

CORONAVIRUS — EMERGENCY DECLARATIONS

Motion

HON TJORN SIBMA (North Metropolitan) [10.21 am] — without notice: I move —

That in relation to the McGowan government's extended use since March 2020 of emergency declarations made under the Emergency Management Act 2005 and the Public Health Act 2016 across Western Australia to manage COVID-19, and the related use of extraordinary powers and directions, including, but not limited to, the present COVID Transition (Level 2 Public Health and Social Measures) Direction (No. 2), the government must —

- (a) explain how Western Australia is still in a “state of emergency”;
- (b) explain why both emergency declarations have been recently extended, and how the multitude of COVID directions that stem from those declarations are justified;
- (c) provide all written advice that the Minister for Emergency Services and the Minister for Health have relied upon in extending, each fortnight, the above declarations;
- (d) commit to tabling the justification for each future emergency declaration extension granted; and
- (e) describe at which point the government will revoke the emergency declarations, and at which point each of the present COVID directions will be reviewed or repealed.

It is my intention in the time available to me this morning to have a rational, reasonable and focused debate on the questions as they are put. This is not a time for our traditional Thursday morning rancour, which sometimes can be good for the tribal soul. It is not my intention to deviate from our obligations to serve the public and retreat into narrow ideology or to seek partisan advantage. The purpose of this motion in the terms it is put is to shine a light on the obvious, which is that in Western Australia we have been operating under a state of emergency for more than 24 months. That is an extraordinary set of circumstances in legal terms and in regulatory terms.

In the course of debate on 17 November last year on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill (No. 2) 2021, I made this contribution —

We need to start scrutinising the continual deployment of this state of emergency at the point at which we reach the vaccination target—such as that is; it appears to be 90 per cent—for those 12 and over in this jurisdiction. I say that because an insinuation seems to be embedded in the transition plan —

That is the transition plan that preceded the opening —

as it has been described so far, and will continue to be refined no doubt, that the state of emergency will continue in some form. I am coming around to the view that that is quite problematic. We cannot justify the continuation of a state of emergency toward the end of next year —

Meaning 2022 —

if there is no precipitant new crisis in respect of the management of the COVID-19 pandemic. This is something that I think should become easier should we reach the 80 and 90 per cent vaccine thresholds.

I am not using this opportunity to make a political pronouncement. I just think that as a matter of principle there has to be a point at which a state of emergency is no longer required. I am seeking when that point is. It is actually a different question from when the border opens.

That was obviously the issue of focus. I continue —

This is a facet that most commentary has missed. Everyone is obviously focused on broader issues, but the capacity to control the border is itself dependent on not only the passage of this bill —

The bill that was then under consideration —

but also the continuation of the state of emergency so declared.

We are in a unique situation, presently, and we have obviously made some advances over the course of the last 24 months. I was only recently apprised of the most recent COVID-19 daily update. I note that there are 8 616 new confirmed cases. With great sadness, seven deaths were recorded yesterday. However, I understand that six of those are historical deaths, so that requires some further confirmation, no doubt. But the good news, if we can reflect on this, is our extraordinarily high rate of vaccination. More than 95 per cent of those aged 12-plus have received second doses. Encouragingly, although slowly, 73.6 per cent of those aged 16 years and older have received their booster dose. The purpose of this motion is to reflect upon the appropriateness of two states of emergency, in effect, now. It is not to reflect on the merits of the original declaration. In fact, that was obviously the right declaration to make.

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I will go through some rudimentary definitions because I think that will help focus the debate. The Emergency Management Act 2005 defines “emergency” thus —

emergency means the occurrence or imminent occurrence of a hazard which is of such a nature or magnitude that it requires a significant and coordinated response;

That leads one to ask what a hazard is. The legislation defines “hazard” to mean —

- (a) a cyclone, earthquake, flood, storm, tsunami or other natural event;
- (b) a fire;
- (c) a road, rail or air crash;

Of relevance here, it also describes —

- (d) a plague or an epidemic;
- (e) a terrorist act ...

Or —

- (f) any other event ... that is capable of causing or resulting in —
 - (i) loss of life, prejudice to the safety, or harm to the health, of persons or animals; or
 - (ii) destruction of, or damage to, property ...

The Emergency Management Act 2005 came about partly as a consequence of the work of the Community Development and Justice Standing Committee, which, in its second report of the thirty-sixth Parliament that was tabled in 2002, investigated emergency services legislation in Western Australia. At that point, we did not have coordinated emergency services legislation. A number of reasons may have motivated the standing committee to undertake that work. I imagine that one of those motivations may well have been the September 11 terrorist incident in 2001. The report was very extensive and substantial, and it is worth reflecting on.

One of the chapters of the report talks about the importance of information in an emergency. I will quote from page 52 of the report, where it states —

The provision of information in an emergency is an essential task and cannot and must not be considered a peripheral or secondary function of the emergency services.

The report also reflects on the role of the media in an emergency, and states —

As in all facets of modern life, the media plays a crucial role in informing people of issues related to emergency management. It is through the media that the public information is disseminated.

The media must, therefore be treated not as a problem to be managed, but as a part of the process. Throughout the inquiry, the Committee has been told that the media can provide an essential community service during an emergency, but if they are kept out of the information loop, their deadlines pressure can lead to inaccurate or misleading information being provided to the public. This is a far greater risk than providing the media with information.

Lamentably, over the last 24 months we have encountered scenarios in which full information has not been provided to this house, the public or the media on facets of COVID-19 management in this jurisdiction. Limb (a) of this motion is probably the central dimension. It politely requests a justification from the government of why the current scenario in Western Australia, not the previous scenario, constitutes an emergency. The motion also seeks a justification of the twin declarations—a state of emergency under the Emergency Management Act and a public health state of emergency under the Public Health Act 2016. Furthermore, those states of emergency apply statewide. From those declarations also come, I think, 60 individual COVID directions.

