

**EMERGENCY MANAGEMENT AMENDMENT
(TEMPORARY COVID-19 PROVISIONS) BILL 2022**

All Stages — Standing Orders Suspension — Motion

MR D.A. TEMPLEMAN (Mandurah — Leader of the House) [12.42 pm]: I move —

That so much of the standing orders be suspended as is necessary to enable the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 to proceed through all stages without delay between the stages.

Obviously, the intention of the government is to pass the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 through this place and enable it to be transferred to the other place for it to be debated as soon as practicable and to pass. I will explain the reasons for the urgency of this bill. The government has for some time been operating under COVID response arrangements. Of course, those arrangements have fared us well as a state in terms of securing and encouraging a strong and enduring economy, with record low unemployment levels, participation rates that are above those of any other state in the nation, and a range of very positive outcomes for the people of Western Australia. We have been operating under the Emergency Management Act arrangements on a three-monthly rolling basis. The proposal before the house is to pass all stages of the bill today. The bill will allow a temporary fit-for-purpose legal framework for the ongoing management of COVID-19. As members are aware, COVID-19 still exists amongst us, but how we deal with COVID-19 has been modified. The framework is outlined in the bill. The reason it is important for the bill to be dealt with as quickly as possible is that it will allow COVID-19 to be managed outside of a state of emergency, with these arrangements to expire after two years. Under the legislation, the State Emergency Coordinator will be able to make COVID-19 declarations to keep WA safe. The bill will draw on the arrangements that have contributed to our success in managing the pandemic to date.

There has been much criticism by the opposition of the existing emergency management arrangements. Indeed, there are numerous examples of the opposition calling for an end to the existing state of emergency provisions. As members are aware, the requirement to have this legislation in place as soon as possible is why the bill is being introduced today. We have just been through a period in which some sitting days were curtailed due to the death of Her Majesty Queen Elizabeth II, and we are about to go into a three-week recess in which the Parliament will not sit. We want the new arrangements to be in place as soon as practicable, and we seek the support of the opposition in this. As I said, if we pass the bill today—the last day before a three-week period in which the Parliament will not sit—it will allow the bill to be considered by the other place at its earliest opportunity in October, and then hopefully passed as soon as practicable. It will hopefully be in place and operational by late October or November. To me, that is a reasonable outcome, particularly given the opposition itself has been seeking—in fact, demanding—an end to the current arrangements under the state of emergency provisions of the Emergency Management Act. I could go through a range of quotes from various members opposite regarding the intentions of this act, but, again, I think it is important that the house considers this motion.

We have made arrangements to sit later into the evening if required to enable the bill to be debated and all stages to be considered. As I said, the expectation is that we will be able to pass this bill later today or this evening in order for it to be in the other place for consideration and then made law as soon as practicable.

MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [12.48 pm]: I rise to speak against this motion. In doing so, I want to run through a couple of things the Leader of the House has just outlined. He gave the background of the current situation in this state and an understanding of what the arrangements in the bill seek to do. The Leader of the House failed to outline any reason to debate this bill at this time, with three sitting weeks in October remaining for the Legislative Council to consider legislation properly. It is not until 4 January next year that the current arrangements come to an end. The Leader of the House made an error when he said that the current arrangements are on a three-month rolling basis, because I understand that is what this bill proposes to put in place. At the moment, the minister is maintaining the state of emergency on a fortnightly basis. The opposition is not arguing for the retention of the state of emergency; in fact, we have called for the state of emergency to be replaced with a better set of arrangements. The government has presented the opposition with a bill, and we have been diligently applying ourselves throughout the night to understand what it contains. Now, the government expects us to debate this bill tonight. That is not a fit way to consider such an important piece of legislation. The minister has failed to outline the reason for the urgency. The Legislative Council would have plenty of time to debate this matter if we were given sufficient time to digest all the information and properly deal with it in this house.

This current session of Parliament is less than two years old and, so far, 12 pieces of legislation have been introduced without notice or with a day's notice, requiring a suspension of standing orders to consider those bills. Examples are the Planning and Development Amendment Bill 2022, which the Minister for Planning put through this place; the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2022, which was another rushed bill; the Treasurer's Advance Authorisation Bill 2022, which was another rushed bill; and the Small Business Development Corporation Amendment (COVID-19 Response) Bill 2022, which the Minister for Small Business brought to this place. The opposition supported the suspension of standing orders to consider that bill because

there was a degree of urgency involved and the need to adequately deal with arrangements for the Small Business Development Corporation to distribute money to those small businesses. We saw a genuine need for that and the opposition supported that, just as it supported many, many pieces of legislation in the previous Parliament, some of which were brought in under the then existing COVID temporary suspension orders that were in place throughout the last Parliament. The opposition is not opposed to every piece of legislation that the government brings to this place being dealt with urgently if it sees a genuine need for that. It is opposed to the practice that has begun to be the norm with this government, giving insufficient notice and insufficient time to the opposition to digest the information. We received a briefing last night during the dinner break, which was only an hour long. I could not go to the whole briefing because I had business to deal with in the house immediately following the cessation of the dinner break. The briefing went for about an hour and 20 minutes. A remark was made by the advisers that it had been going a very long time. I am sorry, but it is a significant bill and members want to understand as much as they can to properly debate this bill. Can members imagine being presented with a bill of this complexity and with a number of implications for Western Australians going forward? To be given a briefing at dinner time last night and be expected to contribute to the debate properly throughout the rest of the day is, I think, disrespectful to the Parliament. It is not only disrespectful to the opposition; it is disrespectful to the Parliament and the processes it represents. The government may have its reasons to make this bill urgent, but the Leader of the House failed to outline those.

