PLANNING AND DEVELOPMENT AMENDMENT BILL 2020

Second Reading

Resumed from 17 June.

HON COLIN de GRUSSA (Agricultural) [10.34 am]: Before the adjournment of the debate for the taking of members' statements last night, I was just commencing an outline of the bill as the minister had delivered in his second reading speech. One of the key things was the important point that planning reform is an enabler of better investment and community outcomes. That is certainly a point I agree with, but it is also a critical point that community is a key part of these reforms and must be brought on that journey. I reflected on some of the correspondence that I, and I am sure other members, have received about community queries and concerns about some aspects of this bill. The minister also went on to say that there are three streams of reform in this bill. There are legislative reforms that modernise the Planning and Development Act, focusing on a strategic planning model and new processes for significant projects. There are also regulatory changes and policy changes to update the planning policies for the state.

As outlined in the minister's second reading speech, the bill includes specific COVID-19-related changes, and they will have effect for the next 18 months. Members will be well across the fact that those changes include the ability for the Western Australian Planning Commission to deliberate on development applications for projects worth over $30 million or comprising 100 dwellings, and commercial developments over 20 000 square metres. It would be interesting to know what modelling was used to arrive at those numbers and how they were decided upon. Given the constraints that those numbers impose, I tend to agree with comments from other members that this will not lead to a flood of projects being pushed through this new system in that 18-month period and will constrain them to some pretty major developments. Obviously, as part of these reforms, the minister can also make recommendations to the Premier for proposals that fall outside those constraints, and they can perhaps be pushed through, for want of a better term. Other members have talked about the fact that this raises what one would call a moral hazard, in that those recommendations certainly give rise to the possibility of all kinds of untoward things happening. I note that the latest edition of the supplementary notice paper issued this morning includes amendments to allow for better transparency and oversight of any of those decisions that are referred. It of course raises the possibility that political donations from developers and others in the community may be made by people who might benefit from those decisions. As members are well aware, in other states political parties have been banned from accepting donations from developers, so we must ensure that in this legislation, time constrained to deal with COVID-19, we still have some element of transparency and oversight of those referrals to make sure they are watertight. As I said, there are amendments on the supplementary notice paper to that effect, and we will come to them in due course when we reach the Committee of the Whole House stage.

As I said at the commencement of my contribution, the Nationals WA support this legislation. We are aware of the significant number of amendments on the supplementary notice paper, issue 5, today. I think we are at some nine pages of amendments, and I have to say that it never ceases to amaze me that the other place that we shall not name—it is the dark depths of the other place—debates legislation as perfect legislation, never needing amendment or change. Amendments are not accepted, yet when the bill arrives in this place the government moves nine pages' worth of amendments. It never ceases to amaze me that despite the theatrics of the other place, when a bill arrives in this house, we have a heck of a lot of work to do because apparently they are not particularly interested in doing it in the other place. I talked about this last night. We know there are many examples of legislation that has arrived here in apparently perfect, pristine condition—great legislation that should just be waved through—yet the Standing Committee on Legislation is currently inquiring into three bills, and has inquired into many other bills from this place that are clear examples of the fact that the legislation that appears here is often not perfect and needs much more rigorous scrutiny than it is getting in the other place.

We are doing our job in this place by scrutinising legislation and ensuring that when it passes this place, it is in the best possible form that it can be, and that we make the necessary amendments to ensure that the public can be comfortable about the level of scrutiny legislation has had and about its application. We are not going to rush this bill through here; we will do our job properly. However, as I said before, the Nationals WA are committed to supporting this legislation and I look forward to the contributions of other members and to Committee of the Whole.

HON COLIN TINCKNELL (South West) [10.40 am]: The Planning and Development Amendment Bill 2020 is an interesting bill. It is a mixture of some promise and some good things, but in this house we have to look for unintended consequences or mistakes. As Hon Colin de Grussa just mentioned, there are 46 proposed amendments to this bill, and counting. Some of those amendments have two or three parts, so an enormous number of changes have been put forward to try to make this bill a better bill. What mainly concerns me is that nearly everyone has said that they will support this bill. One Nation can only support this bill if many of those amendments go through. There is no way we can support this bill if certain amendments do not go through.

I would like to talk about this bill and what it actually means for Western Australians. Because it has been rushed through and because the government has an absolute majority in the lower house, very little debate went on, so the work has to be done here to try to improve it. I would like to let the Liberal–National opposition know that its support for this bill does not seem to be conditional upon these amendments going through, and I would like to remind it that the bill has some major problems. Its vote should be dependent on whether we can fix this bill.

