

PLANNING AND DEVELOPMENT AMENDMENT BILL 2020

Second Reading

Resumed from 9 June.

HON TJORN SIBMA (North Metropolitan) [5.57 pm]: I am the lead speaker for the opposition on the Planning and Development Amendment Bill 2020. For those outside of this chamber who are playing along at home, I wish to confirm that the Liberal Party will be supporting the bill. However, we will not abrogate ourselves of the responsibility to interrogate this bill in the appropriate manner. There are probably 60 or so seconds left before we adjourn. I would like to begin, and perhaps conclude, on this point in the time left available to me now: it has been the commitment of the Liberal opposition to support the government in all its legislation that it has brought forward during this COVID-19 period. We have done so because we are a responsible opposition and we have wanted to support the government, uphold as far as possible public health, ensure social order and preserve as best we can the economic conditions of this state and hopefully improve them.

This bill is complex, it is multifaceted and it cannot be waved through. I have, as have my colleagues, received innumerable representations on this bill. If I could categorise it this way: a number of associations, individuals and community groups would like us to take diametrically opposed positions. To some degree, I will countenance from the outset an approach that will disappoint a lot of people. I make the point that this is not the opposition's bill; it is the government's bill. If those groups have a determined position on this legislation, it behoves them to represent their members appropriately and advocate for their interests in front of all audiences, and that includes the government. As I said, this is the government's bill. We do not pass things on the vibe, the thrust, the theme or the spirit of the times. We are a chamber that dedicates itself to scrutiny. We assess black-letter law. The devil—or devils—is always in the detail. Insofar as it is humanly possible, I intend to come to grips with the details as they have been presented in this bill under our contemplation. This bill has not come from the other place perfectly formed or immaculately conceived; nothing ever is, obviously, but it seems in the weeks that have lapsed since this bill was introduced and passed in the other house, the government has taken the opportunity to reflect critically on its content.

Sitting suspended from 6.00 to 7.30 pm

Hon TJORN SIBMA: After the four-minute mile that preceded the dinner adjournment, I am given the opportunity to recommence this race. For everybody's benefit, I consider it to be neither a sprint nor a marathon, but it will be deliberative, thorough and rigorous. I speak not only for myself but also in reference to issue 4 of supplementary notice paper 192, recognising that the planning portfolio and changes to the Planning and Development Act and Planning and Development Regulations elicit significant interest from all members, regardless of their party. I make the assumption that this goes for government members as well, because developments and planning issues have community impacts, particularly for members of the other place. I would imagine that all members in that place and, indeed, in this place, receive representations and planning issues—either at very specific, granular levels, or on broader overviews of policy and practice.

The Planning and Development Amendment Bill 2020 is a comprehensive bill. It has more than 100 clauses and is 90 pages long, and it has an explanatory memorandum that, I must say, is a credit to the drafters. I think it is one of the better explanatory memoranda I have come across. If members are looking for a guide to this bill, I would recommend that those who have not familiarised themselves with the detail at least begin there. It will give them the clearest indication of what is at issue here.

There is a structure to this address that will become evident, but I want to commence where I left off earlier, when I was reflecting on the way in which the Liberal opposition has dealt with COVID-19-related bills throughout the entirety of the state of emergency, up to and including this point. We have been consistent in our treatment of these bills and we have not hindered, enfeebled or obstructed the government from being the government and from acting in a way that it determines is fit and appropriate for dealing with what is, quite obviously—this does not really bear repeating—uncharted territory, at least in the context of our living memory. None of us here has ever been in thrall to a global pandemic. It appears at the moment that we have, through our blessed geographical isolation, potentially escaped the worst of the impacts that have been witnessed globally and even elsewhere within the Australian jurisdiction. We as a responsible opposition have committed ourselves to doing what we can to prevent the pandemic from taking a grip, to upholding public health principles, to ensuring public order under these extraordinary circumstances, and to gifting the government the financial resources it will rely upon in the short term to deal with these unforeseen challenges. That was done by way of the Treasurer's advance.

That is not to say that we have been uncritical, unreflective or unconstructive in the way we have evaluated these bills. By sheer happenstance, I had a personal obligation that meant I was paired out of Parliament on the day that the Residential Tenancies (COVID-19 Response) Bill 2020 and the Commercial Tenancies (COVID-19 Response) Bill 2020 were dealt with. As members will be well aware, that debate took up the entirety of a Friday and involved

substantial consideration of those bills. They came into this place in an imperfect state, and that is an objective, critical judgement, but not a criticism, because they were constructed under some duress and pressure. Obviously, certain clauses and proposals are preferenced and others are discounted. There were a number of, to put it generously, unintended consequences of that bill that were financially very difficult for a number of my and all our constituents, but nevertheless, the bill was amended and passed, taking exactly the same approach as we will take to the treatment of this bill. That is fair, and that is appropriate.

As I said, in common with all legislation, the devil is in the detail. I might reflect, from a personal perspective, on the way in which this chamber dealt with the Voluntary Assisted Dying Bill last year in an adult and professional fashion. Obviously, there were members who were committed to the discharge of their conscience, but nevertheless saw fit to improve the detail in that bill, and that goes both for members who were in support of the bill and those who were opposed to it. The outcome of those lengthy considerations was a vastly improved piece of legislation that was, at least in my consideration, consistent with the public will. But the point was made on a number of occasions that we just do not wave things through in this upper house, and not in this term of Parliament.

It is sometimes interesting, as a newish member, to observe the kinds of political pressures that sometimes apply themselves to one's consideration of any bill. I was involved in politics for a time preceding my swearing in here, but like so many other things in life, I have learnt the lessons and learnt politics anew. A feature of my experience is the rhetoric that coexists with the bills that the government attempts to have passed. I am not out of line or inaccurate when I reflect on some of the pressure, unfairness and inaccuracy in the public statements that were directed at my colleague Hon Nick Goiran when he dealt with the Voluntary Assisted Dying Bill 2019. That is a personal example relevant to him alone, but it was conducted in full public view. Indeed, the reappointment of Justice McKechnie to the Corruption and Crime Commission has been discussed at least in the other place and in the media of late. The government does not intend moving forward with that bill, but, nevertheless, I am reminded of the rhetoric outside of the chamber in the public discussion of that bill. My colleagues and I were labelled as "terrorists", which is a very strong word. It cannot be forgotten and it will not be forgiven. That kind of rhetoric, which was unbidden, unnecessary and unprovoked, came from the Premier and some senior members of cabinet—I emphasise some—and is unacceptable.

I refer to the treatment of this bill. An interesting set of circumstances applied over the dates, roughly, of 17, 18, 19 and 20 May. I will reflect on them very briefly, but I do so making this observation. I spoke just now of learning some old political lessons anew after becoming a member of Parliament. I am reminded of something that has always been consistent in human relations. I did not invent the phrase and I am probably paraphrasing it, but reciprocity is the iron law of human relations. This goes to the heart of the treatment and presentation of this bill by both the minister with responsibility here and the Premier himself. Prior to the suspension of standing orders in the other place, a briefing was offered to the Parliamentary Liberal Party on Tuesday, 19 May. It was presented to me and some of my colleagues with a great sense of urgency—"This bill is deeply important." I had received a message on the preceding Sunday afternoon from one of the minister's advisers, who was dutifully undertaking a task given them by the minister. It was a reach out, but it was to the effect that something was coming in the planning portfolio, and I was not provided with much more detail than that. When I followed that up the following day during business hours, I asked what indeed was being referred to and whether I would be correct in assuming that the government would be presenting a planning bill of some kind that week. I was advised, yes. I then inquired into the status of that legislation. I was advised that it had not yet been agreed to by cabinet. This is not an immaterial fact, because how could the opposition possibly be briefed on the information in a bill that was yet to be approved by cabinet? To be fair, this was a constructive outreach, but it could not lead me to form any constructive or informed view because the minister was constrained by the fact that cabinet had not yet approved the bill. On the Tuesday following what I imagine was the Monday cabinet meeting, I experienced something that I have never experienced before, but I am sure it may have taken place in previous times of urgency and duress—the department took it upon itself to book a meeting room to provide a briefing before we could work out what it was we would be briefed on. Nevertheless, on the Tuesday evening of 19 May, we accepted the offer. We received a briefing on a bill without the bill. When we inquired whether we might have access to the draft legislation that evening to give it appropriate consideration, we were advised that changes were being made and the most final, final copy, or words to that effect, would be presented to us at the earliest opportunity.