Why might we doubt or question the utilisation of the word “emergency” and the declarations of states of emergency that are continually rolled over on a fortnightly basis? This is the point. An ordinary understanding of the term “emergency” infers that it is time bound; it is a temporary but extreme and necessary measure. Emergency powers and declarations of this kind were designed to be rolled over if a contingency justified that extension; they were never designed to be used as a permanent fixture or a statutory instrument of first resort, which they are currently being used as. I question, at least in part, the necessity for this or perhaps the rendering of the scenario that we are facing, which is not a trivial scenario by the way—I emphasise that point. The government can deal with matters that present some manner of threat in a way that does not compel it to declare an emergency. Is there another means of dealing with the challenge that COVID-19 presents, including the present variant and future variants, particularly to vulnerable members of our community? By “vulnerable”, I specifically mean people who are unable

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to be vaccinated, especially children under five years of age; people with very complex underlying health conditions; people in aged-care facilities; and people who live in remote Aboriginal communities.

Is there potentially another more appropriate mechanism that would throw the blanket of protection around those people in a manner that does not invoke two very powerful and very opaque statutory instruments? I put to members that there is potentially another way of managing this contingency that would not automatically require the invocation of the most powerful lever that executive government has. I think that is, effectively, the best way that I can render the present scenario.

I have reason, as an individual, to question whether the government itself truly believes the present scenario to be akin to an emergency. My interest was piqued by two radio interviews that the Commissioner of Police, Chris Dawson, provided in the course of the last four or so weeks. I will quote from a transcript of a radio interview with Gareth Parker on 6PR on 2 March. Parker asked this —

Obviously the phase 2 restrictions also kick in tomorrow and there's a whole bunch of elements to that but I wonder, are your police officers going to be doing enforcement work? I mean some of the things around requirements for people not to attend community sporting events and so on?

The commissioner responded in an interesting manner. He said —

Oh look, we will be responding to matters that we believe would put the public at risk and I don't have the officers nor the information to go around monitoring community sport unless there's some particular public health risk police have got far —

Then there was a gap, before he continued —

far more important I would say ...

There was then another pause in the transcript, because, politely and generously, the commissioner pulled himself up. An inference can clearly be made that the commissioner believed that policing a number of the level 2 restrictions was not a priority police task, unless there was something really compelling. The reason I mention that is that about a week afterwards, on 9 March, the commissioner gave another interview on 6PR. It was quite a reasonable one. He talked about the force complement of serving officers devoted to Operation Tide, which was the principal police effort to assist the state's management of the threat posed by COVID. Half of the assigned officers have been moved off COVID duties, and the decision to move them off was made before level 2 restrictions were brought in. One might say that the majority of that policing effort was dedicated to border security roles at the airport, and that is a fair assumption. But the role of the commissioner is not just that of police commissioner; he is also the principal COVID commander. He is the director of the State Disaster Council. He is not the chair—I think that is the Premier—but he is the most senior official on that disaster council. To me, as an individual and a humble member of this place, it seems slightly incongruous that a very respected and capable officer who is advising the government on the most appropriate COVID response on the one hand advises, on the basis of health advice presumably, to escalate restrictions, and on the other, simultaneously, reduces the force structure dedicated to policing those restrictions. That, to me, is more than passing strange; it is incongruous. As is the appropriate thing to do, I asked a question in this chamber. What I received back was a diatribe. I put it in those terms. The question I asked was —

- (1) How is the commissioner's decision consistent with the inferred elevation of community risk presented by the Premier's decision to implement level 2 COVID restrictions on 28 February?
- (2) When did the commissioner advise the Premier of his decision to reassign half of the Operation Tide force back to frontline policing duties?

The question was out previously, but the answer I got back on Tuesday, I think, told me things I knew, such as —

Operation Tide has played a crucial role to ensure that the state of emergency measures, based on public health advice, have been implemented in a calm and considered manner.

But this is where I am slandered —

I note that the member does not support the public health advice and the measures taken to keep the WA community safe.

Now I might address that at another time, but I will say this: at every stage to this pandemic, I personally, and the opposition collectively, have supported the government in every legislative instrument that it has brought in. I have taken personal steps. I am a self-declared vaccine hardliner. I will not be slandered with stupid answers to questions like that. It is absolutely beneath anyone in the office of the Premier to draft an answer like that, and it is absolutely beneath the Premier to sign off on an answer like that. But that is not the point. The point is to answer the question: are we in a state of emergency or not? Some of the government's own actions seem to indicate that it does not truly believe that to be the case either.

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Might I reflect on another incongruity—the marketing blitz. Never have I seen a tourism campaign launched in a state of emergency. That, to me, seems to be an odd thing to do, but I will let that pass.

I have also sought via questions in this place to truly understand what the public health implications would be if the state of emergency declarations, both of them, were rescinded, because we should understand what the consequences would be. Now is the opportunity to have that discussion. When the question was put to Hon Stephen Dawson in his capacity as emergency services minister, the answer was, “You’d have to ask the health minister what the consequences would be if we took out 30 or so declarations under the Emergency Management Act.” I thought that was strange, but the justification provided by the Minister for Health was that effectively the vaccine program could not be rolled out. I found that a very, very quizzical response, particularly in light of vaccination figures.

With the 30 seconds left, I might just reflect on this: it would be to the government’s advantage to provide justifications for why these two very powerful instruments are continually rolled over. It is not good enough, in my estimation, to rely upon verbal briefs from officials. It must be in writing and those reasons must be tabled. We must also understand, in accordance with part (e) of the motion, when it is likely that we will return to normal ways of governing in this state.