The member for Cottesloe, David Honey, mentioned a few things in the other place that concerned me. I also heard very similar language from Hon Aaron Stonehouse yesterday. I refer to a *Subiaco Post* article of 30 May, which quotes Dr Honey and states —

> **Unique powers to approve random high-rise projects could leave senior politicians open to WA Inc–style corruption** …
>
> …
>
> "It was an extreme concern that someone could be subject to influence simply because of the people the Government will be communicating with.

Earlier in the article, Dr Honey is quoted as saying —

> "People who have exclusive dinners of 10 people who pay $10,000 a head to talk to the Minister for Planning about planning issues are more likely to get their stories across more," Dr Honey said.

He also said —

> "People who might be less honourable could engineer a situation in which they could foster the sorts of practices that people were concerned about with WA Inc.
>
> "I think that is an extreme concern."
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> …
>
> The lack of transparency included no requirement for the minister to publish any decisions and no requirement necessarily for people to be informed that decisions have been made.
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> In announcing it, the Government had lulled the public by portraying the Bill as a tool for allowing residents to cut red tape and build a pergola without council permission, he said.
>
> But the Bill contained no such provisions.
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> Dr Honey said it appeared also to give politicians unprecedented powers over projects of more than $30million or 20,000sq.m.
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> "But a caveat refers to anything that the minister and the premier think is a significant development, or a development of state significance," he said.
>
> "That really means anything.

That is enormous power for a minister, and that holds some worries for me, especially considering what has happened in the Parliament and the government in the past.

The bill refers to a certain threshold. As Hon Rick Mazza pointed out, it is a threshold that means a dozen companies can use this bill, but it leaves out so many others. To my mind, it is a bill of the haves and have-nots, and that is something to be avoided. I thought the whole premise of the bill in the post-COVID-19 era was to get people back to work. If we open up the threshold, as Hon Rick Mazza suggested, it would hopefully bring a lot more jobs to Western Australians and allow regional Western Australia to take advantage of the legislation.

As members can see, there are some good things in this bill, and that has been mentioned in many members' contributions, but there are also many things in the bill that we have concerns about. There is only one way to approach this bill: if the amendments do not go through, it should be voted out, because it will not do the job that the government has promoted it to do. The bill is a smokescreen. Unfortunately, the media is not really onto this, but there are a few people in the media who are. I can imagine the commentary in the coming days if the bill sails through without the amendments necessary to keep Western Australians safe and to make the bill fairer and better.

As a member of a party that has talked about reducing red tape and green tape ever since entering this place, I would like to support this bill, because it does some of that, but only for a select few. That is a major problem. I say to the government that we have been in economic trouble in this state for well over 12 months, and it is not just COVID-19 that has brought that on. Twelve months ago, the figures were not good. Employment, jobs, training and new projects had dried right up, so there is no reason why parts of this bill could not have been brought in earlier. There are many things in the area of red tape that could have been brought in earlier, so why the

government waited until post-COVID-19 seems to be smoke-and-mirrors stuff. In the end, if this bill goes through without the amendments, it will benefit a very few major companies and many others will miss out. We will have a two-tiered system, which is unfair. Some people will be working under one system and others will benefit from this streamlining.

The motion about red tape I moved on behalf of One Nation was broad ranging, and we put on the record how important it is to make changes, yet there does not seem to be any real stomach for change in this place, from either the alternative government or the current government. Unfortunately, the cutting of red and green tape, which has been mentioned in this place, will be minor because it will affect only a few minor companies. It is not a serious attempt to make some serious changes to cut red and green tape.

Hon Rick Mazza brought forward a motion and we will talk about that a bit more, but it is important that we consider regional Western Australia under this bill. Developments worth $30 million with more than 100 units, or whatever it may be, are not going to happen in Busselton, Geraldton or Kalgoorlie. They are not going to happen in regional WA. If this is so important to the Western Australian public, why would we not consider regional Western Australia under the bill? The threshold will not apply to regional Western Australia; it will probably apply only to metropolitan Perth, and that is pretty consistent from this government—a city-centric government that has not shown support for regional areas.