At the briefing, we were effectively given a presentation on the overall planning reform process that the department and the minister have embarked on, apparently over the course of the last three years. The planning reform process that I will refer to and reflect on not only in the course of this speech, but also in the committee stage, is almost the status quo. The planning portfolio is always under a continuous improvement agenda. Indeed, the previous Liberal government initiated some significant reform in this portfolio. I was there at a marginal level, I suppose, for a limit period and was a witness to that. But we were not necessarily presented with that infographic overview of planning reform and intentions. We were not provided with a clear line of sight on the contents of the bill, and this is a theme that I will return to in the course of this contribution because there has been a great conflation in the presentation of the bill. The second reading speech, media statements and different documents are the sort of

things we need to tackle together to map out the contours of intent and inclusion and exclusion. It is clear to me that much has been spoken of a broader reform agenda. Issues have been referred to either through government media statements or the second reading speech that would allow one to form the view that more is being accomplished by this bill than is actually the case. Much of the reform that is referred to is actually embedded in the work on the regulations, which, to the best of my understanding, is yet to be undertaken. That is not immaterial because this bill has been sold to the community at a number of levels. Among ordinary people—by that I mean people who are not property developers or industry association-types—this bill has been sold on the basis that it will allow them to undertake a patio extension, build a garage, put up a fence or do any of the ordinary, domestic undertakings that sometimes cause a great deal of irritation for people when they attempt to get council approval. To me, those measures do not appear to be held within this bill; they are in the regulations. Similarly, there is a perennial problem around what small business refers to as change-of-use provisions. If a person runs a restaurant and they want to make it a takeaway business, it is too arduous, and it is. Cash in lieu payments for car parks is another issue. Again, the government has presented this legislation to the small business community as, “This bill will do this for you, so it’s good.” Those things are good, absolutely, but they do not appear to be included in the body of this bill; they will be dealt with by regulatory amendment yet to be undertaken.

I will start by acknowledging the difficulty not only with undertaking planning reform, but also—being charitable to members present in the chamber—of giving a bill like this the scrutiny that it deserves. It is quite a big task. Although some people say we rise to the level of the challenge, I think it is more often the case that we fall to the level of our training—that is, when it comes to the assessment of this bill. What principles have I relied upon when considering this bill? It might surprise some to know that my undergraduate degree had a major in philosophy. Effectively, the first year foundation course drilled in to me at least three concepts that I have attempted to apply to this bill and in this place overall, but not always successfully. The first principle is charity. Basically, it is to take the position of the person putting forward the argument at their word to a degree, not to be trivial and to believe in what they are attempting to accomplish, I suppose. It is to give their argument the best possible character. The second principle is the avoidance of ad hominem arguments. Of course, that is an argument that has nothing to do with the quality of the argument, but is against the proponent of the argument. The third principle is to aver all arguments from authority. This chamber is pretty good—at least the crossbench and the opposition are—at never falling foul of deferring to authority; we are here to scrutinise executive government and we do that reasonably effectively. Avoiding ad hominem arguments is probably honoured more often in the breach than in the observance, but I will try to restrain my remarks to the substantive issues at play and not respond necessarily in the way that the minister, in her attempt to move this bill forward, has invited me to respond to some personal misrepresentations and mischaracterisations.

I am choosing to apply the principle of charity here. It distils to this point essentially: the government believes it needs this bill to pass to create jobs—to kickstart employment—to get us out of the economic hole we are in. That was a consistent theme the government referred to when it effectively tried to ram the bill through the lower house in one day. That was the starting point. In the end, it did not happen, but, for the benefit of members, I want to reflect on that point because it should inform the way that we critically assess this bill—its contents and its inclusions and exclusions. I will talk about the setting of thresholds and the need for greater transparency and I will ask questions on the consultation for and the operation of the legislation, but we will get to a point at which, all things being equal, this bill will pass in some amended form—perhaps prior to the conclusion of this financial year—and the government will be enabled to give effect to this legislation. The essence of all strategy is in the implementation or the execution. At this stage, I have significant doubts that the government can live up to the expectations it has created across industry groups. I have serious doubts about that. I will get to that point in the latter part of my contribution and certainly in Committee of the Whole.

I want to reflect on the purpose of this legislation as stated. I refer to an extract from the *Hansard* of Wednesday, 20 May. Minister Saffioti said —

There is an economic crisis. We are getting calls from everywhere about how we are going to encourage investment. We set out a plan of direct government investment in infrastructure and facilitating private investment, and this legislation is a key part of it. Why is it urgent? It is urgent because we are in the middle of an economic crisis. That is why we have brought it in. We could have used the COVID-19 temporary order, because it is COVID-19 related. We are here today to talk about this bill because of COVID-19. If it were not for COVID-19, we would not be here today talking about it and my staff and Parliamentary Counsel would not have spent the last number of weeks working 24/7 getting this ready. They have worked hard to try to help the state deal with the economic crisis. It is as simple as that.

Members, it is as simple as that. But it is also not so simple, because this is an extensive bill. The introduction of new COVID-19 provisions is an important element of this bill, but it is not the whole bill. Some interesting adjustments, or amendments, are referred to in the latter parts of the bill that also bear scrutiny. I cited the minister’s contribution from *Hansard* as an indication of what we should take the government’s intent to be on this bill. It has also largely driven—I need to reinforce this point—the Liberal Party’s response to the bill. As I said, we have been a cooperative,

mature interlocutor on these issues, and we will continue to be, but this is the government's bill: it is the author, the owner and the responsible entity. We can do only so much in our deliberation. My approach, and that of the Liberal party room, is to try to buff off some of the rough edges. There are some very rough edges, and we will get to that.

There was a sense of haste in the minister's remarks. It was an urgent response to an urgent, deep and evolving crisis. During the course of this debate, members will reflect on consultation in general and specifically. Consultation in general has taken place over the last three years because, apparently, planning reform has taken place over that time, although, until now, we have not seen much fruit of that labour. There have been innumerable consultations with innumerable groups and individuals over the course of that overall planning reform agenda, but there was not that level of consultation on this bill. It is that consultation specifically that I will refer to in my contribution. At the time the government attempted to rush through this bill, there were glowing editorials in *The West Australian* and various industry spokespeople had been lined up to give the bill their blessing. At that time, I made the assumption that people perhaps had been given an advance copy of the bill to allow them to form an intelligent and informed view of it. That was certainly the impression that I got. In the course of the briefing to which I referred earlier, I asked who had received a copy of the bill and when, because I had received a number of calls from groups that were adamant that they had missed out. They did not know what was in the bill and they were worried about it. At that point, on 20 May, the Minister for Planning said —

Claims were made in the briefing about who was sent the legislation and who was not. I will tell members who was sent the legislation last night. The manager of opposition business, —

That is, the member for Dawesville —

the shadow planning minister —

Yours truly —

and the Western Australian Local Government Association are the three bodies that received the legislation last night.

It is clear that consultation on the bill has either been selective or has not occurred at all. That, to me, is slightly incongruent with the glowing adulation that the word "reform" seems to elicit. "Reform" is probably the most used and abused word in the entire Australian political lexicon. All change or amendment is dressed up as reform, and some reforms are prosecuted with more vigour and intent than others. It was due to that appetite for reform, because no reform had occurred in the course of the last three years, despite innumerable representations, no doubt, that it was so warmly welcomed. All the government had to do was mention the word "reform". We have here from the minister confirmation that as far as this bill was concerned, no consultation could have taken place—at least, after the fact of cabinet having agreed to it. I do not know what happened before then. I reflect again on the process from the government's perspective and the reason for it. The Premier said —

This legislation is a major reform. It went through cabinet on Monday and was approved by the government on Monday. We want to get it through Parliament. Members understand about parliamentary timetables. If we do not urgently bring on this bill, by the time it gets through this house and to the upper house, and through whatever processes that house puts in place around it, this bill could not be dealt with by the upper house before the end of this year. We have a crisis now. There is 10 per cent-plus unemployment in Western Australia. Without JobKeeper, it could be significantly higher than that. This is a crisis, which is why we need to deal with things quickly. These are extraordinary circumstances. Ordinarily, there would be time for all sorts of government processes and considerations and that sort of thing, but this is a crisis. We have a crisis in unemployment that we need to deal with urgently.

