a result of the overuse of restraint in many of our aged care facilities that was uncovered by the evidence given to the aged care royal commission. These changes to the Aged Care Act 1997 allow residents and their supporters to make their own informed decisions about the care and services they receive and deserve, and they do create a more rigorous regime for the use of restrictive practices, including that they can only be used as a last resort. Our government welcomes the changes that are being led by the Commonwealth with a new rights-based Aged Care Act that puts older people in the centre of the aged care system and responds to the royal commission's findings. Our aged care facilities play a really critical role in the clinical care of ageing Victorians, and our government believes that all older people should be able to access that high-quality care close to home. There are many decisions that need to be made about care that you receive in a residential aged care facility, and while we hope that all our parents and loved ones, or even ourselves, will retain that capacity to make our own decisions about care while in residential facilities, it is not always possible, as people may physically and mentally deteriorate.

This bill ensures that care recipients in residential aged care settings have choice in who they want to act as a substitute decision-maker, and where there is no such nominee, who can be appointed as a substitute decision-maker to make decisions on the use of restrictive practices. It gives certainty to residents that, should the time come, a loved one will be able to act in their interests. It does provide the necessary framework to ensure that all residential aged care providers in Victoria are able to be compliant with the requirements of the Commonwealth legislation.

If I can just touch very, very briefly on a couple of aspects of the bill that I know people will be interested in, and if I can go to VCAT and the role that VCAT will play, the bill does make some minor amendments to the Victorian Civil and Administrative Tribunal Act 1998 to empower the tribunal to act in an oversight capacity for the appointment of substitute decision-makers and to act as a decision-maker of last resort should there be no other decision-maker reasonably identifiable. VCAT will also have the power to intervene if there are disputes or conflicts and set aside an appointment, a nomination or a decision. The bill is drafted in a way that provides VCAT flexibility and discretion in how to manage any matters related to this bill – for example, there will be exemptions around emergencies in times of critical cases, like the way in which it operates under the Guardianship and Administration Act 2019. Making time-limited orders will be another option for VCAT that can address immediate issues and deal with more complex but less time-critical matters at a later date.

In terms of some of the safeguards, we have also ensured that the bill provides several safeguards to protect vulnerable older people. The bill introduces two new criminal offences, and I think this goes to the questions that Ms Crozier put on record in her contribution. Can I just take the opportunity to thank the member for Gippsland East, who is the Shadow Minister for Disability, Ageing and Carers, for his constructive engagement with my office on this bill. I can confirm that clauses 18 and 19 of the bill do cover off the new criminal offences that will apply should this bill be successfully passed. There are two new criminal offences specifically making it a crime for someone to induce through dishonesty, undue influence or threats a substitute decision-maker nomination or knowingly make a fake 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 face justice, and the bill does indeed set out penalties associated with these criminal offences. I think that goes to the nub of Ms Crozier's question that she put on record. Again we thank all members for their engagement about the provisions of this bill.

In terms of implementation I just want to make the point quickly that the bill has a default commencement date of 1 July 2025, and that is all about making sure that we have got the time available for the sector to get ready for these changes and ensure a smooth transition from the current arrangements – the temporary measures that the Commonwealth have put in place. The bill provides for any nomination made under the Commonwealth's temporary hierarchy to carry over into the new framework, meaning that any nomination that has already been made by residents will be honoured and will continue through to the new regime.

Prior to commencement the Department of Health will engage extensively with the sector, including providers, peak bodies, unions, and residents and their advocates, to raise awareness of the new legislation and co-develop supporting materials such as fact sheets and template forms tailored to a range of audiences, including providers, care recipients and their supporters and substitute decision-makers. Finally, I thank the sector for the incredible care that they continue to provide to older Victorians in our aged care residential facilities. I am happy to answer any member's questions in committee of the whole.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1 (18:23)**

**David ETTERSHANK:** I have got a series of questions which I think we will just try and deal with in this section if the minister is happy in that regard. Firstly, can I ask the minister to confirm that the provisions of this bill apply purely to residential aged care providers and not, for instance, to home care providers?

**Ingrid STITT:** Mr Ettershank, I can confirm that the bill only applies to the provision of residential aged care.

**David ETTERSHANK:** Another concern that has been raised is around the appointment of a restrictive practices nominee at clause 5(2)(b), namely, that the person must have it signed 'in the presence of an authorised affidavit taker' – so a lawyer or a justice of the peace. Stakeholders are concerned that the list of people who can do this is very limited, more so than, for example, in the case of a statutory declaration. This may also require consulting a lawyer, which will probably involve paying a fee, which may deter some residents from making a nomination. We understand this provision is consistent with the appointment of medical treatment decision-makers under the Medical Treatment Planning and Decisions Act 2016, but I ask the minister: will the government be providing

any additional support or guidance to people to assist them in appointing their decision-maker? I do take on board the minister's comments with regard to fact sheets and information like that, so I suppose it principally strikes to the support element as much as the guidance.

**Ingrid STITT:** Mr Ettershank, as you have noted, the requirements for a nomination to be made in the presence of someone who can take an affidavit are consistent with the appointment of a medical treatment decision-maker under the Medical Treatment Planning and Decisions Act. This is intentional because the authorised affidavit taker must certify that the person appears to have the capacity to make the decision and understand the nature and consequences of the nomination and that they are doing so freely and voluntarily. The requirement for an authorised affidavit taker will I think reduce the risk of invalid nominations occurring that would require providers to identify alternative restrictive practices substitute decision-makers or to seek intervention from VCAT to clarify whether an appointment is valid, so we obviously want to avoid that situation where we can.

As you say, as part of the implementation and the comments that I have just made on the record, the Department of Health will work closely with the sector to develop the resources and templates that will be needed to assist people to make nominations that reflect their preferences, that are valid and that are not going to be the subject of any question. That would obviously include guidance for people to consider these nominations at the same time as they are undertaking other advance care planning – for example, medical treatment decision-makers and powers of attorney. As I have already indicated, we will work closely with a number of the advocacy organisations in this space, peak bodies and of course the sector to make sure that everybody is cognisant of what their rights and responsibilities are and that there are the appropriate resources in place.

**David ETTERSHANK:** Under clause 8(4)(b) a person cannot be appointed as a restrictive practices nominee if they were, are or will be involved in the preparation or amendment of the resident's behaviour support plan. However, the quality-of-care principles require that providers consult with a person nominated by the care recipient in relation to that behavioural support plan. The resident may want to nominate the same person as their restrictive practices nominee, but this provision seemingly makes that person ineligible, which is presumably not the intention of the government. Could I ask the minister to please provide clarity around this question and the intention of the clause?

**Ingrid STITT:** The intention of that clause – and there are a number of other similar clauses in the bill – is not to preclude family or other decision-makers that have been consulted on the care recipient's needs and care more broadly. 'Involved' is intended to mean someone who is responsible for the development of the behavioural support plan – that is, they are providing care and behavioural support – and the decision-maker 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. Therefore family members or potential decision-makers that are not providing care under the Aged Care Act 1997 are not caught up and they are not considered to be employees or agents of the aged care provider. That is the clarity in terms of not knocking out anybody who has had some involvement in discussions around the behavioural support plan by virtue of the fact that they are a family member.