People could ask me how I am going to vote on this. I do not know; I will see what happens during the second reading debate and what happens with the amendments. Hopefully, more people will be able to benefit and more people can get jobs. That is what this bill is supposed to be about; it is not about a few people the government has already spoken to and done a deal with and is streamlining a bill for.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [10.51 am] — in reply: I thank all those members who have made contributions thus far to the debate on the Planning and Development Amendment Bill 2020. I will categorise them into three groups: yeses, noes and maybes. I thank Hon Tjorn Sibma for his extensive contribution and his support for the legislation. I also thank Hon Dr Steve Thomas, and I accept his apology. I thank Hon Rick Mazza for his support and Hon Colin de Grussa for his acknowledgement that the Nationals WA will support the legislation. For the noes, Hon Alison Xamon, Hon Tim Clifford and Hon Charles Smith have indicated that they will not support the bill, and that, of course, is their right. The maybes are Hon Aaron Stonehouse and Hon Colin Tincknell. I hope that Hon Colin Tincknell gets what he wants out of this bill, but certainly this is a very important bill and I have a different view from him about what it will do and the significant effects it will have for the property industry in Western Australia.

In my second reading reply, I intend to respond to many of the questions that were asked, but certainly honourable members will have a chance to quiz me further when we get to the appropriate clauses during the committee debate.

I will start with Hon Tjorn Sibma. He wanted confirmation of what elements of the media announcement are in the bill, the next phase bill and what elements are in other legislative regulation or policy reviews for state planning policies. I will best answer that by using the words of the minister herself, and these are on the public record. The Minister for Planning has explained —

> In relation to the media statements and media commentary, the legislation was developed as a package of reforms. Criticism was made about planning changes being sometimes ad hoc and a particular change might be made to regulations, a change to legislation, and another change to policies. We wanted to encompass that in an overall package. Members would have seen in the fact sheets provided at the briefings an attempt to say that this is the entire breadth of the reforms and we will implement them through changes to legislation in two parts: changes to two sets of regulations and changes to planning policies. That is the overall package, and we intend to proceed with those regulations as soon as possible

She went on to say —

> There were seven fact sheets. The first was an overview with a map showing that this reform will be implemented in four parts: legislative change, change to the local planning scheme regulations, change to the DAP regulations and planning policies. Through those fact sheets into which we put a lot of effort, we outlined the proposed changes; for example, significant developments: this is the proposed change; why we are doing it; and how we are implementing it. The method of implementation will demonstrate whether it is legislative, regulatory or policy. They all interact; for example, one of the issues was community infrastructure. This legislation will give a new power for community infrastructure that will be picked up through a planning policy. In all those fact sheets, we identify all the broad changes and how they will be implemented.

I think there was a question about what games the minister was referring to. Surely not the amendments! As I understand it, the games that the minister was referring to was the repetitive questioning that was going on in the

other place. Obviously, members down that end of the building behave differently from the way honourable members in this chamber behave.

There was a question about the response to the member's statement about the reinsertion of ministerial powers into the planning system. It is important to clarify that the only powers being made available through this bill are referral powers to an independent decision-maker and a conflict resolution power when there is a conflict between government decision-makers. It would appear to be a responsible and measured use of powers, but we acknowledge that there are different points of view, as was demonstrated in the second reading contributions.

What is the economic potential of the bill? Is this bill up to the task of economic recovery? Those questions are probably best answered by making it clear that economic recovery will be the result of the government pulling multiple levers to drive economic activity. Planning reform through this bill is one of those levers; the housing stimulus was another, and so on. Maybe the question is best replied to with another question: what would the parties opposite say about the government if it did nothing and was not being proactive about cutting red tape, implementing reform and trying to stimulate sectors of the economy such as the property and development sector?

How were the thresholds arrived at? That question was asked by Hon Tjorn Sibma, and I think Hon Colin de Grussa asked a similar question. Other jurisdictions were reviewed for their criteria for respective significant development pathways. The thresholds proposed in this bill are generally consistent with benchmark criteria set in other states. Consultation with local government authorities and the action plan for planning reform and its initiatives indicated that a development value of $30 million and a yield of 100 or more apartments, or a minimum of 20 000 square metres of commercial space, was generally considered a significant development within local communities. The Department of Planning, Lands and Heritage also did an analysis of the last three years of development assessment panel considerations and applications. Broadly speaking, the intent was for the pathway to pick up the 10 to 15 per cent of higher value and often complex or contentious developments from the DAP pathway and bring them into this pathway, thereby freeing up the DAP pathway to consider the remaining 85 per cent unencumbered by the complex and challenging ones, allowing greater focus on those projects and streamlining that assessment pathway. That, in turn, means that local governments will be assessing less complex development applications through their responsible authority reports; hence, they can put greater focus on their approval pathway—under $2 million—and unlock a number of single and multiple dwelling approvals stuck in that system. The streamlining is not just in the significant development pathway, but also about assisting all the planning decision-making pathways.

