PLANNING AND DEVELOPMENT AMENDMENT BILL 2020

Second Reading

Resumed from an earlier stage of the sitting.

HON TJORN SIBMA (North Metropolitan) [5.11 pm]: I will speak to the amendments to the Planning and Development Amendment Bill 2020 that I have on the supplementary notice paper, and provide a brief explanation of the substance of, or motivation for, them, but not in a way that uses the opportunity I will have during Committee of the Whole House. I will identify one point. Members will see an amendment on the supplementary notice paper that seeks to insert, on page 4 of the bill, the Local Government Act 1995 as being among the instruments relevant to the operation of these new powers. After receiving an answer from the Minister for Planning last week, I have sought to understand why five acts are listed on page 4 of the bill. What is it that is so special about these five acts, and what particular encumbrance does the operation or contemplation of these acts have in the course of planning approvals? Although I do not have *Hansard* readily to hand, I was given an answer along the lines of, "Well, effectively, these are the acts that interact most frequently with the determination on development applications." That was an interesting contribution. I will seek to find out from the minister, if it is at all possible during his reply to the second reading debate, whether it is possible to quantify the degree to which these listed instruments actually interact with the orderly consideration of planning approvals, in a way that delays consideration or complicates the making of a positive determination to approve. I ask the question because there was a glaring absence on that list—I knew that something was missing, but I was not quite sure what it was.

In one of the sections of the planning reform document that I referred to last night, specific reference is made to the kinds of encumbrances, complications or impacts that Main Roads Western Australia, through its actions and the interpretation of its instruments or subsidiary legislation, has on the planning approval system. Anecdotally, across every component of the development industry, at variations of scale and variations of sector—I am talking here about those who operate in the broadacre land use assembly and approval space, which is why I earlier asked the minister questions about metropolitan region scheme amendments, up-zonings, subdivisions and the like, through to built-form proposals, which are given some contemplation here—there is a uniformly consistent view that, for whatever reason, Main Roads WA presents an enormous obstacle to economic development, investment, jobs and the like. I am not sure whether Main Roads' conduct is fairly represented in these kinds of representations. One might expect that an argument could be made on both sides of any issue, which is to say that I am not a person who takes untested and sight unseen what I receive from the development industry. I am trying to be fair and charitable—again, that word "charitable"—about the conduct of professional public servants in Main Roads WA, but I cannot walk past the fact that this is a consistent source of agitation and irritation.

One might have thought that if the planning system was being reformed under the guise of COVID-19 and the creation of a new, streamlined approvals system for so-called significant developments, one would at least attempt to talk in specific terms about Main Roads. Indeed, some brave claims were made about what new accommodation or détente might be reached between the Department of Planning, Lands and Heritage and its counterpart agency, the Western Australian Planning Commission, with Main Roads WA. Through the course of other questions put by my colleague Hon Peter Collier—I think there were three questions in all, with the most recent asked in question time today—we sought to understand which instrument was the source of this irritation. I have been advised that it is the Local Government (Uniform Local Provisions) Regulations 1996. There might be a better way of doing this, and that is why, through my amendment 2/4 on the supplementary notice paper, I seek to insert in clause 4 of the bill the words "the Local Government Act 1995". We will hopefully get to that clause tomorrow.

If this is an identified source of irritation, and if its identification is consistent with anecdotal evidence no doubt provided to the Department of Planning, Lands and Heritage over the course of the last three years, as it has embarked on this glacial yet steady reform process, I would have thought that there might be the risk of, or perhaps the chance of, some positive resolution. I am not sure of the details, but I was advised in an answer that I received yesterday that there were some preliminary discussions among senior officials of the WAPC, Main Roads WA and the Department of Planning, Lands and Heritage to this effect that explored, again, at least in preliminary turns, what modifications might need to be made to these regulations to expedite the approval system and clean it up. Of course, this comes with the complication that the minister advised of—that any formal change to those regulations would require the concurrence of the Minister for Local Government, and therein might lie some of the difficulty. That is not to reflect on that minister, but to indicate that there are a number of stakeholders in this process. Today I asked a follow-up question to the effect of: when did those preliminary discussions take place; what kinds of modifications have been identified; has the Minister for Local Government been involved in discussions so far; and when might we expect some changes to be made to these regulations that, to be fair to the bill, would assist in the reform and streamlining of our development approval system? I received an answer that was grouped together in parts (1) to (4) that basically reiterated the answer that I received yesterday, which was that there was

still no clarity about whether there have been any meetings between senior officials or whether there has been any progress in identifying the sources of agitations embedded within those regulations that might be ameliorated in some respect. Of course, the government is in absolutely no position to advise what progress can be made and if any will be made by the end of this year.

Without labouring this point unnecessarily, because it will come up again, I cannot walk past the fact that the Minister for Planning is also, by happy coincidence, the Minister for Transport. If there were one member of cabinet who would have the power, influence, authority and imprimatur to, in a colloquial way—I am not advocating any violence—bang heads together between the planning portfolio and the transport portfolio, one would think it would be the minister who is bringing forth this bill. She urges us to pass this bill at risk of jeopardising the planning reform program and jeopardising job creation, investment, development and all those good things. It has been remarked upon before, and quite recently in this place, about the wisdom of having an agency of transport and planning melded together under the care of a single minister. Potentially, one side of the planning or transport equation would be preferenced over the other, and that is probably true. At the moment, we have two separate agencies, disembodied, but with the oversight and direction of a single minister. It cannot be overlooked that a very simple but more expedient way of improving the development approval system in this state would have been for the minister to turn her mind early on to the agitation that emanates from Main Roads Western Australia. I have been given in confidence some case studies. They require some validation, but it is clear that for some time now there has been a pattern of behaviour from Main Roads Western Australia to the degree that, I have been advised, it often ends up in the State Administrative Tribunal and sometimes Main Roads Western Australia does not feel obliged to follow those directions. If that is true, it is obviously problematic, but it is something that is clearly identifiable as something that could and should merit attention. The fact that it has not been dealt with at all and is not dealt with in this bill at all and that the regulations that might have some scope to deal with this source of agitation, irritation, inefficiency and obstacle making will not be dealt with by the end of this year makes a travesty of these so-called reforms. I look forward to the government's response on that front.

In the short time available—I do not attend to go beyond the dinner adjournment, just to give everybody else a chance. I know that everybody is rubbing their hands together.

The DEPUTY PRESIDENT: You have unlimited time, member.

Hon TJORN SIBMA: Yes, I know, but I am too generous. We will see how we go.

I have proposed three substantive amendments that concern the operation of the new powers created in proposed sections 272, 281 and 282. My amendment to proposed section 272 would apply when the minister, or Premier under the minister's advice, begins to intervene in this streamlined approvals pathway to the degree that applications that do not conform with the arbitrary thresholds established can be considered appropriate to be dealt with in a streamlined fashion by the Western Australian Planning Commission. When a project does not necessarily need to get to the $30 million mark, the 100-dwelling mark or the 20 000-square-metre net lettable area mark to qualify for this specialised streamlined service. There have to be checks and balances commensurate with the expansion or the introduction of new executive powers. I have nothing against executive power, so long as it is appropriately discharged and is lawful, but we need to have an understanding of when these kinds of interventions are made and then form an educated guess about why they were discharged. I am attempting to ensure that there are checks and balances—that is, checks rather than cheques! I do not need to labour that point anymore because I observed yesterday that, although I will not reflect on any present officeholder, there is an opportunity for mischief to be made and for certain influential people to have a convivial chat or a cosy time with a future Minister for Planning or a future Premier. Now that we are normalising our lives, albeit slowly, an officeholder may accept largesse of accommodation or a nice box at the footy where certain matters might be discussed off the record and, lo and behold, two weeks later special directions are issued to the WAPC. We can afford to be a lot of things; we can afford to be charitable, but we cannot afford to be naive, because to be naive on this front would be in abrogation of, or to effectively surrender, our obligations.

All I have sought to do is reflect amendments that were put in the other place and were rejected out of hand. They are word for word the same, so there is no surprise. On issue 4 of the supplementary notice paper as it stands, I note that I have been flattered by the government's imitation of those governance, transparency and accountability amendments. They are very simple and will not cause the government any real encumbrance in the execution of its executive authority. They are the same save for one change, which is quite interesting, in which the names of the officeholder have been swapped out. I will get to that at the appropriate time, suffice to say that if an individual specified officeholder has a certain power, they are responsible for the decisions and actions they undertake, not the subordinate minister, even though that person has acted on that subordinate minister's advice. This is the nub of the Liberal Party's approach to the bill. I say again that this is not our legislation; we are not its author. The best that we can do is de-risk the document in a way that is consistent with the orderly operation of the planning framework and the planning system, in recognition of this system's faults and shortcomings, because it is far from

a perfect system. If it were, the minister would not have embarked on this process of reform to begin with. If we do nothing else but safeguard and limit insofar as is possible and reasonable, corruption or the establishment of untoward and unseemly practices in the planning portfolio, we should avail ourselves of that opportunity. That is why we were motivated to put the amendments on the supplementary notice paper in the first place. Frankly, it is not our job—this reflects on the amendments that other members will move, and for good reasons—to open the gates and give the bill broader application to a broader class of propositions than were contemplated by the government and potentially create more risk for decision-makers to whom certain directions can be issued. I will not say they can be leaned upon, but certainly they can be given pretty clear guidance about making a decision to resolve a conflict. Whether that can manifest in being quite explicit about the content and substance of that decision is yet to be explored.

I have amendments on the supplementary notice paper to potentially limit the damage of this bill, one of which I will move that concerns limiting, effectively, the time taken to undertake a substantial commencement of a project. I have proposed to reduce the time from 48 months—four years, obviously—to 24 months, or two years. Why have I done that? I have done that because that was the pre-COVID-19 condition. It is a standard clause of condition. If approval is given, the developer has 24 months to get on with it. There is always some discretion but, effectively, that is the line drawn in the sand. Before this bill comes into effect, the director general of the Department of Planning, Lands and Heritage would have issued a guiding note—I believe that it is substantiated in the regulations—alerting development assessment panels to their ability to extend the period of substantial commencement to 48 months in light of the uncertainties around COVID-19. Just about anything can be excused by the uncertainties of COVID-19. That is okay, but it is clearly the government's intention to establish a streamlined approvals system to facilitate shovel-ready projects, not speculative ventures or shaky financial instruments, but shovel-ready, built-form projects that are ready to go. Axiomatically, it follows that if there is a sense of urgency and the streamlined system is designed to deal only with sound, proper projects that will not fall over, why do we need to give them 48 months to get on and build the thing? The two things do not hang together. Later on I will ask whether, at any stage over the past three years, decision-makers have conducted an audit on whether the projects they have approved have complied with that substantial commencement condition, because I doubt that anyone checks. What does "substantial commencement" mean? We can get into that, hopefully, tomorrow. It has to mean a lot more than bulldozing a site, levelling it off and perhaps leaving a few bags on premix concrete hanging around. I do not know what "substantial commencement" means and over the last three or four weeks no-one has been able to tell me what it means. I thought it would be a simple, definable action, but apparently it is not.

Members should be alert to another dimension to this that I will move an amendment to address. There is a contradiction in the bill. The bill has been sold to us all as a means for a limited 18-month recovery period to facilitate shovel-ready, well-financed non-speculative, built-form developments that provide investment growth, jobs and all that good stuff. But because of the way the bill is constructed, it will be possible to lodge a development application on the final day of the 18-month period and the Western Australian Planning Commission will have unlimited time to make a determination on that application. Potentially, it could gift a developer a four-month substantial commencement clause. It is either one thing or another. Either we are dealing with time-limited powers to deal with a specific, urgent economic issue, or we are doing something else. My charitable assumption was that this streamlined approvals system, established within the WAPC and, presumably, including all of its 16 or 17 constituent members, would be the body that would transfer these new streamlined powers to the creation of a specialised, special matters DAP. I thought that would have been easy. That is a transition piece. But it appears to me that applications will drop off a chasm, fall into a void and exist in another dimension. That is problematic to me because we have powers that cannot possibly be lawfully executed by the WAPC when it has already written in its own termination clause. It could be done if an application were transferred to a lawfully constructed special matters DAP. I could live with that, but what will happen in that period has never been countenanced or explained. The minister has been very good. I will give her credit. There has been communication between us about what I might be interested in and what the government can do and the like. That is the way the bill should be dealt with. We are all adults. The minister has also advised me that soon everybody will be presented with a master list, I suppose, of the kinds of amendments being mooted by all contributing members and the government's responses and the reasons that the government might accept or reject those amendments. That would be a really useful document. I was about to say something unparliamentary—a crimson colour—about its usefulness. It is very useful. The argument would have to be put to explain why the limitation for a substantial commencement set at 24 months and a strict deadline that the WAPC cannot make determinations under this new system beyond the 18-month period would undermine the integrity or effectiveness of the changes to be brought about by this bill. This is either an urgent bill dealing with a narrow set of preferred developments or it is not and is something else entirely.

I might pleasantly surprise members by summing up—it is good to keep people on their toes—except for this bit. I understand that a number of members may receive representations from a number of groups that feel excluded by this bill. Let us be practical; we have to draw a line somewhere. But that gives an indication that perhaps some groups were not consulted on this bill at all, because at least from the developers' side it was prematurely met with

initial acclaim. I have advised them to not rush to pat the government on the back for legislation that they have not seen as it limits the leverage that they may have in any future negotiation. I think people have now learned that lesson. For development applications that do not meet the thresholds, there is a discretionary capacity available under the guise of an as yet unexplained qualifier of it being a state or regionally significant development. Bear in mind, we have absolutely no objective framework available to us at the moment to work with us to guide how that determination could possibly be made. This is not beyond the skill or capacity of other Australian jurisdictions. South Australia and New South Wales have a framework. I imagine that other Australian jurisdictions have similar frameworks to deal with bespoke or unique significant developments that do not really match a particular portfolio treatment, for example. But the bureaucracy in those jurisdictions has worked on these frameworks. These kinds of frameworks have been developed in jurisdictions where the Minister for Planning has far more powers than our own. Since the minister is asking us to give her more power, it is incumbent on the government to dedicate itself to the task of drafting a framework that is objective, understood and, frankly, gets it out of trouble. There can be no accusations of dodginess if the government can at least point to the fact that it applied its thinking against this objective framework and developed it in consultation with affected stakeholders, be they in local government, the tourism industry, the agricultural industry or the fishing industry, let alone all building-related industries.