#### **Business interrupted pursuant to standing orders.**

**Ingrid STITT:** I move:

That the meal break scheduled for this day pursuant to standing order 4.01(3) be suspended.

#### **Motion agreed to.**

**David ETTERSHANK:** Clause 10 of the bill gives VCAT the authority to approve the use of restrictive practices; however, providers are required to continually review this approval in the context of updating the behavioural support plan. I guess that raises the question about how this process will work in practice, so I ask the minister: will providers need to go back to VCAT every time they need to review consent for a restrictive practice?

**Ingrid STITT:** Under the Aged Care Act providers are not required to review the approval for restrictive practices; however, providers are obligated to regularly review behavioural support plans. The use of restrictive practices is also not a static thing that needs to be the subject of regular review. If there is a proposed change to the use of restrictive practices such as, for example, an additional or expanded use of the practice that is beyond what was originally consented to, then yes, providers will be required to seek fresh informed consent – that is, if things are changing in their nature. Aged care providers in those sorts of circumstances should review the hierarchy from the top each time informed consent is required, even for subsequent occasions where informed consent is required. When identifying the appropriate restrictive practices, substitute decision-maker providers should not just rely on the previous state of facts. They have got to reassure themselves that there is no-one higher up in the hierarchy that should be engaged.

I guess this is, again, all about making sure that there is a sort of rights-based frame around these issues. For example, while VCAT may have provided informed consent under clause 10 in the past, it is possible that an immediate family member is now willing to act when previously they might not have been willing to act. That is why it is important to go through that hierarchy when there are changed circumstances; there might be options available that were not previously available. I hope that makes sense. Aged care providers are able to quickly identify decision-makers if there is a valid nomination in place under these arrangements or where VCAT has appointed an individual by a court order.

**David ETTERSHANK:** The only time a provider would go to VCAT is when there is no-one else to temporarily act as a restrictive practices decision-maker. While VCAT can appoint someone from a wider list under clause 9, there still may be situations where no-one is available to act, meaning the provider will need to go back to VCAT each time. I think this follows on from the last question. I guess the concern would be, in the eventuality that VCAT is the port of last resort: given VCAT's workload and current delays, has the government considered providing for a fallback decision-maker, such as the Office of the Public Advocate, when there are no other options, or will people just have to wait until a listing becomes available in VCAT?

**Ingrid STITT:** There is certainly flexibility for VCAT to make a judgement about the urgency of any matter. In terms of the Guardianship and Administration Act 2019 and the Powers of Attorney Act 2014, they do not empower guardians or attorneys to make decisions regarding the use of restrictive practices. These acts empower decision-makers to provide informed consent based on the principle that the person they are acting on behalf of would decide if they had capacity. Rather than trigger those arrangements, we have created a bespoke arrangement to satisfy the requirements of the Aged Care Act through the provisions of this bill while also building in those safeguards to protect the rights and interests of older Victorians in residential aged care. Certainly in developing the bill, we looked at a number of different options and landed on the one that is contained in the bill now.

While the hierarchy does not specifically allow for guardians to be automatically appointed as a substitute decision-maker, the bill also does not preclude VCAT from appointing a guardian. In those circumstances, they could act as a substitute decision-maker if VCAT saw fit to make such an order.

**David ETTERSHANK:** In that context, if I just follow your logic there, Minister, would I be correct in saying that it would be within the capacity of VCAT to, for example, appoint the Office of the Public Advocate as that decision-maker?

**Ingrid STITT:** Yes.

**David ETTERSHANK:** Brevity is next to godliness. Clauses 18 to 20 introduce serious criminal penalties for aged care providers and their staff. A concern that has been highlighted to us is around a provider encouraging a resident to choose a restrictive decision-maker before they lose capacity and whether or not this encouragement of a resident to make a timely decision could be seen as undue influence or dishonesty. Could this example be seen as a care provider exerting undue influence on a care recipient?

**Ingrid STITT:** Mr Ettershank, clauses 18 to 20 are the clauses that go to serious criminal penalties for certain offences, and the offences that are contained in those clauses ensure that any individual who coerces or forces a decision-maker appointment or fraudulently acts as a substitute decision-maker can be held accountable. ‘Undue influence’ and ‘dishonesty’ are terms common in Victorian legislation. They have an understood meaning. Suggesting to a care recipient that they should nominate a restrictive practices nominee of their choosing will not meet that definition of ‘dishonesty’ or ‘undue influence’, so encouraging residents to make a nomination would not inherently be undue influence, as this would really be about informing residents of their rights to make a nomination of their choosing and encouraging them to undertake advance care planning. That is a common conversation that happens in the context of aged care facilities very often. The proposed criminal offences are largely consistent with provisions within the Medical Treatment Planning and Decisions Act 2016, where similar protections are required to protect appointed medical decision-makers from dishonesty or undue influence.

**Clause agreed to; clauses 2 to 25 agreed to.**

**Reported to house without amendment.**

**Ingrid STITT** (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:39): I move:

That the report be now adopted.

**Motion agreed to.**

**Report adopted.**

*Third reading*

**Ingrid STITT** (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:39): I move:

That the bill be now read a third time.

**Motion agreed to.**

**Read third time.**

**The DEPUTY PRESIDENT:** Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

*Adjournment*

**Ingrid STITT** (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:40): I move:

That the house do now adjourn.

**Government performance**

**Joe McCRACKEN** (Western Victoria) (18:40): (1299) My adjournment matter is for the Treasurer. Victoria is now the uninvestable state, according to the business community. Chairman of CSL Brian McNamee has slammed the state of the Victorian economy, and according to an *Australian Financial Review* article:

... leading fund managers have told him Victoria is currently uninvestable and warned the damage wrought by years of financial mismanagement by successive Labor governments will take at least a decade to fix.

Esteemed economist Mr Eslake in his recent report on the Victorian economy noted that Victoria has been the richest and most powerful state in Australia for the last century on nearly every economic indicator. The fall is blamed primarily on:

... bloated spending beyond the government’s means and cellar-dwelling productivity performance.

He went on to say:

It ought to be embarrassing for Victorians that it now has lower per capita income than Tasmania.

This follows the Victorian Auditor-General's warning on Friday that the state's finances have become unsustainable, with gross debt projected to be \$228 billion by 2028 – that is \$30 billion more than what we thought only months ago. There is even talk of a federal bailout. Get this: a nameless spokesman for the Victorian government said:

... the Victorian economy was “booming because of the Labor government's investment in infrastructure and services”.

