

COVID-19 RESPONSE AND ECONOMIC RECOVERY OMNIBUS BILL 2020

Introduction and First Reading

Bill introduced, on motion by **Ms R. Saffioti (Minister for Planning)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MS R. SAFFIOTI (West Swan — Minister for Planning) [10.38 pm]: I move —

That the bill be now read a second time.

Western Australia is living through the COVID-19 pandemic. We have all been grateful for the way in which the community has responded to the various restrictions that the pandemic triggered, with uncomplaining commonsense and resilience and by adapting to whatever was required of them. The pandemic required the government to act swiftly to respond to crises beyond anything that it has previously experienced while it continued to undertake the business of government under challenging constraints. The COVID-19 Response and Economic Recovery Omnibus Bill 2020 will allow specific new options for government agencies to continue to operate in a COVID-19 environment. In doing so it will help to maintain Western Australia as open for business and mitigate damage to the economy that flows from the government not being able to function effectively due to pandemic restrictions. The bill will also ensure decisions taken since 16 March 2020 while the business of government continued during the pandemic—for example, by holding audiovisual meetings or waiving certain types of fees—are validated.

The governments of Tasmania, Queensland, South Australia, New South Wales and the commonwealth have all passed comparable COVID-19-related legislation to assist governments to continue to function effectively during the pandemic. Although we have been able to lift many restrictions and return to a more normal life, we have only to look to our friends in the eastern states to see how quickly things can change. Our government is taking every possible measure to protect the Western Australian community, but we remain aware of the potential for a so-called second wave.

At the start of the crisis, we moved quickly to offset, where possible, the inevitable economic pain brought about by the pandemic restrictions through a number of unprecedented initiatives. In March 2020, we activated the “Western Australian Government Pandemic Plan”, which provides a comprehensive whole-of-government approach to managing the impacts of COVID-19. The pandemic first and foremost required a health response, which led to a range of restrictions. The plan also called for actions to be taken across government to ensure business continuity, particularly to safeguard the economy. But this aspect has not been straightforward.

On 31 March 2020, we announced the \$1 billion COVID-19 economic and health relief package, which provided support to struggling households and businesses, and included waiving a range of business and occupational licence fees for 12 months. In many cases, this could be implemented reasonably quickly by regulation amendment to fee provisions in subsidiary legislation. However, in some instances, it could not happen because no head of power exists in particular acts to apply the fee relief. Naturally, there was an expectation within the community that this measure would come into immediate effect, so to support businesses, especially small and medium-sized businesses already in financial distress, fees were waived in anticipation of legislative amendments to bring about that relief measure.

Some months ago, we asked all public sector bodies to review operations and identify any legislative impediments that could prevent agencies from carrying out certain roles and responsibilities in the COVID-19 environment. This revealed some 75 acts and regulations contained requirements that hindered the government’s ability to apply readily available business continuity measures. Without change, decision-making boards or authorities could struggle to fully perform their functions, potentially threatening the state’s major economic drivers—such as development and other approval processes—particularly in the event of further lockdown restrictions. Inflexible statutory requirements, put in place when modern communication practices did not exist, also have the potential to affect environment regulation, transport and the administration of justice. For example, regulations that require public meetings to be held, committee members to meet in person, fees paid within set time frames or lodging of witnessing documents in person mean agencies will struggle to undertake their operational processes if restrictions are reinstated. Some agencies do not have the ability to lessen the financial burden on businesses and individuals in a time of severe economic stress by refunding or waiving fees and charges. These measures are contrary to our urgent need to progress economic recovery and avoid activities associated with community transmission. Technological and practical solutions can overcome most of these challenges and enable business continuity and economic recovery in these challenging times, but in many cases these solutions may be incompatible with existing statutory requirements.

The COVID-19 Response and Economic Recovery Omnibus Bill 2020 has been drafted to ameliorate problems and impediments arising from the emergency response to the COVID-19 pandemic, facilitate aspects of the state’s economic recovery, make related amendments to certain acts and validate actions taken before, during or after the declaration of the state of emergency. The bill includes standard provisions that will apply for a limited time to

classes of problems common to various acts or processes. These are designed to provide economic relief and make the processes possible in the COVID-19 environment. For example, they relate to waiving fees, holding meetings or addressing processes incompatible with social distancing requirements. As well, specific provisions can modify, for a limited time, certain obligations or authorisations under acts. This will enable business or administrative processes to be conducted in the COVID-19 environment. Other specific provisions modify, for a limited time, certain acts relating to mental health or the administration of justice.