Reading this bill, it would appear that this work has been kicked off into the future. It is intimated that something might be done, but it can only be done if work commences on the regulations to give it effect. It is a lot simpler than that. That sounds like a hard task when I put it to members that way. At present, no application form has been prepared for an applicant to be treated under this system. Some fundamental administrative disciplines and hygienes have to be constructed to give effect to what is intended by this bill. I find that problematic. It certainly undermines any claims made about the dire urgency placed upon this chamber to pass this legislation. I put it very simply: can the government deliver what it is saying it can deliver now; and, if not, when can it do it? If it is contingent, as I expect, on making changes to at least two sets of planning regulations, then tell us all what those changes are, with whom it will consult, and by when it thinks it will have those regulations ready. I would then assume that portions of those regulations, if not the whole document, will be disallowable. It might give members some comfort that these gross abuses or great chasms, by which things that should not be moved through can be moved through, might be foreclosed. We require clarity on regulations, because the bit that relates to the COVID-19 pandemic comes into effect the day after royal assent, which I assume will be very early July. If it will take the government three, four, five or six months to get the implementing framework in place before anyone can avail themselves of that system, I would question the urgency of the bill. I might have it completely wrong, but I do not think that I do.

Other members have some very interesting amendments on the supplementary notice paper concerning community consultation, rights of appeal and things of that nature. I want to deal with the issue of community engagement in a thematic way, because the explicit point in every planning reform document is that we need to make the planning system more accessible, understandable and credible. People at least need to know that development assessment panels or the Western Australian Planning Commission is meeting. Minutes need to be published. People need to have some sort of physical or IT access to these proceedings to be part of it. These are all very fair points to make. In previous briefings I have sought to understand how the government intends to give effect to this improved community engagement regiment, because a lot of work is to be done. A lot of bridge-building can be undertaken and there is a dire need to restore trust in the overall planning framework to re-establish the fact that it is designed and operates with the public interest in mind and not vested interests.

It has always been put to me, at least over the course of the last two or three weeks, and it is explained in the explanatory memorandum, the second reading speech, the media statement and everything that goes with it, that this bill is one of two bills that will be introduced to this chamber this year that enacts planning reform. The government has made a decision to prioritise this bill, which creates new powers, expedites decision-making and unbinds the WAPC from being bound by other legal instruments, including planning instruments. That is interesting. But this is the priority the government has chosen. I seek clarification about when this house might expect the second bill. The second bill is supposed to improve the community-facing aspects of planning reform. A lot of work needs to be undertaken. I would like to know the envisioned content of that bill. I would like to know, insofar as the government is prepared to tell us, whether permission to draft or even permission to print such a bill has been provided. It would be very dangerous for the government to prioritise this legislation and exclude the community from participation in what is an important economic portfolio, something that is complex and complicated, and does not always deliver the outcomes people want. It is essential that we all improve community engagement, that there is a sense of participation and access. I am frankly staggered that I cannot get a clear line of sight about what might be in the second bill, other than to say, “It’s coming! Don’t worry, it’s coming.” I look at the available sitting weeks and the ever expanding list of legislation on the notice paper and I wonder whether the government will ever get around to it. I would, to cite a colloquial expression —

Hon Stephen Dawson: I wonder whether we will ever get around to this bill, let alone the next one.

Hon TJORN SIBMA: You dish it up and we will deal with it!

You can put forward puppy farming bills on notice papers and they drop off, and all kinds of things happen. If the government wants to prioritise its bill, it should tell us what is in it and give us a straight answers and we will deal with it, as we have. But I want to know, very clearly: is there a second planning bill, what is in that bill and will it come to us this year? If the government does that, can it please undertake some consultation on the bill, at the very least? We do not do bills on the vibe or on the glacial, expansive, continentally sized reform package of meetings, conversations and the like. The government needs to negotiate, liaise, communicate and consult on the bill so that, at the very least, I do not receive all these documents from aggrieved parties seeking the insertion of their claims and concerns into supplementary notice papers and the like.

I actually think the government has got this wrong. It has been caught out for its lack of achievement in reform generally, but specifically in the planning portfolio. Confronted by the emergency of COVID-19, it has sought to confect something, cobble something together, and make it look passable. I think there is a lot of misapprehension about the good this bill will do. It was very clear that certain notable developers in this town, people who are successful and have a great track record, had a certain view about the merits of this bill, but I think if they actually understood it or it was explained to them properly, it might not have been met with such warm applause. But they were so starved of reform and economic health that they just threw their arms open to the mere mention of the word "reform"; it was a hallelujah moment—finally, a government that puts reform out in a press release and has a bill about reform.

It is about a lot more than that. As I said, the devil is in the detail. I look forward to the contributions of all other members in this place, particularly that of the minister representing the Minister for Planning, and I look forward to dealing with this bill in Committee of the Whole.

HON CHARLES SMITH (East Metropolitan) [5.51 pm]: I rise to speak this evening on the Planning and Development Amendment Bill 2020, and I indicate that the Western Australia Party will not support it in its current form. The aim of the bill is allegedly to improve the planning approval processes in Western Australia by getting better outcomes for the community, cutting red tape and simplifying the planning rules by making them more consistent. In reality, I think all of us here know that this bill will hand Perth over to developers. I especially note that the Premier can refer any proposal deemed to be of state significance to the Western Australian Planning Commission for determination. A "significant development" is apparently a development that is either 100 or more dwellings with a capital cost of $30 million or more, or a development that is 20 000 square metres or more of net lettable area with, again, an estimated capital cost of $30 million or more.

The Western Australia Party has grave concerns about the Premier having the ability to refer development applications deemed to be of state significance to the WAPC for determination. For me, this raises significant concerns about the potential power of some developers and their lobbyists over the government and its ministers. Even my good friends over at the Western Australian Local Government Association are concerned that the government is using the COVID-19 recovery as a basis for circumventing local government involvement in the planning system.

We have grave concerns about the extraordinary power granted to the minister, having complete control over local planning schemes. The bill also completely removes the requirement to inform landowners of changes to local planning schemes. Coupled with the extraordinary powers granted to the Minister for Local Government, the takeover of our estate is almost complete, and there appears to be simply no opposition to this takeover. We seem to be drifting towards some sort of Soviet-style central planning dystopian disaster, where democratic processes are diluted and private property rights diminished. This bill will cement this coming disaster.

Whether the government wants to hear it or not, corruption is rife in the property development industry; we all know that. Let us quickly examine the Western Australian Planning Commission. This is an unelected organisation wielding enormous power over people's lives, and it is stuffed with big property people. Every single one of the people who serve on the Western Australian Planning Commission has either worked for, or on behalf of, the Satterley Property Group. How can we expect its decisions to be unbiased and impartial? I do not think they can be. It was said by some that I could not possible say that Mr Nigel Satterley actually owns the WAPC.

Planning decisions have a major impact on communities and on individual residents' lives and, in some cases, their livelihoods. There are parking and traffic issues and privacy and community infrastructure concerns, to name but a few. It is very clear that the Minister for Planning wants to hand Perth over to the developers, pure and simple. Nobody in this house can possibly not see that this is what is happening.

After a really good start, the government put in the foreign buyers' tax via the Duties Amendment (Additional Duty for Foreign Persons) Bill 2018. We can all remember that bill; it caused a bit of controversy.

Hon Stephen Dawson: Which one?

Hon CHARLES SMITH: The foreign buyers' tax—taxing foreign buyers of residential properties in Western Australia. I think it started off at a four per cent tax rate and we managed to bump it up to seven per cent.

Hon Rick Mazza: Now there's no foreign buyers.

Hon CHARLES SMITH: I would like to see a 20 per cent tax rate on foreign buyers.

But soon afterwards the government went into reverse; obviously people got in the government's ear, and it started working for the property industry. Let us quickly remind ourselves of the so-called stimulus that the industry has enjoyed thanks to the Western Australian taxpayer. There is a 75 per cent off-the-plan transfer duty rebate on apartments, which costs the Western Australian taxpayer $8.2 million. There are the brand-new $20 000 building bonus grants provided to homebuyers who sign up before 31 December 2020 to build a new house or purchase a new property. That comes to $170 million, courtesy of the Western Australian taxpayer. Why are the taxpayers funding the private gains of speculators and so on while some of our young people will never, ever own their own home?

There are temporary changes to income limits for Keystart borrowers—increasing for both singles and couples. That will be continued until 31 December 2020. Keystart is trapping many young couples in negative equity and in mortgage interest rate deals they simply cannot escape from. That is a big concern for me.

In sum, the McGowan government has invested more than $1.6 billion in specific economic measures to support the housing sector. Is it not a shame that the government could not find any money for a decent pay rise for our hardworking public sector workers—our police, teachers, nurses and so on? As I mentioned, the government got off to a good start when it first came to power. It took us out of the regional migration scheme, but that has been reversed back in. It taxed foreign buyers, but then it went to work with the property industry.

I refer to a 6PR Gareth Parker interview with the Treasurer, who said that the property industry expected the government "to react to every demand that comes across their desk". I think he is right. He continued —

> "But I have to say, it's a never ending supply of demands from these guys," Mr Wyatt said.

He said it was not the government's job to —

> … "fix the problem the property sector created itself by bringing on too much supply when there's not enough demand".

Correct. He continued —

> "I didn't create the problem, Gareth, the property sector did that," he said.

Correct. He continued —

> "We can't continue to … just … simply react to the whims and thought bubbles of the property sector."

Our esteemed Treasurer is absolutely correct, but what happened? He then went into reverse.

Sitting suspended from 6.00 to 7.00 pm

Hon CHARLES SMITH: I think I was alluding to how great I thought it was that the Treasurer was actively pushing back against pressure from the property lobby and—I think he used the phrase—"its never-ending supply of demands". I think we have spent around $1.6 billion of Western Australian taxpayers' money on the so-called stimulus grants. The argument was that a lot of that money has been for housing affordability, making houses more affordable for people who cannot quite get there. That is the idea behind these grants; right? No, that is wrong. It has the reverse effect. Housing stimulus grants, would you believe, push up property prices. Only this afternoon, I received an email from one of my researchers, who had found a house and land package in Tapping—for members who do not know, it is in the northern suburbs—that a month or so ago was listed for $349 000. With stimulus money coming in, that same deal is now $409 000. It is amazing, is it not? WA taxpayers are privatising those profits. Are we not generous?

It is widely acknowledged by intelligent economists—when we can find one—that the policy we are discussing—

Hon Stephen Dawson: Name one!

Hon CHARLES SMITH: That is a challenge. I will nominate my friend John Adams; how about that?

An opposition member: Who's he?

Hon CHARLES SMITH: He is an obscure economist.

Several members interjected.

The ACTING PRESIDENT (Hon Robin Chapple): Members!

Hon CHARLES SMITH: I have invited him to lunch at Parliament.

With this policy, we are looking at making WA's oversupply issues worse. What happens when we have an oversupply of property? Generally speaking, prices go down. This will generate more investment into new builds

at a time when population growth, thank God, remains anaemic. Once again, all the property stimulus goes into the property developer's pockets and then property prices continue to go down.

I will introduce a concept new to many of us because Western Australia is the only state that does not have it: third party appeals in the planning process. The Western Australia Party would have gladly supported the Planning and Development Amendment Bill 2020 had it contained clauses for third party appeal rights. Currently, there are no appeal rights over a development assessment panel decision, except for developers—not for people or residents, but developers. Having third party appeal rights would mean better buildings. Without third party appeal rights, the planning system is open to accusations of serving special interest groups, such as those in the property development industry. To that end, I will be introducing an amendment to provide limited third party appeal rights during the COVID-19 emergency period.

Despite the proliferation of cracking and flammable apartments across Australia, the minister has now promised to slash red tape and speed up developments. What could possibly go wrong? The question the Parliament has to ask itself is this: Is cutting red tape really the answer? Will this not lead to a more deregulated market and worse building outcomes? The Western Australia Party says that it will. Many of these developers over the last few months have been in the local media and so on, putting down their plans for greater density, which is all about stuffing as many people as they can into high-rise apartments. Shoddy buildings, crush-loaded traffic, diminished environmental and urban amenity and general liveability will all worsen under these scenarios and under this legislation. There is significant anger in the community towards the trashing of people's suburbs by inappropriate developments. People are angry about overdevelopment and declining liveability. The crux of it all is that building evermore concrete box apartments and homes for more people, which is the only economic policy that we have in this state, and, indeed, the entire country, is the hallmark of a brain dead policy and a guaranteed recipe for a lower living standard for everyone. Perth, under the control of developers, is facing a dystopian future in which only the wealthiest residents will be able to afford a detached house with a backyard, and the poorest residents will be forced to rent high-rise apartments. Is this the future we want to bestow on future generations?

I want to divert attention slightly towards buildings. The building industry is in need of urgent reform. I am talking about what we call shonky builders. Currently, shonky builders are home free. They are in a position to collect the profits and then phoenix themselves if something goes wrong, with absolutely no consequences for destroying people's lives and, in many cases, their livelihoods. It is abundantly clear that the current system is failing to effectively police these matters. It is clear that between the Department of Mines, Industry Regulation and Safety, the Building Commission and the State Administrative Tribunal, many shonky builders are slipping through the cracks. I would urge the government to bring in legislation as soon as possible—I was hoping it would come in with this bill—to urgently reform the construction sector. We need to provide the Building Commissioner with new broad powers to prevent low-skilled or shonky builders from erecting unworthy or unsafe projects. The confidence of Western Australians in the building sector is at an all-time low due to this pandemic of shonky builders, and nobody is doing anything about it. We need new legislation now. That will be critical to restoring confidence in the building sector. Without that new legislation, the Building Commissioner has no real power. We need boots on the ground now to keep the shonky builders away during this crisis.

For the better part of the last 20 years, the development industry has demanded more and more deregulation and the removal of so-called red tape in the planning system to allow it to build bigger apartments faster. It claims this will allow housing supply to respond to demand and help fix the so-called housing crisis. Instead, we have rubbish apartment blocks and homes spreading like weeds, with many requiring rectification, and with owners and taxpayers left to pick up the tab. For years, the development industry has been allowed to run rampant across Perth, with the North Stoneville site just the latest example. The development industry must now be muzzled, not placated, by this government.

Cutting red tape to stimulate growth is not the answer. This will lead to even worse building outcomes. We need a system that will give more power to the regulators so that they will be able to block suspect developers and rank builders accordingly, perhaps through a quality rating regime that would be informed by their record on workplace safety, customer complaints, the age of their business, financial credibility, suspicions about phoenix activity, and so on, so that people will know who and what they are dealing with, rather than the lucky dip that it is now.

The first task that I would love to see the government address is the need for all tradesmen to be registered and their qualifications assessed as competent. This is the first step in improving quality. I would love to urge the Minister for Commerce, Hon John Quigley, to radically overhaul the construction sector and put the interests of consumers first and foremost, because far too many stories are reaching my office of people whose lives have been literally ruined by shonky building practices.