How out of touch can you actually be? We had the Premier come out and say that Victoria has ‘a stronger economy, a bigger economy’ and more people in work. But there is a problem with this spin as well. There might be more people in work, but we have a lower standard of living and have suffered a 10 per cent decrease in disposable income compared to the national average. Victorians are working more, but they have less to spend. What a proud Labor legacy that is. Annual operating expenses have risen by 6.8 per cent on average over the last decade, fuelled by a bloated government bureaucracy. In the last three years state taxation has increased by 56 per cent, fuelled by an addiction to land tax, windfall gains tax and now even a death tax. Maybe this will help pay the interest, which is meant to be around \$1.3 million every hour of every day of every week in 2028. Victoria's economy is in its worst position in years, only rivalled by the failed Cain–Kirner years. Victoria cannot endure more reckless spending, incompetence and financial mismanagement. Victorians are suffering through the biggest cost-of-living crisis, a housing crisis, a crime crisis and a budget crisis. After 10 years of Labor, Victorians are paying the price. Treasurer, the action I seek is that you give Victorians the Christmas present we all deserve: resign your commission as Treasurer and minister.

### St Albans Library

**David ETTERSHANK** (Western Metropolitan) (18:43): (1300) My adjournment matter is for the Minister for Local Government, and it relates to the upgrade of the St Albans Library. We are heading for another record-breaking summer, with more extreme hot days and longer heatwaves. If you live in the outer growth areas of Melbourne's west you may well be in for a truly hellish summer. The western suburbs have fewer green spaces and more heat-absorbing urban spaces than in those green and leafy eastern or bayside suburbs and as a result are typically 4 to 5 degrees hotter. On top of that the outer west has some of the most socially disadvantaged areas in the state, including Brimbank, Melton and Wyndham. The Victorian Council of Social Service has identified a close correlation between lower socio-economic communities and the risks posed by extreme heat. In short, those living in the hottest areas tend to be the least able to keep cool. With few public swimming pools, limited access to beaches, few community spaces offering respite from the heat and pathetic public transport to get to any of those places, where do people go to find some relief from the devastating effects of extreme heat? The answer is often public libraries.

Libraries are among the last bastions of community space that offer refuge during crises from heatwaves and from loneliness. They provide a welcoming space for all. Libraries deliver bang for buck too. According to Infrastructure Victoria, every dollar invested in libraries reaps \$4.30 in economic and social benefits. The St Albans Library serves one of the most multicultural communities in Australia and one of the most disadvantaged in the state, and it is in urgent need of an upgrade. The building's cramped spaces and ancient facilities significantly reduce the service offerings to the community, even with all the incredible work of its staff. Brimbank council requested \$5 million in this year's budget for the redevelopment of the St Albans Library to support lifelong learning, promote inclusivity and connection and provide welcome respite from extreme heat. Regrettably, that request was knocked back, so the action I seek is for the minister to fund the renovation of this vital community asset in the 2025–26 budget.

**Ambulance services**

**Wendy LOVELL** (Northern Victoria) (18:45): (1301) My adjournment is for the Minister for Ambulance Services, and the action I seek is for the minister to fund a two-person MICA unit based in the Macedon Ranges shire to respond to medical emergencies in the area. I was recently at the Kyneton Show when someone suffered a cardiac arrest and required an urgent medical response. A call was made to 000, but I am told the closest MICA response unit, which is located in Bendigo – almost an hour away – was not available to be dispatched. The Minister for Health and Minister for Ambulance Services was also at the Kyneton Show at the time this emergency was unfolding. She was on the stall next to ours, but she appeared to be totally oblivious to the situation, although she did leave shortly after the air ambulance chopper circled the showgrounds. I have been told that a MICA paramedic who just happened to be travelling home from a shift in Melbourne and was near the Gisborne turnoff heard the call on the radio and quickly changed their route to attend the call-out. Those who I was speaking with at the show were extremely grateful to this individual, who attended even though they were not on duty – a testament to the dedication of our hardworking paramedics.

However, relying on someone being in the area by chance or a MICA team being dispatched from an hour away is not sustainable. This level of service is not good enough for residents of the Macedon Ranges, who deserve better from the state government and their local member, who just happens to be the Minister for Health and Minister for Ambulance Services. MICA paramedics are more highly trained, have a broader clinical skill set and can perform more advanced procedures. They can deliver advanced treatment for airway conditions and chest injuries as well as perform procedures for heart conditions, such as defibrillation for patients in cardiac arrest. We know the important work they do is saving lives, which raises a question: why are there so few MICA services available in the regions? Some parts of our state have no MICA coverage at all. In regional and rural areas standard ambulance services are more thinly spread. Distances from our small towns to hospitals are much greater, and the need for a rapid and mobile response to emergencies is more urgent.

These are all reasons to have more MICA units in the regions, including the Macedon Ranges shire, but instead of investing in more MICA units and improving care for regional Victorians, the 2024–25 state budget revealed that the Treasurer cut ambulance services by \$20 million, and the 2023 Ambulance Victoria annual report revealed that there were 27 fewer MICA staff in 2023 than there were in 2022. I call on the Minister for Ambulance Services to establish and fund a two-person MICA unit based in the Macedon Ranges shire that can rapidly deliver a clinical response to high-level emergencies.

**Victorian Aboriginal Child and Community Agency**

**Michael GALEA** (South-Eastern Metropolitan) (18:48): (1302) My adjournment matter this evening is for the attention of the Minister for Children. Minister, Aboriginal community controlled organisations such as the Victorian Aboriginal Child and Community Agency, VACCA, play a crucial role in providing child protection services under section 18 of the Children, Youth and Families Act 2005. We know that, given the grievous history of forced child removals under the stolen generations, there is a residual reluctance amongst many in our Aboriginal communities to place trust in non-Aboriginal entities. We also know that the evidence speaks for itself. In the period 2017 to 2020 the reunification rate for Aboriginal children in Aboriginal care was double that of the reunification rate achieved by the department, which makes it all the more galling that the opposition would seek to baselessly denigrate the work of an organisation such as VACCA by making false allegations about them in both the Legislative Assembly and the Legislative Council. It is particularly disheartening to learn that no-one from the Liberal Party, not even the shadow minister Roma Britnell, has sought to engage with VACCA. Indeed it was shocking to hear that no-one from the Liberal Party since the good Dr Bach left had spoken with them. Once again we feel the loss of having an effective shadow minister in this place. The action I am seeking is that the minister provide the house with information regarding the work of VACCA and correct any false assertions about VACCA which may have been made in this place or in the other place.



### Housing affordability

**Aiv PUGLIELLI** (North-Eastern Metropolitan) (18:50): (1303) My adjournment is to the Minister for Consumer Affairs, and the action I seek is that he implement rent controls to stop unlimited rent rises. Last week we saw the release of the rental affordability index, as if we needed more concrete data to display exactly how dire this rental crisis has become for young people in Melbourne. Each capital city recorded their worst rental affordability costs since the index's inception, and the people that feel this the most are those living on minimum wage jobs or relying on welfare. For people receiving JobSeeker, an entirely new unaffordability level had to be added: critically unaffordable. A single person living on JobSeeker would be forced to pay 75 per cent or more of their income on rent for a single-bedroom apartment across nearly all of the inner Melbourne region. Young people, disabled people, university students and people struggling to juggle work and study are being forced out of metropolitan Melbourne as a result. The only capital city region, metro, in the entire country judged to have acceptable rents was Canberra, and – surprise, surprise – Canberra is the only capital city to have proper rent controls. Who would have thought? Do not tell us that there is not a clear representation the policy works. The Labor Party has been in power for over 10 years here. The crisis has gone on the entire time. Renters who would have been in high school when Labor first came to power are now grappling with a crisis that has only been worsening as a result of their continued refusal to adopt policies that we know will work. There is no excuse for rent to suck up so much of the hard-earned income that young Victorians should be using to save for a home and plan for their families. What will it take for the Premier to wake up to the fact that this crisis is spiralling well out of her control?