I will not waste the time of the house by going through the rest of those bills that were declared to be urgent, which were not urgent, but there are many. At the other end of the process, we see bills that were introduced into this place that have been sitting on the notice paper for so long that they have fallen off the notice paper because they have not been discussed in a whole year. On Tuesday I think it was, the Motor Vehicle Repairers and Dealers Legislation Amendment Bill 2021 fell off the notice paper and I do not believe it has been restored to the notice paper. The Iron Ore Agreements Legislation Amendment Bill 2021 fell off the notice paper; and, previously, the Animal Welfare and Trespass Legislation Amendment Bill 2021 fell off the notice paper and had to be restored in this current year. We see a pattern of disrespect for the processes of Parliament and an inability to provide proper notice or to give us the information we need to be able to properly digest legislation.

I also point out that last night we were given a slide show and then this morning, I think it was, the slides were sent to us. The opposition was briefed yesterday, 20 September, but I see here that the State Parliamentary Labor Party briefing took place the day before. Why could not we have been offered a briefing on the same day—that is, 19 September? At least we would have had some time to digest the information and to ask questions. This morning we received supplementary information on a number of questions. There has been no opportunity for us to go through that amount of information, given the amount of time we have had.

I voice my opposition to this suspension of standing orders, not because I want to prolong a state of emergency in the state, but it is important that the processes of Parliament are respected and that proper notice is given, where possible. The Leader of the House could have given us at least another day, which would have enabled us to do more research and discuss the issues with the parties around this bill. We have not had an opportunity as a whole to have our parties examine these bills and come to positions that have been agreed amongst all members of the party, because we have not had time to brief them and get all their views. That is not a good position to be in when we are dealing with such an important piece of legislation. I am suggesting that this has now become the norm for the government to disrespect the Parliament and to run through pieces of legislation without due processes being in place for us to properly assess them. Again, as I did on many occasions, including the Treasurer's Advance Authorisation Bill, I put on the record that we are very disappointed and dismayed with this government and the way it is treating the Parliament. It shows a lack of respect to not only the people we represent but also the people that government backbenchers represent, because I wonder what input they have had into this.

I will conclude on that. I do not want to hold us up forever. I do not know whether anybody else will speak to this matter, but I am certainly opposed to this suspension of standing orders.

MS R. SAFFIOTI (West Swan — Minister for Transport) [12.58 pm]: I want to make some closing remarks. The suspension of standing orders will enable the government to deliver exactly what the opposition has been calling for. The opposition has been calling for a new way to manage the COVID rules and what happens in the community. The opposition has called for it time and again. Members opposite have resisted and criticised the state of emergency powers. They have said some extreme things in the community about the state of emergency. They said we should have a step-down provision, and here it is. This bill will provide a step-down provision. The government finds it a bit rich that members opposite have time to go to the media to do full-on interviews and then say they do not have time to get across the legislation. The opposition should concentrate on what it needs to do to get across the legislation and be ready for the debate.

Mr R.S. Love: How dare you! You brought the legislation in at dinner time last night.

Ms R. SAFFIOTI: If members opposite took this place seriously, they would be here to attend parliamentary sittings. On a normal day when we look across the chamber towards the opposition benches, we see that at least two or

three opposition members are not there. If members opposite took Parliament seriously, they would be here; they would rock up to question time and for debates. The Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 will deliver exactly what the opposition has called for. As I said, every time we have had a state of emergency, members opposite went out there and called the Premier and the minister names and talked about regimes and so forth. This will provide the step-down approach to allow for the introduction of rules to help manage things such as mask wearing in certain facilities. Some of those rules still need to be in place but without the requirement of a full declaration of a state of emergency. That is why the bill will be introduced.

In relation to parliamentary proceedings, last week we had an unprecedented week off. We did not know that we would be having a week off. Those things have thrown the government's ability to manage some legislation. Tomorrow is a public holiday. None of us thought that tomorrow would be a public holiday. All these things have required us to manage the legislation in this way. Opposition members should not argue for something only to argue against it when we introduce it. As I said, this opposition wants to be offended every day. Every day that the government does something, it is offended. It is offended that we not do not have a step-down process, but when we bring in a step-down process, it is offended by that. Opposition members are constantly offended and after a while, because they are constantly offended, no-one takes them seriously and this continues to be the case.