It is high time our politicians represented the interests of the ordinary residents, who are being kicked to the kerb by never-ending development. I would like to conclude by quoting a planning professor at RMIT University, Professor Michael Buxton, who said —

> "People have lost control of their city to the development industry and government acting on behalf of vested interests instead of the voter," …
>
> "It's been incredibly disappointing to see how public policy has been subverted towards achieving private gain at the public expense."

That sums up the building industry, with government and taxpayer subsidies privatising all the gains, and we are left to pay the costs. Thank you.

HON RICK MAZZA (Agricultural) [7.13 pm]: What a couple of very pessimistic contributions we have heard today about the Planning and Development Amendment Bill 2020. Developers and builders are all terrible people. "Developers" is a dirty word. They are overweight fat cats who are smoking cigars and ready to rip off their next customer. That is what we heard today. The fact of the matter is that we are entering a period in which we have a massive challenge ahead of us in this state and in the whole of Australia. We have yet to see the COVID-19 effect on the economy. In a few months when JobKeeper finishes and the double payment of JobSeeker finishes, we will start to see how COVID-19 has bitten into the economy. That is why the federal government is so keen to cut red tape and make sure that we can get a lot of these projects up and running.

The only criticism I have of this bill is that it is prescriptive, in that it is for projects that are worth at least $30 million and have at least 100 units or 20 000 square metres of commercial space. That really narrows down the number of developers that might fit that criteria to cut red tape and try to get their project through a bit sooner. I am particularly concerned with the 100-unit criteria, because we could end up with some very ordinary properties being built to try to meet that criteria rather than something of a better quality. That is why I have an amendment on the supplementary notice paper that will lower those thresholds to $10 million within the Perth metropolitan area and $5 million in the regions. In a lot of regional towns throughout the state, such as Busselton or Geraldton or those types of places, a $30 million, 100-unit project is very unlikely, but a $5 million project in one of those towns would be a pretty good project and very important to them.

I think that a lot of members are failing to see that if we pass this bill, we will not have a rush of developers wanting to get their approvals through to straightaway go out and build all these 100-unit apartment buildings or 20 000-square-metre developments. Developers and builders have to make a profit. I know that is a dirty word to some people in here—making profits—who think that it is all profit driven, but developers have to make a profit to provide the product, which ends up being housing and shelter for people. They will not do that if there is not a market to meet. It is no good for them to just fast-track something and cut the red tape. It is not as though everybody is going to run out and create a development. They will have to do profit and risk studies and work out what their costs will be and whether there is a market for the product that they produce. If no market is there, it will not matter how fast they go through the planning process, because they will not build it. No-one is going to enter into a $30 million development project knowing that they will lose money. In my mind, market forces will play a significant role in whether a developer will go ahead with a project.

I think that cutting red tape is very important. Anyone who has ever been in the property or development industry would know that red tape can be infuriating and frustrating. It delays many projects and sometimes there is no rhyme or reason for why we have it. I am not talking about $30 million developments. I am talking about developments such as a triplex, a quadruplex, or a small subdivision of a large block into three smaller lots. It is so complex to navigate red tape that I have had clients in the past who had to employ a consultant to navigate their way through the red tape to simply do a triplex subdivision.

The ACTING PRESIDENT: Members, there is a little bit of conversation going on. I know that the minister is listening intently to the member, so please continue.

Hon RICK MAZZA: Thank you for that, Mr Acting President. I do not know how anybody could not be focusing on me right now!

The fact of the matter is that there is a barrier to people doing business in the state. We should not be cutting red tape to make this a good place to do business; we should be putting out the open sign to make Western Australia a great place to do business. God knows we need it, because this state, along with other states in Australia, has been hampered by a lot of red tape.

I wholeheartedly support this bill. I think we need to revisit the $30 million, 100-unit and 20 000-square-metre restrictions and I am hopeful that when we are in Committee of the Whole, we can discuss that point and see whether we have some support for that. I think that a lot of middle-tier developers would like to bring projects on.

If we lowered the threshold to $10 million and more developers were able to bring their developments forward, we would not have a mass of 100-unit developments. It might be a very nice duplex on the waterfront somewhere or a nice row of townhouses in an area. A diversity of property would be built. That would also spread out the number of contractors who could build them, so it would not just be one or two big developers getting the benefit of the fast-track cutting of red tape that we have in the bill in front of us. A broad base of different businesses could take advantage of this development assessment panel system, so it is very important that we engage all of those people. There are electricians, plumbers, bricklayers, carpenters and roofers who need a job—all sorts of trades that in the next few months will need work. I think we owe it to our tradies to make sure the work is there.

Issues have been raised, for argument's sake, with the foreign investors tax in Western Australia. I remember my contribution to the second reading debate on the bill related to that tax. I said it would affect the very fragile market that we currently had in the state, and it did. The effect ended up being about 20 per cent, with stamp duties and foreign investment tax at seven per cent et cetera, and foreign investors just avoided our market. We already had a fragile market.

Hon Charles Smith: Good.

Hon RICK MAZZA: Hon Charles Smith says that is good, but for someone who owns a property at the moment in negative equity and owes more than the house is worth because the market has been so fragile, it is not good at all. That is one of the problems we have in this state right now. We have a lot of people underwater with their mortgages, and we need the Western Australian real estate market and construction industry to bring us back from that.

When it comes to the integrity of the amenity of construction development, I do not think this bill is suggesting that we do away with all approvals from all departments. The advisers have explained to me that it is more about roundtabling all those departments, because at the moment things are very ad hoc. One department takes a long time before the approval goes through with the Water Corporation, and then another approval might take some time to go through with Western Power, so some of these things can take absolutely years to get off the ground. One of the hard things with that for developers is that they do not know where the market is going to be by the time the development approvals come through, and that makes it very uncertain.

I turn to small investors and developers. I had a case in Mandurah, probably 10 years ago or more now, of a single mother who had a property that she was able to subdivide. She was able to subdivide two blocks off the house, which was on a long corner block. It took her years to get approval simply from the Water Corporation for the sewer and water on the headworks, and for power, because of all the hurdles that were thrown in front of her to get those approvals through. In the end, I had to drive to Bunbury to see the Water Corporation and find out what was going on, and I managed to isolate the problem. No-one from the Water Corporation was communicating with the woman to tell her what she needed to do if she wanted get things sorted out. There was no resolution process. The project needed intervention to get up and running. I think that is indicative of what happens a fair bit with departments just not communicating with each other. The concept of a roundtable with this development approval system is a sound idea, particularly if those requirements are lowered so things are more broad based and more people can get moving on developments. As I said, there will not be an avalanche of developers flooding the market with properties, because that would cause a problem of oversupply for them. We already have oversupply in this state. However, it will allow some developers more certainty on time frames to try to get things up and running.

Some information came back to me from the department about the number of development approvals going through. There were 283 applications in 2019, but only 57 of those would fit the criteria for this amendment before us. Of those 57, a lot of developers would probably put their projects on pause and park them for a while, because market conditions are not there for them. That is why I think we should lower the criteria to spread it out.

We also heard Hon Charles Smith's contribution about dodgy builders. There are a very small number of dodgy builders. In the main, they are reputable businesses, many of which have operated for a long time. They run on very fine margins to meet a competitive market, and build quality homes. Yes, there have been circumstances when builders have opened a champagne home then closed their doors and opened up another building company a week later. During the estimates committee in the last term of Parliament, we discussed the Building Commission. In the real estate industry, a licence holder, a licensed entity, can trade under only one business name and a fidelity guarantee fund ensures that consumers are reimbursed if money is misappropriated or a deal goes wrong because of fraudulent activities. We do not have those measures for the building industry. Myriad businesses can be opened under different names with one building licence, which I think is problematic. Also, there is no guarantee fund to act as a safety net for consumers who may, at some point, find that their builder has packed up and left. There is the home indemnity guarantee fund, but the protection it offers consumers is limited. I take on board the points Hon Charles Smith raised but it has to be said that although dodgy builders make headlines, they are not indicative of the industry.

I think this is a good bill and I support it. I know that there is a lot of fear around transparency and consultation. There has been discussion about infill in older, established suburbs. Some people do not like the idea of infill when someone's backyard is filled in with another dwelling. That causes problems because some of these older areas that were developed on larger blocks include a lot of public open space. Not a lot of people realise that when a suburb is infilled, the population doubles but the public open space for the residential population remains the same. Suddenly, all the parks are crowded because twice as many people who live in the area attend the parks. More thought has to be given to infill planning. I do not have a problem with infill when a landowner who has a 200-square-metre block, with weeds growing in the backyard, decides that it is a good idea to subdivide the land because it is commercially viable to do so, but some planning has to go into the use of public open space and other amenities provided for the people who live there.

We are yet to see the impact COVID-19 has had on the cutting of red tape. I do not know whether this bill goes far enough because it is very narrow and will affect only a few developers who may not take advantage of it. Overall, I think it is a step in the right direction. It is a good bill and, hopefully, when we go into Committee of the Whole we can amend it and improve it.

HON DR STEVE THOMAS (South West) [7.28 pm]: I am pleased to be the first speaker tonight who does not have an unlimited time frame. We will see where we get to with my contribution on the Planning and Development Amendment Bill 2020. I am delighted to make a few comments about planning in general before I get to the bill itself. I remind members, including the Minister for Environment, that the lead speaker for the opposition said that the opposition would support the intent of the bill. We are not here to undermine the bill. In my view, we are trying to make it better. I think we traditionally try to do that. For all the back and forth about our position on this, it is pertinent to remember that we do support the bill.

Planning is one of those thorny issues that has been around forever. For my sins, which are many and multitudinous, I spent some time as the shadow Minister for Planning, as my good friend Hon Tjorn Sibma does now. That was back in 2007 when I combined the roles of environment and planning into the same shadow ministry. It was a really interesting time trying to balance those two great components of future planning. How do we develop a community at the same time as protecting the environment in which it is? That was a really interesting time and I learnt a lot. I read both the Environmental Protection Act and the Planning and Development Act and those two tomes together were a fairly complicated piece of work. Planning will always be contentious. To be honest, the minister can generally be reasonably comfortable with where he is going if everybody is a little unhappy. I suspect he will find with the bill before the house tonight that everybody is a little bit unhappy. There are those who have said already that it goes too far, which is balanced by those who said it does not go far enough. There are those who think that development is the key to saving the economy and those who think that development is the great evil of our times. I suspect the minister will find he is not too far away from some reasonable outcomes. Of course, the Liberal Party is here to try to assist him to get to an even slightly better place.

There is an old truism—you might appreciate it, Mr Acting President (Hon Robin Chapple)—which I have extended a little bit in my own quirky way. It has been said for many years that a developer is someone who wants to build a house in the forest. A conservationist is someone who built their house in the forest last year. A Greens supporter is someone who built their house in a completely different location and believes the only people who should be in the forest should be wearing tie-dye, have dreadlocks and be protesting something. I sort of added the last bit myself. It is one of those ancient truisms that everybody has a vested interest in the planning process, either to promote it for development or to prevent it because they have developed. It is therefore almost impossible to make everybody happy in the planning process. I commend government members for this version of their attempt, albeit somewhat rushed, I suspect. The government is to be commended for giving it a go. Governments prior to this one have attempted a similar sort of process and most of them have come to a similar conclusion that no matter what they do, someone is always immensely unhappy with the process. I have no doubt that the same will apply to this legislation.

I will raise a few specific issues on this bill. The first point is that it will apply, in theory, for a limited time span. I take the view that most significant developments, and the thresholds with which a "significant development" has been defined is a very big one, do not just fall off the back of a truck. These projects generally have their inception some time before we get to the point of having a set of plans drawn up. With my experience in the industry, I would be surprised if many major projects suddenly appeared for approval in the next 18 months that are not somewhere down that path already. I am fairly certain that the government, at some level, in a cabinet-in-confidence way, has a list of projects that it thinks might be applicable and might come under the provisions of this legislation. I would love to see a list of major projects—even if it is the beginning of a list—that the government suggests might come under this legislation. I suspect that if we stick to the time limit of 18 months, then almost every project that is likely to be approved under this legislation is already in someone's mind on a drawing book somewhere. It almost has to be, by definition. We might find that a couple of projects will slip in at the end, because everybody gets highly

enthusiastic about a proposal, but I think that the government already has a targeted list. If that is the case, I am sure the minister will stand up and say that it does not, and I am sure the minister will be completely honest in his answer and that he would be completely unaware if such a list existed. That is the way that government works. In my view, it is almost inconceivable that a target list of projects is not already on somebody's desk somewhere.

Hon Stephen Dawson: Perhaps the honourable member might ask me the question and I could possibly reply to it during my second reading reply.

Hon Dr STEVE THOMAS: I will ask him the question, and probably the safest question is: is the minister aware of any particular proposals that have been targeted by this legislation, or is a list being developed for potential targets? I do not think that is a bad idea. This is not an issue for me to wave a stick at the government and say, "This is some form of corruption." In fact, to be honest, if the government has not done some of this work, I would say that it is bordering on incompetence. With only an 18-month period, the government would really want to have some targets in mind if it has a competent set of advisers and staff. I am happy to leave it to the minister's reply, if he wants.

Hon Stephen Dawson: Noting that I am not the minister with the responsibility of the bill, I am not aware of a list, but before my reply I will ask the question and if there is such a list, I will provide that information later.

Hon Dr STEVE THOMAS: Thank you; I appreciate that. As I said, if it were me, I would have a list. I probably would not give it to the minister if he was in opposition, but I would have a list. This is what we do in opposition. We ask the questions that we do not necessary get the answers to. That is okay.

Hon Stephen Dawson interjected.

Hon Dr STEVE THOMAS: Excellent. Hon Tjorn Sibma should have done two or three more hours in his speech then. That would have maybe got the minister across the line.

I say that there is probably some form of list, and I think Hon Rick Mazza demonstrated this, because there is a conception or a feeling amongst the community that the process does not work particularly well. This legislation is being put forward as a response to the COVID-19 crisis and the economy. I am the first to acknowledge that the economy needs stimulus. Somebody said that it is $1.6 billion in stimulus—it might have been Hon Charles Smith. I think he might be including the $400 million in electioneering that was included in that, so let us knock it down a bit and say it is potentially $1.4 billion of COVID-19-related expenditure; some of it quite reasonable. I suspect that if we get to the end of this process and discover that we can cast through projects under an accelerated or streamlined system, the question will have to be asked of government, Parliament and everybody: why would we go back? If this is about streamlining the processes, why would we return to an un-streamlined process?