### Bail laws

**Renee HEATH** (Eastern Victoria) (18:52): (1304) My adjournment is for the Attorney-General, and the action that I seek is for the government to commit to strengthening the laws around bail as a matter of urgency. On 7 October Isla Bell was murdered. Her body was missing for around seven weeks. Last week two men were charged over the incident, one with murder and one with assisting an offender. Yesterday the man who was accused of helping move and dispose of Isla's body was released on bail while awaiting trial. I make no comment on the man's guilt or innocence; I simply want to acknowledge the circumstances that exist while he was granted bail: (1) police alleged this man was a flight risk as he had booked a plane ticket to Bulgaria after first speaking with police; (2) the police stated the way in which the applicant treated the body of the deceased – that is, by moving the body in a fridge – was very serious; (3) police told the court that the accused led an extravagant lifestyle, with unexplained wealth, and had three bank accounts, two phones and a room full of designer clothing; (4) police stated that it would not be difficult for the accused to assume another identity; and (5) prosecutors also pointed out that the accused had a history of offending, posed a risk to the community and could interfere with witnesses in the case, some of whom had already expressed their concern to the police.

While considering bail, the magistrate said that the alleged conduct of the accused was callous and repugnant and acknowledged that there was some level of flight risk. Yet the accused was still granted bail with few conditions, including that he surrender his passport and not leave metro Melbourne and that he fund the electronic monitoring device designed to prevent him from going within 200 metres of the addresses of potential witnesses. Given the concerns of the police and the potential witnesses about the accused in the case, I ask the government to take action and reinstate the law that made it an offence for a person to breach bail conditions.

### Victorian emergency services equipment program

**Sheena WATT** (Northern Metropolitan) (18:55): (1305) My adjournment matter tonight is for the Minister for Emergency Services, and the action I seek is for her to organise another visit to a VICSES unit or CFA brigade which has received a VESEP grant. VESEP grants, which stands for the Victorian emergency services equipment program grants, support emergency services organisations like the

CFA to protect their communities during bushfires and other emergencies. The minister already regularly visits emergency services units – I acknowledge that – but VESEP recipients are at the front of my mind this week after seeing firsthand the positive impacts that these grants have on individual units and brigades.

Recently I had the opportunity to visit the town of Stanley in the state's north-east, and while I was there I was welcomed by Chris and the team at the local CFA brigade. It was the CFA brigade's open day when I visited in fact, and Chris was keen to tell me about the team's successful VESEP grant application. I was very encouraged to see just how many upgrades the Stanley brigade could make to their workspaces and equipment thanks to their VESEP grant, and this was only compounded when I later visited the Yackandandah CFA as part of the 10-year anniversary of the Totally Renewable Yackandandah initiative.

Totally Renewable Yackandandah are organising their community to make it 100 per cent renewables powered by late 2026, and I was proud to speak at their 10th birthday party as a representative of Minister D'Ambrosio, the Minister for Climate Action, in the other place. As I said on the night, I think initiatives like Totally Renewable Yackandandah are a shining example for other communities around the state to follow, and I look forward to hearing updates as they work towards their renewable energy goals. As part of that event I visited a number of community groups who are embracing rooftop solar power in their buildings. Among those was the Yackandandah CFA, where another Chris in fact welcomed me and showed me some of their equipment, which the brigade had purchased with their VESEP grant. In the days and weeks before these visits I had also been representing the minister on other CFA and VICSES station visits. Generally these visits are to commemorate other forms of funding secured by the minister, but on almost every visit I have been told by volunteers about the positive impact of the VESEP grant and what effect it has had on their unit or brigade. Tonight I am asking the minister to visit another VESEP grant recipient to see more of the positive community outcomes that she has created through her work.

### Electricity infrastructure

**Sarah MANSFIELD** (Western Victoria) (18:57): (1306) My adjournment matter is for the Minister for Energy and Resources, and the action that I am seeking is for her to overturn Energy Safe Victoria's decision to reject the recommendation of the Electric Line Clearance Consultative Committee that branches in low-risk areas only be pruned 30 centimetres instead of 1 metre. This recommendation, which was overwhelmingly endorsed by the government's own expert panel, would have delivered more than \$1 billion in tree canopy value to Victorians in both regional and urban areas at no cost to taxpayers. Similar changes have been proven by practices in South Australia for over 40 years and more recently adopted in New South Wales.

Rapid urban development projects like the ones we are seeing around my home town of Geelong are turning parts of our city into heat islands. Backyards have shrunk, tree cover has disappeared and commonly used buildings are absorbing and radiating heat. A study by the RMIT sustainability and urban planning program found that removing tree canopy cover can make cities 4 to 10°degrees hotter than surrounding areas. Trees have been shown to reduce the urban heat island effect by as much as 7 degrees Celsius, mostly by shading hard surfaces but also through transpiration and evaporation. Trees not only provide shade; they retain moisture in the environment, improve the mental and physical health of the community and decrease energy use. The more tree cover you have, the cooler a place will be. Air quality improves. Costs are lowered for households who would normally have to rely on air conditioning to manage thermal comfort. Mature trees directly contribute to carbon sequestration, reducing water run-off, erosion and flooding. They increase property values and reduce skin cancer risk by shading walkways, especially to schools and workplaces. In other words, they are a true all-rounder when it comes to tackling climate change.

Veteran firefighters have also rejected suggestions that the policy would increase bushfire risk, stating that the damage inflicted on these trees under current legislation weakens them, making them more

flammable and likely to lose their branches. Hot weather in Australia kills more people than bushfires, cyclones and other natural disasters combined, and those with pre-existing health conditions are more likely to suffer when living in these so-called heat islands. In the current cost-of-living crisis there will likely be more sick people calling ambulances because they cannot afford to keep their air conditioning running this summer. Labor should be doing everything they can to expand our urban tree canopy, and I would urge the minister to take on board the expert advice and reverse this decision.

### Electricity infrastructure

**David DAVIS** (Southern Metropolitan) (19:00): (1307) It will not surprise you that my adjournment tonight is along exactly the same lines. People will notice notice of motion 715, which is on the notice paper, dealing with exactly the same matter, the Electric Line Clearance Consultative Committee, a committee that reports to Minister Lily D'Ambrosio, and whilst my matter is the same substance, I am going to seek a different action. Dr Mansfield is quite correct that the Electric Line Clearance Consultative Committee has made a series of technical and expert recommendations, which sadly have been ignored by Lily D'Ambrosio and her staff. They have rejected these in a kneejerk way. The Allan Labor government has not listened to the technical advice, and essentially what the technical advice is is to prune less harshly in the city in the low-bushfire areas – the low-voltage, low-bushfire areas – which are in metropolitan Melbourne and in some larger country towns where there are urban areas. The fact is the calculations show that there is \$1 billion worth of tree canopy that is available for free. We know our cities are getting hotter. We know there are heat island effects.