HON MARTIN ALDRIDGE (Agricultural) [10.43 am]: I rise to contribute to the debate on the motion moved by Hon Tjorn Sibma this morning during non-government business, and I congratulate him on the way that he has presented his arguments to the Council. I think it is a reflection of many of the questions that members of Parliament, no matter what side of the chamber they stand on, face each day in engaging with their communities and constituents on different aspects of the response to COVID-19. To some extent we can all provide answers to some of those questions and to some extent it is difficult. If this debate elicits some more information about the stage of COVID-19 response we are at, I think it will be to the advantage of all the members of this place and our communities. I want to put on the record, as I have done previously, the recognition of the success of Western Australians so far in the response to COVID-19. I attended yesterday the public hearing of the Standing Committee of Estimates and Financial Operations that the Department of Health, including the Chief Health Officer, attended. I think the Leader of the House, quite appropriately as the minister representing the Minister of Health at that hearing, recognised the significant work done by the Chief Health Officer and those supporting his office over the past two years, as we have at times chartered un-navigated waters.

This motion talks a lot about the dual declarations of state of emergency and the directions that flow from them. This is an issue that I have spoken about previously, as have Hon Tjorn Sibma and others, in this chamber. Since the election I have taken on the responsibility of shadow Minister for Emergency Services, and that has meant that on two occasions thus far, I have had responsibility on behalf of the opposition for the extension of powers bills, which apply every six months. Indeed, I suspect it probably will not be too much longer before we see another bill introduced prior to the winter recess to extend those powers beyond, I think, their expiration date of July, but that is yet to be seen. I think Hon Tjorn Sibma asked a question about that, if not this week, the week prior, and the government has not yet committed to that course of action.

I have spoken previously about the dual activation of these two statutory instruments under the Public Health Act and under the Emergency Management Act. It is certainly an issue that I have tried to understand more fully through the contemplation of those bills that have come through this Council. When we compare the powers available under the Public Health Act and the Emergency Management Act, they are highly comparable. In fact, they are mirrored in almost in all senses. It would be interesting at some point—I am not sure whether we would get to that level of detail today—perhaps in the consideration of a future bill extending powers, we could have deeper consideration of whether both instruments are still required, whether one is required or, indeed, at what point neither are required. That would be something I look forward to. We may not achieve that in the very time-constrained circumstances we face on this Thursday morning, but perhaps the committee stage of a future bill might present a better opportunity for the house to explore that issue.

I want to talk a bit about some of the directions that have been in place. I think from the very early stages of this pandemic the government has made it clear that some of the directions, whilst appropriate, are draconian. That was a term that it used in the activation of the emergency management power and particularly the extension of section 72A of the Emergency Management Act. I think in recent days the Premier has also acknowledged the inconsistency in some of the directions that are issued. There are concerns from the community that I do not think we should just dismiss. In fact, I received an email just last night that I will quote, but I will redact certain information so as not to identify this small business within my electorate that wrote to me. The email said —

Thank you for the opportunity to outline our problem. ... We are a small family owned ... where we employ six people three of which are employed in the office.

The problem began when the State Government mandated vaccination and mask wearing for all ... employees as they have contact with the public. We implemented this strategy, all of our staff were happy to comply except one employee who refused to accept this and refused to wear a mask.

We started sending the appropriate letters to suspend ... employment. We recently received a letter from the Fair Work Commission asking us to participate in a conciliation conference. We engaged a solicitor ...

We took part in the telephone meeting, the outcome of which is that unless we want to go to a formal hearing we are required to pay our ... employee six weeks part time wages and write a letter outlining her abilities as an employee. We have already had to spend a considerable amount of money up to this point, to go to the next stage would require further expense on legal fees with the chance of an adverse decision.

While we agree with the government's position on its strategy to control covid19 we see ourselves complying with the Government mandate at the same time being penalized by the ... commission.

I believe this problem sets a precedent, that could affect many other small business in our community.

Look forward to your comments and input.

I am sure that I am not the only one who received that plea for help from this business. Effectively, we are expecting others to enforce directions and sometimes wear the cost of that enforcement.

Hon Colin de Grussa has asked some really interesting questions over the last couple of weeks about contact tracing. This matter was further explored yesterday at the Standing Committee on Estimates and Financial Operations' public hearing with the Department of Health. Members should be aware that contact tracing has effectively ceased. We have reached a daily case load in Western Australia—yesterday we had almost 8 500 cases and today we have more than 8 500—that exceeds our ability to contact trace. The Department of Health has now confined its limited resources to contact trace in places it considers to be a high-risk environment including aged-care facilities, boarding hostels, prisons, hospitals and those sorts of places. Hon Colin de Grussa finally got to this point as the answer to his second question was further explored yesterday. That begs the question: at what point do we reconsider the application of the contact register directions that enable use of the SafeWA app electronically or physical registration? I made the point yesterday that it feels like I am the only one in Western Australia that is still using the SafeWA app out of fear that someone might catch me not using it. I think that there is general, broad noncompliance with those directions. The point that I want to make is that much of the success in the response to COVID-19 has been through the goodwill, support and confidence of our community. It has not been through the threat of offence, penalties and fines. My concern is that we make sure that we remain responsive to amending the directions as the pandemic response evolves. Contact tracing is one example of where a short-term review is needed in light of the current circumstances and the current response and capacity of the Department of Health to contact trace. There are other examples.