I read this in only because it situates the bill and clarifies its intent to a degree that has not always been clear in the way that the government has presented the bill in other fora. Nevertheless, the Premier continued —

We are trying to do the right thing by them with this legislation so that we can urgently —

I emphasise that—urgently —

get some activity into the state's economy. That is what this bill will allow for. Ordinarily, it would not have happened this quickly—the bill would not have been drafted or gone through cabinet and caucus this quickly—but we are in an economic crisis, the likes of which we have not seen since 1929. One thing that can assist us to deal with that crisis is this bill, which will allow for investment, activity and jobs. That is the choice members have. Parliamentary niceties and things that might have been —

Then he was cut off by interjections. Let us reflect on that last bit about parliamentary niceties. An obvious interpretation that one can draw is that appropriate scrutiny of the bill is a courtesy that is extended by the executive to the legislature as it sees fit. I do not abide by that principle whatsoever, and nor should anybody else here. The contribution by the Premier rounded out in this way. It distils the essence of a very clever and experienced political operator. He is a clever politician. Things are left or right, black or white, up or down—there is no nuance. He went on to say —

I just say to the opposition that this is an urgent, job-creating bill. Members are either in favour of that or they are not. That is the choice they have to make.

All right. That is the choice that we all have to make. It sometimes escapes members in the lower house and even, sometimes, members here, that the Liberal Party is not the only non-government party in this chamber. There is a crossbench, the Nationals WA and the Greens. These are all people with independent minds and different political perspectives. Does that injunction create an obligation on their behalf as well to waive this bill through sight unseen? I would think not.

In my approach to this bill I will test the claims that great investment and jobs will be created just through the passage of this bill alone. I do not think that any sensible observer could think that to be true. There is so much more to this than the simple construction provided by the Premier and the minister. In the same contribution the Premier claims —

As members know—it was in our press release—the bill is far reaching and will be long term.

A press release is not one of the key documents that I would rely upon to guide me in the scrutiny of a bill. The Premier is making the claim that the government has told the public that this bill is important so if we get in its way, we will be completely out of step with public sentiment. He continued —

This bill will assist developers, householders and small businesses to get through it. It deals with all three groups.

As I have said already, I am not entirely convinced that that claim about this bill is true. The overall package of planning reform, whenever it is finally implemented, may benefit all three groups, but I do not believe that this bill will. Some of the regulations that will occur in parallel might. I am sticking to this point only because, in our consideration of this bill, it is very important to clarify and to test what is in and what is out; why certain priorities have been given to certain issues; and why at the front end of this amendment bill some very powerful new measures have been constructed to assist the government deal with the COVID-19 crisis, and towards the tail end are the legacy amendments to the regulations and the way in which planning is practised in this jurisdiction. The two elements, roughly constructed like that, do not sit well together.

There is also a rush to pass the legislation. In this small window, I will reflect on the contribution provided by the Leader of the House in the Legislative Assembly, the member for Mandurah, on the intent for this bill. He stated —

Members should remember the constraints of the Leader of the Government in the other place —

Obviously, referring to this chamber —

to get agreement, because its temporary orders require agreement for legislation to be seen as a COVID-19 bill. I am not saying it is impossible, but it is very difficult for the leader of government business in the other place to achieve that. After this week, the other place will not sit until 9 June, which is when it would receive this bill. Because the expectation is very clear that it will not take this as a COVID-19-related bill, as members opposite in this place have not, that bill will be required to lie on the table for a week in the other place. That means the bill will not be able to be debated in the other place until 16 June at the earliest.

Yes, that is where we are. The member for Mandurah added this —

We need to get this bill through the house before the winter recess in July. It is very important.

I am reasonably optimistic that the government will be able to achieve that time line.

Hon Stephen Dawson: I wish I shared your optimism.

Hon TJORN SIBMA: It very much depends on the quality of the responses provided. I have faith—I am not being facetious—that the Minister for Environment representing the Minister for Planning will deal with this bill in a constructive way, as I have great confidence in the ministerial office staff and the public servants. I have faith in all those people. But we cannot rush this legislation. If it is urgent and the government has effectively said we need it by the winter recess or the conclusion of this financial year, we can meet that time line so long as we commit ourselves appropriately to this task. But all kinds of worries and anxieties sometimes emanate from that other place when they talk about what might happen to legislation when it gets here. I think those fears are largely unfounded. When there is such a commanding majority in the other place, other than pay lip service to the passage of legislation, does the government really need to obligate itself to extended sittings and deep examination? No. It is with some fear and trepidation that ministers bring bills to this place, but I find it needless, so long as they negotiate in good faith. If members are prepared to entertain sensible amendments and give a reason for supporting or rejecting them, fair play to them. If they can answer questions in a coherent and consistent way, at least we will be better educated about what this bill contains and what its implications might be.

Despite knowing that this bill would not be read in this place until last Tuesday and the first opportunity this house would have to deal with it as an order of business given priority by the government was today, I was always curious about why there was an intention in that place to demonstrate a sense of almost feverish dedication to rushing the bill through at all kinds of unseemly hours. I do not think it improved the quality of debate one iota. I wish to quote a contribution made by the Minister for Planning on Wednesday, 27 May because it is important to set the context for the introduction of the bill in this place. This occurred at the frankly unacceptable hour of 2.12 am. I am a very unreasonable person at that hour.

Hon Alison Xamon interjected.

Hon TJORN SIBMA: No, not anymore. I am a very unreasonable person at that hour, and I think most people are unreasonable, particularly if they have worked a whole day leading up to that point. I again quote with a measure of charity; I do not want to reflect unfairly on the minister's contribution at effectively the third reading. But after all the processes and the speeches provided by government members, Nationals WA members and my colleagues in the other place, there was some fear about what the Liberal Party might do to the bill once it got here. The minister stated —

From what I have seen, I do not have much hope with how this bill will travel in the other place, given the type of place it is and some of the games that were played here. I really hope the bill succeeds in the other place. I am worried about it because, despite some comments that members of the opposition started off with, I do not think this bill will travel well in the other place.

This is very circular but these comments were made at two o'clock in the morning. She continued —

I hope that the Liberal Party can assist the state government and actually deliver this bill, which, overall, is a very, very good bill for Western Australia and is much needed. From what I am sensing, I do not think it is going to go well in the other place, which makes me very sad because we have been here all day and well into the night for two days in a row. I am seriously concerned about the games that will be played in the other place given what has been tried in this place and the lack of willingness to negotiate with the government. I will just say this: the government is very keen to get this bill through. The Liberal Party has to decide whether it actually supports this bill, because this is a bill that is —

Obviously, there were some interjections. She went on —

This bill is well supported by industry and, I think, the community at large. As I said, I do not sense that this bill will travel well in the other place, given the wideranging amendments that the opposition is obviously looking at doing to try to gut the bill.

These comments were made by the minister during the third reading debate on the bill at two o'clock in the morning after two days of debate. In fairness to the minister, she was convinced that the bill was urgent. She wanted to get this thing through. Again, stress does not necessarily assist us in rising to the challenge; sometimes it reveals the level of our training or disposition, and that is not a personal reflection on the minister—it is a reflection on everybody. That is what stress does; it is revealing. Under some sense of personal duress at this time of the morning, I think the minister reflected on her actual view about the way she was going to interact with industry groups and represent the Liberal Party's position. I cannot ascertain from the record the games she referred to being played. There is no evidence to support games being played. There was an objection to a suspension of standing orders in the other place that would see this bill go from the introduction to the third reading within a day. Two hours after, the Liberal Party had a second briefing, which I did not refer to, on the Wednesday after the Tuesday night, when there was a copy of the bill and there was a substantive level of engagement. At that point, the Nationals WA in the other place had not seen a copy of the bill. Again, we are not the only political actor in this state that is a non-government party; there are others here. I expect some degree of dismissiveness or irritation sometimes from certain government members, but I do not expect them to quite unnecessarily extend that discourtesy to other members and other party representatives, who are entitled to be in these chambers and speak to the representations that they have received and the principles that they hold. I want to know what these games specifically were, because I do not believe that they took place. I consider them to be a fiction.