**Georgie Crozier** interjected.

**David DAVIS:** We know the state government's plan, Ms Crozier, is to tear down houses, street canopy and all of the mature trees that provide the cooling in our city. This is part of their approach with the high-density, high-rise planning that they have in mind for so much of our city. Dr Mansfield is also right that there are in fact significant pieces of information from South Australia and elsewhere that show that this is indeed possible. It is likely to lower energy costs, and it is likely to mean families pay less for their electricity bills. It is also the truth that the very smart people on this committee who have done an enormous amount of work deserve the respect and the good sense of all of us to listen and to examine their material closely rather than a kneejerk response.

What I am going to ask the Minister for Energy and Resources to do is to release the minutes and the material that that committee has relied on. We know those minutes are there. We know the studies are there. People close to the committee have informed me of that. I want the minister to release that information publicly so it can be widely assessed and to reverse this kneejerk reaction, actually take on board the good material that has been provided and take on board the benefits, take on board the cooling effects and take on board the visual effects that will help our cities.

### Climate change

**Katherine COPSEY** (Southern Metropolitan) (19:03): (1308) My adjournment this evening is to the Premier, and the action I seek is to cease the government's support for more polluting coal and gas projects in Victoria. In a world racing to reduce pollution, Australia is a stark outlier, and we are getting left further behind.

The rest of the world is accelerating past coal –  
says the Climate Council –

Australia can either choose to reap the opportunities of this transition, or be left poorer and less secure.

We are still one of the highest emitting countries per head of population and a massive global supplier of fossil fuels. Only Indonesia sells more coal than Australia globally. At the federal level shockingly Australia's emissions are now higher under Anthony Albanese than under Scott Morrison. That is right: in a climate crisis and facing another summer of appalling bushfires, we are seeing emissions going up, not down. The Victorian Labor government has approved new gas drilling in Victoria's

beautiful oceans right near the Twelve Apostles. As of June 2024 Beach Energy is now extracting gas in the Port Campbell National Park on Gunditjmara country.

As one of the sunniest and windiest continents on earth, Australia and indeed Victoria is ‘uniquely placed to benefit economically’ from its abundant natural resources, says the Organisation for Economic Co-operation and Development. A phase-out of fossil fuel production is entirely feasible for a country with our resources, skills and diverse economy. Scaling up as a clean-energy superpower could bring more economic growth, jobs and tax revenue than the status quo, especially if we took what we need from the fossil fuel industry to properly fund the transition on its way out. We know that the climate crisis is being driven by the greed of coal and gas corporations – the foreign-owned corporations that dig up most of our coal, extract our gas, pay little tax and employ relatively few people while capturing billions of dollars in state and federal support.

**The PRESIDENT:** Sorry, Ms Copsey. Could I just check: is that for the Minister for Environment or Minister for Energy and Resources?

**Katherine COPSEY:** The Premier.

### **Wattle Park Primary School**

**Richard WELCH** (North-Eastern Metropolitan) (19:05): (1309) My adjournment matter is for the Minister for Education, and I seek that he address a safety issue at Wattle Park Primary School. Wattle Park Primary School has a pedestrian exit that exits out onto Warrigal Road. Warrigal Road is a very busy road, and in the past a bus shelter stood opposite that exit and acted as a barrier to stop children running out onto the road, whether they were distracted, boisterous or for any other reason. That bus stop has now been removed and therefore so has any barrier between the exit and busy Warrigal Road. This presents a quite urgent and immediate safety issue for both the children and for the drivers along Warrigal Road. The school principal Mr Steve Donohue has worked very hard on safety within the school, but he has expressed significant concern about this as an exit. The action I seek from the minister is to urgently install a 2-metre mesh fence as a barrier outside the gate and to work with any other departments necessary to ensure that this is done promptly.

### **Koala management**

**Georgie PURCELL** (Northern Victoria) (19:06): (1310) My adjournment matter is for the Minister for Environment, and the action I seek is for the Victorian government to fulfil its promise and hand back the remaining 6000 hectares of Brataualung Forest Park. In 2006 the Victorian government, the then Labor government, announced a new 8000-hectare reserve in the Strzelecki Ranges. This was on the back of Strzelecki having the least amount of reserved land in any bioregion in Victoria. Still to this day it is only 5 per cent. What makes this region so special is the Strzelecki koala population, the only relic koala population remaining in Victoria and South Australia. The Strzelecki koala was thought to be extinct because of the drastic impacts of land clearing and hunting up until the 1990s. While other koala populations were translocated from French Island, the Strzelecki koala population maintained its genetic strength in South Gippsland, which is crucial to the survival of koalas.

Friends of the Earth estimate that the Strzelecki koala population is as few as 2500, which is critically low, and yet our native icon is being treated as a pest, being killed en masse and displaced across Victoria, particularly so in Portland and Gippsland, in the interests of logging. The government bought this land back from Hancock Victorian Plantations and paid in full in 2008, yet it took another 10 years for the first allotment to be handed back. I thank the member for Mill Park for handing 2400 hectares back in 2018. Since then, nothing has happened. There is still almost 6000 hectares the government has not handed back.

In time this reserve would be fantastic for koalas, with the promised reforestation and replanting of indigenous trees and by prioritising koala food trees such as the mountain grey gum, blue gum,

Strzelecki gum and swamp gum. The last hand back to complete the reserve was meant to occur in 2027. Currently only one out of the four hand backs has occurred. It is the belief among experts and locals that the stalling is due to the government and Hancock both refusing to remove the 100 pine trees needed to get rid of pine wildings within the reserve. Another opportunity for the government is extending reserve areas into Mullungdung State Forest, which would provide protection to the biggest population of Strzelecki koalas remaining. A quarter of the population lives inside this unprotected forest due to its high number of mountain grey gum trees. Mullungdung is also home to a significant glider population who are in desperate need of protection. I ask the minister to protect these dying native species and fulfil its promise to hand back the land, a promise that Victorians and our animals have been waiting for for 18 years – *(Time expired)*

### Inclusive infrastructure

**Nick McGOWAN** (North-Eastern Metropolitan) (19:10): (1311) In the late 1990s and early 2000s I was fortunate – fortunate perhaps in hindsight, although I did not know it at the time – to work with the Disability Rights Commission in London. I think they no longer exist by that name today, but I was very fortunate to work there. I say fortunate because I am not sure that I had thought a lot at that age and at that stage of life about the challenges that those who are less able than I am go through each and every day. The job of the Disability Rights Commission in large measure was to ensure accessibility, in a word. Being a member of Parliament some 20-plus years later, I am in a very fortunate position in that I get to advocate on behalf of those who are not as able-bodied as I continue to be and enjoy being.

My matter for the adjournment debate today is for the Minister for Disability, who is in this chamber, which is very fortunate. I suppose an observation that I have made over some time now is that I am interacting increasingly, serendipitously perhaps, with people in wheelchairs and particularly young people. What has been, I suppose, somewhat confronting in a sense is that I am consistently frustrated at all of our lack, and I say ‘all’ because I mean all governments for decades, of progress – it is never as fast as I want it to be; I am sure it is not as fast as the minister wants it to be – in respect of making everything as accessible as I enjoy. I know that is quite a lofty ambition.