We on this side of the house support the suspension of standing orders because we want to get on and create a new way of handling the COVID pandemic. It is important that we transition away from the state of emergency to a new way of managing COVID in the community.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [1.01 pm]: I was not going to contribute to this debate, but after the Minister for Transport's delusional presentation, I feel compelled to do so. I say that because if the minister believes that the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 will end the state of emergency, she is delusional. The bill will not end the state of emergency; it will continue the state of emergency. The only thing that will change is the name. I seriously doubt that when the Minister for Transport was in opposition during previous Parliaments that she would have accepted this as a reasonable process for such an important bill. Minister, the reality is that the government has until November to deal with this bill. That is the requirement because, in fact, the powers that exist in the Emergency Management Act 2005 and the extension carry through to early next year. That is the time the government has. The way the government is handling this bill is an absolute disgrace and an absolute abuse of Parliament. It is a complex bill with the most serious provisions, which I will go through during my contribution in this place. The way this has been done is a disgrace. The fact that the minister responsible, the Premier, has delegated the bill to the Leader of the House and is not even bothered to be in Parliament during the debate is an absolute disgrace. If the Premier could not be here, there is no reason that the bill could not have been delayed. If the Premier —

Several members interjected.

The ACTING SPEAKER (Mrs L.A. Munday): Ministers!

Several members interjected.

The ACTING SPEAKER: Ministers, the member is on his feet!

Dr D.J. HONEY: If the Premier were serious about this bill and did not treat us with contempt, he would have readily delayed debating the bill until he could be in the chamber. This is utterly inappropriate. To say that the opposition should not alert the public through the media about the government's disgraceful behaviour or the content of this bill again goes against all the democratic principles of this place. Government members know that it is our role as the opposition to be informed and to inform the public about what is happening in this place. When we think the government is doing something egregious, as it is now, it is our duty to inform the public. On top of all the other things that we were preparing for today, we did not have adequate time to properly review the bill. That is disgraceful and there is no need for it. I will go through that further in my contribution.

Division

Question put and a division taken, the Acting Speaker (Mrs L.A. Munday) casting her vote with the ayes, with the following result —

Ayes (44)

Mr S.N. Aubrey	Ms M.J. Hammat	Mr K.J.J. Michel	Mr D.A.E. Scaife
Mr G. Baker	Mr T.J. Healy	Mr S.A. Millman	Ms J.J. Shaw
Ms H.M. Beazley	Mr W.J. Johnston	Mr Y. Mubarakai	Ms R.S. Stephens
Dr A.D. Buti	Mr H.T. Jones	Ms L.A. Munday	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr D.J. Kelly	Mrs L.M. O'Malley	Dr K. Stratton
Mrs R.M.J. Clarke	Ms E.J. Kelsbie	Mr S.J. Price	Mr C.J. Tallentire
Ms C.M. Collins	Ms A.E. Kent	Mr D.T. Punch	Mr D.A. Templeman
Mr R.H. Cook	Dr J. Krishnan	Mr J.R. Quigley	Mr P.C. Tinley
Mr M.J. Folkard	Mr P. Lilburne	Ms M.M. Quirk	Ms C.M. Tonkin
Ms K.E. Giddens	Ms S.F. McGurk	Ms R. Saffioti	Mr R.R. Whitby
Ms E.L. Hamilton	Mr D.R. Michael	Ms A. Sanderson	Ms C.M. Rowe (<i>Teller</i>)

Noes (5)

Ms M.J. Davies	Mr R.S. Love	Mr P.J. Rundle (<i>Teller</i>)
Dr D.J. Honey	Ms L. Mettam	

Question thus passed.

Introduction and First Reading

Bill introduced, on motion by **Mr R.R. Whitby (Minister for Environment)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR R.R. WHITBY (Baldvis — Minister for Environment) [1.10 pm]: I move —

That the bill be now read a second time.

The bill before the house today seeks to amend the Emergency Management Act 2005 and other acts to provide a temporary legislative framework for the ongoing management of COVID-19 after current state of emergency declarations end.

Western Australia has earned an enviable reputation for its strong management of COVID-19. While other countries and states dealt with the toll of widespread outbreaks through 2020 and 2021, we successfully suppressed and eliminated community transmission of the virus for almost two years, while maintaining our strong economy. As noted in the 2022–23 state budget, Western Australia's domestic economy has grown by 7.2 per cent since the start of the pandemic—the strongest of all the states.

Although some Australian states endured long lockdowns and harsh restrictions, and lived through the devastating impacts of the Delta variant, WA spent only 12 days in lockdown outside the first few months of the pandemic. To avoid the conditions impacting other states and enjoy our open, largely COVID-19-free lifestyle, thousands of people moved to Western Australia. Our borders were closed while other states battled major Omicron outbreaks at the start of the year, providing the opportunity for Western Australians to better protect themselves with a third dose of a COVID-19 vaccination. We then opened the borders in March, with the highest third-dose vaccination coverage in the country. This added level of protection, coupled with sensible public health and social measures, meant that we were able to avoid the full extent of Western Australians losing their lives that we might otherwise have witnessed.

Since our first Omicron peak, we have gradually stepped down public health and social measures and testing and isolation protocols based on health advice. Baseline measures, such as isolation for positive cases and masks in certain settings, remain in place to protect vulnerable cohorts. We have moved towards living with COVID-19 and emphasising personal responsibility for doing the right thing—practising hand hygiene, staying home if we are sick and wearing masks as required. We achieved our soft landing and, on behalf of the Western Australian government, I would like to thank each and every Western Australian for their efforts to keep us safe. The last two and a half years have been challenging, and I acknowledge the sacrifices that many Western Australians have needed to make for the benefit of our community.