It is also a complete misrepresentation that there is any mystery about the Liberal Party's position on this bill. Again, this has probably assisted the minister in her engagement with certain industry associations and others that might be affected by this bill. That might be to some tactical advantage; I dare not inquire much further into that, but I suspect that to be the case. I find that odd, because I will state for the record that, as the appropriate shadow minister, I advised every stakeholder who had reached out to us about this bill prior to our party room determination—which, I might say, as at 19 and 20 May, we did not have because we did not have a copy of the bill, to the best of my recollection; I am finding my memory fading at 8.20 pm, so I would not want to speculate on what I would be like at 2.12 am—what our position was and why. It is a complex bill and we gave it sound consideration. There was no need to muddy the waters.

Again, to be charitable, if the minister considers games to represent three very sensible and modest amendments that were moved in the lower house to effectively and quite properly improve transparency in decision-making—we will get to this—she knows that the Planning and Development Act in Western Australia confers certain powers on certain individuals and organisations. In other states, and even previously in Western Australia I am led to believe, ministers had more discretion to exercise power in decision-making. That has been pulled back in Western Australia. What we are seeing now is a reinsertion. I think there is value in creating single-point accountabilities for decisions. Too often, members encounter frustrations in dealing with the community. There does not necessarily seem to be a line of sight or a person responsible across many portfolio domains. There might be a nameless person in a department, with a number that they cannot be reached on, and they will not return calls. There seems to be a cultural disempowerment of executive government, and I think it has come at the cost of executive government. This is just a broader observation. This bill seeks to create new powers essentially distilled as thus, and I will get to the detail later: a minister and a Premier can handpick certain development applications or certain specific approvals for streamlined treatment under a new untested system, the regulations for which are yet to be written. Furthermore, and at a minimum—this is apparently one of the virtues of this new system—there will be a conflict resolution mechanism, or an override button, whereby if things get too heated in the interagency referral process, the minister, on advice I believe, and the Premier will have the capacity to determine that a determination be made. There are a lot of moving parts in this. It is one thing to say that this is a power to resolve a conflict between agencies, and it is clear that the Western Australian Planning Commission is likely to get the better end of this equation, but it is quite another thing to say that there is political insertion into the specific details of how that conflict is to be resolved.

We are all sensible people—at least in this house. I do not think I need to labour the point that the creation of powers like this in this state with its history potentially allows for the embedding of corrupt practices within the Western Australian planning framework—that favours can be done and will be done. All we sought to do downstairs was to create an obligation on the minister and the Premier that if these new powers were exercised, which they say that they need to respond to the economic crisis of COVID-19 to create jobs and get cranes in the sky and shovels in the ground, at the very least they need to disclose to us publicly that they had utilised those powers and within a timely fashion. We said that they should cause a notice of that decision to be published in the *Government Gazette* and a notification to be given to both houses within about 14 days or as soon as practicable. That is consistent with other parts of the act. It was not concocted out of thin air; it was a pretty reasonable suggestion. Those amendments were rebuffed. In fact, members could read the debate and get the sense that the minister was affronted by the temerity of the suggestion in the first place. That, to me, is a real worry. I am not alleging any dishonesty or any dishonest intent here, but it is very clear that the creation of these new powers will create some opportunity for scurrilous, corrupt or even criminal behaviour to take place, and we should all stand against that.

I understand that, subsequently, the government has changed its view on disclosure, and I think that is to be welcomed. Indeed, it is making amendments to its own bill, after one has had a good rest and time to think on these things and realised that the construction of legislation is actually drafted by humans, not an immaculate conception brought into this world pure and unsullied: “This is a bill and the devil is in the detail and maybe we got this wrong and we should correct it.” That is good. That is humility. That is being sensible. But that was not the spirit of the time, at least at the point it was being debated in the other place.

I want to reflect on this: there was a fear that somehow the Liberal Party, carrying a carving knife or some other sharp implement, set out in destruction mode and, to quote the minister, was going to gut the bill. I do not need a carving knife and I have no intent, and neither does my party, to gut this bill. But I might bring another sharp implement. I might take a pin to pop the balloon of some of the claims being made and deal with this thing as it is in a calm and measured way. In the end, it is just a bill.

I know there is an ever-expanding audience that is keenly awaiting the outcome of this bill. It extends across the state and even outside this state. It incorporates the industry association people that are ordinarily encountered in this experience and individual developers in the community. Everybody is keenly awaiting this bill. I have said to them all, particularly those who were keen on the vibe of reform but could not tell me specifically what the bill contained, that no doubt as they undertake due diligence for their property investments or other developments, I am similarly obliged, and so is the chamber I am in, to scrutinise this bill properly. We are not going to wave it through. We are going to test its claims, but we agree that the government has the right to author it, introduce it and move it. In the main, it may well provide an economic benefit of some kind—and do we not need that economic benefit! When we consider this bill, we should also—in fact, we are urged to in the terms that it has been presented to us—reflect upon the condition of the Western Australian economy. I do not need to regurgitate statistics as they roll in ever more depressingly with great regularity. We all know that we are in a terrible situation that demands a response, but we should be measured in our evaluation of this bill and give consideration to its limits. I do not think the bill can accomplish even in its braver aspects and even in its most forward-looking, bleeding-edge dimensions, the kind of substantive economic uplift—to drive investment, to drive development and to create jobs—that the government presents the bill as being able to accomplish. That will be, frankly, impossible. Without the introduction of new and

potentially debatable material, this state faces one obvious economic impediment—that is, our borders. They are closed. That obviously has a consequence. We also cannot contemplate when the international borders will come down in a way that we enjoyed pre-March. We might be in this territory for a number of years. There is every incentive to look at our systems domestically and to look at things anew, to question why we have allowed these layers of inefficiency and bureaucracy that serve no service to build up. That is fine. That is appropriate. That is what we should be focused on. But we also need to consider the state of the Western Australian economy leading into it. Frankly, if we focus merely on bringing up our economic standards and performance to pre-COVID levels, I will accuse members of being timid and inadequate. This economy was falling off the cliff well before COVID-19 hit.

It is worth reflecting not on my words, but on the assessment of others. I am more than a mere cipher for industry associations, peak bodies and lobbyists and the like. However, I do take an interest, and always have done, in the contribution and analysis provided by the Chamber of Commerce and Industry of Western Australia, particularly from its new chief economist, Mr Morey. He is an accomplished and interesting fellow. I have not met him, but his CV is outstanding and everything he produces seems lucid, reasonable and fair, and he comes with the benefit of having worked in government, most recently as an adviser to the state's Treasurer. Therefore, I always take with interest his observations, at least as he transitioned into his new role and started calling out the true state of the Western Australian economy. Let the record show that the Liberal Party has been doing this for a very long time. Unfortunately, there is and has been a bias in government. I have said this before, so I do not need to go over old territory. Up until this point there has been a conflation of state financial management with not only the Western Australian macro economy but also individual household economies that underpin that macro economy. Those aspects have been largely excluded from the government's consideration in a meaningful, coherent and strategic sense. We need only reflect on private members' statements and all kinds of carrying on over the course of 2017, 2018 and 2019 to be convinced that this government does not have an economic strategy. It did not have one leading into this crisis, it does not have one now and, possibly, it is unlikely to have one after this crisis has abated, whenever that might be.

At least, over the course of December and January last year, certain observations were made about the state of the Western Australian economy that should have made us all stand up and listen. I will quote a media statement from the CCI dated 4 December last year, titled "WA economy on a treadmill". I will not quote the whole thing; that is tedious. I begin with the second paragraph, which states —

A 0.2 per cent contraction in the September quarter leaves WA's domestic economy with state final demand growth of zero per cent in year ended terms.

By this measure, the WA domestic economy made no progress since the same time last year.

That was December 2018 —

In the last quarterly data to be released this decade, WA had the second weakest domestic economic performance of any State, with national domestic final demand up 0.2 per cent.

That is relevant to this bill, one would think, at least, partially —

After falling for the last five quarters, investment in WA dwellings increased by a slim 0.3 per cent this quarter. WA households continue to feel the pressure, with consumption rising only 0.1 per cent this quarter. Increased spending on essentials was mostly offset by weakness in discretionary spending on items like clothing and footwear, down 0.9 per cent.