As I said before, I just read a letter out that I received last night from a small business in my electorate. As an individual member of Parliament, I do not know the answers to these complex questions. They are not easy for an individual to answer. For example, we have gone from having one of the worst vaccination rates in the country to having the best, and internationally it is quite significant. At what point would the public health advice support an alteration to the vaccination mandates, for example? We have seen some adjustment already to the mandate around bottle shops. Shortly we will be approaching a 75 per cent third-dose rate in Western Australia; it may come in the next few days or so. Based on health advice, at what point is it appropriate that those mandates be revised?

HON DR STEVE THOMAS (South West — Leader of the Opposition) [10.53 am]: Thank you for the opportunity to make what is obviously a very brief contribution to the motion before the house today. Before I concentrate in more detail on what I want to speak on, I want to reflect on a couple of the statements already made this morning. The first one from Hon Tjorn Sibma is that the current members of the opposition, as represented in this chamber and the other chamber, have been immensely supportive of the government's activities for the most part in its response to the COVID vaccine, to the point where I probably receive, almost on a daily basis, the same offensive emails that everybody else on Labor and the opposition side receives. I get those all the time. I do not bother responding to most of them. I take the view that there is no point trying to talk down a psychopath necessarily; it does not do you any good. But we have been immensely supportive. In a previous debate here within the last couple of weeks, that support was questioned because I have put in media releases and said in other statements that I appreciate the work that the government has done, particularly in its response to keeping out COVID. I was asked to justify those comments. At the time I was not prepared to do that because those comments were public. If members want to hear me say that in a completely public manner, I am happy to send them an interview that I did on ABC *Mornings* with Nadia Mitsopoulos a month or six weeks ago in which I said precisely that; that the government should be congratulated and rewarded for the good work that it has done to date in keeping out COVID in particular. After making that statement, I received a number of comments from people, including from some Liberal Party people who did not like it very much. It is not the easiest thing in the world to give credit where it is due, but I have done that publicly and will continue to do so, and I am sure that other members of the opposition

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have said precisely the same thing. The government has done a good job of keeping out COVID. The debate that we need to have is on how the government is performing and needs to perform into the future now that COVID is here. These are two quite separate debates. The government has, either by good planning, good luck or a combination of the two, managed to keep out COVID until a very mild strain has arrived in force. Obviously the other states had significantly higher death rates because they were facing a Delta pandemic. Those countries in particular that had those massive outbreaks with massive death rates faced the earlier version of this virus with an infectivity rate that was slightly lower —

A member interjected.

Hon Dr STEVE THOMAS: There are a number of them. We could go to almost every other state—look at New South Wales and Victoria—but we do not have to stop at the national borders, honourable member. In the United States, Europe and other places that have had these massive outbreaks of Delta in particular, the mortality rate is much higher. The morbidity rate is lower but the mortality rate is higher. The infectivity, which is morbidity, is much higher. The McGowan government successfully managed to keep this virus out until the state was effectively facing the Omicron strain instead of the Delta strain. By good luck, good management or a combination of the two, that has been a major positive for the state of Western Australia. It has meant that whilst the infection rate in Western Australia will be high, the death rate should be very low. That has been confirmed again by the figures that have come out. It is interesting to compare the infectivity rate to the modelling, which we eventually got. We were at 8 500 infections a day. Bear in mind that other members have mentioned that there is a high degree of COVID fatigue out there, I suspect that the true infection rate is significantly higher than the one that is measured. A lot of people are not testing anymore because they do not necessarily want to be quarantined. Obviously that is going to be an issue, so the infection rate is probably significantly higher. We are at 8 500 cases or slightly over today. We were basically at 8 500 cases yesterday. The modelling released by the government says that the peak infectivity rate is expected to be 10 000 cases, and that was based on modelling from the eastern states. It means that we are 85-plus per cent of the way to reaching our peak number of COVID cases as represented by the modelling. I know that the government does not like to rely on the modelling but the modelling has been relatively accurate. The original modelling said that we were going to reach a peak of 10 000 cases a day last week. We are at 8 500 cases this week, and there is every chance we could get to 10 000 by the weekend. The modelling is not inaccurate; the modelling is pretty damn good. That gives this government an opportunity for more certainty than it would have had previously. It means that the government has the information available to make more long-term strategic decisions than pretty much any other jurisdiction because it has arrived at Omicron at a later stage, and well done to the government for that. But we are now at a point where we have to start discussing in a serious way the transition out rather than to focus on keeping it out until we go in. For me that is the key part of the motion as presented by Hon Tjorn Sibma today. This is now about the future and how we manage that future.

I would love to spend an hour or two discussing the shift from level 1 restrictions to level 2 restrictions and back again and what those trigger points would be. My view is that the government has accurate modelling that will allow it to start making those decisions and to particularly start working out the trigger points and thresholds on which those decisions should be made. When the government gets to that point, it will have capacity to let the community know. That is particularly important, not so much for the wider community, which is now 98 per cent double vaxxed and close to 75 per cent boosted, but for the business community that needs that level of certainty. It is interesting from my perspective to see that there has been significant acknowledgement of the impacts on business. The Premier acknowledged it in the last couple of weeks and I noticed that the Minister for Housing, Hon John Carey, said this week that the government accepts and acknowledges that the impacts on the business community have been dramatic. We have argued and debated about the COVID-19 response packages and no doubt we will argue and debate the adequacy and stretch of them again. But there is an acknowledgement from government that the impacts are significant—businesses have shut down—and my point is that it is the uncertainty more than it is the actual restrictions that do the most damage. There are businesses out there today that, with a little certainty in the system, might hang on and not close down as they are intending to do. But they need that level of certainty.