I am perhaps rambling too much here. I need to be more specific. One of the things that concerned me recently with a couple of children in particular in wheelchairs was that what was clear was that their lack of accessibility was the family’s lack of accessibility. If they are in a wheelchair, so are the family in very many respects. There are a number of families who are now going through the process with the NDIS of getting a vehicle, and that is great, although that is a very difficult process. But what struck me is that many of them cannot even go to the park, because they do not have footpaths. In fact in both instances I can think of, neither of the families with children in wheelchairs have a footpath.

So my question to the minister is whether there is any program that councils can participate in or whether the state government have a policy or a program to assist councils or can in fact take the initiative themselves to make footpaths more accessible. It sounds really silly, but in terms of our suburbs the further we get out from the CBD, the more frequent it becomes. We all take it for granted, I think, that we have footpaths, but I can tell you many, many suburban courts and streets do not. In the case of the two children I am thinking of, their parents have to wheel them on the road just to get to the park. That is a really difficult thing for them. So anything that the minister can provide in terms of advice that the government either has in terms of assistance or may be able to offer in the future would be most welcome.

### Meningococcal B vaccination

**Trung LUU** (Western Metropolitan) (19:13): (1312) My adjournment matter is to the Minister for Health regarding the rise in meningococcal B cases in Victoria. The action I seek is for the minister to commit to expanding access to the meningococcal B vaccine across Victoria and to include it in the Victorian state immunisation plan. In 2024 alone there have been 106 cases of meningococcal disease across Australia and 12 of those were type B cases in Victoria. Sadly, one in 10 of those who contract

this disease die and one in four are left with permanent disabilities such as loss of limb, skin scarring, organ failure, epilepsy, brain damage and psychological trauma. Even Meningitis Centre Australia is urging the government to act and include this type B disease in Victoria's state immunisation plan. Meningococcal B disease has unfortunately broken many families' hearts. There are stories like Abby McGrath's daughter Emma, who tragically died after contracting meningococcal B disease, with her mother describing the ordeal as 'a living nightmare'. It should not happen in Australia.

The meningococcal B vaccination currently costs \$400 per child, and with families facing a cost-of-living crisis, many simply cannot afford this expense. If this vaccine were included in the immunisation plan, mothers like Abby would not have lost their daughters and families would be able to afford this vaccination. South Australia, Queensland and the Northern Territory have already adopted this immunisation in their plans. What is stopping the Allan Labor government from following suit and looking after Victorians? So I ask the minister: will the Allan Labor government commit to expanding access to the meningococcal B vaccine across Victoria and place it in the Victorian state immunisation plan, providing a critical healthcare service to our Victorian community and making this a safer and better place for all Victorians to live and feel secure?

### Victoria Police

**Ann-Marie HERMANS** (South-Eastern Metropolitan) (19:15): (1313) My adjournment is to the Premier, and the action I seek is for the Premier to continue to sit at the negotiation table with Victoria Police and finalise an adequate and equal pay deal for Victoria Police and protective services officers in this state. Recently I stood outside the police station in Frankston with the PSOs and the police of Frankston who had a temporary stop-work in a desperate effort to engage so that they can be paid properly and valued. The fact that we have recently had never-before-seen vision of police vehicles with negative slogans shows their desperate efforts to be heard. It is not fair to our police and indeed to all Victorians who deserve to feel safe in their homes and on their streets. Victorian police officers are only asking for a 24 per cent pay rise over the next four years, and other states have given a lot more. They are also asking for the introduction of 8.5-hour shifts. This Allan Labor government has failed – I repeat that: failed – to reach an agreement and are now walking away from the negotiating table, forcing Victoria Police to fight for their deal in Fair Work Australia. This decision by this arrogant, incompetent government to not acknowledge the great work our police officers do in protecting our community is just wrong and disrespectful for the men and women who put their lives on the line every day under increasingly impossible work conditions.

We are constantly seeing an increase in crime where criminals offend, get locked up and then get out on bail. It is just a revolving door that is going on and on and on. This government should be ashamed of itself. It is not looking after our police, who ultimately provide a service to the community that is vital. Safety along with education and health are an absolute priority in this state, but this government is failing on all three areas because it is weak. We now see crime increasing, and criminals are being rewarded with fewer and fewer consequences for their actions. In my area, in the City of Casey where I live, there has been a constant increase in crime, and people are feeling desperate and unsafe. I also know they feel the same way in Carrum, where I attended a forum and saw and heard how people feel about the rise in crime. Police are desperate, with some of their stations working at less than half their capacity. That is right, half their capacity. How is this even possible?

Now we have got the problem that if the police are not properly rewarded for their efforts and crime is on the rise, we are going to see police officers leaving the state. For instance, New South Wales officers will be the best paid in the nation, getting a generational pay deal which lifts wages by 25 per cent. Queensland police are offering a \$20,000 relocation payment for new recruits, so each new recruit will get that one-off payment. We have got to look at this. This government is failing our police. The Victorian Liberals and Nationals are showing support and will continue to collaborate with the Police Association of Victoria and on the frontline with its members so that they can get a fair deal.

### Nursing students

**Georgie CROZIER** (Southern Metropolitan) (19:18): (1314) My adjournment matter this evening is for the Minister for Health, and it is in relation to a report that is running as we speak by the *Age*. It is a very concerning issue. It is around graduate nurses who have had their working hours slashed. This is important because for those graduate nurses to work, they need to get experience and be able to undertake the work they do when they come through and graduate. I am a former nurse of the Alfred, and I understand the experience that you get working on the job, having the experience of senior nurses to assist you, guide you and work through that. What is being reported tonight is that hundreds of graduate nurses at the Alfred are going to have their graduate nursing program hours slashed from a 32-hour working week to just 24 hours. That is going to have a massive impact, as I said, not only on their ability to get the experience but also on the ability of the health service to provide additional assistance when supporting patients and other health workers. There are concerns being raised by the union, and they are saying that the changes have occurred without consultation. They are seeking urgent legal advice and on other aspects around what on earth is going on. I take up the comment from one senior nurse, who said:

How do graduate nurses consolidate their learning, especially at The Alfred – which cares for some of the sickest people in the state – with three shifts a week? I just think it's appalling ...

Experienced nurses have concerns. I worry what will happen when I move on.

She is quite right, or they are quite right, whoever that nurse was who made those comments, because it is a very serious issue. What we have here in Victoria is a health crisis, and this is just another consequence of the financial mismanagement by Labor where budgets are being cut. This is happening right across the board in our hospitals. For these graduate nurses to have their program hours cut is another sign of the fiscal mismanagement and the reckless decisions being made by Labor and the impacts it is having on the delivery of health care in this state. The action I seek from the minister is for her to urgently step in and sort this issue out. Get those graduate nurses back to what they should be doing, having more experience on the floor, and have those hours reinstated, as they were signed on to do. Do not delay; get on with it and do it immediately.