That does not fill anyone with great optimism. This media statement was released on 4 December 2019, four months before COVID-19 hit. About a fortnight after that contribution, on 19 December 2019, the CCI followed up with a statement titled "WA households limp into 2020" that dealt specifically with the circumstances facing Western Australian households. It states —

West Australians are limping across the finish line of 2019, ending the decade with subdued confidence and personal finances impacted by external factors.

...

Expectations for 2020 are low, with only 16 per cent of consumers anticipating improvements early next year. Four out of five consumers expect the WA economy to worsen or remain the same in 2020.

Those words have been quite prophetic, it would appear. The CCI had no optimism then. How much does it have now and how much optimism would it find in this bill that has been presented to us? It is very easy to talk in these kinds of figures. I think it goes some way to explaining the human impact in a further paragraph, which states —

There are signs of financial strain, with one in five (22 per cent) West Australians unable to pay their bills on time and around one third (32 per cent) spending more than what they earned over the last three months. 40 per cent of lower income households (<\$50,000 pa) reported being financially worse off at the end

of 2019. Overall West Australians remain cautious about spending, with six out of ten (65 per cent) holding off from big purchases in the short term.

That is a tale of woe. I do not always agree with the Chamber of Commerce and Industry of Western Australia, but it offered this observation at the end of the statement, as a constructive measure —

The Government could further boost jobs and the economy by accelerating the Streamline WA process, reforming retail shopping restrictions and enabling the Roe 8 project to be independently assessed by Infrastructure WA.

There are a couple of inclusions in that last sentence. I will just say this: Streamline WA is relevant to this bill, for reasons that I will reflect upon later. It was evidence of an attempt by this government to streamline approvals, mainly in the mining and energy sectors. We are yet to see positive outcomes from that process, but at the time it was much lauded. Again, I think reform probably suffers from the tyranny of low expectations, but even those low expectations have repeatedly not been met.

Another aspect, which is obviously of some interest and conjecture in this chamber, is Roe 8. This bill attempts to add clarity and certainty to the planning system. To take a high-handed interventionist approach to the construction of class A reserves and to prohibit for all time the delivery of critical infrastructure in Perth's southern suburbs and corridor is, to me, not necessarily consistent with good planning practice. It is certainly inconsistent with the aspirations apparently contained within this bill.

It probably comes as no surprise that 2019 ended badly and 2020 commenced just as badly. Again, consumer confidence was at a significant low. On 15 January 2020, a bracing and fair claim was made by CCI chief economist Aaron Morey. A further CCI media statement from that date states —

The slowdown in consumer spending has continued to weigh on business confidence, reinforcing concerns that Western Australia's economy has entered the new decade in 'survival mode'.

What mode are we in now? Absolute desperation. Indeed, if I am to be fair to the Minister for Planning and the government's intent with this bill, it has apparently been drafted to address this sense of urgency and desperation. Is it up to that task? Probably not. As we often get from groups like the CCI, there was some constructive advice from Mr Morey that we might or might not take in a positive spirit. It was —

“Coming at the start of a new decade, these results —

That is, the results referred to previously—drop-offs in confidence and investment —

are a timely reminder that governments must continuously engage in meaningful reform to help inject confidence into the business community,” ...

No-one can dispute that there is a need to focus on meaningful reform. As I have expressed before, there are and have been meaningful reforms occurring—or not occurring, as the case may be—in the planning portfolio, now and over the past three years. Are we to consider this bill a meaningful enough reform to address the current crisis? That is how it has been presented to us.

I should further add—not to labour the point—that in the days leading up to Australia Day this year, on 23 January, Mr Morey put out another statement, the title of which was “WA economy in desperate need of a reform wave”. Just in case we have all missed the obvious, something urgent and desperate is going on, and there is a sense that these pleas for action are falling on deaf ears. At this stage, however, there is a slight recasting of the description. Mr Morey's reflection was —

Western Australia's economy begins the decade with weak business and dwelling investment, a contracting domestic economy and subdued economic activity. By these measures the economy is treading water, reinforcing the view that WA is merely surviving, not thriving.

Again, this was some months before the current crisis hit. I will be circumspect in my remarks on this, but I understand that there was some reportage, if I can put it that way, of some sense of worry within the government about how well the economy was travelling and how well it was being perceived, and not for the first time. A similar approach to demonstrate some activity occurred, I think, at the start of 2019, in the form of a document called “Our Priorities: Sharing Prosperity”. I will get to that, but I just want to make it clear, in case I have not made it clear enough, that people do not need the Liberal Party to tell them that the state of the economy in Western Australia was absolutely dire and desperate and had been neglected for three years, pleading for help and attention and demanding a coherent strategy. All these pleas and demands were going unanswered. It is not just us who have said this; the business community was saying it, and an individual who should know, who had experience and who was previously an adviser to the Treasurer. The state of the Western Australian economy pre-COVID-19 was probably the worst I have witnessed in my adult life, with no signs of optimism yet.

Hon Rick Mazza: How do you turn it around?

Hon TJORN SIBMA: We will get to that. If one is to take the government at face value—I think one should always apply the principle of charity—this bill is apparently part of the solution. It could not possibly be the whole solution, but it is part of the solution. I do not intend to jump around, but I want to forecast where I might go, for the benefit of the people playing at home. There are better things to do at this hour, but for those who will read *Hansard* tomorrow, this might assist the minister in his reply to the second reading debate. I want to focus on the potential economic benefit of this bill. I am not here to suggest any other thresholds to be set; I am just interested to know what thinking, what rationale, what modelling and what consideration was given to the detail of this bill.

For those who have not yet had the opportunity to read through the bill in detail, I draw attention to a particular part of the bill, the insertion of new parts 17 and 18 into the act, under clause 4. They set the threshold for something that we might consider to be a significant development. We have all become familiar with these terms in the planning lexicon because they are largely defined in a circular way. We can never really pin them down. A significant development here is whatever we want it to be, but for the purposes of this legislation, the government has said that a significant development is a commercial development that is likely to cost more than \$30 million to build and has a net lettable area of 20 000 square metres. The same conditions apply for a residential development, which must have a \$30 million threshold and comprise 100 dwellings. These are not and/or provisions; they are “and” provisions. I want to be advised how these thresholds were set because it goes to the government’s central claim that this bill is an economic response to the COVID-19 pandemic. If we apply the principle of charity and say, “Maybe the government has a good reason to set the thresholds at these levels”, where would I find some corroborating material?

I mentioned at the start of my contribution that planning reform was initiated by the previous government in the form of the construction of development assessment panels, which was a really difficult reform for the government to bring in. It raised a lot of the issues that we will address with this bill, albeit in a different way. I make this reflection: I recall that the now Minister for Planning was not necessarily the strongest and most reliable advocate of the DAP system prior to becoming the planning minister, but that is just an observation that I will return to later. My central mechanistic question is: Why is the threshold \$30 million? Is there a problem at this level, because at this level, and at much lower levels, development applications should be treated by a development assessment panel? Is the development assessment panel system broken from the perspective that there are backlogs in issues that should be resolved or approvals that should be approved but have not been approved? That is the question, because this bill introduces a third pathway that can be entered into by one of two ways; either a development meets the thresholds that I have described or it is considered to be of regional or state significance. If members think that the significant development threshold description is a bit obtuse and difficult to nail down, have I got a story to tell them about this other bit! There is absolutely no definition of what developments of state or regional significance might be, but they have the opportunity to enter this streamlined process, too.