Some provisions within this bill apply permanently. These relate to the administration of justice or environmental matters and will allow many manual court and related processes and certain environmental applications and processes to be done electronically. Other permanent amendments are made to miscellaneous acts. These include permitting Executive Council meetings to occur by teleconference or remote communication; facilitating the administration of certain justice matters by electronic processes, such as issuing and lodgement of certain notices or the giving of evidence; and amending the Interpretation Act 1984 to support provisions in this bill.

The bill was drafted by a working group comprising 10 major state government agencies including the Departments of Planning, Lands and Heritage; Transport; Mines, Industry Regulation and Safety; Water and Environmental Regulation; Health; Justice; Biodiversity, Conservation and Attractions; Development WA; the Mental Health Commission and Landgate. WA Police Force and the Public Transport Authority were also consulted. The working group also included representatives from the Department of the Premier and Cabinet and the State Solicitor's Office. The Parliamentary Counsel's Office has overseen drafting of this bill.

As this legislation is required to respond to a crisis, the legislation is temporary, and most of its provisions will cease on 31 December 2021. There is capacity to extend the operative periods for some provisions if the government deems it necessary, but provisions cannot be extended beyond 30 June 2025. I will talk more on the time line later.

Under the bill, agencies will have options for —

- waiving, varying or refunding fees, charges, dues and late penalties;
- extending time frames in which fees, charges or dues can be paid;
- meetings via telephone or audiovisual means, rather than in person, as well as for decisions to be made out of session; and audiovisual meetings that can be observed by the public as required by legislation;
- flexibility across a number of portfolios to permit witnessing by video link;
- expanding the list of authorised witnesses for affidavits under the Oaths, Affidavits and Statutory Declarations Act 2005;
- lodgement, transfer, distribution and serving of documents, applications and decisions via electronic means;
- documents available for public inspection online;
- extending or freezing statutory deadlines or time frames that apply to permits, licences and other similar instruments;
- exempting, and exempting with conditions, the need for a licence, permit or approval or existing conditions of approval;
- providing for telehealth consultations under the Mental Health Act 2014;
- extending provisions of the Courts and Tribunals (Electronic Processes Facilitation) Act 2013 to other acts within the Attorney General and police portfolios to facilitate drafting subsidiary legislation to allow electronic processing;
- providing audio links to be used for sentencing in certain limited circumstances under the Sentencing Act 1995; and
- provide for sureties to be entered into over video link when the surety may be intrastate, but unable to appear in person, allowing certain electronic notices to be issued under the Bail Act 1982, facilitating electronic lodgement of prosecution notices under the Criminal Procedure Act 2004, and increasing the ability of the courts to use audiovisual technology in specified circumstances under the Evidence Act 1906.

Importantly, the bill contains provisions that also validate any actions taken by agencies after 16 March 2020, particularly those relating to holding audiovisual meetings or waiving fees. This is a substantial piece of complex legislation comprising seven parts, each part consisting of a range of specific divisions, subdivisions and clauses that deal with individual acts. I do not intend to examine every proposal but will endeavour to provide the house with some representative examples of how this will maintain business continuity within government operations and the support it can provide to business and the community.

A significant outcome from this legislation is the ability for agencies to waive or refund fees and charges, providing essential financial relief to both businesses and individuals. This provision impacts 18 acts and the decision to do

so will generally sit with the agency's director general or chief executive officer, who also has the power to extend time frames for payment of fees and charges; for example, the Department of Water and Environmental Regulation administers environmental, waste and water legislation. Under the Environmental Protection Act 1986, over 1 500 occupiers of premises are regulated through permits, works approvals and licences. The power to refund or extend payments for fees relating to instruments under the Environmental Protection Act 1986 will support business continuity and maintain effective environmental regulation during a possible second wave of COVID-19 in the state and in the recovery period. Currently, there are no extension or postponement powers for fees, licences, works approvals and registrations under the Environmental Protection Regulations 1987, or for an application fee for approvals for sporting, cultural and entertainment events under regulation 18 of the Environmental Protection (Noise) Regulations 1997.

During the height of the COVID-19 emergency, social distancing measures and requirements to self-isolate made it impossible for major decision-making meetings to be held in person. Most agencies were able to develop technological workarounds so that the business of government did not stall. This allowed the work of a huge, diverse range of boards and committees—from the Rottneest Island Authority Board to the Pastoral Lands Board and the variety of committees under the Conservation and Land Management Act—to continue. The work of development assessment panels, for example, is crucial to the state's economy. Last financial year saw the various panels receive close to 300 development applications valued at more than \$4.5 billion, but governing regulations require panel members to meet in person, which clearly is not possible under social or travel restrictions.