### Greenvale Reservoir Park

**Evan MULHOLLAND** (Northern Metropolitan) (19:21): (1315) My adjournment matter is to the Minister for Water. The good people of the neglectorate of Greenvale have had a terrific win. As you would know, I have spoken almost every week in this place about the need to open up the Greenvale Reservoir Park, the southern section, for people to enjoy. You have got the government putting in new housing estate after new housing estate and not providing a commensurate amount of open space. I know many in our multicultural community have spoken to me and advocated, and I have advocated on their behalf, to open up this reservoir as they have long memories from over 10 years ago when it was open for cultural barbecues, family days and festivities. Many people had their first childhood memories there, of seeing their first kangaroo. I have got a lot of Italian family up there and used to go there as a child, and I enjoyed it as well with the community.

I want to acknowledge the more than 1300 local residents who signed my online petition to open up the Greenvale Reservoir Park. I want to thank them and the community, the Greenvale Residents Association, for their advocacy, because finally the Minister for Water came out to Greenvale to announce that they would be delivering on their promise to reopen the park. I was thinking, 'When was that promise? When did it actually happen?' She announced funding of \$3 million to reopen the park. I looked back and I found a media release from January 2017 announcing that they would be providing \$1.4 million to improve access at Somerton Road and allow for greater green space at the Greenvale Reservoir Park. So they already made the promise back in 2017. It never happened. Dam wall works were completed in 2018, and the government has been sitting on its hands ever since. It is only since my advocacy that they have been rushing to make this announcement.

I seek the action of the minister to provide a timeframe, which they have never done and they did not do in their subsequent media. We have had broken promise after broken promise in regard to the Greenvale Reservoir reserve. I would like to enlighten the Minister for Water, who would be interested to know that her colleague the Minister for Environment was forced into an embarrassing backdown after boasting about funding for the new toilets at the northern section of the park, because I saw their release included funding for new toilets. He said there were two new toilets in the northern section of the park. I questioned him on this, and he was forced to make that embarrassing backdown. I want to also seek action on whether the toilets will be real, whether the picnic areas will be proper and whether the new footpaths will not be covered and broken up like they are at the northern section. It is a great win for my community in Greenvale, and it only happens with Liberal advocacy.

### Gold prospecting

**Bev McARTHUR** (Western Victoria) (19:25): (1316) My adjournment matter concerns the fabulous activity of gold prospecting. Prospecting and fossicking is a wonderful recreation which gets people outdoors to enjoy the natural world and brings great benefits to their physical and mental health. Thousands of Victorians enjoy the activity. It creates a connection with the land and produces committed custodians of the country explored. For some it is a holiday activity but for many more it is a serious hobby, an essential part of their identity. Prospectors are passionate about what they do and desperate to pass it on to their children. In the bush, in state forests and on private land, they dig carefully and pan respectfully, and they want to pass on the meaning and joy prospecting brings to the lives of their children. After all, gold is what put Victoria on the map. Certainly Bendigo and Ballarat owe everything to it, as do many of the grand buildings in marvellous Melbourne which we still see today, including this one. It is hard to think of a mass participation activity more central to Victoria's development, and it is still open to us today and enjoyed by thousands.

You might expect that given its history in our state, the health benefits it brings and the impact it has on our economy and regional towns, the state government would be quick to promote this activity. Instead, it is the opposite. We have heard in recent weeks the threat of national park extensions, with their further default restrictions. Expanded exemptions under section 7 of the Mineral Resources (Sustainable Development) Act 1990 are another blow. I have always strongly argued that public spaces belong to all Victorians, and I oppose unwarranted efforts to restrict access to and enjoyment of Crown or private land in Victoria. The government's hostile attack on rock climbers has reached new heights in recent weeks. I worry the same is happening with prospectors, with the same lack of justification. Large-scale mining is permitted, despite industrial-scale environmental damage, when royalties are payable to government. But hobbyists who create no environmental threat whatsoever – in fact who often clean up the land they visit – are threatened.

The action I seek, Minister, is a clarification of whether prospecting is permitted on private land exempted under section 7 of the act, statistics demonstrating the area of land exempted over the last decade and a review of whether these decisions can be reversed.

### Silverleaves Beach, Cowes

**Melina BATH** (Eastern Victoria) (19:28): (1317) My adjournment matter this evening is for the Minister for Environment, and it relates to a Department of Energy, Environment and Climate Action funding commitment for the Cowes community. Shoreline setback from coastal erosion has been heavily impacting the Silverleaves community at Cowes at an alarming rate. A bird's-eye view indicates that the shoreline has eroded at an accelerated rate in the last two or three years of up to 8 metres a year. There is a critical area, a stretch of about 2 kilometres from the Silverleaves coastline. It starts west of Coghlan Road and it encompasses the east of Cowes beach at the sandy spit, extending to Observation Point.

Last week my colleague and the Shadow Minister for Water Tim McCurdy and I visited and spoke with residents Jude Doyle, Natalie Gray and Ken Hailey about the urgency of this situation. We stood near one of the homes and saw how the erosion was just eating in and could certainly undermine



homes and infrastructure there. I was also contacted by Will Dwyer. Will is a member of the Silverleaves conservation society. They have been doing a power of work in collaboration with the department, but there is a significant urgency about protecting that shoreline. The whole idea is temporary, urgent and immediate – it is called a geotextile revetment, and it is basically sandbagging the area. Clearly there needs to be a greater level of protective works, adaptation and protection, but at this point in time they are desperate because if these sandbags are not implemented by the end of summer, when we have got high tides in autumn and northerly gales in winter, you are going to see some serious erosion and infrastructure and homes being taken away.

The government has made a commitment – this is the perverse thing – to implement this urgent action, but at the moment there has been no funding given for this action. There is certainly, as I said, a long-term adaptation pathway and coastal protection, and we see that across the board. We see it also at Inverloch along the Inverloch surf beach, and it seems to be, very unfortunately, that retreat is the option there, and that is not good enough. The immediate action I seek is that the minister provide the funding for these technical sandbags and save this community.

### Responses

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (19:31): I am very pleased to respond to the adjournment tonight. There were a couple of matters which were for my attention, so I will deal with those in the first instance. Firstly, can I thank Mr McGowan for his question in relation to disability access and ensuring that our community is inclusive and accessible for all, which is absolutely a priority of mine as minister and of our government. To that end we have our *Inclusive Victoria: State Disability Plan*, and pages 33 and 35 of that go to inclusive community infrastructure in particular. I am very pleased to let Mr McGowan know that we will shortly be tabling the midyear review. Absolutely community infrastructure should be accessible to all. The President and I were indeed pleased – in your local community at one point, Mr McGowan – more recently to open a new Changing Places. Initially the program in Australia for Changing Places started in Victoria, and we have more Changing Places than anywhere else in Australia. These are amazing facilities which open our community infrastructure up to those who need it. But absolutely I take your point, and you are a great advocate for ensuring that there are other ways, including what for many might seem like the simplest things but for those who have accessibility issues are actually quite major things – as you correctly identified, Mr McGowan – not just for themselves but for their families. I will be pleased to share with you shortly the midway review for the *Inclusive Victoria* plan. I absolutely thank you for your advocacy. It is also worth noting that it does come at this particularly important time in the disability conversation, when we are working with the Commonwealth. And to your point about children, we are working with the Commonwealth in relation to what the changes to the NDIS that are proposed might mean and in particular what those might mean for children, particularly children aged zero to 9, and their families. I thank you for raising that in a timely fashion.