The best point of reference—I will return to this later—is a spreadsheet I have. It is a reasonably recent document—it is only two or three weeks old—and for the benefit of *Hansard*, it was produced by the Department of Planning, Lands and Heritage and is titled “Development Assessment Panels: All Current Applications”. It is report version 0.105.4. I will need it back after I hand it in. This document reflects in real time the number of development applications that have been lodged in the development assessment panel process. Ninety-six development applications have been submitted and are going through the process of various stages of finalisation. Of those 96 DAs in the system—DAs is an acronym that I will refer to that means development applications—only 17 are above \$30 million and not all those projects are equal. I will reflect on the kind of projects that we are talking about. There is an application for a \$31 million project in the City of Perth, which deals with the demolition and construction of 119 multiple dwellings and two commercial tenancies. It includes a transfer of plot ratio and the like. There are residential developments attached to the Karrinyup Shopping Centre development to the value of around \$150 million and \$500 million value. There is a proposal for the creation of 123 multiple dwellings in the City of Belmont at a cost of \$40 million and an \$80 million redevelopment for Kardinya Park Shopping Centre in South Street. A recent *WAtoday* article referred to whether a project like this could avail itself of this streamlined system. It goes on and on, but it would appear to me that given the thresholds provided by the government—it might have good reason for this but I am agnostic on it and want it explained to me—of that list, only four of the 96 appear to meet the thresholds required for assessment under this streamlined approvals system. If members are a bit more generous about descriptions, perhaps it goes up to 11, but, largely, this bill provides an opportunity to—I will not say fast-track because “fast-track” implies speed—streamline approvals such as this, and this is where it all gets murky. On the evidence provided to me, the bill would affect between four and 11 per cent of all development applications, yet it is urgent. Is the economic multiplier that emanates from the not speedy but streamlined approval —

Hon Dr Steve Thomas interjected.

Hon TJORN SIBMA: We will see. The streamlined approval will be a net economic growth incubator that we need to pass urgently. Let us think about this seriously like adults. We do not need to be in the property industry to understand that these development applications are not just switched on like that. Years and years of work and expense goes into them. I asked industry operators, developers of achievement and of substance, to explain to me

the kind of time, resources and cost they go through just to get an application into a condition in which it can be submitted to somebody. The costs are eye-watering. We are talking multiples of hundreds of thousands of dollars just to get to that point. It is a long lead time. This bill proposes a turning on of the tap. If we pass this bill, the tap will be turned on and everybody will start working on DAs. They will lodge them in the streamlined system and within 18 months, they will be dealt with—or probably not. There are a couple of advantages of the DAP system that even its opponents will concede is superior to what is proposed by the government under this Western Australian Planning Commission mechanism.

One advantage is that in the main development assessment panels are obliged to follow local planning schemes and other legal instruments. Putting it that way, they cannot make it up as they go along. They have the technical experts to put together responsible agency reports and the like and to bring well-practised and well-credentialed individuals around the table, including, might I add, local government representation, to assess high-magnitude proposals. That system in one form or another has operated for 10 years. There have been suggestions—indeed, it is part of the minister’s planning reform action plan—that the DAP system be reformed. There are obvious opportunities to improve consistency in decision-making and disclosure, and there are issues around the potential for conflicts of interest and the like. These are real substantive issues that I think the minister is addressing in some form, but the suggestion has never been put to me that the DAP system is broken and is not appropriately dealing with development approvals. My question is this: what problem within the DA system is the government trying to fix? It is not clear to me that there is a problem.

The other advantage, at least from a developer’s perspective—who might go out of their way and spend time and money to solicit expertise to put in one of these applications—is that once they lodge an application, the DAP has a statutory obligation to make a determination. I think it is 60 days with advertising and 90 days without. That at least gives the developer some certainty of an outcome. The developer might not like the outcome—indeed, there was an issue with a development in South Perth that was referred to the State Administrative Tribunal and there was a call-in—but no system that we construct will be perfect. However, is the DAP system so fundamentally broken and in need of overhaul that it demands the creation of an additional pathway to which the normal planning rules and other rules will not apply and that will not necessarily give a timely determination? I will not say who this person is, but during the consultation process that I was obliged to engage upon, it was put to me, “Why would industry actually use it?” Yes, a decision will be made, but it would be made anyway in the DAP system, and at least that would give people a time frame to operate under. This does not provide a time frame to operate under. I seek clarification of why that is the case, because, again to be generous and charitable, it is kind of axiomatic with the way in which this bill has been presented. If this legislation is to ensure that there is a nimble, responsive economic reflex to enable investment, jobs growth and construction—all the good stuff—I would think that there would be a time line in the bill, but there is not, and I find that curious.

That was a bit of a digression, because I will refer to it later. This is a material point: elements of this bill are deeply concerning in the way that it has been ordinarily constructed. But if we attempt to assist the government to do what it says it wants to do and we look at what we have been presented with, we are left thinking, “How will this bill accomplish this task, because it does not appear to be up to the challenge?” It just is not. In fact, by creating an alternative system, the government may well create all kinds of inefficiencies and delays in other components of the system, unless it is properly resourced and its rules of engagement, as reflected in regulations and policy documents, are well constructed. I will return to this point because we need to examine the state of the Western Australian economy to test whether we can rely on our government partners to lead us out of this situation. It is important to reflect on some of the thresholds—the particulars of this bill—to see whether that will be a likely outcome.

Earlier, comments were made about reform. We all think reform is good, particularly when it happens to somebody else, but all claims about reform must be scrutinised better than they have been. That goes for the media, industry associations and everybody involved in the political and parliamentary processes.

An opposition member: The Victorian branch of the ALP.

Hon TJORN SIBMA: I will not go there. There is plenty of material for later, but not in this bill.

We have to understand how successful, even in the best case scenario, the government’s suggested reforms over the planning portfolio and embedded in this bill are likely to be. The best predictor of future performance is, obviously, previous performance. This is not a comprehensive overview of the government’s success at reform, but I want to identify a few elements and ask members in the chamber to think about how successful they have been. The machinery-of-government changes was the first big change that we dealt with. This is what governments have done over time. The proposition is always that change will make government more efficient, perform better and be more successful. Objectively, it is very hard to prove and I do not think the government has ever committed to trying to prove that it has worked. It is what it is. That was the first overall, automatic, humble and not very well considered in some aspects—as Auditor General reports have identified previously—change. Did that work? It is unclear. At the same time, a specific program of voluntary termination—it was the VTSS or VTTS; I cannot recall the acronym—was committed to finding savings across the estimates by disgorgeing out of the system 3 000 full-time

equivalent public servants. Yes, of course, there will be an up-front cost when people are paid out their entitlements. On that, I am reminded of a bill about public sector reform and right of return that stalled some time ago. The voluntary targeted separation scheme was designed to shed 3 000 FTE from the public service. I remember asking at an estimates hearing whether the government had committed to lock in those savings by way of a recruitment freeze. The answer was no. How any director general or minister could be empowered to thwart the growth of the public sector is a mystery to me. But grow it did; close to 3 700 FTE were hired back into the system after the initial shedding of 3 000 FTE. Effectively, we have paid for 6 700 FTE over three years. That is not a saving. That was a minor reform, but it is evidence of a reform that went awry. I do not know what went wrong there; it is extraordinary.

I previously referred to Streamline WA. It was referred to in one of the pieces by the Chamber of Commerce and Industry of Western Australia that I mentioned. Without being unfair, I believe this might have been one of the policy children of the ex-director general of the Department of the Premier and Cabinet, Mr Darren Foster, as were the machinery-of-government changes. I am yet to find an industry operator who can tell me that Streamline WA has done them any service at all. No-one wants to call it out, for obvious reasons, but there is an absence of evidence that would prove that this reform measure has been successful in any way. An absence of evidence is not necessarily evidence of absence. The government must have had some wins somewhere, potentially in the reform space, but it does not appear to have been in this space. Another measure that was industry focused was market-led proposals. That was a way in which propositions that do not ordinarily fit within the confines of ordinary government contemplation could effectively make a pitch, as best I can understand. This was to be a great enabler of economic activity, investment, excitement, attraction and dynamism. I have not seen one project—not a solitary one—emerge from this system. I may have missed something, but I have from time to time asked what is going on, because I am starting to hear stories of dissatisfaction and disgruntlement. I cannot take a side in that argument because a lot of what goes on happens in a closed environment, but, objectively speaking, there seems to be little evidence to support the outcomes of that reform.