If people go on the government's website, which I do not infrequently, they can get a list of the state of emergency and public health emergency lists, which have both been extended. I note that my good friend the Minister for Emergency Services extended the emergency services declaration from 11 March 2022 for 14 days. Obviously, that will need further extension. The Minister for Health extended the health emergency declaration from the last extension on 22 September 2021, the original one, and now it has been extended for 14 days as of 21 March 2022. We have come to the point at which we are getting fortnightly extensions in both emergency declarations. I think we are at a point in the progress of the disease that the government can afford to have better long-term strategic planning so that it is actually having a conversation about what the next month, two months or three months will look like rather than the next two weeks. The information I seek from the government today is: how do we get more certainty in the system about the emergency extensions—they have to be justified, explained and made public

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and, again, I reinforce that the opposition has, in all of these circumstances, supported the actions of the government in the implementation of them and received some criticism in some circles, I must say—and how do we make this a longer term issue so that we get a better handle on how long the declarations of emergency and all the orders that fall underneath, including all the restrictions as advised by the Chief Health Officer, will be in place so that the community but, more importantly, the business community, can have longer term confidence? I urge the government to look at that and deliver.

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [11.03 am]: I thank members for raising this issue. Of course, it is important that the opposition scrutinises all government actions. But I have to say that I am surprised by two aspects, two of the themes. The first is that the opposition would move this motion because of what is happening. Today, we have the highest rate of infection we have ever recorded. We have the highest rate of hospitalisation and the highest rate of death. On the day when that is happening, the opposition thinks it is the appropriate time to ask, “Why can’t we move out of this state of emergency?” I find that quite extraordinary. If the motion were moved in a couple of months’ time and we were quite clearly over the peak and coming out of this, one could understand. But why at a time when we are moving to peak infection and peak impact on the community has the opposition sought to have the government step away from the exercise of dual-track emergency powers, those under emergency services and public health? I just find that extraordinary.

The fundamental proposition of the Leader of the Opposition was that he supports the government. He said that we have done a good job, but he needs certainty, a clear path. The reason the McGowan government has been able to achieve this result—he cannot laud the result and then attack the very strategies that produced that result—has been the government’s preparedness to change, the preparedness to change decisions when new facts emerge. Let us look at what happened to Steve Marshall in South Australia. He was badgered by the Prime Minister to move out of restrictions early. He did that and, of course, there was a massive spike in the rate of infection and hospitalisations, all with unprepared restrictions. We have played the waiting game. We did not make early decisions to give certainty to people. We have been saying that we are going to hold back because this is a moveable feast given the entry of Omicron. We were prepared. We did not make certainty the god here. We understood that and that is why we have been successful. When the circumstances changed and it became evident that opening on 5 February was going to be at a time when there was peak infection in the eastern states, which would have resulted in us having mass seeding and still not having a very high rate of third vaccinations, we changed our mind. The opposition said that we should have given everyone certainty. It is our preparedness to look at the changing nature of this virus and the epidemiology around this virus that is the very thing that has produced the result that the Leader of the Opposition has been telling us that he supports. He cannot support the result and then attack the strategies that delivered that result.

Several members interjected.

Hon ALANNAH MacTIERNAN: We have had —

Several members interjected.

The ACTING PRESIDENT: Members, just a moment. Minister, if you would resume your seat. Hon Pierre Yang on a point of order.

Withdrawal of Remark

Hon PIERRE YANG: Acting President, I overheard the honourable member from across the chamber use the word that is spelt S-T-U-P-I-D, which is highly unparliamentary, and I ask him to withdraw that word.

The ACTING PRESIDENT (Hon Dr Sally Talbot): Members, as with many points of order, there is a certain subtlety involved here. I did not hear that epithet applied directly to the minister. Perhaps it was applied to some comments made by the minister, in which case I can understand if there was a degree of offence to be taken from it. If the member who used those terms would like to withdraw them, it would probably be appreciated.

Hon TJORN SIBMA: I intended no offence. I was just reflecting on the quality of the argument. I withdraw.

Debate Resumed

Hon ALANNAH MacTIERNAN: I can assure the member that no offence was taken. I have absolutely every confidence that the analysis I am giving here is the correct one. As I said, I just find it amazing. There have been seven deaths and 8 500 new infections, and the opposition thinks it is all done.

Hon Tjorn Sibma raised the issue of the emergency services report. I have had the opportunity for only a very brief analysis of that report, but it overwhelmingly talks about the traditional, natural disasters of fire and flood. It is perhaps a reflection on the majority of people that we have not really looked very much at pandemics or that we have underplayed pandemics, notwithstanding the fact that in the lead-up to that report, the world had already experienced

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SARS and Hendra virus. However, here in Western Australia we had really been quite free of pandemics for a number of decades, so they did not feature highly in that report or in the thinking around emergency services legislation.

The member pointed out that we have a dual track of emergency powers: the public health powers and the powers under the emergency services legislation. It is important that they operate together. The member seemed to be saying that now that we are highly vaccinated, we probably do not need some of these powers. I point out to the member that we still have quite a way to go with third vaccines. Interestingly, I also note today that the Australian Technical Advisory Group on Immunisation is looking at a fourth vaccine. The new Omicron variant, BA.2, is spreading. I will stand corrected if I have this wrong, but I understand that that variant is present in Western Australia and we are now looking at a subvariant of Omicron that will potentially be even more virulent. ATAGI is therefore believed to be considering a fourth jab for people around the country.

It is in this environment that the opposition is saying, “Take away all those public health measures that allow us to do vaccinations and have more clinics!” That is what the opposition is saying.

Several members interjected.

Hon ALANNAH MacTIERNAN: Well, you are, and you did. You are saying, “Why do we need it now?”

Several members interjected.

Hon ALANNAH MacTIERNAN: Well, what is your argument?

An opposition member: Read the motion!