Although we have entered a new phase, the pandemic is by no means over. The recent Omicron wave presented new challenges throughout winter, particularly due to the emergence of new sub-variants. Our experience of effectively managing the previous waves has prepared us to minimise the impact of the new sub-variants. COVID-19 is continuously evolving and we must remain prepared. Therefore, at a minimum, there is a need to maintain some baseline public health and social measures and testing and isolation requirements, primarily to protect the vulnerable population and minimise hospitalisations. In addition, we need to be prepared for the possibility that severe or vaccine-resistant variants may emerge and require a prompt escalation in response.

Our strong response to COVID-19 has been enabled by our emergency management frameworks under the Emergency Management Act and the Public Health Act. However, as we move into this new phase of living with COVID-19, it is important that our legislative frameworks also evolve as needed. The amendments before the house propose a temporary, fit-for-purpose legal framework for the ongoing management of COVID-19 for two years, outside of a state of emergency. Under the new framework, the State Emergency Coordinator can make a COVID-19 declaration for up to three months at a time when a specific threshold is met, and the declaration must be revoked when it is no longer necessary. The Chief Health Officer must be consulted in making, extending and revoking the declaration. When a COVID-19 declaration is in place, the State Emergency Coordinator and authorised COVID-19 officers can exercise a range of COVID-19 powers to manage the pandemic. The COVID-19 powers include those that have been regularly relied on to manage COVID-19 to date, and will allow directions to be made and actions to be taken to prevent, control or abate the risks associated with COVID-19.

Certain powers that are available only in a state of emergency will not be available under the COVID-19 declaration, including the ability to close the interstate border. However, if there is an escalation in infections and there was a need for a significant and coordinated response and extraordinary measures to control the spread of COVID-19, such as implementation of a controlled interstate border, a state of emergency for COVID-19 may also be declared.

The bill will amend section 72A of the Emergency Management Act to restrict it so that it may be relied on only if a state of emergency declaration is in force in relation to COVID-19. Section 72A will no longer expire on 4 January 2023 and will be available during the same two-year period that the temporary COVID-19 provisions are in place for.

The amendments also specify that the State Emergency Coordinator may take into account social and economic considerations, as well as public health considerations, when making, amending or revoking directions. These considerations are important and appropriate in a prolonged pandemic with potential for widespread community impacts. The bill retains existing requirements to publish declarations and directions, while also introducing a requirement for the publication of health advice related to a COVID-19 declaration. The bill will also make consequential amendments to other legislation to account for the COVID-19 declaration and COVID-19 powers.

Our approach in bringing in this bill is consistent with the actions of a number of other states and territories that have introduced legislative amendments to enable their ongoing COVID-19 response outside of emergency declarations. The amendments before the house are for the temporary management of COVID-19 and will expire after two years. COVID-19 has been a significant test of Western Australia's emergency management frameworks, with state of emergency provisions being used for the first time. The pandemic has highlighted that existing frameworks were not designed for prolonged events of this magnitude. After the states of emergency end, work can commence to examine the suitability of relevant legislation and incorporate lessons learnt from the past two years to futureproof arrangements on a long-term basis for COVID-19 and other pandemics that may arise.

The bill retains the arrangements that have contributed to our success in managing the pandemic to date, while incorporating elements that are fit for purpose and appropriate for the medium term. The new framework is sensible and necessary in continuing to protect the community from the ongoing impacts and challenges presented by COVID-19.

I commend the bill to the house.

Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the bill.

Second Reading Resumed

MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [1.20 pm]: Normally, when I am dealing with legislation, I like to look at the speech that the minister made when reading the bill into the house. In this case, of course, because we have not had the opportunity to analyse what the minister has said in detail, I have taken some notes and made some scribbles as we have gone through.

We have already discussed the very flimsy pretext for the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022 to be brought on as a matter of urgency. The message from the Governor that has just been read recommending appropriations for the purposes of this bill has come as a complete surprise to me. I guess that explains why the bill is coming to this house and not to the house where the Minister for Emergency Services is actually seated. That is the first I had heard that this is an appropriation bill. The message from the Governor was read after the minister's second reading speech, in fact. That just goes to show the lack of detail that we are dealing with here as we try to go through this bill.

As I said, I find second reading speeches to be good guides of what is in the mind of the government, so I will try to briefly pick up a few points that I scribbled down as the minister was reading his speech.

At the end of the very first page, the minister outlined the background of the performance of the state over the last two years. He went on to say that we have entered a new phase, with the pandemic by no means being over, and

pointed out that there may be other variants to come. The opposition understands that. We understand that there is a need for some continuing ability for the government to deal with fresh variants. We are not suggesting for a moment that that is not the case. We do not necessarily agree that they will need to be dealt with to quite the same level and in the way that the minister is proposing.

The minister's speech continued —

Therefore, at a minimum, there is a need to maintain some baseline public health and social measures and testing and isolation requirements, primarily to protect the vulnerable population and minimise hospitalisations. In addition, we need to be prepared for the possibility that severe or vaccine-resistant variants may emerge and require a prompt escalation in response.

I suppose there would be a re-declaration of a state of emergency if such an issue were to arise. But the minister said that “at a minimum, there is a need to maintain some baseline public health and social measures”. I think the bill before us is more than a minimum. The only real difference will be the suspension of the powers under section 72A of the Emergency Management Act, including the provisions to prevent people from crossing the state border. Otherwise, it seems that all the powers that exist in the Emergency Management Act will still reside under a COVID-19 declaration, so to describe it as a “minimum” or a “baseline” is perhaps a little bit rich, I would have thought.