In consultation on this bill, some kinds of market segments were given commercial preference. I have listened to a number of industry groups that are concerned that they may have missed out. I will speak in broad terms to maintain the confidentiality of the discussion, but I know that the tourism industry is concerned that this bill does not include it. In fairness, I do not know how it could, but it got me thinking about the progress of another McGowan government reform initiative—that is, the tourism attractions case management framework. I do not know what has happened with it. In fairness, I think that the scheme, at least in construction, was probably very well intentioned. As I understand it, it was to provide an avenue for proponents of tourism attractions. I am not talking about accommodation. We are good at processing forms of accommodation, but possibly not good as a state at building the things that might attract visitors in the first place. This is a bit of an unusual situation to be in, because not many people could avail themselves of those attractions at the moment, even if they had been built. Nevertheless, they will come one day, and it might be nice for us to have some more attractions for people to visit, if that is what they are interested in. The tourism attractions case management framework was established, I think, in May last year. It is not my domain, but I have not seen any outcome from that. To the best of my knowledge, about 20 projects were in that system. I believe the system was there to forecast the kinds of approval obstacles or hurdles that a proponent might face and to effectively guide the proponent through that process. I think it was to be like a navigation aid, but I might be wrong. Nevertheless, the intent of the system was pretty clear. It was to give projects that do not ordinarily have a home in government a home to go to—a kind of triage service at the front end. That reform is limited in application by definition, but the claims made in this bill about economic uplift are quite brave and all encompassing. I put it to members thus: if the government cannot demonstrate the effectiveness of these smaller measures, which did not require the passage of any new legislation, the drafting of any new regulations, the hiring of new staff or anything like that, and after 12 months, in this niche segment, it has, in the parlance of older times, delivered diddly squat as an outcome, what expectations should we realistically have about the economic effectiveness of this bill?

This is a reform bill, so I will look at a group of reforms—certainly not the entirety. The government is very good at issuing the media statement or having the doorstep with happy smiling faces and third party endorsements. This government excels at the front end. Its members are clever political operators, but can they deliver? That is the question. I am not sure, based on the government's track record, that it will be capable of delivering in this new dimension.

I refer to reforms and economic imperatives. The demands of COVID-19 have put enormous pressure on this government, as they have on all governments. For reasons that are completely understandable, there has been an absolute obligation of the government to focus its efforts on the present circumstances. It has meant that the government has had to push to one side, or take a break from, other reforms and activities that were important, but not important enough. That is a judgement call, and I am not reflecting on that. There is a list here. This is material because it gets to some of the claims made about this bill and what it can accomplish. That is the only reason I am reflecting on this. On 26 March this year, the Premier put out a media statement. If we look at the list of media statements as they appear on the government website, it would be very easy to jump over this one because it was excitingly titled—tongue in cheek—“Administrative changes to support the COVID-19 response”. Administrative?

Who but a glutton for punishment would open that link? That statement is interesting for how it presents the stalling of certain reforms. It is possibly a reasonable decision. I am referring to it because it reflects on the government's ability to continue any reform initiative over time if something else gets in the way, and we do not know what will get in the way next. We just do not know. At that stage, the Premier presented those administrative changes in the following terms. He referred to the Treasurer's advance, which I referred to earlier. I thank everybody here for permitting that advance to proceed. After that, he states —

Cabinet have also agreed on a number of initiatives that will be deferred indefinitely, —

These things are not coming back —

in an effort to free up resources and allow the State Government to continue to focus all efforts on responding to COVID-19.

That is presented in a very reasonable way. Again, the devil is in the detail. It continues —

With immediate effect, the following programs will be put on hold indefinitely: —

Here is the word "reform" again —

- The McGowan Government's Public Sector Reform Program;

From March this year, the government was not interested in public sector reform at all. We should give up all hope! That is just another thing. How committed to reform is the government? It is a rhetorical point, but nevertheless it is of some relevance to this discussion.

"Our Priorities: Sharing Prosperity" is a document that was produced at the commencement of 2019 in response to a set of unfavourable political circumstances that were besieging the McGowan government and it was seeking some positive narrative. The third dot point—this is directly relevant to this bill—states —

- Strategic Assessment of the Perth and Peel Regions;

This was known as the green growth plan, in a colloquial way. This has been going on for a long time. The next dot point is —

- The Supporting Communities Forum.

Forgive me, but I am not familiar with that.

I want to talk very briefly about the "Strategic Assessment of the Perth and Peel Regions". It was very complicated but, in essence, it was established to create an overview of permissible developable land in a way that did not impinge on environmental considerations. It would provide some measure of long-term certainty. That is very easy to mention breezily and off the cuff. It is very detailed and complex. It is something that the Victorian government did and has accomplished. The McGowan government evaluated the feasibility of the program and had appeared to embark upon continuing it, until we had the COVID-19 pandemic, so it has been jettisoned. I asked questions in this chamber about what progress had been made on that program. When I talk to some industry stakeholders, they mention that despite problems of detail, they largely thought that the issues had been settled and the government was on the verge of making some determinations. I have not been able to elicit any further information—frankly, I am unlikely to be satisfied in any future endeavour—because the hand came up in the parliamentary answer to the question I received. It was factually true but generally unhelpful. When I googled the phrase "strategic assessment of the Perth and Peel regions", I found that everything had been taken down from the government website. It disappeared without a trace. We will need to get in the cold case reviewers in 20 years to try to find out what this program was about, because it is never coming back. It was not just that program; it was also "Our Priorities: Sharing Prosperity". I tried to remind myself of what that was. I imagine that the library has a copy. I do not need to table it but I will explain what we get when we click on the link. It comes up with —

Our Priorities: Sharing Prosperity

Whole-of-government targets to deliver better outcomes for all Western Australians

In a red bar are the words —

Update: COVID-19

This program has been deferred indefinitely while the State Government focuses on its response to COVID-19.

Further updates will be provided in due course.

I imagine that sometimes there are legacy websites or at least we can find some information about what progress had been made by the government prior to its decision to indefinitely put on hold the furtherance of those programs. One might charitably say, "Well, with limited resources available and obvious new priorities, these things had to be set aside." But no rationale was provided for why those items, those issues or those avenues of government activity

needed to have the door closed on them, and probably permanently. My operating proposition—I do not think I have ever been disabused of it—is that a lot of inefficiency goes on in government across the board. It was going on before COVID-19, it has been going on during COVID-19 and it will occur post-COVID-19. But for whatever reason, the Premier was minded to describe these kinds of programs as an administrative change. I love that euphemism; I will possibly rely on it in the future. My more serious point is that, in their own ways, these programs were either explicitly or implicitly about a reform or a change. One can only assume that little progress had been made or there was little appetite for their furtherance and these were the ones that were the first on the block to be dispensed with.

My question is really about commitment to reform. When we get to the detail of this bill, if it is to work and to work in the way in which the government says it is going to work, it will require a significant amount of commitment and follow-through. There is a doyen of organisational change management. From memory, his name is Professor John Kotter. He talks about how we get to change. Like a lot of *Harvard Business Review* literature and things of that ilk, it is all commonsense dressed up in quasi-academic speak. A serious point was made; that is, if we are serious about reform of any kind, any change, we need to be there to see it through and to ensure that that organisational cultural change is continued and is embedded in the organisation that has the responsibility to deliver upon it. This is where not only this government, but also previous governments and governments of all complexions get it wrong. Ministers, parliamentary secretaries, directors-general, senior executive service officers and departmental secretaries, as they are referred to in the commonwealth, are strategic organisational leaders; they are not necessarily doers. If they have done something, they did it a long time ago. We rely on a lot of commitment throughout the entirety of the organisation. My view—I hope an educated and informed one—on what powers are proposed to be given to the Western Australian Planning Commission is that it is not abundantly clear to me who in the organisation will be relied upon to deliver on the promises that seem to be made. From what I have seen of the government's performance over the last three years, it tends to deal with reform, particularly big policy reform, in a superficial way. All the energy is invested at the front end and we see little of what emerges out the other side. What emerges out the other side is important. It is important to understand the likely outcome of this bill.

Without being facetious, I wanted to establish the contours, rationale and reasons and the prism by which I view this bill. I have not really got to the detail, save by talking about the thresholds issue. I have asked the department and staff in the minister's office and they have been obliging, timely and helpful in all their responses to me. As far as that question is concerned—we will get to it again, no doubt—on what basis was that level set? If we set that level, that has implications on the rest of the system and I am not necessarily sure that we are adequately resourced to deal with the issues we say we are going to deal with.

I want to speak briefly, if that is possible, about planning reform. As I said at the outset, reforming the planning portfolio is almost its perpetual state. Even at the high notes of the planning portfolio, the establishment of the planning framework in Western Australia, as it goes back to the Stephenson–Hepburn plan, for example, was lauded as a watershed moment in this state's planning framework. The great irony of the Stephenson–Hepburn plan is that it could not constrain the accelerated growth that came on the back of a post–World War II 1950s boom in Western Australia, particularly a whole new mode of economic activity that was consumerist in orientation. Lots of land was available. There were, in historical terms, relatively cheap lots. It was all enabled by that great liberator of suburban life, the personal automobile—have car, can travel. These aspects of historical and economic life in our state have largely led to the spread of urban growth up and down the plain and a little bit into the Darling escarpment. That is the reason we are there; basically, any intent to have us more concentrated in our dispersal has always fallen afoul of personal choice and personal enablement, technological, economic or otherwise.