Not meeting for three months or so would have had a disastrous impact on the development sector, so members met via audiovisual means, with details on how to observe meetings provided to the public through the published agenda. Online panel meetings that can be viewed by the public satisfy the requirement to hold public meetings.

Most acts and regulations were drafted before the rapid growth of digital technology, so many legislative instruments still require certain dealings with documents such as inspection, lodgement and access to be done in person and with paper copies. Providing documents online for public inspection, under a variety of acts, including the Planning and Development Act 2005, the Metropolitan Redevelopment Authority Act 2011, the Waste Avoidance and Resource Recovery Act 2007 and the Water Services Act 2012 will ensure that the community is still able to participate in decision-making processes, even when people may not be able to travel to a location to view physical documents due to COVID-19 restrictions.

The witnessing of documents was particularly problematic. The bill will allow for the witnessing requirements under the Oaths, Affidavits and Statutory Declarations Act 2005 and 15 other related acts to be met through audiovisual means.

The state government administers a number of regulatory regimes, from issuing licences to drive a vehicle to administering schemes designed to regulate the use or development of land. Agencies need the ability to extend the validity period of many authorisations, modify conditions or even obviate the need for certain authorisations or requirements. These provisions provide decision-makers the power to postpone expiry dates and modify or remove conditions that apply to authorisations, including approvals, licences or permits.

Continuing the seamless administration of justice underpins the civil life of a community and nothing, certainly not a pandemic, should impede its fundamental role.

The bill also modifies the Mental Health Act 2014 by providing telehealth consultations if a mental health practitioner is satisfied that it is necessary to do so to comply with the "Mental Health Infection Control Directions", and validates any such actions taken on or after 7 April 2020.

As I mentioned earlier, for the most part, these measures are temporary. However, the bill also includes provisions that are permanent. These cover the justice, water and environment portfolios, and include electronic automation of processes, replacing manual processes such as handwritten evidence; electronic meetings for bodies such as the Executive Council; and the electronic receipt and lodgement of documents and decisions. Provisions within the bill deal specifically with this. My colleague the Attorney General will be speaking more on this at a later stage.

Modifications will be made to the Bail Act 1982 to allow sureties to be entered into via video link if the proposed surety cannot appear in person. Ordinarily, this can happen only when the proposed surety is in another state or territory.

The bill provides for modifications to the Evidence Act 1906 to ensure the timely administration of justice by allowing witness evidence to be given if a key witness is not able to attend the court due to COVID-19 circumstances. Primarily, this is aimed at protecting child witnesses and will allow a child to give evidence, even if the accused person is not able to attend court. This is critical as it will shield child witnesses from further distress, anxiety and trauma if delayed in giving sensitive evidence. This will also ensure the timely delivery of evidence of child witnesses when the passage of time may cause issues with memory recall.

Modifications that impact the Sentencing Act 1995 will allow sentencing by audio link in specified circumstances if travel restrictions prevent an offender from appearing before the court either in person or by video link.

Provisions within the bill extend the application of part 2 of the Courts and Tribunals (Electronic Process Facilitation) Act 2013 to a number of acts within the portfolios of the Attorney General and the Minister for Police. Part 2 provides for the use of electronic technology to court and related proceedings, and the recording of those proceedings. This includes allowing for things that are required to be done in writing under an applied act to be done electronically; electronic lodgement of documents with courts and tribunals; electronic recordkeeping; electronic authentication; and giving and obtaining of information, provided these processes are done in accordance with the regulations or rules of court.

As I said earlier, this legislation has been introduced to meet a critical need brought about by extraordinary circumstances. It is needed to validate actions taken by agencies during the current state of emergency to ensure the work of the Western Australian government continues with as little disruption as possible, and it is needed to sustain the work of government now, even as restrictions are easing, and in the future, in the event of a second wave and as we focus on recovery.

The provisions in parts 2 to 4 of the bill are time limited, and mostly set to expire on 31 December 2021. Given future uncertainty, the option for extensions has been built in, if the crisis or the response period extends beyond this date. We cannot tell how long we may need to live with some of the measures provided to ameliorate the effects of this pandemic. These provisions can be extended by up to 12 months at a time. The extensions are granted by the Governor upon recommendation of the Premier, and these provisions cannot be extended beyond 30 June 2025. Parts 5 and 6 contain permanent amendments, which do not expire. We believe these time frames are appropriate to enable business continuity measures to be applied for the duration of the pandemic and to support economic recovery.

This pandemic required immediate and decisive responses from the government. We must now do whatever we can to support economic recovery while remaining prepared to meet the genuine and realistic risk of a further outbreak of COVID-19. This bill will help the government meet the challenges that have been identified so far in undertaking government business during this pandemic. I call upon all members to take this opportunity to support the government in this endeavour. I commend the bill to the house.