The minister continued —

Our strong response to COVID-19 has been enabled by our emergency management frameworks under the Emergency Management Act and the Public Health Act. However, as we move into this new phase of living with COVID-19, it is important that our legislative frameworks also evolve as needed.

That is the case in other states, and I will go through some of those situations later, but those states have made dramatically different decisions from this government about these measures and the way they have gone about moving to the next phase. I hope that the government does not jump up and make some cheap shot and say, “See how they manage everything else.” It is now managing a situation going forward of not only the public expectation for the government to have reasonable levers at its disposal, but also the need for transparency and for people to return to normal life as much as possible. In other states, we see different provisions being taken.

The minister continued —

Under the new framework, the State Emergency Coordinator can make a COVID-19 declaration for up to three months at a time when a specific threshold is met, ...

I have to say, the threshold test that I have seen is anything but specific. It is basically lifted straight from the existing legislation. A threshold test already exists in the Emergency Management Act for the declaration of a state of emergency, and the wording in this bill is exactly the same as in that legislation, so there is not really a very specific threshold that will need to be met. In fact, we know that it is only for the three-month declaration, when there will be advice and some level of transparency of the reasons for the decision being made. That is different from other states.

I skip through to other matters that the minister raised. He said —

The amendments also specify that the State Emergency Coordinator may take into account social and economic considerations, as well as public health considerations, when making, amending or revoking directions.

Again, I would ask what level of guidance there is for the State Emergency Coordinator in such a weak provision. The minister says “may take into account” without there being any understanding of what that actually means, how those considerations would be judged and what weight should be given to each of those considerations.

As I understand, in normal circumstances, the State Emergency Coordinator is the Commissioner of Police. I want to say from the outset that none of this is intended to be in any way a slight on the person who holds the position of police commissioner. We are talking about the position, not the person. I, and we, are not in any way seeking to denigrate either the police commissioner or his predecessor, who is now the Governor. I make the point very strongly that this is about the process that is being put in place; it is not about the people involved. But I would ask that there be an explanation of how the State Emergency Coordinator could possibly be skilled enough to be able to give a detailed examination of all these factors without specific indications of how they are to be judged and any sort of guidance on what the threshold will look like.

I take the point that in the past, the threshold has been judged, if you like, by a minister of the Crown—an elected person—with some level of oversight, I would imagine, from the cabinet and the Parliament. There will not be that level of oversight under the system that the minister is seeking to bring in.

The minister's speech continues —

Our approach in bringing in this bill is consistent with the actions of a number of other states and territories that have introduced legislative amendments to enable their ongoing COVID-19 response outside of emergency declarations.

A little bit later in this discussion, I am going to discuss at some level two Labor states and demonstrate that, actually, our approach is far from consistent with those other Labor states' responses to the very similar situations now faced by all jurisdictions in Australia. There are no state boundaries being put up anywhere at the moment, so the whole country is in a similar position in the pandemic; each jurisdiction is experiencing very much the same number of infections and level of response required.

The minister continued —

The amendments before the house are for the temporary management of COVID-19 and will expire after two years.

Given the experience that we have had with the continuing six-monthly rollover of the powers of section 72A of the Emergency Management Act, which is frequently just dragooned through this house without any real discussion and without a demonstration of the need for that length of time to be taken, the likelihood that the government is not going to move to further amend the legislation before the expiration of two years is very low, in my view. I am not confident that this measure will drop away in two years. Other states have taken steps that will have measures that they can call on if required going forward, but they have been quite explicit about that. I think it is disingenuous to say that this will drop off in two years. Past experience would suggest that, as likely as not, a case would be made to continue it, just in case the disease comes back. I have no confidence that that will be the case.

Having just briefly critiqued the second reading speech that the minister representing the Minister for Emergency Services has given, I will go back to general discussion around the bill. From the outset, for the reasons that opposition members will outline, we will not be supporting this bill. We will be opposing this bill. We are opposed to this bill for a number of reasons. Rather than accuse us of wanting to prolong the state of emergency, I think the minister should look at what he is doing. Rather than letting that state of emergency lapse, he has instead effectively introduced a bill, most of which will continue for at least the next two years. As I said, there is no guarantee that the minister will not simply amend legislation towards the end of those two years if he thinks it is convenient to do so.

Further consideration that makes us very wary about this—again, I reiterate that this is not about the person; it is about the position and process—is that the legislation appears to outsource the responsibility for decisions and oversight from the elected minister of the cabinet, presumably discussing that with the minister when these situations are decided, and replacing that instead with a process under which the State Emergency Coordinator will make that decision. Only at the declaration of the three-month period, not through the provision of any directions or powers, do the reasons and the advice informing that decision need to be published. That is starkly different from what some other states are doing.

Again, I hasten to say that these are Labor states of the government's own political persuasion that are seeing the need to have more transparency and a better way of ensuring that there is confidence in all the processes. I reiterate that I am not expressing any lack of confidence in either the previous commissioner or the current commissioner, who happens to be the State Emergency Coordinator, but simply that this person is not under the same amount of oversight as is the case in other jurisdictions.