It is always with a measure of, I hope, healthy scepticism and evaluation that I look at any proposal in the planning domain to achieve the kinds of idealistic outcomes that town planners, bless them, think that we can achieve. I have reflected on this point before. That disconnection sometimes between planning instruments and planning strategy and life as it is lived with people's preferences as they are enjoyed in Perth has led to a planning system that is more likely to engage in the surreptitious nudge of behaviour of people so that they conform with planning principles. It is a government knows best or planners know best perspective. They have a lot to offer. I am not diminishing their profession by any means, but there is a tendency sometimes for people who have chosen to be town or urban planners to think much like other types of engineers do—that is, that everything should be rational and procedural, and human intention, behaviour, choice and personality sometimes is not accounted for; or, if it is accounted for, it is considered to be a negative or an impediment to the achievement of these perfect goals. On some occasions, if done very badly, it can be a very mild form of tyranny. I am not suggesting that that is what this bill will do, but this is a planning bill and it is to some degree idealistic. The problem it rubs up against is community perception—a community that feels largely disengaged from and disenfranchised by the current framework. This is a framework that has been built up over time. Largely, as has been put to me by people who are disaffected, the planning system appears to be designed to make them comply with it rather than it being there to serve their interests. Sometimes those interests can be as broad or as narrow as we like; they vary with the individual who is putting them forward.

In the time available before our adjournment this evening, it is worthy to reflect upon the achievements in reform in the planning portfolio over the last three years. In its most charitable interpretation—again I use that word—this has been a long work in progress. Very little reform has been accomplished in the last three and a half years. Aside from those who are directly involved, the overall reform piece would come as a mystery or new news to the majority of people, such is its lack of accomplishment to date. I might reflect on the fact that the planning portfolio has on occasion, and it seems to be the case at the moment, been the poor cousin of the transport portfolio in terms of ministerial and government attention. Frankly—this is the most cynical view; it is not the whole view, but it is part of the problem, potentially—a minister does not get many picture opportunities with a planning decision. They cannot say, “I’ve approved this structure plan” or “This scheme amendment has gone through, and look at all these happy, smiling faces of residents who are likely to benefit from this largesse.” Ministers do not get that to the degree that they would get it with a flyover, a new roundabout or an extension of the rail link.

Hon Colin Tincknell: No red ribbons.

Hon TJORN SIBMA: They can cut red tape, but they do not cut red ribbons in the planning portfolio. That is pretty much it. They are not going to get out there and press the flesh, but when they do, they are likely to rub up against all kinds of aggrieved people, so it is uncomfortable. The system is so complex that no minister, despite their best efforts, can explain their way out of a problem without resorting to pointing the finger backwards or at local government or somebody else. It is always somebody else’s problem in the planning portfolio, so this is what reform should fix.

There has been little to no positive accomplishment in the planning portfolio in the last three and a half years. I am trying to be fair here, but I think the minister has been preoccupied with the transport portfolio and, in particular, Metronet. Indeed, I recall—I think I am recalling this correctly—an interview provided by the reasonably new commissioner of the WA Planning Commission, Mr Caddy, who is a professional person. Effectively, his riding instructions were to concentrate on Metronet and, I think, some housing infill. It was to that effect—social housing, housing infill and Metronet. The government has the right to set these kinds of objectives, but this is what the planning commission, from the top down, has been looking at.

When there are interventions in the planning system by the minister, they are not always warmly welcomed. I would never dare to suggest this, but it has been suggested to me that there has been a zealotry in accomplishing certain expedited and accelerated infill targets in the western suburbs, particularly in the City of Subiaco and its neighbour the City of Nedlands, in a way that is very likely to undermine the pre-existing character and amenity of those suburbs. People who object to these kinds of incursions or involvements by the minister in a direct way—I am talking about her directions regarding the local planning schemes in those areas as they relate to infill targets—because they are getting the rough end of the pineapple are too easily and early dismissed as being nimbies. If people bought in a certain area and expected a certain way of life and their primary asset was their home and they raised their family there, they would take a bit of interest in their street, community and suburb, and they should. That is a good thing. The category of nimby is too easily ascribed to people. Unfortunately, it has informed the lexicon of some in the development industry and their advocates. I remember going to a breakfast earlier this year at which the term “nimby” was too casually thrown around. I think it diminishes not only those people, but also the integrity of the entire industry on occasion. There are concessions, and insofar as infill targets and infill developments have gone in Perth, the results are mixed at best. Sometimes developers play to the very worst stereotype that one can conjure, and that is an inhibitor to not only growth, but also that industry’s reputation. Likewise, I have counselled people who have been upset and aggrieved, with various levels of justification, at the way the planning system operates that they should not descend into caricature either and categorise all property developers as being greedy, avaricious, heartless wreckers of their community. That is absolutely not the case. There are some absolutely high-quality developments. The majority of developers, like the majority of any operators in any industry, are people of great reputation—they do a good job. But we cannot have a system in which two entrenched groups of people are throwing rocks at one another and calling each other names. That is no basis upon which to undertake sensible reform.

I want to reflect now on what has been achieved, or on what the minister said she was going to achieve. This bill is one of two pieces of planning legislation to be brought to this Parliament for our contemplation this year. Frankly, the clock is ticking not only tonight, but also for the rest of this parliamentary year; I think that we have only 12 or 13 sitting weeks left. I inquire directly about the progress of the next bill. Has it been drafted; and, if so, what is in it? I have been advised that it deals with the community engagement dimension. We cannot deal with this bill adequately in the absence of that issue being appropriately considered. Community engagement is but one dimension countenanced in this document. I will not read from it now, but I will probably refer to it tomorrow. It is called the “Action Plan for Planning Reform: Better Planning, Better Places” and was published in August last year by the minister. Within these 40 pages or so are a series of issues that demand early action, are the next priorities for action, presumably, or require future action. They occur across a range of fronts. The document is apparently the culmination of three years of consultation. The question is: how much of this document is contained within this bill and how much of it is likely to be addressed in the bill we have been told to expect will follow?

I might ask, Madam President, what is my time check?

The PRESIDENT: You have three or four minutes.

Hon TJORN SIBMA: I have been here before.

Hon Alison Xamon: Just before dinner.

Hon TJORN SIBMA: Just before dinner; that is all right.

For those who are unfamiliar with this portfolio, it is complicated, but this action plan document was a response to another more comprehensive piece of work entitled “Modernising Western Australia’s Planning System”. Helpful colleagues here may remind me of the gentleman who led that, because his name has momentarily escaped my recollection. It will come to me.

Hon Darren West: Colin Tincknell.

Hon TJORN SIBMA: It is not the name. I said “helpful”, so Hon Darren West has failed on both levels. What a great surprise that is to me!

This document is part of a broader piece. Issues were identified in the green paper that the government did not consider taking through to this document. A filter was applied. That is understandable, but I want to reflect on the minister’s foreword in the action plan, in which she identifies the three fundamental goals of the reform agenda. These are of varying degrees of specificity, but they are —

1. Planning creates great places

I would hope so —

2. Planning is easier to understand and navigate
3. Planning systems are consistent and efficient

Specific areas of activity stem from those three very broad goals, which are further elaborated upon. In the course of evaluating this bill, if this is truly a reform bill, we must ask how close to the mark this bill will get to accomplishing those three goals and to what degree these forecast actions will be enacted.

I am reminded now that the name of the gentleman who led that green paper process is Mr Evan Jones. I do not know; there was an element of mystery about what happened with that green paper towards the end of time. I think Mr Jones and the government parted ways. I have never met him and never spoken to him. I do not know what the issues were, but there was some murkiness, not in a scurrilous way, but opaqueness—a translucent kind of window into what might have happened. Potentially, things were suggested in that process that the government was uncomfortable with. Perhaps there was some difference of view.

Debate adjourned, pursuant to standing orders.