Hon ALANNAH MacTIERNAN: I have read the motion and I have listened to your argument. Your argument was, “Why do we really —

Several members interjected.

The ACTING PRESIDENT: Minister, will you resume your seat for a second? I cannot hear what the minister is saying because people on both sides of the chamber are yelling so loudly. Minister, if you would direct your remarks directly to me. As I advised one of your colleagues last week, do not use the pronoun “you” when you are framing your remarks, and we might have a quieter, more orderly debate.

Hon ALANNAH MacTIERNAN: I thought we liked a little biff on a Thursday morning! It is the one time that this otherwise sleepy hollow is allowed to come alive, so we have been continuing in that vein.

Quite clearly, we have many more third vaccinations to go, so of course we need all those public health measures that are very clearly designed to give us increased capability. The member has been asking questions about this in Parliament—that we have the power to vaccinate, whether they are COVID or non-COVID vaccines—and I think answers have been provided to the member about the additional things we can do through public health measures relating to vaccinations, including the range of people who can administer vaccinations. Much of vaccine activity is not dependent on the public health state of emergency, but we need it for the mobilisation of an additional workforce of non-prescribing registered health professionals to operate the volume of clinics that are required. This includes appropriately trained staff at public health services, such as students in their final year of medical training, being able to administer vaccines. It also includes commonwealth-contracted organisations administering COVID-19 vaccines in residential aged-care facilities and, if required, Defence Force personnel being involved in the operation of clinics. We need the emergency powers for that and it may be that, as we move to a new variant, we will need to look at a fourth vaccine, and that is being considered at a national level by ATAGI.

With regard to the powers under the Emergency Management Act, there is a whole range of directions that are still very much in force and still very much needed to enable us to manage this pandemic. We are trying to keep this manageable. We do not want a situation in which our hospitals are overrun and we have the massive supply chain issues that we have seen in the eastern states because they did not have adequate protections in place.

We have close contact laws and today we have been dealing with the issue of close contacts and essential workers. We put measures in place in advance of opening up the state again, knowing that the infection would have multiple seedings here. There are measures applicable to workers in places like abattoirs and shearing sheds to strike the proper balance between dealing with the risk of co-infection and allowing those operations to continue to be productive so that there is food on Western Australian tables. We learnt about what happened in the eastern states when COVID-19 was out of control. The eastern states did not develop a system of close contacts and rapid antigen testing that would have enabled them to keep the show on the road with all those essential operations. By exercising delay and introducing some uncertainty, we were able to ensure that when we hit our peak with Omicron, we had plenty of availability of RATs, which was not the case in the eastern states. We already had those provisions in place. This morning I was advised that about 16 000 people are registered as essential workers in our abattoirs and food processing plants.

Hon Tjorn Sibma; Hon Martin Aldridge; Hon Dr Steve Thomas; Hon Alannah MacTiernan; Hon Neil Thomson;
Hon Darren West; Hon Peter Collier

HON NEIL THOMSON (Mining and Pastoral) [11.20 am]: I rise to support the motion. The motion put forward by my colleague Hon Tjorn Sibma is very measured and solid. I want to reflect on a couple of points. We have had quite a bit of discussion here about the recent election in South Australia. I want to make the point that it is to the detriment of the state Parliamentary Labor Party not to properly reflect on the outcome of that election. That election was more about the fact that we have seen people's conceptions or thoughts about the COVID-19 pandemic begin to shift and look to the future. If we go back to January 2020, when we were starting to see the reports coming out of China, we were worried about what was going on in Wuhan. We got to the point when eventually, after the former Leader of the Opposition, Liza Harvey, encouraged the government to close the border, we saw this government step up and take action.

Hon Pierre Yang interjected.

Hon NEIL THOMSON: We are very fortunate that we had —

The DEPUTY PRESIDENT: Member, just continue to address your remarks to me. I am sure things will calm down very shortly.

Hon NEIL THOMSON: We are fortunate that we were isolated in Western Australia. I commend the government of Western Australia for the hard border because that resulted in a great outcome. If we reflect on the outcome of last weekend, it is really about looking forward to the future. The things that concern the people of South Australia are things such as hospital ramping, rebuilding in the future and getting on with a normal way of life in this post-pandemic situation. We know that there will be a phase-out. We know that there has to be ongoing and intensive management of COVID. These very reasonable points are being made. I counsel the Labor Party to reflect. In 2025, people will be voting on the future of Western Australia and what life will look like moving forward. We need to reflect and explain how Western Australia —

Several members interjected.

The ACTING PRESIDENT: Members, I know that the remarks made by the Minister for Regional Development touched a deep chord in all our hearts about liking things to be lively in this place, but there are some limits and we are very close to stepping over that limit at the moment. Member, I give you the call. Continue to steadfastly address your remarks to me.

Hon NEIL THOMSON: Thank you, Madam Acting President. The first part of the motion states —

- (a) explain how Western Australia is still in a “state of emergency”;

We need more explanations, more information and more accountability.

Hon Alannah MacTiernan interjected.

Hon NEIL THOMSON: We have seen that. I focus on paragraph (e) of the motion, which states —

- (e) describe at which point the government will revoke the emergency declarations ... —

We are not saying the government should revoke the declarations. We want to know at what point they will be revoked. The community expects information, accountability and a government that is focused on going forward, and, as the motion continues —

at which point each of the present COVID directions will be reviewed or repealed.