I am the lead speaker on this debate in this house. I expect that the shadow Minister for Emergency Services, Hon Martin Aldridge, who is in the other place, will prosecute the discussions around this bill with a great deal of vigour when it gets up to the Legislative Council. We know that in Western Australia the Legislative Council is under the control of the government. I think I heard somewhere the other day that no amendments have been accepted by the government in the time that has transpired since the last election. I would suggest that when this debate is addressed in the other place, it would be a very good time to listen carefully to those other members of Parliament, take on board their concerns and try to provide for the necessary transparency and democratic processes to be kept in place, as has happened in some other jurisdictions.

I will talk very briefly about what this bill does because it is important to know that it adds a new part into the Emergency Management Act 2005—part 6A—which will effectively remove the minister's responsibility to keep signing a declaration for a state of emergency for the powers required to provide some of the directions that have been made under the state of emergency. It will be replaced with a three-monthly declaration made by the State Emergency Coordinator. As I have said, there is very little oversight of that and very little guidance to the State Emergency Coordinator about exactly how to weigh up all the various competing social, economic and health considerations. I am sure he will do his very best, but we contend that removing the minister from that role will take away a very important democratic tool for the Parliament and the people of Western Australia to have confidence in the process with which the government is seeking to replace the current situation.

If the government went with an amendment in the other house that involved the minister making that declaration, that would be one way it could perhaps engender more confidence in all parties in this place to ensure that a whole-of-government decision is being made. It would also ensure that all the reasons for both that declaration and also all the directions and invocations of power that follow will be transparent and known to everybody in the state. That would explain the reasons something is being done, and would exactly outline those considerations. We do not see that in this bill. Other states have moved to make this more of a Public Health Act matter rather than an Emergency Management Act matter. This state has decided to retain the Emergency Management Act approach. When we asked the question last night of the advisers, we were told that it has worked thus far. Perhaps, but the whole idea is that we are trying to transition out of that approach and find a different path. Yet the government has stayed down that one path, albeit with one provision being different—the removal of the right to impose a border lockdown under these COVID declarations as opposed to a state emergency declaration. Again, as I have said, we have a concern about the removal of the minister from that process.

The Premier is on the record as saying that this would be a lighter touch approach, but if members looked at the bill, proposed section 77L, for instance, states that a COVID-19 officer may —

... direct the evacuation and removal of persons from the declaration area or any part of the declaration area;

In other words, people could be forcibly removed from their homes. These are not trivial powers. Many of the powers seem to have just been grabbed from other sections of the Emergency Management Act. Whether they are appropriate to the COVID response, they have been put in the legislation word for word. I think the member for Cottesloe intends to talk about those powers, so I will not dwell on that for any extended length of time to allow him to put on the record his concerns around that.

We know that the State Disaster Council will continue to operate. I wonder whether the deliberations of that council will be public or will they be shrouded in cabinet-in-confidence or some other confidentiality? Will there be an understanding of exactly what is being discussed at the State Disaster Council and any of the other committees that are set up around the management of these new provisions?

As I said, the opposition has called for the end of the state of emergency, but we would prefer to see a public health response rather than an emergency management response. The Emergency Management Act works very well when there is a bushfire or other incidents, and it has worked to some extent throughout the most virulent aspects of the COVID pandemic, but we are attempting to move away from the rigid regime to a more health-based approach. At least the opposition believes that is the way that we should be moving.

The government bill is nothing more than the continuation of most of the conditions of the current state of emergency by another name—a COVID-19 declaration. The bill will extend the powers in the act under section 72A, albeit some of them are laid aside for two years instead of the six-month expiration that this house agreed to the last time it was discussed. The opposition remains concerned with the conduct of the government as it tries to push this legislation through so quickly. I hope the government gives the other place time to properly consider these matters and takes on board its concerns and tries to address them, because members in that place represent a significant number of people in Western Australia. Believe it or not, there are people who are concerned about these matters.

It is now 900 days, or thereabouts, since the first declaration of the state of emergency and the government has had plenty of time to consider the best way forward. Other jurisdictions have looked at ways to deal with this and have allowed independent reviews of COVID-19 management and the need for certain powers. Hon Martin Aldridge asked a question only on Tuesday about one of these matters. The uncorrected *Hansard* states —

817. Hon MARTIN ALDRIDGE to the Leader of the House representing the Premier:

I refer to the state government's G2G PASS system which was required for all entry into WA while border restrictions were in place.

- (1) Will the state government commit to an independent review into the G2G PASS system to ensure the fairness and integrity of the system?
- (2) If no to (1), why not?
- (3) Has any internal review, report, or inquiry into the G2G PASS system been requested or actioned by any state government agency?
- (4) If yes to (3), please provide details.

The answer was simply —

The state government is committed to undertaking a review of all pandemic settings at an appropriate time, in consultation with the commonwealth government, which has indicated that a national review is under consideration.