Is the development assessment panel system broken? No. The DAP system is clearly identified as important to overall streamlining of the planning system. The significant development pathway will remove the contentious projects from that system and allow the DAPs to focus on their decision-making. We have made key reforms to the DAP system that are consistent with the "Action Plan for Planning Reform", and I thank the honourable member for bringing everyone's attention to that document. I hope members agree that it is good to see a government delivering on its commitment through legislative change. We will see increased transparency, greater consistency and a reduction in potential and perceived conflicts of interest through the changes to DAPs under this bill. I was pleased that Hon Tjorn Sibma acknowledged those positive reforms to DAPs in his contribution.

There was a question about why there is no statutory limit on the commission. We have seen with statutory time limits that the push has been for time frames to be met with little consideration for the implications of the decision-making. By that I mean that rather than resolving issues between referral parties or issues of development or design, the decision-maker has tended to condition-up developments. DAPs are meeting their 90-day statutory time frame, but to do so, they can place excessive conditions on developments, as there has not been the time to resolve these issues prior. Developers then challenge conditions in the State Administrative Tribunal, which then ties up the developments in a judicial system with no time frame, which, by practice, sees them referred back to the joint development assessment panel for reconsideration with no time frame. It is not reflective of the true time frame and creates huge uncertainty for industry.

Without a statutory time frame, the commission will try to resolve all these issues up-front, prior to a decision, which should result in a decision with fewer conditions and thus less likely to end up in the State Administrative Tribunal. End-to-end time from application through to construction starting will be significantly shorter. Although there is no mandated number of days for the commission to make a decision, there will be a legally defined deadline. The commission must make a decision as soon as is reasonably practicable. That will mean that the commission will be legally obliged to make a decision as soon as it possibly can—that is, quicker than the existing statutory deadlines, if it has all the relevant information.

There was a question about whether the Department of Planning, Lands and Heritage will be resourced to do the work. DPLH will be resourced with an additional $4 million over the next two financial years, in addition to applicable application fees that will address resourcing requirements.

There was a further question about how close to the mark this bill will be to deliver the action plan principles; namely, planning creates great places for people, planning is easier to understand and navigate, and planning systems are consistent and efficient. Can I say, it is very consistent. The reform package included in this bill and the next one will deliver key elements of the action plan. In particular, this bill sets the groundwork for integrated decision-making on major development proposals, which will assist the development of a whole-of-government framework for planning of wider areas, such as urban corridors. The bill will also provide greater emphasis for state planning policies in the decision-making process and provide a greater line of sight between strategic planning and development outcomes. Further in this regard, it also provides clarity on the application of planning codes, such as the residential design codes. The bill will effectively elevate the R-codes and will ensure that they are read as part of all local planning schemes. This will create greater consistency and make this aspect of the planning system easier to understand and navigate. The bill also vastly improves the efficiency of the process for amending region schemes. It will provide greater clarity around the provision of community infrastructure to ensure that the expectations of the community are met and will support the creation of better planning outcomes.

I was asked to reconfirm that subdivisions, metropolitan region scheme amendments and specifically North Stoneville will not be considered through the part 17 pathway. I confirm that the part 17 pathway is applicable only to applications for the use of physical development, so the construction on land—for example, development applications. Therefore, other types of planning applications such as subdivisions, structure plans, activity centre plans, local development plans or scheme amendments will not fall under the part 17 system as they are not development applications. Hon Tjorn Sibma referred to this in his second reading contribution, but I can only confirm that the Minister for Planning said in the other place that her view is that the North Stoneville structure plan does not apply. I can read the words the minister uttered in the other place, which are —

> No; this is for development applications. In the planning world, trying to define a development application versus a precinct is very difficult, but we are not using it for subdivisions, and it will not apply to North Stoneville. This is for DAs.

I was also asked whether I could reveal what I consider to be "substantially commenced". Like the phrase "due regard", this concept is already well understood and has a long history. The phrase goes back several decades at least, I am advised, to the Town Planning Regulations 1967. The term is used across the planning jurisdictions of Australia. No-one familiar with the planning system will be surprised or indeed concerned about the use of that phrase. One will observe that the primary definition cross-references the existing definition in the local planning scheme regulations, and that is deliberate. It ensures that the concept that is being utilised here in part 17 is the one that everyone involved in planning and development is already familiar with. The definition of "substantially commenced" in the local planning scheme regulations is —

> ***substantially commenced*** means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

I am advised that there is already well-established legal precedent on how the term will be applied in practice. The test to be applied is best summed up in the High Court decision of Day v Pinglen Pty Ltd [1981], in which the court observed, at paragraph 299 —

> The facts must be such as to lead naturally to the conclusion that the commencement is not merely evident, but is substantial, that is, of considerable amount.