Hon Rick Mazza interjected.

Hon Dr STEVE THOMAS: Precisely!

If the government's agenda is to streamline the process, why would we return? I can see us back here in 18 months' time, hopefully—perhaps not all of us, Mr Acting President (Hon Robin Chapple), but most of us—and potentially debating why these particular measures should not be held for a long time. It might be a particularly valid debate. I would have had grave concerns with this bill and that prospect on the basis of the bill that was presented before the chamber only a week ago. The reason I would have had grave concerns is that in my view, the bill proposed to abandon the Environmental Protection Act in preparation for accelerating approvals. That was an immensely dangerous concept, one that I obviously opposed then, as I oppose now. If we were to go ahead under those circumstances and come to the obvious debate about this needing to be extended forever, and we were to throw the Environmental Protection Act out the window completely, I personally would have been devastated. I really would have been. I might deal with that issue in a little more detail before we progress, because I am already running out of time.

At page 4 of the bill presented before the house is a definition of "legal instrument", which includes any of the Contaminated Sites Act 2003, the Environmental Protection Act 1986, the Heritage Act 2018, the Swan and Canning Rivers Management Act 2006 and the Swan Valley Planning Act 1995. The impact of this will be reflected in proposed section 275, "Application of legal instruments and matters to which Commission must have due regard". Proposed section 275(3) states —

> Without limiting section 270(1) for the purposes of the Commission's consideration and determination of the development application —
>
> (a) the legal instrument does not apply; and
>
> (b) the Commission is not otherwise bound or restricted by the legal instrument.

That means, Mr Deputy President—Mr Acting President. I keep promoting you; I am sorry.

The ACTING PRESIDENT (Hon Robin Chapple): I am happy with that; do not worry!

Hon Dr STEVE THOMAS: You would get my vote, Mr Acting President! That means that if the bill were to go through as it has come from the chamber that shall not be named, basically, the Environmental Protection Act would cease to hold the power and effect that it does.

If we jump to proposed section 276, which goes to consultation, it states —

> (3) The Commission must —
>
> (a) consult the EPA; and
>
> (b) consult the Heritage Council …

That is if it is likely to affect the Heritage Act, or —

> (c) consult the Swan River Trust …

That is if it is likely to be in its area. So, there is a consultation process. I accept that that consultation was the government's way of appeasing those people who have a bent for the environment, which is a group that I quite strongly include myself in. The problem with the proposal is that one would not have recourse to the Environmental Protection Act. If the Western Australian Planning Commission is simply required to consult with the EPA, that does not require a full development assessment, according to the Environmental Protection Act. If the Environmental Protection Authority suggested to the planning commission that it should do a full environmental assessment all the way up to a public environmental assessment—a public environmental review, which is the highest level of assessment—under this legislation, the planning commission would have the power to say, "We don't think so". It occurred to me that we are talking about large and major developments. There is currently a minimum price tag of $30 million. Those large projects will most likely have a significant impact on the environment. It occurred to me that this was a major impediment, in my view, particularly because of the inevitability of somebody coming along and saying, "The system is now working well because we are getting developments in the time frame that we think we should; therefore, we need to keep this particular system." I thought that this was an immensely dangerous position, and immediately, the first chance I got, I signified my intent to move an amendment.

I have to say to the Minister for Environment that I am immensely pleased and thankful that he has taken a similar position. I will give him some credit for this. I think he probably had to have a fairly decent bunfight across the cabinet table to give the environment the prominence that I think he and I both believe it deserves, so I thank and commend him for that. I do not want to be in the habit of commending government ministers, but in this case I think it is well worthwhile. I think that is an incredibly important advancement.

I do not generally speak on many of the other acts involved there, particularly the Heritage Act, because I consider myself to be a heritage heathen. I am absolutely a champion of the environment. If I was king of the world, I would probably repeal the Heritage Act and use it on a bonfire. My view has always been that if the government wants to retain buildings for heritage, it should purchase them. I do not like the fact that the Heritage Act impacts on private landowners and tells them what they can and cannot do on their property. However, I am perfectly comfortable with most of those other acts being on the list of legal instruments. I note that the Heritage Act 2018 was included in the legal instruments that could be bypassed, but the Aboriginal Heritage Act was not. I suspect it would be a very brave minister who would take on the Aboriginal Heritage Act, but it strikes me as a bit of an interesting comparison that we are happy to leave the Aboriginal Heritage Act with its full powers and entitlements, but throw out the Heritage Act.

Hon Alison Xamon: What rubbish.

Hon Dr STEVE THOMAS: It is a double standard. I suspect it would be incredibly brave, and an election year is not the time to be brave; I fully understand that. I did not propose any amendments around the Aboriginal Heritage Act; I simply proposed to remove the Environmental Protection Act 1986 as one of the legal instruments that can be disregarded, and I am immensely pleased that the Minister for Environment now has exactly the same amendment on the supplementary notice paper. That makes it much easier for me to support the bill that the minister has carriage of through this house. My personal view is that it would have been extremely difficult for the Minister for Environment to be in the position of putting a planning bill through this house that, in my opinion, denigrated the Environmental Protection Act and the protection of the environment. I am pleased that the minister does not have to do that.

On one level, I am immensely pleased; on another, I am immensely saddened because until the middle of this week I was in the process of launching a media attack on the minister! I will make a personal apology to the minister. Since I spoke to him yesterday and saw that he had moved an amendment equivalent to mine, I have spent 24 hours running around, withdrawing most of the media attack that I had arranged, some of which, although not attacking the minister personally, attacked his position. I suspect I was too late for one regional media outlet, so if that media outlet prints

a story saying that the minister has not supported my position on protecting the environment, I formally apologise. Everything else that has come out has been corrected within the last 24 hours; it was not a small undertaking! I have to say that it weakened my media position significantly when the minister made that move, so well done. I think Hon Tjorn Sibma earlier used a phrase about the government that was something like good political operators —

Hon Tjorn Sibma: Clever.

Hon Dr STEVE THOMAS: Clever political operators, yes. I am afraid my attack was significantly dented over the last 24 hours. These are some of the things that I was going to use; I am not going to use them against the minister now! There is no need. He has done the right thing, and I acknowledge that he has done the right thing, and I thank him for it. But I asked a question of the Minister for Environment a couple of weeks ago. In fact, the Leader of the Opposition asked it on my behalf because I was called away on extremely urgent parliamentary business, although not that far away! I asked how many proposals for developments that met the criteria had been submitted to the EPA since the beginning of 2016, and how many of them had undergone formal assessment. It took the minister a couple of weeks to get a fulsome answer, because that is a very technical question. The minister committed to give me an answer during the first week back. I submitted the question on 21 May. He did provide me with an answer, as he usually does. I know that today members questioned the performance of other ministers. This minister always tries very hard to provide good answers. On 9 June, the next sitting day back, he provided an answer. Effectively, from the beginning of the 2016 calendar year to 21 May 2020—almost four and a half years—two proposals meeting significant development definitions were referred to the Environmental Protection Authority under section 38 of the Environmental Protection Act 1986. Part (b) of that question was —

> how many of those proposals were formally assessed;

The answer was nil. That effectively means that the Environmental Protection Authority did its job. It looked at these proposals and decided not to formally assess them, which is a normal part of the process. In theory, it is a 28-day process under the Environmental Protection Act—an act that we will debate in some detail next week, which I am quite looking forward to. In effect, the Environmental Protection Act does not have a significant impact on the delivery of major projects. That probably comes as a very big surprise to everyone. At every business and developer meeting I go to in my role as the shadow Minister for Environment, people tell me how this horrible Environmental Protection Act stops them from developing. The reality is that that is not the position. That is not borne out by the facts. Although there are proposals that get delayed by the Environmental Protection Act—I am hoping that the minister will deal with them under a different bill, Mr Acting President (Hon Robin Chapple), one that you will probably have great interest in—when it comes to planning approvals, the Environmental Protection Act is not the great evil that people suggest it is. For that reason, if the government had proceeded with the original legislation to retain the Environmental Protection Act as part of the legal instruments, which could be effectively ignored by the Western Australian Planning Commission, it would have been both immensely dangerous to the government and probably immensely helpful to my political standing! In both cases, I suppose the government has had a win. Well done, minister. I think that is a very sensible solution. As I said, I suspect that the minister had to go in to bat for the environment with his colleagues to get that outcome. He has my appreciation and my enormous respect.

How much regard would the planning commission have had in its consultation process? The explanatory memorandum to the bill, which we received quite late in the process, is quite illuminating. Page 7 states —

> ***275. Application of legal instruments and matters to which Commission must have due regard***
>
> This section sets out what criteria the Commission applies in considering and making a determination.
>
> The cornerstone principle is that the Commission has broad powers as to how it comes to a decision. It is not bound by any legal instrument, which is to say any planning or non-planning law, rule or other requirement that might otherwise apply to limit the Commission's decision-making power.

I think that spells out quite clearly that in making something like the Environmental Protection Act a legal instrument for the purposes of these bills, it gave carte blanche to the WA Planning Commission to effectively ignore it. Well done, minister; I think that is an excellent outcome. It puts me in a position to be able to support the bill, which I would have otherwise struggled with. I appreciate that.

As I said at the beginning of my contribution, the planning process is fraught with danger because we are always dealing with someone who either desperately wants or desperately does not want something to happen. This has not changed, and I do not expect it to change under the bill before the house. Every project that is put up that has local community opposition will still see the same process and the same reactions. I do not think the bill is going to deliver the kind of certainty that a number of people think it will deliver. I do not think it will deliver that certainty of outcome.

One of the other members mentioned what happens in other states, and I forget who that was; it might have been Hon Tjorn Sibma. The Public Accounts Committee from 2005 to 2008, of which I was the deputy chair, did a review of the approvals process and committee members went to Queensland. I think the Queensland model is extremely interesting. In my view, it is probably better than the New South Wales model.

Hon Stephen Dawson interjected.

Hon Dr STEVE THOMAS: It actually combines the whole lot. Queensland has a separate system again. It allows a very similar system to that in Western Australia to occur, but it puts a time frame on it. When we examined the process back then, Queensland had a Department of Infrastructure and it had a statutory time frame, and I presume it still does. Effectively, the Department of Infrastructure took over the approvals process if the approvals process, which is similar to the one we have now, was hamstrung and a decision was unable to be made. That is something that the Liberal and Labor Parties should look at at some point and say effectively that the system should be given a chance to work and it should be streamlined. Next week, I will move some proposed amendments that I think will streamline the environmental approvals process. Once again, the Liberal Party will support that bill. We think there are lots of really good things in the Environmental Protection Amendment Bill, just as we think there are some good things in the Planning and Development Amendment Bill, and the Procurement Bill will tie lots of these things together, which is quite interesting. In Queensland, there was a set process and a set time frame. A normal environmental approvals process would be gone through and if that was unable to be completed for some reason, ultimately, the Department of Infrastructure had the power to take over the decision-making process. That might be worth looking at, giving the current system a chance to work.

The current system is rather unwieldy. We always talk about reform. It is a bit like red-tape reduction. I have been around politics enough to know that every government and every opposition talks about red-tape reduction, and then we inevitably put in more legislation, and more legislation inevitably leads to more red tape, and the only red tape that ever gets removed are the statutes that are no longer used. I remember this in the federal sphere. A Liberal government removed all this red tape—in fact, it repealed unused pieces of legislation and removed them from the statute book, which is fine, except that they were not holding anything up because they were unused. Those are the sorts of things that we get to.

I think there is an issue with planning for development, particularly around the regionalisation of it. This bill seeks to make the regionalisation and the strategic focus of planning better than it currently is. To be honest, that is more important than the process of major developments. It is a bit like the environmental approvals process. The big developers and the big project owners have their own teams of people who can go through this process. Often, the strategic approach is the bit that is missing. There are local governments and local government planning processes and local town planning schemes, and often they end up in conflict with each other. For example, 20 years ago in the south west, everybody was building a recreation centre, so we ended up with three or four recreation centres within a 10-kilometre radius, all of which lose a significant amount of money. Then there is the modern disease that we call cultural centres. There is one in Bunbury and there is one in Margaret River, and Busselton wants to build one right in the middle between the two, and they all lose significant amounts of money as well. Regional planning is critically important in this, and if this bill goes some way towards getting that in place, that would be good.

The greater Bunbury region scheme is still behind the eight ball. I was the shadow planning minister when the greater Bunbury region scheme was developed in the lower house, and I believe the current Minister for Regional Development was the then Minister for Planning and Infrastructure and we had great debates about the greater Bunbury region scheme. It was sold as having the potential to outline the strategic plan for the greater Bunbury region for the next generation, but it does not do that; it is always in catch-up mode. It is not strategic enough and does not go forward. The planning process for region schemes in particular is too much in the rear-view mirror and not forward at the horizon. If there is some way that the government can get a wriggle on with regional planning schemes, that would be a great idea. My good friend Hon John Day, who was the former Minister for Planning, introduced the development assessment panel scheme. That was his version of attempting to bypass the morass that had become the planning system. It is not really much less of a morass, but that was John Day's attempt to make a difference. He went into it with absolutely the best ideals; he truly did. He decided that if we wanted to look at regionalising some of the larger projects, we needed a system that was not bogged down in one local government versus another. In some cases, they did become overly bureaucratic—I get that. The intent was good and it remains good. If the Minister for Planning looks at empowering DAPs and giving them the resources to be more strategic, we might again get a better outcome from the planning process. Of course, once we move from the local area, to some degree we disempower the local community. There is some inevitability of that. I absolutely understand that. I do not think anyone has used the word "nimby" yet, but we will always get —

A member interjected.

Hon Dr STEVE THOMAS: Did you? Sorry. That must have been the one time that I stepped outside on urgent parliamentary business!

It is absolutely the case that as we streamline the planning system, those people who are aggrieved will have fewer avenues to express their aggrievedness—absolutely. The question is how much of that is appropriate because historically, particularly further in the past, developments have occurred that should never have occurred. Today, we are more likely to see development stopped that probably should have been allowed to progress. The DAPs process has the capacity to take matters out of local hands, and that is not always a bad thing. A local councillor, particularly in a rural area, lives close to the community, and the community that is angriest on both sides will be the community that knocks on the door. That is the bit of the community that is biggest in their vision, even though it probably does not represent the mass view of their community or electorate. That is what they need to deal with. Moving the decision-making process a bit further away sometimes establishes a clarity that does not exist when a person's neighbour does not like what is happening. I get that. In my role as shadow Minister for Environment, I have inspected a few proposed rubbish tips in my time. Nobody who lives near a rubbish tip wants a rubbish tip there. If pushed by the local community, there would never be another rubbish tip. Minister, the south west councils are still trying to find a proposed location for a south west re-use and processing centre. It had two, but as soon as the potential location got out, the local community became involved. If we allowed that process to go unchecked, we would never have a new waste treatment facility in the south west. Dare I say it, some disenfranchisement of some people is not always a bad thing. It is unfortunate and sad for them and not very nice, but occasionally it is a requirement to get things going.