MR Z.R.F. KIRKUP (Dawesville) [10.56 pm]: I rise as the Legislative Assembly lead for the COVID-19 Response and Economic Recovery Omnibus Bill 2020, given that I represent Hon Tjorn Sibma in the other place. That is obviously the reflective nature of the bill, given that it has been introduced by the Minister for Planning here in the debate we are having this evening.

The ACTING SPEAKER (Ms M.M. Quirk): She is a polymath, member. Proceed.

Mr Z.R.F. KIRKUP: A polymath.

The ACTING SPEAKER: Yes.

Mr Z.R.F. KIRKUP: Madam Acting Speaker, it is a little late in the day for me to be trying to —

The ACTING SPEAKER: That is all right; you can google it when you get home.

Mr Z.R.F. KIRKUP: I look forward to it. I will ask Siri later on. I appreciate that the government has suggested that the COVID-19 Response and Economic Recovery Omnibus Bill 2020—I wrote this down, because it was repeated a number of times—meets a critical need in extraordinary circumstances. I understand why the government has brought this bill before this place: because, effectively, what we have found is that decisions have been taken since 16 March, when the pandemic was declared, which may not otherwise have been validated. It is quite a significant set of circumstances that we find ourselves in, in which we would hope that people were undoubtedly operating in good faith, but have possibly been in contravention of the existing law of the land. It is not an insignificant bill that we are dealing with here tonight to help revalidate those actions or to help validate them in the first place. We do not know what many of those actions actually are. We hope to get a greater understanding of some of these decisions through the consideration in detail stage, but, obviously, quite a number of areas have been identified where clearly there were some concerns with decisions that had been made in certain areas.

I appreciate the response from the minister and her team; indeed, I would like to recognise the minister's chief of staff, whom I personally have found very accommodating to the requests that have been made. I appreciate that, particularly when it comes to the conduct of this bill. I think that the minister has furnished us with a lot of information when it has been requested, so I appreciate that in this circumstance. I note that other iterations of the legislation have been proposed; of course, we do not see parts that we were most concerned about here. I think that, on the face of it, what we are dealing with here reflects the substantive area that the minister has identified previously in the briefings that she has had with us. The minister has found areas in which there is perhaps some overreach or some decisions that have been made that represent an issue for government that need to now be, as the minister has said a number of times, validated. I note that the governments of Tasmania, Queensland, South Australia and New South Wales, and I think also the commonwealth, have introduced similar legislation with comparable functions. The commonwealth legislation was the most substantive, from what I can recall. I guess these are the circumstances that governments find themselves in when they cannot conduct business as usual.

Extract from Hansard

[ASSEMBLY — Tuesday, 11 August 2020]

p4633b-4641a

Ms Rita Saffioti; Mr Zak Kirkup; Mr Shane Love; Dr David Honey

There is an expectation in the community that government functions can continue. I would hope that critical government functions would continue. The Liberal Party spokespeople this evening represent different areas, and I imagine they will be speaking about their different areas and certainly querying those during consideration in detail. There is a lot of breadth to this omnibus bill. It is a significant deviation from the minister's core role as a minister in this place. I do not doubt the minister's capabilities, but I find it unusual to be asking the minister questions about the Mental Health Act and things like that. I appreciate the challenge that all of us in this chamber might have as we ask the minister specific questions about areas of concern in different agencies. It is important to recognise that because of the community expectation that the government will operate as normal during this time, unless we come across something that is particularly nefarious or otherwise, the Liberal Party will not be opposing this legislation. However, we need to thoroughly investigate and scrutinise this bill. I expect that is what the government would want us to do, to make sure that we are operating in good faith in our compact with the people of Western Australia and that the government has not made any decisions or taken any actions that may otherwise have been illegal or invalid. Because of the nature of where we find ourselves with the phasing of the COVID restrictions, I am interested in whether these provisions will still be required following the end of the state of emergency. I suspect that ultimately we will return, as evidenced here, to business as somewhat of a new normal. I will be interested to see what that will look like after the most critical phase of the pandemic, when we had particularly tight restrictions, has passed, and where we find ourselves now, and whether some actions are being undertaken by agencies that they have continued as part of the normal business routine that they established during COVID-19.

The overriding object of this bill is to make sure that we validate certain actions. We should all take a particularly close look at that. My concern is that although it is important to provide retrospective approval to government agencies that have been acting in good faith, if those actions have not been done in good faith and are in contravention of what we would consider the normal actions of agencies, we are being asked to undertake a task when we are largely blind. I do not know the extent of other actions that have been taken. We are expecting a lot. We are taking on face value that the government believes agencies have been doing things in good faith and have been making decisions that would be invalid if this bill does not become law.