That is really important. We know that a number of things occurred in April and May. So many things hang off them. I will refer to a couple of things related to my portfolio responsibilities as shadow Minister for Planning. Under section 78H of the Planning and Development (Local Planning Schemes) Regulations 2015, there are deemed provisions that were totally reasonable. There was this centralisation of power so that things can be done quickly in relation to temporary structures that might be needed. At the time, we had no idea what the future held. People in the community were afraid. Everybody got behind the government. The opposition supported the government. There was bipartisan support for those provisions going forward. Those deemed provisions were put in place. I would like to know how many decisions have been made. I lodged a question today to get some idea. Those provisions have been in place for almost two years and decisions have been made, with the centralisation of power around the minister. The rationale given at the time, which was totally and entirely defensible, given the very fast nature of change and uncertainty surrounding the pandemic, was that it is impossible to forecast when the state of emergency will finish and when any necessary recovery phase might also conclude. That was two years ago. We have had two years to start thinking about all those things. Are we saying that this emergency will never end? Is that what we are saying to the community of Western Australia?

The website of the Department of Planning, Lands and Heritage says that there is an inbuilt safeguard. The word “safeguard” should be underlined. Why do we have safeguards? We need checks and balances in society. When we are on a war footing or in an emergency, we take away those checks and balances and then deliver outcomes in order to achieve a very important result. Going forward, thought has to be given to the future, unless we want to

Hon Tjorn Sibma; Hon Martin Aldridge; Hon Dr Steve Thomas; Hon Alannah MacTiernan; Hon Neil Thomson;
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move to some form of dictatorship and do away with the normal processes of accountability in Western Australia. If we want to work towards that, we should go ahead and give it a go. I do not expect that is what most people in this place stand for. There is an inbuilt safeguard under which the minister can revoke the notice. How about revoking the notice relating to the emergency? This is what hangs off that emergency. It sits there. The head of power is the emergency services legislation.

Changes were made to the Planning and Development Act 2005 to insert part 17. To the credit of the government, which again was supported, I have questions about how part 17 operated. Again, to the credit of the government, the act included an 18-month sunset clause for the state development assessment unit. We saw that end. What have we seen since then? The Minister for Planning has become very comfortable with these centralised powers. They give the minister unlimited power to make decisions. A very select group of people are able to make a decision outside the normal checks and balances that we have lived with for many years, and everybody is protected within the Planning and Development Act. After the announcement of reforms on 18 March, we saw a proposal to basically reinvest those powers on an ongoing basis so that, for all intents and purposes, the same powers will operate in the future.

It is amazing how quickly ministers become comfortable with emergency powers and feel that they can just make these decisions. I can tell members that the best decisions are always made when ministers keep a distance, particularly planning decisions. The minister's focus should always be strategic and there should be distance between the minister and the individual decision. That is the protection that the community deserves. I commend the honourable member for moving this motion. I plead with the government on behalf of my constituents to describe at which point it will revoke the emergency declarations and at which point the COVID directions will be reviewed and repealed. That is an entirely reasonable question to ask.

The ACTING PRESIDENT (Hon Dr Sally Talbot): I give the call to Hon Darren West, recognising that in a couple of minutes' time I will be obliged to interrupt debate to give the mover a right of reply.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [11.31 am]: I will be brief because I know others want to speak, and I want to be fair with the remaining time. We get notice of these motions on a Wednesday, and like the minister who spoke before me, I wonder what is going on on the other side of the chamber. On a day on which we have had 8 600 COVID cases, 209 people in hospital and nine people in intensive care units, and, tragically, recorded seven deaths, the Liberal Party moves this motion. It validates all of those people across Western Australia who for the last two elections have voted Labor for the first time: they can now be happy about that decision.

The Barnett government proved to be the worst government in Western Australian history and its carcass is now the worst opposition! I am incredulous. I will help members opposite: we are in a state of emergency because we are at a peak infection rate.

Several opposition members interjected.

Hon DARREN WEST: We are in a state of emergency because we have a peak number of infections.

Several members interjected.

The ACTING PRESIDENT: Hon Darren West has the call.

Hon DARREN WEST: Thank you for your protection, Acting President.

We are still in a state of emergency because we have a peak number of infections. The declarations have been extended for the same reason.

A member interjected.

Hon DARREN WEST: I will not enter into part (c) of the motion because that will be forthcoming or it will not. These are questions into the future. The government cannot predict what the pandemic will do next. We have had variants of the virus and different circumstances confront us all the time. The Premier of Western Australia, Hon Mark McGowan, has managed this pandemic better than just about anyone in the world. Western Australians have felt safe and our economy is strong. Members opposite cannot ask more of a government than that when we are dealing with a once-in-a-century pandemic. The opposition's smartest member has come up with far from its smartest motion. The opposition needs to review what it brings to the house on Thursday.

Despite the protestations of the Liberal Party, the government will continue to act in the best interests of Western Australians throughout this pandemic.

The ACTING PRESIDENT: I should explain that the intricacies of the standing orders defeated me and the mover does not have 10 minutes to respond at the end of the motion. I seek the forgiveness of the house for that slightly misleading comment.

Hon Tjorn Sibma; Hon Martin Aldridge; Hon Dr Steve Thomas; Hon Alannah MacTiernan; Hon Neil Thomson;
Hon Darren West; Hon Peter Collier

HON PETER COLLIER (North Metropolitan) [11.33 am]: I would like to make some comments on this motion. I thank Hon Tjorn Sibma very much for bringing the motion to the house. He should not feel remotely diminished as a result of the nonsense he has heard over the last 10 minutes, because quite frankly —

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Will you be quiet!

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Will you be quiet!

Several members interjected.

The ACTING PRESIDENT: I remind members on both sides of the house that Hon Peter Collier has the call.

