PLANNING AND DEVELOPMENT AMENDMENT BILL 2020

Second Reading

Resumed from 16 June.

HON TJORN SIBMA (North Metropolitan) [4.03 pm]: Once again, I find myself in the position of starting up before the bell is likely to go. I will not, as people might expect me to do, provide a recap of last night's contribution. If members are that intensely interested, they can read it in *Hansard*.

Hon Stephen Dawson: You can table it, if you want.

Hon TJORN SIBMA: There you go! Let nobody say that I am not a merciful person!

I want to give an indication of where I will go next, which is to three facets of this legislation. I will put some questions regarding how this bill might be applied in terms of scope and scale. I will give an overview of the amendments that I have put on issue 4 of supplementary notice paper 192 and explain some of the rationale behind them, although I will go into a great more detail during Committee of the Whole, as members would expect. I will end on the note of how this scheme might be implemented, because I think that there is a considerable degree of conjecture about the government's capacity to operationalise these COVID-19-related powers. In fact, I think it will be some time before the government is ready to take an application and consider a development approval under this new system.

First of all, I will reflect upon a theme of my contribution last night. I will not dwell on it unnecessarily, but I will reflect upon it because I have been given reason to do so due to a contribution made by the Premier during question time today in the other house. He, once again, observed that there is great interest, even at the commonwealth government level, in the passage of this bill. I am once again happy to reaffirm to the Premier and members of the government that this bill will pass. That is not in question. However, it was clear to me that the Premier is not being adequately briefed on the progress of this bill. It seems to me that he has not been advised that the government has endorsed five or six amendments placed on the supplementary notice paper by Hon Dr Steve Thomas or me. It has not so much endorsed them, as appropriated them almost word for word. Members should remember that this bill came to this place with the view put by the Minister for Planning that it was perfectly formed and that any amendment would "gut" the bill. That is obviously not the position that the minister holds today. She has changed her perspective and has, in my view, become far more accommodating and practical about the risks that this bill presents and, in the cold light of day, has realised that perhaps there was a degree of overreach. That is to be welcomed. I hope that somebody is advising the Premier accordingly. Again, I point out that I will not be the only speaker on this bill. Seven non-government parties are in this chamber. Each of them has something to say about it and there is no doubt that they should be listened to.

I will return to where I commenced. There is a degree of conjecture about how this bill might apply and the kinds of applications or project proposals that could possibly be dealt with under this new regimen. When the planning reform media statement went out and the minister gave her second reading speech in the other place, this bill was welcomed by large swathes of the industry. However, it appears to me that industry members have now taken the opportunity to read the fine print of this bill and are concerned that this bill, potentially, will not assist them. I take as my anchor the government's view that this is a COVID-19-related bill, that it was brought in out of necessity, and that the thresholds that have been established are appropriate. Other members might have other views on that. I was concerned that we would be enabling something with a far broader application than envisaged by the government, so I took it upon myself, at the invitation of the minister, to put questions to her staff and to the Western Australian Planning Commission. I have to say that I was provided with a very timely and comprehensive response to the around 55 questions that I put. Those answers will generate further questions, but in the seven minutes that I have before our afternoon adjournment, I want to advise the chamber that I specifically sought information about what kinds of development applications are contemplated by this bill.

I specifically asked whether, under these new special powers, the following could be contemplated or dealt with: local plans, schemes, amendments or rezonings; metropolitan region scheme rezonings, including, for example, the lifting of an urban deferment categorisation or another MRS zoning change; new structure plans; or amendments to an existing structure plan. I was advised that those matters are not under contemplation here. I was further advised that applications for the use or physical development and "construction of land" is what this bill is all about. The adviser went on to say—presumably this originated from the Western Australian Planning Commission, but this is useful information—therefore, other types of planning applications such as subdivisions, structure plans, activity centre plans, local development plans or scheme amendments could not—not—fall under the part 17 system, as these are not "development applications". It is very important to reflect on this government answer that was provided outside Parliament, but nevertheless to a member of Parliament, that specifies precisely what kinds of development applications are being considered.

During the consideration in detail stage in the other place, this question, I believe, was put directly to the minister as it related to subdivision approvals. The question of whether approval for the North Stoneville subdivision could be dealt with under these new powers in this bill was put to the Minister for Planning, and the minister quite

categorically said no. The minister said that subdivisions are not contemplated by this bill and that that subdivision in particular would not be dealt with in this way. I ask the Minister for Environment, when he gives his second reading reply, to reaffirm the principle that subdivisions, specifically, are not under contemplation in this legislation and that the North Stoneville subdivision, which the minister might be aware is quite a controversial local issue, will not be enabled by this bill or the provisions therein. I do not want to talk too much about how the application of these new powers might play out beyond that. I think I can reflect on that during the Committee of the Whole process.

In the few moments still available to me, I draw members' attention to the substantive issues that we have identified in dealing with this bill. The majority of them concentrate around proposed sections 272, 278, 281 and 282. But before we get there, it would be useful to deal at the beginning of this amendment bill with the issue of definitions, "Terms used", because this has created a great degree of interest. There is a lot of activity on the supplementary notice paper that looks to effectively strike out a lot of informative data, or the definitions, of the terms used. I am not necessarily sure what the motivation is behind those amendments, although I think I might know what is happening.

I want to concentrate on the definition of "significant development", as I foreshadowed when I commenced my address last evening. I am still to be advised or informed in a way that is substantiated by any data that the key to economic uplift through amendments to the planning bill will be best achieved by targeting a special class of development that is a value of greater than $30 million or is more than 100 dwellings or, as the case might be, 20 000 square metres of net lettable area. There is no commonly understood and agreed definition of "significant development". For the purposes of this bill, it seems to have manifested out of the ether and has anchored our contemplation to some degree. It is fair to reflect upon the representations that I have received from industry that perhaps that definition does not meet its needs. I am not necessarily convinced that the case is well made either, but it is indicative of the spirit of this bill that the genesis of one of the key terms defined very early on and that is central to the operations of these new powers is a little mysterious. If the minister could in any way shed some light on that, that would be greatly appreciated.

Hon Stephen Dawson interjected.

Hon TJORN SIBMA: It is the definition of "significant development" on page 6 of the bill.

The term immediately after "significant development" is the term "substantially commenced". I know that it is not a new term; it has common usage in the system under which we operate.

Debate interrupted, pursuant to standing orders.

[Continued on page 3739.]

Sitting suspended from 4.15 to 4.30 pm