I also find interesting the breadth of this bill. Some of the key areas are very broad. The bill provides that Executive Council can be conducted via a teleconference. To my mind, that is quite significant. The waiving of late fees and penalties makes sense. Another area of concern is the proposed amendments to the Mental Health Act. They have been nicely couched as providing for telehealth consultations. Sure, they do provide for telehealth consultations. However, they also provide that an individual can be involuntarily detained for up to 144 hours under that act. That is a not insignificant circumstance. If that is found to have been happening during COVID-19, I would be very concerned about that.

I understand the need to ensure that we protect our clinicians. I understand the need in the Mental Health Act, as I reviewed it, for a clinician to assess an individual's mental health in certain circumstances that are prescribed by the act. A teleconference in this case is not one of those circumstances when it comes to somebody's involuntary detention. I would be concerned if that has already occurred. All of us would. That is not part of the act that the minister administers, and I appreciate that.

We all appreciate the breadth of this omnibus bill and the challenges it will present for us because it covers the Sentencing Act, the Courts and Tribunals (Electronic Processes Facilitation) Act, the Bail Act, the Criminal Procedure Act, the Evidence Act and the Oaths, Affidavits and Statutory Declarations Act, unfortunately none of which the minister administers. There are obviously others that I appreciate relate more directly—for example, there are water fees that are not administered by the Minister for Planning but by the Minister for Water.

The bill is stitched together as well as possible. There are areas that I have concerns about that we will seek to get some better clarity of during consideration in detail. Outside any other concerns, I genuinely worry about the Mental Health Act side of things. I genuinely worry about the teleconference capability or whether action has already been undertaken by clinicians who have involuntarily detained people, effectively without capacity. We now have to validate that decision. That is obviously an area of concern. Outside of that, there are some process-oriented provisions within the act that the bill seeks to validate. I hope we get a better understanding of what they will be going forward. We anticipate receiving answers on those provisions during consideration in detail. Fundamentally, it is important that we know the facts of what we are dealing with.

Outside of the act itself and what the government is seeking to introduce in this place, albeit with more cooperation in the past than other pieces of legislation that we have dealt with during COVID-19, the opposition has seen 13 or 14 urgent pieces of legislation dealt with as part of the COVID-19 response, all often in very quickstep. I appreciate that we have been furnished with more information in this instance, as I said at the very start. Some of these are not significant changes. The changes are not just small minor fees being waived, processes for paperwork not being witnessed appropriately and electronic lodgement. Some of the changes are quite considerable. It is considerable when it comes to the area that I represent in this place—health and mental health. That is an area of significant interest to me and other members of the Liberal Party with the respective portfolios that they look after.

Ultimately, as I said, unless we come across something that is particularly nefarious, we will not be opposing the bill but we will be going through the appropriate steps in what I hope will be a fairly extensive consideration in detail phase.

MR R.S. LOVE (Moore — Deputy Leader of the Nationals WA) [11.07 pm]: I would like to speak to the COVID-19 Response and Economic Recovery Omnibus Bill 2020 on behalf of the Nationals WA. I would like to thank the Minister for Planning for the relatively early engagement on this bill from her department and from her advisers. We had a briefing on Tuesday, I think, of last week. We have had some time to consider some of the aspects of this bill. I note that the bill has changed a little since that first briefing. I want to talk about what is not in the bill, and that is a further part to do with ministerial orders, which I think needs some careful consideration of its effect as we enter into a caretaker period and an election period. We made those points at the briefing. It appears that that has been taken on face value by the government. There has been some withdrawal there and a bit of a rethink. I look forward to what might come forward on those original concepts. Our original concerns remain.

As the Liberal Party has just outlined, the Nationals WA will generally be supportive of the matters that have been brought forward. By its nature, the bill touches on many portfolios. I do not know why the Minister for Planning ended up with this bill. I know there are some synergies with development assessment panels and other planning matters but it could easily have been the Minister for Water, the Minister for Mental Health or the Minister for Justice who brought forward this bill because many portfolios are touched by it. As members could imagine, that makes it difficult for a generalist like me to go through all the various aspects of the bill, so I have relied upon input from the rest of the National Party's small team to make some comments about various aspects of different parts of this bill. I have some concerns, as does the Liberal Party as outlined by the member for Dawesville, around the mental health aspects of this legislation and the very significant changes it will make, albeit as a temporary measure. I think parts 1 to 4 are the more temporary measures that are envisaged. It is a very significant matter for the people involved.