Hon PETER COLLIER: Thank you. I say at the outset that the opposition has unambiguously and unanimously supported the emergency powers put forward by this government. We have never under any circumstances on any occasion done anything to the contrary. We have supported the government every step of the way. I have sat on the opposition benches for four years. For the two years we have had COVID, the opposition supported every single COVID-related motion that came to this house. We have been out there supporting the government as best we can. We understand that this is a once-in-a-lifetime pandemic and that people out there are hurting; they are dying. Thousands upon thousands of people are being affected by this pandemic. Most Western Australians are now triple-dosed. That is a serious majority. That is a direct result of the fact that the opposition has been supporting the government in this situation. Quite frankly, to listen to the minister stand up, yet again, and get into this tribalism, this reversion back to the Barnett —

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Will you be quiet! I am not taking interjections, and I will never take one from you!

As a direct result of the fact that we have this tribalism, and the minister, yet again, is trying to portray this image that somehow these terrible Tories on this side of the ledger are working against the efforts of the government. It is anything to the contrary.

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: I suggest to the minister —

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Will you be quiet! Can I suggest —

Several members interjected.

The ACTING PRESIDENT: Members! The member on his feet has indicated quite clearly on two occasions that he is not going to respond to interjections, so perhaps we could just get through the remaining minutes of this debate.

Hon PETER COLLIER: I applaud Hon Tjorn Sibma for his excellent motion. Nothing in this motion should be remotely intimidating to the government or indicate any essence of normality that we are being negative towards the government. We are asking only what is eminently sensible and it is what the government agreed to do yesterday in the public estimates hearing. Believe it or not, that is a wonderful occasion, and the government actually said it would do what Hon Tjorn Sibma has asked for—to provide all written advice that the Minister for Emergency Services and Minister for Health have relied on in extending the declarations each fortnight. What is terrible about that request? Believe it or not, people are getting used to COVID. They are now contemplating the prospect that we will be living with COVID. Let us not forget that 12 months ago we closed down this state when we had one case! We have 8 000 cases now, but Western Australians have been vaccinated and got used to the restrictions, but they would like to contemplate that there will be life beyond COVID.

I will give two examples. My electorate officer's husband has a travel business. Their whole life has been turned completely upside down over the past two years. Their lives have been destroyed. They just want a bit of certainty; they want to understand where we are going. They want the government to be transparent—not just when it suits it, as the Premier identified in court last week, but all the time! They want the government to say where it is going. It is not too much to ask.

I have another example of the owner of a coffee shop in the Warwick shopping centre, where I get my coffee every day. It is magnificent coffee—the best in Western Australia. The owner is a wonderful man; it is a family business. He came to my office yesterday and he might have to close—yet again, because of the restrictions. All the opposition is saying is: please, make sure that you are open, transparent and honest with the people of Western Australia about where you are going. It is not too much to ask!

Hon Tjorn Sibma; Hon Martin Aldridge; Hon Dr Steve Thomas; Hon Alannah MacTiernan; Hon Neil Thomson;
Hon Darren West; Hon Peter Collier

The motion by Hon Tjorn Sibma contains nothing that will determine whether we have a shouting match across the chamber on a Thursday. In a lot of instances that is quite entertaining and enjoyable—we all enjoy it. This is not one of those occasions. I sometimes sit and watch question time in the other place. As I said yesterday, they are rank amateurs down there. Successive ministers take great delight, the whole time, portraying this image that the opposition are somehow these terrible dastardly Tories who are working against the government at every opportunity. Believe it or not, we have a liberal democratic society in this state. We adhere to the Westminster system of government. There is such a thing called the opposition, and the opposition's role is to scrutinise the government. That is what we are doing right now. We are just asking for transparency. I have said on numerous occasions that the problem with this government is that it treats the opposition as the enemy. I am delighted that the new incoming Premier of South Australia said exactly the same thing in his acceptance speech on Saturday that I have said. He said that the government would not be treating the opposition as the enemy. When the government treats the opposition as the enemy, the government treats the opposition as irrelevant. If the government thinks that it knows everything and that it has made all the right decisions and that everything is just peachy out there, it needs to get its head out of the sand and stop beating its chest and standing there like a peacock with its hands on its hips and actually go out there and listen, because a lot of people are suffering. Businesses are suffering. Families are suffering. They have been isolated from their families—from their grandchildren, from their grandparents and their husbands and wives—for a couple of years. Yes, the government has done a good job with COVID. We have said it incessantly and consistently, and we say it sincerely, but that does not remove our obligation to hold this government to account. It does not. All we are asking are simple questions like why the emergency declarations have been extended recently or when the government will provide written advice or commit to the tabling of the justification or describe at which point the government will revoke the emergency declarations.

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Excuse me, Acting President! Can I say —

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Madam Acting President!

The ACTING PRESIDENT (Hon Dr Sally Talbot): Just continue to address your remarks to me, member.

Hon PETER COLLIER: I am; I can assure you.

Can I say another thing? We asked a very simple question in the public hearing yesterday about when the RATs were ordered, but the Leader of the House would not tell us. They were ordered in early December. The Leader of the House got very defiant. Do members know what? The Premier told the other place the night before. Somehow there is a communication gap between the Premier and the Leader of the House. This is what I am saying: just have a consistent message; that is all we are asking. I can tell members that all the name-calling and vitriol that you guys spew at us on a day-to-day basis will not stop our resolve to ensure that we represent those in our electorates and all Western Australians. I promise the government that as we come out of COVID, which we are doing at the moment, people will start focusing on the very real issues of law and order, education and small business. We are interacting with them to ensure that they have a voice. Believe me, there are a lot of people out there who need a voice. Yes, we applaud the government for the job it has done with COVID. As I said, we supported the government every step of the way. We have supported every piece of legislation, but it will not and never will diminish our role as Her Majesty's loyal opposition.

Motion lapsed, pursuant to standing orders.