In terms of the bill, the great thing about local government is that even though there will be questions about its role in higher level planning, in most cases most constructions will still require building approval, so there will still be a role for local government in the process. Every time local government says, "There's nothing in the process for us", it should be remembered that it will still be involved in the building approvals process. It is not necessarily the case that it will be utterly disempowered.

Goodness, the time has disappeared! I am sure I could have matched Hon Tjorn Sibma on this very important topic, but I have limited time and I want to respond to some things that have been said today. I have already responded to some, but I want to respond to others. I do this in particular for Hon Alison Xamon. This is not a debate on an appropriation bill, in which I commit to bring to the chamber at least one chart.

Hon Alison Xamon: I would hope so.

Hon Dr STEVE THOMAS: However, this bill is a bit economically based, so in a minute I will seek leave to table a little bit of my research. This arises from the comments of Hon Charles Smith and, to some degree, of Hon Rick Mazza, who spoke about the price of housing in Western Australia. It is absolutely the case that there are some interesting parts of the marketplace. I agree with Hon Rick Mazza that the construction and development industry needs support, but Hon Charles Smith is also correct that in most cases, when government funds are put into a scheme, the very common sequel is that prices rise an equivalent amount. That is absolutely the case. There have been many times in history when the price of land has had to go up to pull up a reduction in stamp duty, for example. If stamp duty is knocked off by a certain amount, the price of land goes up by a certain amount.

Hon Alison Xamon: The table?

Hon Dr STEVE THOMAS: In this table I compare the mean house price in Western Australia with average normal weekly earnings. I have used Australian normal weekly earnings so it is not specific to Western Australia; it is quite closely linked, but not quite the same. I will seek to table this, but this is what it looks like. The blue line at the top is the housing price. The red line at the bottom is the average wage. Just so that members are aware, I went back to 1971.

The ACTING PRESIDENT: Member, perhaps if you turn around and direct your comments to me, it might help Hansard with the microphones.

Hon Dr STEVE THOMAS: Certainly, Mr Acting President. Thank you for your guidance.

In effect, those two lines are not too far apart. Most home owners know that the massive boom in housing prices started around 2000 and 2001, and hit a peak in 2013. The average mean house price in Western Australia went from about $150 000 to over $500 000 in 10 years. I seek leave to table that chart.

Leave granted. [See paper 3965.]

Hon Charles Smith: Why did that happen?

Hon Dr STEVE THOMAS: More than anything else we had a mining boom and people had money to spend. It is not just the case that it was purely population based. Housing prices are immensely emotional. Every time we talk about getting first home owners into housing, we talk about the need to make housing prices cheap. Members will see a line in the middle of that chart, which is what I consider to be sustainable wealth creation, so if the price of housing were to go up at the same rate as wages, the average house price in Western Australia would be $300 000

instead of $450 000 and everybody who owns a house in Western Australia would be $150 000 worse off. That is the issue that everybody misses in relation to the price of housing. It is a two-fold issue. In one instance, it is the capacity of people to purchase houses and get into their first home. For most families, it is something like 50 per cent of their wealth, and for lower income families it often ends up at about 90 per cent of their family wealth. When there is a negative impact on housing, as Hon Rick Mazza said, there is a very negative impact on equity. If we look at where house prices should probably be right now in the Perth metropolitan region, everybody who has bought a house in the last couple of years at $450 000 would be $150 000 in the hole and they would be paying interest on that $150 000.

There is a lot of emotion about house prices. It is absolutely the case that population growth puts upward pressure on house prices because more people are looking to buy houses. I will pick up on one of Hon Rick Mazza's comments. He said that developers would not go out and create an oversupply of housing because they have to make a profit. That is okay except that the member's next words were, "and we already have an oversupply". Obviously, that means that the developers did go out and create an oversupply of housing. The argument might be that that occurred because population growth slowed. Certainly, the supply and demand logistics of housing are not simple and linear; a lot of emotion and a number of side issues are involved. It is not a simple question of the market running itself in an incorruptible system, because when emotions run high, as they did during the mining boom, prices go far too high, and that creates an enormous problem for everybody who buys at that time. A group of people who at the time of the boom had high disposable incomes got into a level of debt that Hon Rick Mazza and I would have been appalled by when we were young. Like me, the honourable member probably bought his first house many years ago. My first house was a three-by-one fibro that cost $42 000. My wage was 25 000 bucks. It was the average wage in Australia at the time. The average wage today is about $84 000 or $85 000, which means an equivalent first house today should be 100 grand. Can members see a young person today finding a house for 100 grand? We have also raised young people's expectations, and that is part of the issue as well. Everybody now expects to buy a four-by-two brick and tile house, not a three-by-one fibro house with a tin roof.

I think part of the problem is that it is very hard to get planning in place that will provide a perfect outcome for everybody. I wish I had another hour or two to talk about planning issues because they are critical. I will finish on these points, but I wish I had a bit more time to go into a lot more detail on this. Hon Tjorn Sibma did an excellent job going through the minutiae of the bill. I actually think it is not a bad bill. Again, I thank the minister for joining me in changing the bits about the Environmental Protection Authority, because that makes it far easier for me to support the bill. To be honest, it is an immensely optimistic bill. I will leave members with these two points. I think anyone who thinks that suddenly there will be a great plethora of $30 million to $200 million projects falling out of the sky and landing in Western Australia in the next 18 months is kidding themselves. The other point I will leave members with is, as I said earlier, that the coming demand to maintain these rules well past the 18-month time frame will be something that this house, in my view, will have to deal with in the forty-first Parliament of Western Australia, and the pressure we will be under will be incredible because it is about getting development through.

HON AARON STONEHOUSE (South Metropolitan) [8.13 pm]: I am glad to speak to the Planning and Development Amendment Bill 2020 this evening. This bill seeks to achieve a few outcomes, but I will home in on three: reducing red tape around planning approvals; stimulating the economy in the wake of COVID-19; and what perhaps might be described as the centrepiece of the bill, introducing a new streamlined approval process for substantial developments through a new planning approval pathway through the Western Australian Planning Commission. I have some concern about whether the bill does what it says on the tin—whether the bill will achieve the outcomes that the government says it will. Although they are quite aspirational goals, especially around the reduction of red tape and stimulating the economy, I am not sure that the government is either capable of achieving that with a bill like this or properly understands matters from the get-go, but I might talk about that later towards the end of my remarks. For the moment, I would like to acknowledge how rushed the process has been up until this point. I am glad that previous speakers have taken their time to carefully consider the details of this bill. I think the first speaker spoke for three or four hours.

Hon Alison Xamon: They didn't in the other place.

Hon AARON STONEHOUSE: No, they did not do that in the other place. In fact, the government tried to ram this bill through the lower house in a single day. We are all aware of the absurd scenario in which non-government members were offered briefings for a bill that was not even ready. Advisers and staff were trying to brief members of Parliament on a bill that they could not even show them because it was still being worked on. This was happening mere moments before the bill was introduced into the lower house. Even at that point, the government seemed to have some notion that it would be able to ram that bill through. It is quite worrying. I am glad that we are taking our time here to properly consider this bill. It is a very lengthy bill; it is 95-pages long and it deals with a complex subject. Luckily, in this place we will take our time, unlike those members in the lower house. It is good that we do that because, time and again, the government has introduced legislation that it has insisted is perfect and flawless, and we have found drafting mistakes or omissions. We have had an opportunity to review those bills through the

Committee of the Whole House or we have referred them to one of our standing committees for legislative scrutiny, and those committees have made findings and produced a report on how those bills can be enhanced. That has happened on many occasions with so-called perfect bills that the government has tried to expedite and rush through.

I spoke a little before about red tape and the claim that this bill will somehow reduce red tape and bureaucracy. However, it is worth noting that most, if not all, of those red-tape reductions will actually be in the regulations that will follow the passage of this bill. They are not in the bill that we are debating today. What those red-tape reductions will look like exactly, we do not know. The Premier and the Minister for Planning have made some claims about that. In a joint media release of 20 May 2020, Premier Mark McGowan and the Minister for Transport, Hon Rita Saffioti, said —

> The planning reforms will include initiatives that respond to community and stakeholder feedback, such as:
>
> …
>
> exempt a wider range of small residential projects such as patios, decks and extensions from planning approval;

I have looked through the bill to find where those exemptions exist in the primary legislation. I could not find them. It might be that I am not familiar with the principal act and how this bill will amend the principal act to expand those exemptions, but it is my suspicion that those exemptions will have to come through regulation. The nice, fawning op-eds and articles in the press and the Facebook posts and media releases that claim that this bill will allow people to put up a patio without having to go through an onerous approval process are not quite true. That is not what this bill does; that will be found in the regulations later on. The question that hangs in my mind is: how many of those regulatory changes that we can expect to be made later on are dependent on the passage of this bill, and how many of those regulatory changes could have been made months or even years ago? Perhaps I can get an answer during the Committee of the Whole House.

A claim has been made that this bill will stimulate the economy. I am rather sceptical of that, too, Mr Deputy President, because, as was pointed out by a previous speaker —

The ACTING PRESIDENT (Hon Matthew Swinbourn): It is Mr Acting President.

Hon AARON STONEHOUSE: I am sorry, Mr Acting President.

I am sceptical of those claims because, as was pointed out by a previous speaker, and as I have observed before, I am not so sure that this kind of stimulus creates new economic activity as opposed to just moving it through time—shifting it forwards or backwards depending on what the incentives or disincentives happen to be. For instance, when we talk about significant developments that will be eligible for the streamlined WA Planning Commission process, those are defined as developments that are worth $30 million or more and will have 100 dwellings or more. That is a "significant" development by any definition of the word. Those kinds of developments are not made on a whim. Those kinds of developments are years in the planning before any kind of proposal is lodged to a government planning approval body, whether that be a development assessment panel or some other body. Therefore, the idea that this bill will somehow create new developments is absolutely false. We should be realistic about the outcomes of this bill. It will potentially help bring developments forward. It will also reduce the regulatory burden on developers, because the process will be streamlined. I admit that it appears that the proposed process will make it much less burdensome for developers to get approvals. Indeed, some approvals might be more forthcoming than they otherwise would have been because subsequent decision-makers were dragging their feet. However, the bill will not really create new economic activity; it will merely bring it forward, if we are lucky.

My principal concern about this bill is that at the top level, at first glance, it will centralise an immense amount of power in the hands of the Minister for Planning. An incredible amount of power that was previously decentralised across various local government bodies, development assessment panels and other bodies will be vested with the minister in a rather extraordinary way. That concerns me. Proposed section 272 of the bill states that development applications may be referred to the commission by the Premier, on the Minister for Planning's recommendation. We have the criteria for significant developments worth $30 million or more, and with 100 dwellings or more, that can be assessed by this streamlined WA Planning Commission process. However, this bill will allow the Premier, on recommendation from the minister, to find any other projects that they like and put them through this streamlined process. It concerns me that that will potentially open the door to corruption and inappropriate influence. I do not want to make any comments about the current minister, but we do not know how these powers, or powers like this, might be used by ministers in the future. We need look back no further than to the days of WA Inc, when donors to the Western Australian Labor Party were able to find favour with the Premier and government ministers of the time. Perish the thought that something like that will happen again. Perhaps I am being a little too paranoid, but when we give a minister the power to streamline development proposals in this way, we are asking for trouble—we really are. That is especially the case when we see how these kinds of deliberations are shielded behind the curtain of cabinet-in-confidence. We can never get a straight answer about how these decisions take place, because as

soon as they are made in the cabinet room, they become supersecret and nobody can ever see them or ever know about them. We are asking for trouble there.

The bill goes further. Proposed section 280 states that the minister may give direction to another person or body, and that person or body is obliged to comply with that direction. That sounds pretty normal. That is a typical power that a minister may be given. It goes on to say that they are obliged to comply with that direction even if it would otherwise be unlawful or invalid. I do not think that is a risk for corruption. However, that is a very questionable provision in law. This really needs to be teased out. Do we want to give the minister the power to tell someone to do something that is unlawful? In this instance, it has to do with planning approvals. One would not think there would be anything untoward about what the minister might direct a person or body to do in this instance. However, it raises a question of legal principle about whether it is appropriate to give the minister the power to direct somebody to do something that is unlawful. If that person, in complying with that order or directive, does something unlawful, who will be liable for that person's actions? Proposed section 284 provides that the Governor may amend or cancel an approval granted by the commission under section 274. This is touted by the government and the minister as an oversight measure. At the end of the day, the buck stops with the Governor. He can step in and amend or cancel an approval granted by the commission under proposed section 274. But who does the Governor take his or her direction from? They take it from cabinet; they take it from the government. Effectively, the government has the discretion and the power to not only direct projects to the Western Australian Planning Commission, but also amend or cancel approvals granted by the planning commission. Why do we have the planning commission at all in this case? We might as well just let the minister approve these things with the flick of a pen. Ultimately, the bill will grant the minister the ability to exercise that power with virtually no checks, no balances and no accountability. All that power rests with the minister in this case.

There are a few other examples. Clause 42, "Section 62 amended", inserts new provisions outlining the minister's powers to approve, refuse or require modifications to a minor region planning scheme amendment. Proposed section 62A, entitled "Minister may withdraw or direct withdrawal of proposed scheme or amendment", affords the minister a broad power to cause the withdrawal of a regional planning scheme amendment at any time before it has been officially determined. A few other clauses in the bill vest power, again, with the minister. This centralises decision-making power in one person, with very little oversight and accountability, and at the expense of community consultation and input into planning decisions. I certainly think that we should be expediting and approving development and trying to build this state up. Some cranky person who does not want their perfect river view obscured by a building should not necessarily get to hold up the process for everybody else, but we cannot ignore the fact that people have to have some say in the process when their own enjoyment of their property is at stake—when their ability to enjoy their property is affected by somebody else's planning decisions. We cannot cut out people entirely. People need to feel as if they have some say in this stuff. This is how democracy works, right? We do not get to just override and run roughshod over everyone else in the community because some developer wants to build a swanky high-rise apartment tower. This is a further centralisation of power and decision-making at the expense of local authorities and local residents, who otherwise have a stake in this and should have a say. It concerns me. As I said, centralisation presents a corruption risk. That is further compounded by the fact that there will be no third party appeal rights for decisions made by the planning commission. The planning commission will have this incredible power to approve significant developments on direction from the minister or the Premier, and the Governor, on direction from cabinet, will be able to step in and interfere with or amend these planning approvals, but no third party will be able to appeal these decisions; only the applicant will be able to appeal the decision. That potentially represents a real gap in the checks and balances that powers like these need to have.