Looking at the bill, we see that parts 1 to 4 are thought to be only temporary. As the minister outlined in her second reading speech, that may mean by extension that some aspects of the bill may in fact run through until 30 June 2025, which is a significant period of time when we consider that that would be the entire term of the next government. We are talking about a very considerable length of time to grant extraordinary procedures and powers, so we need to go through the legislation with care and concern. No doubt, there will be a lot of discussion in the consideration in detail stage on a lot of those measures to do with the Justices Act, the Mental Health Act, development assessment panels et cetera.

The other key areas impacted are contained in parts 5 and 6. I understand that they are mainly to do with justice, court processes, and the Department of Water and Environmental Regulation and the Department of Environment Regulation processes. One area that concerned me a little bit was the servicing of bail conditions et cetera under the Bail Act, the Criminal Procedure Act and the Evidence Act. No doubt that is something we will talk about further in consideration in detail. As we know, the functions of Executive Council will be permanently changed. Potentially, the way that Executive Council meetings are carried out will be changed by this legislation, so this will be a very long living document, not just temporary legislation. Aspects of this legislation will carry on and affect the fundamental operation of the state's democracy, which takes place through changes to Executive Council.

Those longer living aspects of the bill bring to mind the need, as the Nationals have brought forward before, for consideration of a careful way to monitor and learn from some of the processes of the current pandemic and state of emergency. I do not think the government is listening to us on this issue. There needs to be a process whereby the whole Parliament can consider the lessons that have been learnt throughout this exercise and this period we are living through. It is an unprecedented period in our lives. No doubt, generations that have gone before have had such disruptive periods—wars, the Spanish flu and other things—but for us, certainly for me, this is a most extraordinary time. If we are going to introduce measures such as those in parts 5 and 6 of the legislation, it would be very good to look at this legislation in a much more holistic manner and to have a much broader understanding of some of the benefits that would accrue to the state if we were to take on some of the lessons learnt in this pandemic.

Also, there is a need to have some oversight of the actions of executive government. I believe that both the Liberal Party and the second party in opposition, the Nationals WA, have given a great deal of support to the executive in handling the situation. We have willingly gone along with limited debates on the many extensive and far-reaching bills that have come through Parliament in the last few months. We have had special sittings of Parliament. Throughout that period, the National Party has sought to facilitate the good governing of this state, because in the initial period, especially when there was a great fear that COVID would run like wildfire through the community, we did not want to see the dreadful outcome of a community ravaged by the pandemic. Regardless of politics, we wanted the government to succeed in its handling of the pandemic, because that success was essential for the safety of our communities. All members of this place—I can speak on behalf of the National Party—wanted to see the government succeed in its handling of those early stages of the pandemic to ensure that the health of the community was not

threatened. Now we are looking at a range of measures that are more to do with the economics and mechanics of government than with the immediate response to the public health threat that was evident in March and April.

When we are moving into this phase, I think it is important that we not only enable the government to act as it needs to, but also learn from what is going on and take that forward in a considered way and make a whole raft of long-living improvements to the way that the business of government is done. We know that many benefits can be accrued by streamlining processes, for instance. We have heard throughout this period that red tape and bureaucracy often stand in the way of business getting on with the job. That is one aspect of what can be achieved by a careful examination of some of the lessons that we have learnt. We also need to understand how we can act better so that we do not disadvantage communities by overreaching with some of the things we do. We need to ensure that the measures that are being taken for the protection of the community are achieving their aim.

The Nationals believe very strongly that, along with the cooperation that the opposition parties are giving to the government, there should be a tacit understanding by the government that we would like to examine carefully the types of measures that have been put in place to see what effect they have had, how effective they have been and whether changes can be brought forward in the future. We do not want to do that as some sort of emergency response; we want to have a considered response over time. We have called for inquiries and we have called for cooperation with the government. When the COVID standing order, under which we are dealing with this bill, was first discussed, assurances were given that there would be regular briefings for the Leader of the Nationals WA and the Leader of the Liberal Party about the state of play. My understanding is that those things have not been happening; we have not been getting those updates. The understanding was that opposition parties would have some oversight of the processes of Parliament for some of these measures so that we had some greater insight into what is happening in the state. Sadly, that has not always happened.

I make those points to the ministers who are in the house, and I do so in a cooperative way. I am not trying to say that we would withdraw support for these measures. I believe we will support the COVID-19 Response and Economic Recovery Omnibus Bill 2020, but we reserve the right to examine carefully many of the aspects of it, both in consideration in detail and when it progresses to the Legislative Council. No doubt members of that place will want to look at some of the aspects of this bill in great depth. I again put on the record the Nationals' view that some of these long-lived changes, such as those under parts 5 and 6, should quite properly be part of a wider review of the effects of the pandemic, the government's responses to it, and the lessons we have learnt through those responses.