Further, it states —

> A substantial commencement involves a commitment of resources of such proportions relative to the approved project as to carry the assurance that the work has really commenced.

In the case of Day, the matter concerned the construction of six town houses. The developer had laid down 11 per cent of a concrete slab, costing $2 127.70 out of a total estimated cost of $350 000 for the six town houses. Bear in mind that these are 1981 prices; we would not get those prices today. The works were also done out of sequence, so excavation should have occurred first. The court held that the project had not substantially commenced and was, in fact, a sham. The point of substantial commencement periods is to ensure that developers do not simply bank approvals. They need to commit resources in such proportions so as to give the assurance that the work really has commenced and is, therefore, likely to be carried out to completion.

I was asked whether there has been an audit of projects that have substantially commenced. I think the honourable member was suggesting that he does not believe that anyone checks. I am told that local governments pride themselves on ensuring compliance with development approvals. Most, if not all, local governments have compliance officers who regularly check developments and check that they are meeting approvals.

I was asked about the government's reasons for its amendments. We were recommended to make a grand comment in appreciation of the explanation provided to us for the reasoning behind them. That does help the government in the consideration of those amendments. In this house, we operate differently. I am not going to reflect on the other place, but we do like to clarify as much as possible, noting the fact that eight parties are represented in this place, unlike the other place, which has fewer parties. I look forward to discussing those amendments when we proceed to the Committee of the Whole stage. I think that covers the general points and questions Hon Tjorn Sibma asked.

I thank Hon Charles Smith for his passionate second reading contribution. I do not think I have seen him as worked up in a debate thus far. I thank him for his contribution on behalf of the Western Australia Party. It is disappointing, of course, that he does not support and does not see the benefits of the bill. I would like to clarify that the bill does not remove the requirement to inform landowners of changes to local planning schemes, as purported by the honourable member. That is not the case.

The honourable member also made an erroneous statement that every single person who serves on the Western Australian Planning Commission has either worked for, or on behalf of, the Satterley property group. That statement is both false and, indeed, misleading. I wanted to place that on the record. Perhaps the honourable member may wish to google the Western Australian Planning Commission so that he can see the current membership of the board. He will see a number of directors general and other people on there, so perhaps he might consider withdrawing that accusation at some stage.

The honourable member raised concerns about transparency and accountability. I would like to emphasise that these issues are an important feature of the bill and are even reflected in proposed amendments. For example, when the commission makes a decision, it must provide written answers for that decision. The commission's decision and reasons, in turn, have to be published on its website. Commission members will be held accountable for those decisions.

I thank Hon Dr Steve Thomas for his contribution and general support of the bill and, in particular, for his acknowledgment of the proposed amendments to the bill that relate to or concern the Environmental Protection Act. The member asked in his second reading contribution whether the minister is aware of any particular proposals that have been targeted by this legislation or whether a list is being developed for potential targets. I am certainly not aware of any particular proposals that have been targeted by this legislation, nor am I aware that a list has been developed that might potentially meet the thresholds. Proposals have been bandied about in the media, but it is not appropriate for the government to pre-empt the suitability of these new projects for this new pathway without them being appropriately assessed for suitability.

Hon Aaron Stonehouse acknowledged the need for reform. The honourable member has not clearly identified whether he supports or is against this bill. He is hedging his bets. However, I acknowledge his general support for reform and for streamlining processes, and his concerns around the centralisation of planning decision-making and what he believes is wrong with the current DAP system.

There was a question about whether regulations are dependent on the Planning and Development Amendment Bill 2020 and whether the regulations could be introduced without it. I think that the member wanted an answer to that during Committee of the Whole. A number of elements of the bill guide the full extent of what can be achieved through regulation or policy. For example, the establishment of planning codes impacts the residential codes and it is within the R-codes that the deemed-to-comply pathway for single houses, along with patios and pergolas, resides. The bill under part 11, clause 89, broadens the definition of "community infrastructure", which then allows "State Planning Policy 3.6: Developer contributions for infrastructure" to allow for the inclusion of education or childcare facilities, community centres and sporting facilities et cetera to be provided as a community benefit.