I would also like to share my frustration with the claim that this is a reform bill. A previous speaker said this, so I am perhaps re-treading old ground, but it is not entirely clear to me that this is a reform bill. There is apparently some problem with the development assessment panels, although what that is remains a little unclear. I admit that that may be due to my own ignorance of the planning process, but there is apparently some problem with them. Our solution, our apparent reform, is to just take a certain class of proposals and shift them to a different body. I am not so sure that that really will fix whatever problem we have with the DAPs. Of course, those DAPs will be amalgamated. That is in the primary legislation. The bill will amalgamate the DAPs to create new special-matter DAPs. But again, most of the function of these development assessment panels will be prescribed in regulation. All the red-tape reduction and removal of unnecessary bureaucracy is actually left to subsequent regulatory amendments and are not in this bill at all. That raises the question whether the problems with the DAPs could be addressed not through this bill but through a change in regulations that the government could bring forward any time it likes.

Finally, I would like to home in on what I would normally like in a bill like this, which is apparently a COVID-19 response bill that needs to be rushed through very quickly—so quickly that it was attempted to be passed in the lower house in a single day and members were receiving briefings on the bill before they even had the bill before them. There is effectively a sunset clause for 18 months for many of the provisions in this bill. If this is an emergency

COVID-19 response bill to kickstart the economy, it is appropriate to have a sunset clause—that is; "We're going to do this quick and dirty and see what the outcome is in 18 months. If it's no good, that's all right because it falls off the statute book." To some extent, the rushed pace in passing this legislation is justified because we are responding to an emergency. However, the government is touting this legislation as a reform package. If it is reform, it should be permanent; it should not be temporary. It is a little confusing. I understand that the drafting process took into account recommendations that came from a green paper, and wide consultation has been going on for a really long time. Perhaps there is mixed messaging. It is either an emergency measure or a root and branch reform. Which one is it? It is a little confusing for me at times.

Hon Stephen Dawson: Honourable member, before you finish, can I ask if you have identified whether you are supporting the bill or not?

Hon AARON STONEHOUSE: I was about to get to that, minister.

Red-tape reduction is great but the bill does not reduce red tape in any way that I can see. It amalgamates panels and creates a new streamline process. It does not actually remove the revelatory burden from businesses and applicants as far as I can tell. Most of the promises made by the government are not part of this legislation. They will be part of later regulatory changes. The process proposed here sounds like it will likely speed up approvals for some types of developments—the really big ones—which I would absolutely like to see sped up. I would like to see that process streamlined. Does it get the balance right? It is a further centralisation at the expense of local and community input in those decisions, and that is bad. However, at the same time we cannot hold up development because of a few complaining neighbours who do not want their perfect views interrupted, right? We cannot hold up development of the state for such trivial things. There are a few issues, including no third party right of appeal. I also have some questions about the rather arbitrary threshold for what is a "significant development". I understand there are several amendments on the supplementary notice paper so, at this point, I am keen for us to proceed past the second reading stage and into Committee of the Whole House so we can consider those amendments and see whether they enhance the bill or increase transparency and accountability. We will also have an opportunity to interrogate some of these clauses. As I said earlier, we can find out whether this bill does what it says on the tin. Will it deliver what the government promises? I am happy to see it through a second reading and see what comes out of the Committee of the Whole House.

HON TIM CLIFFORD (East Metropolitan) [8.33 pm]: I would like to identify that I am the lead speaker for the Greens. Touching on what a couple of other speakers mentioned earlier, I was in a bit of shock a couple of weeks ago when the Planning and Development Amendment Bill 2020 was read in and pushed through the other place. I thought it was a bit of a joke to think we could possibly address a bill like this overnight and in one day, and not be able to scrutinise it in the correct manner. What compounded that shock was the fact that last year I received a briefing, and I was quite pleased walking away from that briefing. We talked a lot about past issues, the journey that planning has taken in this state and the need for reform. In my mind, that journey built up a lot of capital—one might call it political capital—in the community, and it brought a lot of people on side. When I saw this legislation, my phone lit up with a lot of concerns raised by councillors and people within the community. One of the questions was: Why? Why does this need to happen now? Why are we here? Why go through this whole consultation process to get to a point whereby we have to rush it all through and pretty much do what a lot of us in the community were not happy with in the first place, which is rushed projects, overreach and all those issues that were raised with me. I am still a bit taken aback that we are dealing with this bill.

I see this bill in two parts. I see the good part, parts 3 to 17, which embody a lot of the aspects of necessary reforms, and then I see the other part that deals with the COVID-19 reforms. In my mind, if this bill were to deal with fast-tracking approvals, proposals and developments, we would be dealing with that part tonight. I suspect the bill might not pass, because if these provisions were not attached to all the good things, it would be a lot easier to oppose. That is why I have to put it out there that, on those grounds, the Greens will be opposing this bill. My colleague Hon Alison Xamon will go into detail in her contribution on a lot of the reasons why we are opposing the bill, and cover a lot of the parts about overreach. As I said before, the political capital that the government is looking to expend will be diminished with a lot of the powers that it is looking to put in the hands of the government, which, given the fraught nature of planning in not only this state, but also across the country, and the relationship between developers and politicians, I find really difficult to understand why we are in the place we are at right now. I understand that we are experiencing a pandemic, but, in my mind, the actual numbers and reasons have not been given. What will be achieved by fast-tracking this bill? What are the numbers? What jobs will come out of these projects? Not much information has come my way when I have looked to find exactly what benefits will come from getting this bill through in the way that it has been put on the table.

I am familiar with planning issues, from watching and being a part of a few campaigns within the community. A lot of them relate to not only environmental issues, as one of the previous speakers raised, but also different councils and a lack of consistency across the board. One such issue that I took part in was the campaign about the Midland Oval

redevelopment. That still has a bit to play out and a lot of community members are not satisfied with that process. When I was briefed on the planning reforms, which were discussed in good faith, we went around and discussed the issues and found that there was a lot of agreement across the community and the political divide to ensure that planning reforms being put forward would take the community with us, and I was assured that everybody would be very happy with where we were going to go with this thing.

Hon Dr Steve Thomas: It's never the case that everybody is happy.

Hon TIM CLIFFORD: Yes.

The issue of Midland Oval was borne out of a council that was not there to consult thoroughly with the community when the community wanted more public open space. There was a lot of trust bankrupted within the community, given some of the statements made by the council about adequate space and offsets. The council said, "The community has enough open space; there is enough open space to enjoy in the community", but the public open space it was talking about was pretty much drainage systems, bitumen car parks and road islands. That is serious; that is what it put out to the community in 2018. I found that galling, and it highlighted the need for reform.

Consultation was another issue. The City of Swan did a post-out; it sent letters out to the community asking, "Do you agree with the business plan?", but the business plan was not attached to the ballot; it was just a ballot with "Yes" and "No", and the community was expected to make an informed decision on a business plan that it had not been provided with. When I raised questions about it in this place, the answer I got from the Minister for Local Government was to the effect that the council mostly followed the Local Government Act, which did not go a long way towards reassuring people in the community that their issues had been adequately addressed throughout the whole process.

Before we go into the COVID-19 side of things, I want to highlight some of the good things in the Planning and Development Amendment Bill 2020, and why I think we should have taken stock and had a different kind of debate. I would have liked to have gone through the debate that was put on the table last year—the actual reforms. We could have been in this place, debating how we could get to a point at which the community would be happy. Not all of the community would be happy, because not everyone always is, but we could have been addressing inconsistencies across local government areas. We could address transparency in situations in which, if there is a major development, we could have adequate fora for planning proposals to be put to community members so that they could understand exactly what is involved when they go to council meetings.

Some community leaders have commented that it is not great to be part of a community in which every single council meeting is stacked with 300 community members yelling at the council. Some local governments have taken the steps necessary to address those issues by being ahead of the game with regard to planning and rezoning. The City of Vincent is one that has addressed some of these issues. The City of Bayswater has taken a lot of steps in the right direction. The Town of Bassendean has gone from being absolutely despised as a council to a local government that is out there, working with community members to see what they want, but it has taken a lot of effort and a lot of work for it to ensure that it is ahead of the game. Some local governments are under-resourced, and to get ahead of zoning issues, they have to put in a lot of time, effort and money. That is what the good parts of this bill could address—consistency in the way we assist local governments so that they have the necessary tools across the board to deal with those issues.

Part 5, "Acquisition of land", creates the ability for a responsible authority to purchase the unreserved portion of a reserved lot to reduce the risk of creating a portion of land that is landlocked. I have spoken to communities in which there is land that the government has not been able to take back, so it has not been able to adequately compensate the people for being put into a situation in which their land is basically worth nothing. That helps to clarify the compensatory rights of landowners whose property has been acquired by the state. A few people have come into my office in the east metro with issues. I know that some people are really pleased. I sat down with a family last year and we talked about the hopes they had to move into a neighbourhood. There was an acquisition and they were left in absolute limbo. They wrote to federal members, the local council and local members. They did not know where to turn. Their last resort is to go to the media. That is when we end up finding out about these issues. They become political issues and they are then fought between political parties. Ultimately, people have to take sides, which erodes a lot of the trust that those people originally had with the powers that be, who they thought were there to protect them.

Part 6 of the bill relates to planning schemes and the referral of matters to the Environmental Protection Authority. The EPA has the ability to determine which scheme amendments should be referred to the EPA by regulations, which reduces the workload of the body. That streamlines the process in the appropriate way.

Under part 7, "State planning policy and planning codes", clause 62 of the bill ensures that all planning decision-makers, including public authorities, are directed by state planning policies. This is a welcome reform to ensure consistency

and clarity across all planning bodies, which goes to some of the inconsistencies that have been identified by many people in the community.

Part 10 relates to requirements to set aside public open space or make a payment in lieu. Naturally, the Greens have concerns about the potential to reduce public open spaces. Clause 86 is welcomed. As our urban areas are increasing in density, it will be much harder for developers to adequately deliver public open space requirements. Allowing for the option of making a payment in lieu when proposing a development instead of negotiating afterwards will increase efficiency but hopefully will deliver better public open space outcomes.

Part 13 relates to improvement plans. I am pleased that the requirement of the commission to consult with local governments within an improvement plan is clarified. Hopefully, this will reduce future conflicts across council lines. One of the examples given was South Perth and a couple of local government boundaries and precincts, which allows one of the councils to get ahead of the game when planning or wanting to create a liveable space to ensure that people have the right amenity, including in future plans, the potential for public transport and the like. Only a couple of kilometres down the road, if a council was not so quick or forward looking, it ends up having to battle developers after the approvals have already gone through, and the community is left with developments that do not fit within the scope of where the community wishes to go. Pretty much the only people benefiting are the developers themselves as they walk away with the profits from those developments and the community is left to look at the eyesore that is left behind. That is very hard to reform once it has been built. That will definitely be a legacy issue in the future.

There are also concerns, as mentioned by other speakers, about the development assessment panels. They will be reformed within this process. Many members in the chamber would have heard of the term “scrap the DAP”. That is a campaign cry for many people in the community. The DAPs were initially introduced to independently assess higher value and often dense urban environments. However, that has not always happened. The bill attempts to address some of these concerns by formalising the consolidation of the existing nine DAP panels, as implemented by the minister in April, and introducing a special development assessment panel. The talk around that consolidation and the concerns I raised with the government relates to the make-up of the panel and the specialists involved within that panel. I understand that there will be no change to the arrangement for local government members on development assessment panels. If the minister could confirm that before we go into the committee stage, that would be really appreciated. I also understand that there will be no local government members on the special matters DAP that deals with developments worth over $30 million, so it would be good if the minister could clarify whether that is the case. That goes back to what I was saying before about community members looking at significant developments in their backyard; that is, when they look at who is making the decisions, they will find that there is no-one who is close to that community to help them with that process.

I have a few questions about the special matters DAP. I would like a bit more clarification around the thinking and what led the minister to think that it was a good idea to put the special matters DAP together. That goes back to the other speaker who said that if these significant reforms are going to be introduced, there must be some type of development that the minister had in mind. It might have been a particular project, but it would be good to have some clarification about the types of developments that are being looked at to be streamlined by this process.

As I mentioned before, I would also like to see any economic modelling around this process to determine whether it will help the state get through this pandemic.

I also note that the Western Australian Local Government Association has raised concerns about the special matters DAP. Questions have been raised about the broad strategic nature of the special matters DAP. The special matters DAP can give advice to the minister, the commission or the local government about the development application, as detailed in proposed section 171A(2). It would be good to get more clarification about that. Are there concerns about public works? The explanatory memorandum references public works exemptions for the benefit of social service. What does that mean? I note that the department clarified in our briefing that it is intended that “public authority” will include bodies like the Water Corporation and Western Power; however, WALGA has highlighted concerns that there could be a broad interpretation of “public authority”, so exactly what sort of scope are we looking at there?

I would like some clarification of the planning codes referred to in part 7. During the briefing, the department indicated that planning codes introduced under new part 3A could include industrial codes. If the minister could provide a bit more explanation about why that is the case, that would be great. Could the minister also confirm what the responsible authority will be relevant to the purpose that the crown land is being developed for under part 9?

Ultimately, outside of the concerns that I have raised in my contribution to the second reading debate, it is worth noting that different speakers spoke about economic development being at the core of this bill and it will provide many jobs and the like, but we have to think about the long-term repercussions of fast-tracking a bill like this.

When a government goes through a consultation process within a community but it does not bring everyone along, it needs to satisfy many people that at least there was a process that people could be a part of. If the reforms are put forward in a way that is acceptable to the community, there will be space for the government to say that it did this in the right way and it had input from people who do not necessarily agree with the Greens, but they really appreciate the fact that it got to a point at which they felt consulted and were part of the process. The alternative is to be part of a council that basically walks all over the community and has people pointing to another council and saying, "Why don't we have what they have—active members and active people who work within the council who want to a develop a space where people want to live?" Those broader planning reforms would have allowed for consistency and a framework for the councils that are not doing such great things that they would have to work towards. That would mean better outcomes for people in the community, which means that people are not only more satisfied with the transparency of the process, but also glad to live in their community. It was pointed out to me when I went to one council area that the area has the worst tree coverage in Australia and that if I drove 200 metres the other way, I would be in an area with some of the best tree coverage. I do not need to be a nimby to point out that there are inconsistencies between the two places.