DR D.J. HONEY (Cottesloe) [11.20 pm]: As has been indicated by our lead speaker on the COVID-19 Response and Economic Recovery Omnibus Bill 2020, the Liberal Party will support it. Once again, here we are, late at night, presented with a complex bill that allows the government extraordinary powers. As was mentioned by the member for Moore and our lead speaker, the member for Dawesville, this bill needs considerable scrutiny. Some parts look simple—for example, clauses 96 to 108, which delete numerous sections of other acts—but it is no trivial matter to go through and try to find out what they refer to. As has been indicated, that will require consideration in detail here, but I also expect the Legislative Council to apply considerable scrutiny to the bill and likely refer it to a committee so that it can get the scrutiny it deserves.

Maybe this bill should be called the “Trust Me” bill, because it requires a considerable leap of faith on the part of the opposition in agreeing to its provisions. We are being asked through this bill to authorise unknown actions carried out by unknown people. There is no transparency about what the previous decisions were or what decisions are being authorised. It is not clear whether we are authorising decisions that were illegal; it is not even clear if we are authorising decisions that were, in fact, corrupt. The provisions in this bill are extraordinarily general, particularly in the provisions for retrospective approval of past actions. I will focus on that in a little detail, because I am intrigued as to why we have different wording in different parts of the bill. Some parts are very specific on what we are providing; others are extremely general. That leads us to the suspicion that certain acts have been carried out that, in fact, fall outside the scope of this bill, so I think it is fair for the opposition to know what they are. I will go through those, minister. I am not sure how carefully the minister has read the bill; I know she is a thorough minister and that she goes through things, and I rate her work.

Ms R. Saffioti: You're a nasty piece of work.

Dr D.J. HONEY: I am not being condescending, minister; I am being genuine. The minister does her work, but —

Ms R. Saffioti: You're a nasty piece of work.

Dr D.J. HONEY: That is a very offensive thing to say, and the minister should withdraw. It is very offensive.

Ms R. Saffioti interjected.

The SPEAKER: Get back to the bill! It is getting late, and the Speaker is getting tired and cranky.

Dr D.J. HONEY: The minister is making offensive comments to me.

Ms R. Saffioti: What did you just say about us? What were we?

Extract from Hansard

[ASSEMBLY — Tuesday, 11 August 2020]

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Dr D.J. HONEY: What did I say about the government?

Ms R. Saffioti: Yes.

Dr D.J. HONEY: I said that it is not transparent. I will not go through it, minister. The minister can go and look at *Hansard* and have fun.

Ms R. Saffioti interjected.

The SPEAKER: Minister!

Dr D.J. HONEY: Most of the effects of this bill will last until 2025. Some of the changes are permanent.

Ms R. Saffioti interjected.

The SPEAKER: Minister!

Withdrawal of Remark

Mr Z.R.F. KIRKUP: I believe the minister made a remark about the member for Cottesloe, and he has asked her to withdraw.

The SPEAKER: I did not hear it; I guess I was telling her to behave. Do you want to withdraw, minister?

Ms R. SAFFIOTI: No. I said he was nasty and sexist. Just like he stands up and uses the word “corrupt”, every time he stands up I can say “sexist”.

The SPEAKER: No, I do not think that is offensive.

Dr D.J. HONEY: I am disappointed, I will say, because that is an extremely offensive comment.

The SPEAKER: Member for Cottesloe, I made a ruling, do not query my ruling. If you do, you can sit down.

Dr D.J. HONEY: I am not querying your ruling, but I am deeply offended by the minister’s comment.

The SPEAKER: Member for Cottesloe, I call you to order for the first time. You cannot keep talking on a ruling. Get on with it or I will sit you down.

Mr Z.R.F. KIRKUP: So that I am entirely clear, I think the member for Cottesloe was simply returning to the second reading rather than responding to your —

The SPEAKER: No, he was not.

Mr Z.R.F. KIRKUP: While we are at it, I am not entirely certain that you had made a ruling, Mr Speaker.

The SPEAKER: I did; I said I did not think it was unparliamentary and he kept talking about it. I said if he kept going, he would be sitting back in his seat. Member for Cottesloe.

Debate Resumed

Dr D.J. HONEY: Thank you very much, Mr Speaker.

When we talk about trust, and trust of the McGowan Labor government, trust here is very low.

Mr D.R. Michael: The Liberal Party is full of liars.

Mr Z.R.F. KIRKUP: Point of Order.