Well, that is kicking the can down the road, is it not? Other states have taken the initiative to do the review themselves and have an understanding of the effect of the legislation that they have had in place, and I do not see any reason Western Australia should be dragging the chain on this very important matter. The Chief Health Officer has been integral to the government's decision-making, providing advice to the government all the way through. As the most senior public health official in our state, he is best placed to lead a response that is, after all, now a health response rather than a police response. It seems to the opposition that the Chief Health Officer's position, at least under the current bill, will be somewhat lessened in importance in the consideration of some of the matters, certainly around the need for directions and the publication of advice as directions and decisions are made, after the three-month period has been enacted for the COVID declaration.

This bill will amend the Emergency Management Act to provide for a supposedly temporary scheme. I have said that I am not sure that there will not be a move to renew this again in two years. I return to the opposition's other concern—that is, the lack of oversight by not having a minister or Parliament around the decision to call a COVID declaration, and the lack of oversight into other matters that would be decided following that.

I contrast that with other states I have spoken about, one of which is Victoria. Victoria has a chequered history in dealing with the pandemic when it was in full flight, but since then has taken stock of a lot of the decisions that were made and has gone a long way towards ensuring transparency and process around decisions of government in the pandemic going forward. It has chosen not to have time-limited legislation. It has legislation that will endure and will be able to be called upon in the event of a pandemic, not necessarily COVID-19. That legislation contains a number of safeguards that we do not see in Western Australia's act and it has a different approach—more of a health-based approach rather than an emergency services-based approach.

I will read from an online publication titled *Victoria's pandemic management framework*. It is labelled "official" and sets out to provide an understanding of how the framework manages the pandemic in Victoria. The state of emergency framework in Victoria is managed under the Public Health and Wellbeing Act 2008. The act sets a limit on the time that Victoria can be in a state of emergency. The time limit has been extended by the Parliament multiple times over the course of the pandemic and it ended on 15 December 2021. Victoria has put in place changes that will move it out of that situation, and a pandemic, rather than a state of emergency, has been declared. That took place on 10 December 2021.

How does this work? The Premier can make a pandemic declaration if satisfied on reasonable grounds that there is a serious risk to public health arising from a disease that is, or has the potential to be, a pandemic disease. The Premier of the state—not a public servant—can make a pandemic declaration after considering the advice of the Chief Health Officer and the Minister for Health. The Premier, after consulting the Chief Health Officer and his or her Minister for Health, can then make the declaration. The Premier is responsible for making pandemic declarations. The Premier can do this only if satisfied on reasonable grounds that there is a serious risk to public health resulting from a disease that is or could be a pandemic disease. A declaration can be in place for no more than four weeks initially, but can be extended for three months at a time. I am reading selectively from this because it is quite a lengthy document. The document states —

When making a pandemic declaration, the Premier will need to:

1. Report to Parliament, and therefore all Victorians, why the Premier has made a pandemic declaration.
2. Include the advice given by the Chief Health Officer and the Minister for Health that informed the decision to make a pandemic declaration in the report to Parliament.

In other words, that report has to go to Parliament. The Premier will make that report to Parliament. The pandemic directions or orders are put in place as a result of the declaration. The Minister for Health can make pandemic orders to protect public health if the pandemic declaration has been made by the Premier. The Minister for Health, a member of the government, will make the decisions in Victoria. Before the Minister for Health can make any orders, the minister must consider—must, not may—the advice of the Chief Health Officer. They can also consider additional advice. This means that the minister can listen to others and consider social and economic factors before making a pandemic order. I suggest that the whole of government is better placed to do that consideration than the state emergency coordinator acting on their own, as it is in Western Australia.

Other matters of note that stand out on accountability around the pandemic measures in Victoria are —

Accountability measures for pandemic orders

When making a pandemic order, the Minister for Health will need to:

1. Publish a statement of reasons explaining why the pandemic order was reasonably necessary to protect public health.
2. Release the Chief Health Officer's advice.

3. Publish an assessment of any human rights that are limited by the pandemic orders.

There is none of that in the legislation the government has brought to the house. It continues —

A copy of pandemic orders and the material required to be published is available on the Pandemic Order Register.

A register is kept of all the orders and all the advice —

In addition, the Independent Pandemic Management Advisory Committee will be able to review pandemic orders and provide advice to the Minister for Health. They will also provide advice to the joint Parliamentary investigative committee on request, which can also review pandemic orders.

Victoria has a Pandemic Declaration Accountability and Oversight Committee. As I mentioned —

A joint Parliamentary investigative committee will be established called the Pandemic Declaration Accountability and Oversight Committee. This Committee can review and make recommendations to Parliament about a pandemic order.

Ms C.M. Rowe: Member, you know that the Victorian Parliament had to shut down for months. If you are talking about accountability, we did not have to shut down.

The ACTING SPEAKER: Member for Belmont!

Mr R.S. LOVE: You will have your chance.

The document continues —

To further strengthen accountability and Parliamentary oversight, this Committee can recommend that a pandemic order be ‘disallowed’ (that is, stopped) under certain circumstances. They can report to Parliament and recommend disallowance if the Committee is of the view that the pandemic orders are incompatible with human rights or if they appear to have improper legal authority.

The Parliament itself has an oversight committee, which is charged with ensuring that the orders are correct and necessary. Also, the Independent Pandemic Management Advisory Committee has been set up outside of that as an independent committee. It was established to review, provide advice and report on the new pandemic management framework, including the pandemic orders being made by the Minister for Health. Victoria has two levels of oversight in place. Again, I point out that Victoria is a Labor state, so perhaps the government could talk to its colleagues over there to see why they have gone down that path instead of blindly going down the path that our government has chosen.