Not everyone will get what they want. At the end of the day, agendas are playing out between councils and different developers and lobbyists who want certain developments to go ahead. A strong framework that has been developed in consultation with the community means that we will get to a point at which we will not have what we have had up until now, which is pitched battles and multiple petitions about planning coming to this place. I have seen my fair share of petitions, as a member of the Standing Committee on Environment and Public Affairs. All these issues go back to inconsistencies with planning and the different personalities at play across the community that the community does not trust. To its credit, when the government first got into office after the 2017 election, it was quick to point out that it would definitely take the community on this journey and that it would get to a point of meaningful reforms to ensure that we have vibrant communities in which people want to live.

It is disappointing. It will take a long time before the government can get back to the space it was in before it tried to fast-track this bill a couple of weeks ago. If governments are going to put through bills like this, they should not try to put them through within 48 hours. This bill has 100-plus clauses and two distinct parts, which could have been separated. If the government had wanted us to deal with the COVID-19 part of the bill, we could have done that. I understand the reasons why the government attached one side to the other; doing it that way makes it very difficult to oppose the bill. In saying that, it is disappointing. I hope that whatever happens, the government works extra hard to get back some of the capital that it built in the community. It needs to listen to what has been going on. As one member pointed out, the North Stoneville development is a legacy of the 1990s. Do we want a planning legacy issue from 2020 that people are dealing with in 2042? Those are the real tangible outcomes of poor planning reforms being fast-tracked through this place without the proper checks and balances. As I said, the Greens oppose this bill. My colleague will go into more depth about the COVID-19 side of things. I hope the government monitors the outcomes of this bill because I do not think it will produce its intended outcomes.

The ACTING PRESIDENT (Hon Dr Steve Thomas): Hon Alison Xamon, before I give you the call, are you the lead speaker for the Greens?

Hon Alison Xamon: No, Mr Acting President, I am not the lead speaker for the Greens so the timer will start.

The ACTING PRESIDENT: I was just checking.

HON ALISON XAMON (North Metropolitan) [8.58 pm]: As was indicated by my colleague Hon Tim Clifford, who is the lead speaker for the Greens on this bill, I, too, have some comments about the Planning and Development Amendment Bill 2020. When I think of this bill, I think of the little girl with the curl because parts of this bill are very, very good, but, unfortunately, parts of this bill are horrid. It is for that reason that the Greens will not support this legislation. Tonight I will go into the very details about why, unfortunately, this bill cannot be supported.

Some elements are part of the orderly progression of planning reform that has been underway for the last couple of years, as my colleague Hon Tim Clifford alluded. I have said multiple times in this place when I have stood to talk about various shambolic processes that have occurred, particularly in my electorate of the North Metropolitan Region, that there is a desperate need for wholesale reform of planning processes. Unfortunately, some elements in the bill that we have been left to debate today are, frankly, nothing but a wild grab for power by the Minister for Planning. That comes on top of previous power grabs by regulation, and I will talk a little about that later. I also note that the government has amendments it will move that would at least allow the Parliament to disallow some of the worst of that overreach, but I am concerned that we should not allow that overreach in the first place.

Like many MPs, I assist constituents to navigate the various levels of the planning system. I have done that in this term of Parliament as a member for the North Metropolitan Region and I most certainly did it repeatedly when I was previously a member for the East Metropolitan Region. What we do know about navigating our way through

the planning system is that it is not easily legible. To be honest, most electorate issues that come into my office are about planning matters and not about my portfolio issues, which are mainly mental health and prison issues. Most issues in the north metro electorate are concerns about planning. That tells me that the system as it stands simply does not serve the community. It is widely accepted that there are valid problems with the planning system. Some issues that need urgent remedy include a lack of consistency and efficiency across the different elements of the system, difficulty on the part of all parties to navigate within the system, and a lack of clarity about what is and what is not allowed. I, personally, have had my own nightmares trying to navigate my way through those planning systems, so I absolutely understand that.

I have also made multiple submissions on petitions that I have tabled in this place regarding local planning scheme updates. Members of the Standing Committee on Environment and Public Affairs can testify that I have repeatedly mentioned in those submissions how poorly infill has been done in the past. Too often in the past infill has resulted in a loss of local amenity, with none of the social, cultural and economic benefits that we would expect from well-executed infill. That is frustrating because the Greens are huge supporters of infill. It is absolutely the way to ensure that our city boundaries do not extend beyond what is sustainable.

I note the second reading speech firmly acknowledges that the proliferation of poorly planned and designed infill projects have generated significant community concern and distrust. As I have said, I am a member of Parliament who can stand here to testify to that. I have previously spoken about my overall enthusiasm for planning reform. For example, I have spoken on a number of occasions about the good work Evan Jones did in the planning reform green paper, which built on years of calls for reform prior to that. I look forward to the implementation of Design WA and the finalisation of policies for apartment, precinct, neighbourhood and house design. I have also spoken in the past about my hopes that these policies will have the effect of making desperately needed infill of a much better quality than we have seen in the past. I have also spoken, however, about my fear that those quality design principles still run the risk of being disregarded and at the discretion of the relevant decision-making body.

This bill contains some elements that flow naturally from the review process, and these are the positive elements that my colleague spoke to. But a large chunk of the bill, and hence my and the Greens' concerns about the bill, flow from those elements that are designed to make it easier for large development projects to get off the ground—the so-called COVID-19 provisions. I will particularly focus on the COVID-19 recovery elements of this bill—that is, specifically part 2 of the bill. I think part 2 of the bill dramatically overreaches on the powers that should belong to any one agency or any one minister. To summarise quickly, large developments worth $30 million or more that provide 20 000 of square metres of lettable area or 100 dwellings or something else entirely that is yet to be specified in regulations will have access to an approval pathway through the Western Australian Planning Commission, rather than the joint development assessment panel process. In 2019, we saw 57 developments meet the $30 million mark and of those, probably 90 per cent met the additional requirements of lettable area or number of dwellings. That would make up roughly 20 per cent of applications that came before the DAPs in 2019, and that includes the WAPC process to determine whether and how to grant approval for a development. That process explicitly sits outside the reach of a range of acts that I note we have deliberately put in place to make sure that we have checks and balances around inappropriate development.

After much community protest, I note that the supplementary notice paper now includes government amendments to ensure that community consultation in some form will take place and that the Environmental Protection Act will still apply fully. But the WAPC is not required to give due regard to the advice it is required to seek from the Environmental Protection Authority, the Heritage Council of Western Australia and the Swan River Trust. The decision-making process explicitly—I will talk more about this—involves input from the Minister for Planning, and due regard must be given to that submission. The WAPC must not determine an application based solely on planning grounds, but it is a planning decision. Despite the WAPC disregarding all other legal instruments while making a determination, the developer is still required to seek ordinary permits. However, if those permits cannot be granted because the development cannot be done within the boundaries of existing legal instruments, the developer is able to apply to the minister to direct the pesky agency standing in the way to effectively stop doing its job under the act, even if the minister's direction would—this is a classic—result in action or inaction that would ordinarily be illegal.

We now have a number of amendments on the supplementary notice paper that it is intended will ameliorate the effect of this hugely problematic part of the legislation, ranging from my own amendment, which removes this power from the minister entirely, as is proper, to the government's amendment, which, in response to community outrage, intends that these powers will at the very least be disallowable. I suspect that if that amendment gets up, it is likely that power will be exercised.

Despite the enormous amount of assistance and what we expect to be considered assessment within the approval process, the developer will still have 48 months from the time of approval until significant commencement. One would

think that given all the handholding and deliberate overturning of all other legal instruments, a shorter time frame would be more appropriate. Despite the legislation being labelled as a COVID recovery action, it might take up to six years from the time that this bill passes for developments to begin. There is a deliberate setting aside of legislation that we have developed over years to ensure that we retain our natural and built heritage to pass on to future generations and a deliberate deferral to the minister and the Premier in a number of different aspects of the legislation, but we will not necessarily see action any faster than we would have ordinarily.

I am enthusiastic about the pre-engagement process that has been described to me. I think that getting all the decision-makers around a table early and ensuring that foreseeable issues are addressed as early as possible is obviously a very good thing. My only concern is that this process is not actually reflected in the bill before us. Instead, the legislation will give power to the minister to issue directions to other government agencies and bodies to comply with the WAPC approval.

I was also pleased to see that time limits on the decision-making body have been removed. Planning and development is definitely an area to which to the old saying more haste, less speed should apply. It is better to take the time that is needed at the beginning of the process to make sure that the issues are appropriately untangled before they become unsolvable problems and cause a project to fail months down the track, which is a waste of time and money for everybody. I am genuine when I ask this question: could we not have solved the problem of a lack of communication across government departments, which is a genuine issue, in a way that did not take out good governance and turn the whole thing on its head? There must have been a better way for us to achieve that outcome.

I particularly want to talk about some of the concerns I have with the way this bill is presented and how it could potentially facilitate corruption risk. We know that planning and development is an area that carries huge consequences for communities. It can also be extremely lucrative and very dependent upon government policies and decision-making. Every year, when the political donation disclosures come out, the biggest corporate political donors are those who stand to benefit the most from government contracts and lose the most from increased regulation or taxation. If members look at the returns from 2017–18, property developers have remained one of the largest industries providing direct political donations across Australia. They stand with extractive industries as one of the groups with the most to gain and also the most to lose when it comes to issues of government regulation and reform. Unsurprisingly, we find that those industries tend to be amongst the biggest political donors because money, frankly, gets them access. At the moment, access to ministers and their senior staff is one area in which we have the least transparency in Western Australia. Managing the corruption risk in this area poses an ongoing challenge. It is also a very big challenge to manage the risk of a patron–client relationship, in which corruption is much harder to detect, but the prioritisation of a donor's wants and needs at the expense of the wider community most certainly exists.

I turn now to how risk has been mitigated elsewhere. In some of the eastern states, which have different arrangements and ministers are more immediately involved in planning and decision-making, there is unfortunately a perception of corrupt activity and a history of planning ministers being stood down for poor behaviour in this space. To ameliorate some of that risk in the eastern states, caps and bans have been implemented on political donations from the development sector. Traditionally in Western Australia, we have attempted to mitigate the corruption risks by limiting the amount of direct involvement that the minister and the Premier can have in decisions. The Western Australian Planning Commission and the development assessment panels make decisions and the Department of Planning, Lands and Heritage provides the framework and the structure for that decision-making process. We have deliberately made a policy decision to hold the minister and the Premier at arm's length, but this bill turns that on its head. Instead, we are pushing towards the minister having much greater input in these very large decisions, but none of the concomitant leashing of the development industry and how it engages with the minister and the political system. I will be moving amendments to reduce the minister's multiple avenues for influencing the outcome of this decision-making, but the situation is worse than that.

The effect of part 2 of this legislation is that it conflates the profits of developers with the overall good of society; that is a stretch. The WAPC, in determining an application, need not refer to any legal instruments. This means that for the projects referred to this pathway, the legislated requirement to consider a number of acts that ordinarily would affect a development application is being set aside. Although it is possible that due regard might be given to the consultation provided by the agencies responsible for upholding the values enshrined in that legislation, the fact is that the WAPC will not be required to do so. In fact, it will be given something of a free pass not to do that. I hold very grave concerns about what else might be found inconvenient over the period of time that part 2 of this bill is live, given the wide sweep of what may be determined later in regulations. If at some point a government body or agency finds that the legal requirement for public consultation simply will not allow it to issue a relevant permit, the minister will be able to make it legal by just saying so. I do not think that is good governance at all. Therefore, I am pleased that the government has recognised this and will be moving amendments to make the use of these powers disallowable at least, as I have said. However, I maintain it should not be done in the first place.

There is a line between streamlining an application process and disregarding the checks and balances that should apply to ensure that a project will not disrupt community values. Part 2 of this bill falls completely on the wrong side of that line, and I intend to move amendments to that part. The reason that we have different ministers and different legislation to cover the various elements of our systems is to ensure that the experts in each field are able to implement their legislation to the best of their ability. Entire government departments have responsibility for ensuring that they maintain that expertise to ensure that nobody's pet project can override the protections that are supposed to be, and that the community expects will be, baked into the system.

I believe that the Department of Planning, Lands and Heritage and the WA Planning Commission will enter into this process with every intention of ensuring that community needs are met and community values are protected. I do not intend to ascribe poor faith to these departments. I am commenting on the words of the bill in front of us and what that will enable the WAPC and the Minister for Planning to do. Our responsibility as legislators is to look at the words that are presented to us and determine whether they will enable a framework that we are comfortable with. It is not up to us to simply go on good intentions and assurances. We have to look at the law as it is presented to us and determine whether it satisfies our concerns. Members, this bill does not satisfy my concerns. I have spoken many times in the past about how I am concerned when the regulator and the promoter of an industry are both housed in the same department. This is an issue with mines, for example, that I have been raising for at least a decade. However, this is a substantially worse outcome. That is because the government will not only be able to direct projects onto this pathway, but also advocate for those projects, and then bulldoze any and all objections to those projects. I am not saying that the Minister for Planning will do that. However, the bill as it currently stands means that the minister absolutely can do that. That is appalling. It will be irresponsible of us as a Parliament to allow that to occur.

The WA Planning Commission is supposed to be the deciding body of the streamlined process for the post-COVID recovery. It has been raised with me on more than one occasion that it will be quite hard to ignore a project that has been specifically referred by the minister. It is almost as though there will be an implicit expectation that the project will be approved. It is even harder to ignore the implications of proposed section 275, which strongly suggests that the WAPC will approve projects for reasons that are unrelated to the quality of the planning that has gone before it. That includes ignoring activities that would ordinarily have been unlawful, and approving plans that clearly contravene restrictions that would ordinarily apply. This is clearly an area that is making the community uneasy. I have received quite a bit of correspondence about this, notwithstanding the extraordinarily small time frame that has been available for communities to even become aware of what is in this bill. I note that if we had a history of developers doing the right thing by the community, it would not be quite as concerning. However, people are already anticipating that dodgy developers and dodgy developments will be set on this pathway and approved without sufficient oversight. People simply do not have confidence that that will not happen. I of course respect the planning expertise of the WAPC, and I expect I will also respect the planning expertise of the about-to-be-established development assessment unit of the Department of Planning, Lands and Heritage, which will support the WAPC to assess these applications. However, the effect of this proposed section is to ask the WAPC to approve projects based on reasons outside of planning merit. I have yet to see who will be responsible for holding that expertise for the WAPC, rather than merely being consulted by the WAPC.