Withdrawal of Remark

The SPEAKER: No; you do not need to. Withdraw.

Mr D.R. Michael: I just said the Liberal Party.

The SPEAKER: It does not matter; you cannot call a person a liar.

Mr D.R. Michael interjected.

The SPEAKER: You called the Liberal Party liars. I will get a ruling for you.

Mr D.R. Michael: Thank you, Mr Speaker.

The SPEAKER: Just be careful.

Debate Resumed

Dr D.J. HONEY: As I said, trust in the McGowan Labor government is very low. I sat in this chamber when we put through the first tranche.

Several members interjected.

The SPEAKER: Members! Leader of the House and Minister for Transport, I call you to order for the first time. The member is on his feet; give him an opportunity.

Dr D.J. HONEY: May I continue?

The SPEAKER: Yes, you may.

Dr D.J. HONEY: Thank you very much. I sat in this house when the first tranche of the COVID provisions went ahead. During that debate, when the budget was pushed back, the Treasurer gave an undertaking to the Leader of the Opposition and the Leader of the National Party that they would receive regular updates on the financial position of this state. How many briefings has the Leader of the Opposition or the Leader of the National Party received on the financial position of this state? Zero, minister. That is how many briefings they have received because we have a government that is secretive and, as we have seen tonight, feels it can bully its way through this Parliament. It treats this Parliament with absolute contempt. It is no more witnessed than by keeping those matters secret, not informing the Leaders of the Opposition and the National Party when the Treasurer undertook to provide those briefings, but we got nothing. Again, we see bills coming in. This Public Health Amendment (COVID-19 Response) Bill came in with some notice, and that was good. Again we saw an example of a bill coming in today with no notice to this house.

Parts of the bill as it was presented to us in the original draft go to the mind of this government. The provisions in clause 7, which, thankfully, have been largely removed, can only be described as Putin provisions. They reflect on a government that believes it can do anything. As I have said before in this place, the Labor Party is making a major mistake by conflating popularity with infallibility. The McGowan Labor government smashed our domestic economy before COVID-19 began. We have a state with 40 per cent of the nation's export income and only 10 per cent of the population, the second highest unemployment and second highest youth unemployment in Australia. That speaks to the ability of the McGowan government to make decisions. A cascading series of poor decisions was made. Given the hour and given that some of my colleagues wish to make a contribution, I will not go through them, but they go to this government's ability to make proper decisions for the wellbeing of the people of this state. Members opposite may feel buoyed by the Premier's popularity during this COVID period, but they should not conflate that with infallibility in their own decision-making.

I understand the overall intent of the bill and other members have been through it. A number of the provisions make some sense. However, I am particularly concerned with a couple of aspects of the bill, which I will go through. We will explore them a bit more during the consideration in detail stage. Firstly, I refer to the different wording used in retrospectivity in the bill. Clause 19, "Validation of meetings and decisions", a retrospectivity clause, is all qualified "as validly held or made as it would have been if Subdivision 1, and any regulations made under that Subdivision, had been in effect at the time of the meeting or decision." I assume that is saying the decisions that were made before, consistent with the principles outlined from section 12, are authorised retrospectively. However, clause 20, "Public availability of documents" does not refer at all to the preconditions in subdivision 1 of that section. Why is that not the case? Were decisions made that fall outside the preconditions in subdivision 1? What were those decisions? We do not know. I do not know why that has changed. This legislation has been through the drafting office, but there is different wording between those clauses. Other clauses also have different wording. It makes me extremely concerned that decisions have been made and acts have been carried out that are not covered in the scope of this act, other than being authorised retrospectively. That is a great concern.

There are very broad powers in this legislation. Clause 31 states the "Decision-maker may modify or remove conditions of authorisations during operative period". That is a very broad power that needs to be explored in some detail. It covers clearing licences, licences under the Rights in Water and Irrigation Act and prescribed authorisations. There is no sunset clause in part 5 of the bill, so those provisions will last forever. These are lasting changes, not just about the emergency happening now.

Some of the changes the legislation will make are very significant. Clauses 98 to 103 include the deletion of sections of other acts. That is quite significant and quite difficult to track. Again, it will require significant scrutiny. A number of provisions in this bill make sense in the context of COVID-19 and some of those provisions go well beyond 2025, which is a considerable time. Some of those provisions are permanent. Although we are supporting this bill as it is being presented, it will require significant scrutiny. In particular, we need transparency on what decisions have already been made. Were they in fact legal at the time and were the decisions made at a time that falls outside the scope of the provisions that are enabled in the future by this act, not the blanket authorisation of a past decision? Were those decisions consistent with the provisions in this bill that enable future acts?

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.