The other matter I would like to touch on is the situation in South Australia, where this kind of legislation has been brought in. South Australia had a change of government, as members know. Their pandemic legislation has been enacted by the new Labor government, and I will read excerpts from the second reading speech of Hon Chris Picton, Minister for Health and Wellbeing, on the South Australian Public Health (COVID-19) Amendment Bill 2022. Similarly to the stated objectives of this bill, the legislation will enable a transition from a state of emergency to a more public health-based approach to the management of the pandemic. He said —

The objects of the South Australian Public Health Act 2011 are to protect individuals and communities from risks of public health.

He goes on to say that the act itself has limitations, and we know that our Public Health Act has limitations. South Australia is addressing those limitations. Instead of carrying on with the Emergency Management Act 2004, which it had been using, its government is moving to make its Public Health Act fit for purpose to provide the tools necessary to protect individuals and communities from public health risks.

The South Australian government understood the Public Health Act had —

... limited applicability during the course of the pandemic. This Public Health Act (COVID-19) Amendment Bill 2022 has been developed to address the current limitations of the act to deal with COVID-19, as well as provide for the ability to transition a limited number of current requirements made under the Emergency Management Act 2004 ...

The bill ensures that oversight of the issuing of directions requiring isolation of cases or quarantine or other mitigation measures for close contacts is by the elected government through the Governor. The government has announced its policy of utilising the Emergency Management Council of cabinet that includes key ministers, as well as the Chief Public Health Officer and the State Coordinator, who is also the police commissioner.

The government is sitting down with the commissioner and the Chief Public Health Officer. It is making decisions, and that is being conducted through the Governor.

The bill will ensure that specific requirements for high-risk settings are retained to effectively protect more vulnerable members of the community, including mandatory vaccination, contact tracing, mask wearing and other infection control measures. This includes areas such as hospitals, health care, aged care and disability.

I suggest that that mirrors very well the current situation in Western Australia. We have a Public Health Act. The opposition has consistently said that the Public Health Act provides many of the powers required for the management of COVID-19. If that is deficient, we would be very supportive of changes to that act to ensure that it is fit for purpose and can be used as a public health measure to ensure that the community is protected. We think that act is much more fit for purpose than the Emergency Management Act.

Almost at the end of the speech, he said —

Importantly, this bill is limited in scope and will not allow for the imposition of restrictions, such as lockdowns, hospitality restrictions and general mask-wearing provisions, except if there was a declaration of another emergency either under this act or under the Emergency Management Act.

It is looking at a very light touch situation, which is where we are at, at the moment. There is a need to protect nursing homes, a need to protect hospitals and a need to ensure appropriate vaccination requirements in workplaces where people are highly vulnerable. It continues —

Health is the number one priority of the new Malinauskas Labor government, and ensuring that we have important measures in place to respond to the transmission of COVID-19 throughout our community forms a key part of the government's health plan.

At the very end, he said —

... making sure that we keep these baseline restrictions in place and that we are able to transition away from the continued use of the Emergency Management Act.

The South Australian government is in a position in which it is similarly trying to move away from the current state of emergency, but it has chosen a much softer path. It has chosen an act that, by the sound of it, does very similar things to our Public Health Act. I know they are enormous pieces of legislation, but one would expect that some amendments to our Public Health Act could easily be made to provide for the types of powers and types of ongoing measures that may be necessary to deal with a pandemic. Its legislation does not seem to be end-dated. It is putting in place powers that could be used if another pandemic comes along at some point. Two Labor governments have gone down very different paths from the government's here.

The current situation is one in which we are using the Emergency Management Act. We are bringing provisions from that act into the proposed part 6A to deal with a so-called transition from a state of emergency, but it will actually leave us in a state of emergency for the next two years. It is on that basis that the opposition opposes the legislation. It is not on the basis that we do not want to move from a state of emergency. We actually do, but we do not believe that what the government is doing will achieve that. We believe that what the government is doing will prolong it and ensure that Western Australians endure another two years of extraordinary powers being granted under the Emergency Management Act. This is without people having any clear understanding of the reasons that some of the measures were put into place; without any real oversight by Parliament, or perhaps even by the government, of some of the decisions that have been made; with a lack of the transparency that we see in other jurisdictions; and with a lack of the oversight that we see in other jurisdictions.

We cannot forget that these extraordinary powers do need to have oversight. We only have to look back at the situation in which information from the SafeWA app was used for an unintended purpose and Parliament enabled the collection of that information. That had to be dealt with by another bill in the house to amend the law to prevent inappropriate uses of the SafeWA app information. There was a time when the Premier and the then State Emergency Coordinator were in a stand-off on the appropriateness or otherwise of the use of that information. It is obvious that we need oversight of the use of that information because very sensitive information on people is collected.

I also note that the Auditor General expressed concern in a report that she did on the control measures for the information that is being held by the state in the SafeWA app. That is a matter of record. It is not my report; the Auditor General raised concerns that there needs to be continued oversight of the operation of all the provisions as they will continue for the next two years. We simply do not see that in this legislation.

Debate interrupted, pursuant to standing orders.

[Continued on page 4279.]