During the recent debate on the local government amendment bill, I noted the changes that have been made through the Planning and Development (Local Planning Schemes) Amendment Regulations 2020 in response to the COVID-19 pandemic, and at that time I flagged my concern about the huge swathe of discretionary power granted to the minister under those regulations. I remind members that these regulations basically give the minister carte blanche to issue exemptions from planning requirements under the local planning scheme, with only conditions imposed by the Environmental Protection Authority remaining in force, and that those exemptions can be granted without requiring that the emergency declaration apply to the area covered by the local planning scheme. Further to that, the consultation required under these regulations is that the minister should make reasonable endeavours to consult the Western Australian Planning Commission and Western Australian Local Government Association, but it does not really matter if they do not; it does not really matter if it does not happen. I have to say that between this bill and the regulations that previously passed in relation to COVID-19 recovery, there has been a dramatic transfer of power away from local government and the community and into the hands of the minister. It has taken substantial public outcry to ensure that the government puts community consultation on to the supplementary notice paper. I again acknowledge that losing community consultation may not have been the initial intent of the bill, but it was initially enabled by it. It is just as well we have a Legislative Council that can ensure that the work is being done to make some corrections to bad legislation. What a shame the other place does not do its job, but anyway.

We know as MPs that there is a huge variation in how genuine engagement in community consultation can be throughout the planning process. I have seen some absolute shockers over my time in Parliament, but I have also seen some excellent planning consultation processes and how it can be done really, really well and bring the community

along. There is certainly a huge variation in outcomes as a result. Those decisions can often be extremely hard to understand in the context of our strategic planning documents and directions. I am afraid that part 2 of this legislation and the COVID-19-related local planning scheme regulations will further increase community uncertainty. I think they will reduce the safeguards of other legislation intended to protect community values and prevent tipping the balance, and we will now see the balance tipped even further in favour of developers.

The minister said in the second reading speech that the purpose of this bill is to focus on strategic planning, improve community consultation and provide greater consistency across the state and local governments, but the COVID-19-related elements of this bill will not do that—not at all. If anything, those COVID-19 elements will remove certainty, remove consistency and, effectively, extinguish community consultation. I understand from our briefing that it was not the intention to do this, and I believe the briefers. I believe the government will move an amendment to ensure that community consultation on the WAPC pathway will take place, and I will also move an amendment to be sure community consultation will take place.

I have been following the progress of planning reform with some great interest and enthusiasm, because, as I said, it is desperately needed. Anyone who thinks that our current planning processes are working has rocks in their head. The green paper identified that so many of the issues I see causing problems in the community keep coming up over and again. The initial steps that the government was taking to address those issues have largely been positive, but part 2 of this bill is a massive step away from those positive reforms. Those positive reforms originally sought to enhance the governance, transparency and community consultation around planning, but part 2 of this bill has instead increased the possibility of failures of integrity in the oversight of the development industry. It has removed the necessary application of so many of those laws, which are precisely designed to ensure we can pass natural and built heritage down to our children. I am disappointed beyond belief with the COVID-19 response that is embedded in this bill, because planning reform matters. These processes need to be tidied up so that no-one has to go through multiple iterations of the same information and multiple applications for the same project. It is equally exhausting for the community. Every bit as much as it is time consuming, it is expensive for the developers. Community groups should not have to constantly be on edge, making sure they keep an eye on what developers are doing. They should be able to trust that they have a genuine opportunity to provide input and that the input is going to be appropriately considered, and that what is finally proposed will comply with the various strategic documents and planning schemes. People want to know, particularly if they are residents, that what they have signed up for within a scheme where they live is what is going to be in place. However, over and over, this is not what happens. Community groups are instead left to spend resources—sometimes monetary and sometimes sheer energy and time—to fight every step of the way in an attempt simply to gain a fair outcome. Far too often, consultation is merely a tick or a flick at best. Far too often, only the actions of an engaged community actively fighting an inappropriate development ensure that it is ultimately halted or slowed.

The system should be making it easier for everyone to understand how to engage and ensure that everyone is treated fairly. It has taken us a long time to reach what we currently have within the planning system. It is far from perfect and I will continue to advocate for appropriate planning reform. However, the planning system does at least ensure there is some measure of balance between the community's various needs, whereas part 2 of this bill effectively ensures that we will conflate developers' profits with community good. Of course, I am not arguing there is not a genuine need for economic recovery. We all know that there is. But I am arguing that the time frames this bill allows for a COVID response are not such a compelling argument that we can justify the expediency in sidelining some of our core values—for example, community consultation. An example from my area that caused me not an insignificant amount of work was the 3 Oceans application. I have referenced this before in this place and I will talk a little bit about it now. Part 2 of this bill explicitly excludes Metropolitan Redevelopment Authority land from the Western Australian Planning Commission approval pathway, but the steps by which the 3 Oceans approval was eventually granted clearly demonstrates why the community holds serious concerns about the over-involvement of the minister and the Premier in the planning process. There was originally genuine consultation with the community and a scheme was widely supported and agreed upon. It was a good scheme. The application from 3 Oceans was therefore rightly originally knocked back for being ridiculously out of step with what was allowed under that scheme. A lot of pressure from the minister and the Premier followed, along with ministerial mediation. The decision-makers at the MRA were replaced by representatives from organisations that had been advocating for the proposal. Surprise, surprise—the second time around it was passed. At no point did the Premier or the minister say, "This proposal doesn't meet the scheme requirements that were finalised just last year, so go away and make sure you design something that fits." Instead, they used their power and influence to ensure it was approved. I have seen that happen and seen similar things happen in South Perth and Canning Bridge. I have also seen the long and ugly history of much-wanted development stymied in East Perth and Claisebrook to keep concrete batching plants on-site, and on that note I want to say, "Hanson and Holcim, go. Nobody wants you there. You've lost your social licence. Please leave—move on." Is it any wonder that the community has no faith that this process, with such a high

involvement with the minister, will bring about outcomes that will match local planning schemes? It is a process that seems designed to remove the opportunity for the community and ordinary regulators to say no to dodgy development.

I will move several amendments that I hope will ameliorate what is an egregious overreach of the COVID-19 response elements of the bill. I am disheartened that the genuine need for reform to ensure that agencies are working together, issues are identified early, and proposals are sensitive to local areas and community needs has not been resolved in the way that part 2 of the bill proposes to resolve it. Instead of drawing firm lines within which we expect developments to colour, we have instead written into our legislation that they can colour as they choose and the Western Australian Planning Commission and the minister can redraw the lines to suit and effectively bulldoze any other agencies and departments as required. We have already given up substantial amounts of transparency in and oversight of a range of areas to ensure that we can address the range of issues that the COVID-19 pandemic has caused, and those bills have largely come with sunset clauses that ensure the provisions of those bills will effectively disappear once the crisis has passed. But in this case, despite the time limit of the legislation, the community will not be able to move beyond this. The community will be left to deal with whatever development happens to result from this process for decades, if not indefinitely. Planning and the kind of large-scale developments that will be dealt with through this process need to be considered closely and carefully, with the understanding that what we do now will impact the future for decades. It is unacceptable to even contemplate that poor governance can be borne into these processes. As I said, we will be living with the legacy for a very long time, and, despite the best intentions, poor governance is enshrined in part 2 of this legislation. Regarding the sort of overreach and the sorts of powers that we will give the minister and the Premier, we have not even come close to being able to look at any of the sorts of checks and balances that have had to be put in place within Australia, particularly over east, as a direct result of poor behaviour and overreach.

I am concerned that we are seeking to pass legislation that will enshrine some terrible processes. It is very disappointing that we have lost the opportunity to implement all the positive reform, much of which is outlined within the green paper, and instead that we have this cobbled on overreach. I understand that the numbers in this place indicate that this bill is likely to be passed, which is extremely concerning. At the very least, the Greens will attempt to mitigate the worst excesses to the extent that the house will support them, but it is for those reasons that, unfortunately, the Greens will not be supporting this legislation.

HON COLIN de GRUSSA (Agricultural) [9.33 pm]: I confirm that I am the lead speaker for the Nationals WA on the Planning and Development Amendment Bill 2020. With the changes in seating arrangements in the chamber, it is a little different emerging from this side than from the trees and bushes on the other side of the chamber, although I am sure that my colleagues on this side of the chamber agree that we are just keeping the seats warm for next May. As I said, I am the lead speaker on this bill for the Nationals WA. As my colleague in the other place and lead speaker on planning, the member for Moore, has said, we will support this legislation, notwithstanding that there are certainly some concerns and issues that need to be explored in further scrutiny as we go through the Committee of the Whole House stage.

As others have said, the opposition in this place and the other place has shown a willingness to ensure that legislation that is required to respond to the COVID-19 crisis is dealt with in a timely fashion. Having said that, that is not an excuse to rush poorly drafted legislation through the Parliament, and we have seen quite a bit of that. The Standing Committee on Legislation is currently inquiring into three bills, so there is certainly a need to make sure we scrutinise legislation properly in this place, because that does not appear to be happening in the other place.

I will start by thanking the Minister for Planning and her department for the briefings on the bill they provided to me and my colleagues. I know others have had the experience of briefings being arranged before bills are ready, and it was certainly a challenging start. Having said that, the information that was provided in the briefing, the overview of planning reform and the details in the explanatory memorandum, were particularly good and very comprehensive, and certainly went a long way towards explaining the intention of the bill. That was very much appreciated, although the process probably did not get off to the best start with attempts to get this bill dealt with in a very rushed manner. It never ceases to amaze me how those in the other place seem to think we can just whack these bills through willy-nilly, without properly scrutinising them.

There are elements of this bill that create angst and concern amongst community members; that is not unexpected. Any mention of reform of planning and local government causes a lot of concern in the community because people are very anxious to ensure that their voices are still heard on the different elements and aspects of planning legislation in our state. There are however at this time some mitigating circumstances, to some extent, in that a response to COVID-19 is very much necessary. Our economy has and will continue to come under extreme pressure in the not-too-distant future, and, as a consequence, many different actions need to be taken to kickstart the economy before it needs to be put on life support. This legislation is one element of that. Obviously, there are elements of this bill that revolve around planning reform that has been on the agenda for some years, through the processes of the green paper on planning and the action plan for planning reform. These are all combined in this bill, along with

some COVID-19 elements added in. I believe—and the Nationals WA agree—that it will go some way towards providing stimulus to the economy, and that is, as I said, very necessary at this time.

Another important point with planning legislation is the engagement and involvement of local government in any reform. In many smaller regional communities, local government is intrinsically entwined within the community and in many of them is the largest employer. As a consequence, it is important to ensure that local government is very thoroughly engaged in the process. Given the need, from the government's perspective, to be expeditious with this bill, consultation on some aspects of this bill probably has not been as good as it otherwise would or should have been. It is certainly a concern that has been expressed by the Western Australian Local Government Association and by local governments in conversations we have had with them that perhaps they were not engaged as well as they could have been, notwithstanding the fact that there is an obvious need to get this through reasonably quickly. Again, we recognise the importance of engaging local government in any planning process. We are also keenly aware of the opportunities that exist for local governments with planning reform. One of those contentious local issues that can hinder development is poor planning legislation or poor planning practices. It can certainly hold up the development of new and exciting opportunities that might not otherwise be able to happen in communities. Some level of planning reform is good. A level of planning reform that gets other government entities around the table to allow them to be engaged in the process in the very early stages is a good thing. It is certainly a good thing because often those little cumulative effects along the way add up to delay or stop projects from happening. As other members have said, we are a regular point of contact in our electorate offices for people to come in with local planning and local government issues. They will obviously blame the local government at the first point because that is their local point of contact, yet in many cases those local governments have their hands tied through the processes that exist; so reform is a good thing. We certainly hold local governments and the Western Australian Local Government Association in the very highest regard. We seek to ensure that in the second tranche of planning reforms that are contemplated in future legislation, they are thoroughly consulted and are very much involved in the process. I would argue that as many regional local governments as possible would need to be involved, as well as their representative organisation. There are some unique aspects to some of the regional local governments and we need to ensure that they are consulted as well.

The Nationals WA also consulted with other representative bodies. My colleague the member for Moore and I met with representatives from the Housing Industry Association, the Urban Development Institute of Australia and the WA division of the Property Council of Australia. Obviously, industry is very supportive of these reforms; unsurprisingly, I guess. Hon Rick Mazza talked earlier about the need to ensure that the property industry can be a really important part of an economic recovery. We need to ensure that these sorts of things can happen to allow it to get on with doing what it does and help to contribute to the recovery of the economy post-COVID. Notwithstanding that, there are also obviously issues related to planning that have been around for a long time, and the industry is excited about the opportunity that some of these reforms will provide. I think that is a good thing.

The Nationals WA are very committed to sensible economic growth, especially in our regional areas. Improving this sort of legislation is certainly a way forward with that sort of growth. There will be a great number of challenges ahead for our state and our nation in the next 18 months. We need to make sure that we clear up that red tape—as well as some of the green tape—and remove as much of it as possible in order to progress our economic activity and keep our economy as strong as it can be.

In that consultation process with some of those industry players, it was very surprising to learn about some of the contributions developers have to make to local government. They gave some examples. For example, in the City of Swan, the development contribution that the developer had to make on every lot, regardless of its size, was $85 000. That is $85 000 tied up in development contributions on a lot. The City of Swan was not comfortable with the accountability and reporting about where that money was going and what it was being spent on. It kind of ties up a fair bit of capital. There could be a 100-square-metre lot with an $85 000 development contribution. Indeed, there were concerns that nearly one-third of the cost of land is tied up in some of these fees and charges as well. All those aspects of development and planning and so on need to be considered as they are perhaps adding some unnecessary and expensive costs to what ordinarily should be a lot cheaper development. Those contributions need further review and checking through whatever reforms are proposed.

This bill is a hybrid, and others have talked about that. A component of the bill seeks to provide some COVID-19-related changes, and we have the long discussed changes that have come about from reviews of years gone by and the changes proposed by the minister's own review in 2018. It is kind of a hybrid of these three things. I hear the argument that perhaps they could have been done as separate measures and the COVID stuff could have been done separately. My view on that is that if the government is going to make legislative change, why not get on with it rather than taking a piecemeal approach? It would certainly be much more productive to bring that legislation before Parliament all at once so that we can get on with it.

In the minister's second reading speech, he made the statement that this legislation has been brought forward now to assist in recovery from the COVID-19 pandemic and that planning reform is an enabler of better investment outcomes, together with community outcomes. That community aspect is an important point, because much of the correspondence on this bill that I have received as a member of Parliament has been from community members. It has not been from the large developer organisations and others like that; I have had very little contact from them. Most of that correspondence has come from very concerned community people, and I think is it important that we ensure that they are engaged in the process.

Debate adjourned, pursuant to standing orders.