I will also deal with Mr Galea's question. I am pleased to, further to question time this afternoon, speak further to this matter. *Wungurilwil Gapgapduir* is a tripartite agreement between government, the community sector and Aboriginal Victorians, and I have spoken in this place about it before. It outlines a strategic direction to reduce the number of Aboriginal children in out-of-home care by building their connection to culture, their connection to country and their connection to community. We know that Aboriginal children managed by an Aboriginal organisation remain better connected to culture, to country and to family. This government has invested in Aboriginal community controlled organisations who are delivering early intervention supports and who are working to divert children from care. We are leading the nation with our Aboriginal children in Aboriginal care program. The work of the Victorian Aboriginal Child and Community Agency is absolutely critical to this, and it is leading nationally.

I want to acknowledge that Aunty Muriel Bamblett has been a force of incredible change. She is a woman of great wisdom. She is a great advocate. She was recognised this year as the NAIDOC Person

of the Year for her work in relation to supporting Aboriginal children and their families and ensuring that Aboriginal children and their families get the best possible outcomes.

To that end, I again move, by leave:

That Aunty Muriel Bamblett's letter be incorporated into *Hansard*.

**Leave refused.**

**Lizzie BLANDTHORN:** In that case, President, I will take this opportunity, as I am responding to the adjournment debate, to read the letter in full – I was denied that opportunity this morning – because Aunty Muriel Bamblett has requested that this be incorporated into *Hansard*. It says:

Dear Minister,

**Unfounded imputations and aspersions made about VACCA in the Legislative Assembly and in the Legislative Council**

I write to raise my disgust and disillusion with the statements made about VACCA by Shadow Minister for Child Protection, Ms Roma Britnell, in the Legislative Assembly on 13 November and by the Leader of the Opposition in the Legislative Council, Ms Georgie Crozier on 14 November 2024.

No effort was made by the Opposition to contact VACCA to verify any information before making a series of assertions casting imputations and aspersions about VACCA that had no basis in fact. I have never even met Ms Britnell since she has been the Opposition Spokesperson for Child Protection. Previous opposition spokesperson Mr Matthew Bach took an interest in the work that VACCA does but not once has Ms Britnell taken the time or care, to understand who we are and what we do. In this context it is difficult to see her enquiries in Parliament as genuine concern about the safety and wellbeing of children but rather as a political stunt.

The Opposition should also be aware that section 534 of the *Children, Youth and Families Act* restricts publication of any details about individual children involved with the child protection system. This is to protect their interests and for this reason, VACCA will not make comment on the details raised by Ms Britnell, except to say the information she presented to the Legislative Assembly is not accurate.

**Georgie Crozier** interjected.

**Lizzie BLANDTHORN:** Sorry, President. I cannot hear myself speak for the interjections of Ms Crozier.

**The PRESIDENT:** Order! Ms Crozier!

**Lizzie BLANDTHORN:** Thank you, President.

I will however address the statement made by Ms Crozier in the Legislative Council “seeking an independent review into VACCA’s systemic problems”. This statement is deeply troubling to us. Not only does it demonstrate disdain for VACCA but also that the Opposition appears to have no real interest in improving outcomes for vulnerable children. If they did, they wouldn’t make a statement that is so clearly untrue. VACCA has a very proud history as a grass roots organisation of 47 years, serving our community. Evaluations of our programs provide clear evidence that the work we do improves the lives of Aboriginal children and families and that better outcomes are achieved through Aboriginal Children in Aboriginal Care (ACAC).

In the first evaluation period 1 Jan 2017 to 30 June 2020, the reunification rate achieved by ACAC for Aboriginal children on Family Reunification Orders was 22% compared with 11.1% for the Department of Health and Human Services ... in the same period. This higher rate of reunification by ACAC was reported by Regional Coordinating Magistrate, Ms Kay Macpherson to the Yoorrook Justice Commission, to be proportionately even higher for children on non-reunification case plans with court orders that allocate sole parental responsibility to the Secretary. Her Honor Macpherson stated:

“Nugel are a part of VACCA that have been, under section 18 of our Act, assigned the duties – the responsibility of the department. So it’s an Aboriginal organisation in charge of Aboriginal children and they are fantastic. The great results we get in Marram-Ngala Ganbu are more often than not cases that are managed by Nugel.”

For Aboriginal children exiting care between 1 January and 30 June 2021, reunification was achieved for 83 per cent of children involved with ACAC compared to 64 per cent for those involved with child protection

according to data provided to the Secretariat of National Aboriginal and Islander Child Care (SNAICC) by the Victorian Government.

Now that VACCA has been authorised with investigation powers, we are also making a difference in preventing Aboriginal children from coming into care, with a very low proportion of the children referred to us for investigation having been placed away from their parents. In the first 12 months of operation, only 12 out of a total of 91 children were placed out of parental care, making VACCA's removal rate only 13%. This is because we have strong relationships of trust with our families and they are more willing to accept our support to address concerns and ensure their children are safe and well looked after.

Alongside the work we do in exercising the functions and powers of the Secretary, a recent evaluation by Melbourne University on trials conducted at VACCA (and other Aboriginal organisations) to test the hypothesis that having an Aboriginal organisation step in early will divert matters away from child protection investigation and court proceedings, found the trials were clearly successful. VACCA's Aboriginal-led case conferencing program achieved a diversion rate (that is, no return to Child Protection) of 78 per cent.

As the Minister for Children, we request that this letter be read into Hansard so that the unfounded imputations and aspersions made against VACCA, and our work are not left unanswered in the final sitting week of Parliament for 2024. Elected members must be accountable for their conduct in Parliament and for the impact that their conduct has on the Communities they are elected to represent. Parliamentary privilege must not be allowed to be a tool for generating misinformation with impunity.

Please be advised that it is our intention to also make further enquiries to the President of the Legislative Council about our formal right of reply to ensure we have the opportunity to incorporate an appropriate response in the parliamentary record and VACCA's reputation is restored and maintained.

Yours Sincerely,

Muriel Bamblett

Chief Executive Officer

I consider that adjournment matter dealt with.

**Georgie Crozier** interjected.

**Lizzie BLANDTHORN:** Ms Crozier, I would appreciate it if you would desist from your interjections.

A number of other members have raised matters for a number of other ministers, and I will refer them accordingly.

### *Questions without notice and ministers statements*

#### **Written responses**

**The PRESIDENT (19:41):** Before we adjourn, there was a point of order from Ms Crozier around an answer from the Minister for Children. Having looked at the response, I think the minister was responsive, and I do stand by the request regarding an unreasonable amount of detail for a minister to have on a question without notice.

The house stands adjourned.

**House adjourned 7:41 pm.**