The member may have said that his main concern is that the bill centralises power that was previously decentralised from the decision-making bodies with the Minister for Planning. I think the member went on to say that it opens the door to potential corruption. He then referred to days gone by and noted that there were no third party appeal rights. The Western Australian Planning Commission includes six directors general plus representatives from the Western Australian Local Government Association and experts. The directors general represent the areas of planning, transport, environment, water, housing and public sector management. All of them have many years' experience and are subject to legal, professional and ethical standards as high ranking public servants. The nature of their employment as neutral public servants means that they are neither subject to the political pressure of a local government councillor, nor are they part-time members from the development industry, as is the case with most specialist development assessment panel members. It would be fair to say that the members of the commission are perceived as independent and trustworthy, possibly more so than those who are elected to council or appointed by industry to DAPs. That is not to say these members are inherently untrustworthy, it just means that if one is talking about degrees of trust, it would be fair to say that the commission takes premier position within the WA planning framework. Yes, the commission comprises directors general who, in their day jobs, report to various ministers,

but the fact that they report to so many different ministers means that the chances of, say, the Minister for Planning or indeed the Premier trying to influence a particular outcome is extremely unlikely. The commission already makes wideranging decisions under the current planning framework, and, importantly, while local councils and DAPs apply to planning rules, the commission already helps to make those rules. The commission prepares state planning policies, determines structure plans and subdivision applications, prepares region planning schemes and amendments and advises the minister on all local planning schemes and amendments. The commission, in its current role, demonstrates that it is no rubber stamp. Therefore, in a sense, while the new powers under part 17 are extraordinary in terms of development applications, they do not necessarily represent an extraordinary expansion of the commission's powers in terms of its current role under the planning system.

There was a question on proposed section 280 about the conflict resolution process and the power to direct agencies in contravention of legal instruments. I would like to reinforce that WAPC will be required to publish decisions and reasons for decisions. Recommendations made by the minister and cabinet are just a recommendation that a project has merit under this assessment pathway.

I was asked about Governor oversight and who the Governor takes advice or direction from. I will quote from the very extensive explanatory memorandum on this issue. I acknowledge the work that the advisers have put into it; it is expansive and a number of members have acknowledged that through the briefings. It states —

> ***Section 284. Governor may amend or cancel approval granted by Commission under s. 274***
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> This section provides an important degree of oversight and check on the Commission's power. Although the Commission has been selected to exercise these more extraordinary COVID-19 recovery powers precisely because of its good reputation as a trusted and independent professional town planning body, this section nonetheless ensures such power is not unfettered.
>
> This section enables the Governor (including acting on the advice of a current or future Government) to add, amend or remove aspects or conditions of any approval. The Governor also wields the ultimate check on power—he can cancel the approval in its entirety.
>
> Nonetheless, given the certainty Part 17 aims to give to a developer (and any financiers and investors), especially reflected in the new Division 3 conflict resolution mechanisms, the Governor's power should not be utilised except with very serious thought to the appropriateness of such an outcome. For this reason, the Governor's order to modify or cancel a development earlier approved by the Commission under Part 17 will have to be communicated to Parliament and be subject to potential disallowance. Such an approach balances the aims of economic investment certainty with the right of the State, through both its executive and legislative branches, to retain ultimate oversight over the system.

Hopefully, that answers the member's question.

I thank Hon Tim Clifford for his contribution during the second reading debate. It was quite clear that he has been quite close to the planning system for some time. His comments clearly outlined the detail with which he understands the bill—not just the COVID-19 component, but the whole bill—and how significant these other areas of reform are. As we know, and will continue to learn about today and for who knows how long after, planning is a challenging subject to explain. The member did a pretty good job of outlining some of the clear benefits under parts 3 to 17 in the bill. Even though the member is not supporting the bill, he acknowledged in his contribution the very good elements to the bill, which is appreciated. While we recognise that the honourable member is disappointed that the whole package of reforms has not been included in the bill, we need to emphasise that it is a package of reforms that include legislative, regulatory and state planning policy reforms, and they will continue to roll out across the remainder of this year. Many of the components that the member is concerned about are being progressed through regulations.

The honourable member had specific questions that I will now answer briefly. He wanted confirmation that there will be no change to local government members on geographic DAPs. We can confirm that the composition will retain the two relevant local government members from the local government area to which the development application applies, along with the three permanent member specialists involved. The member wanted clarification on whether any local government members are on the special matter DAPs. The exact details of who the special matter DAPs will comprise will be worked out in the regulations. However, I understand that the Minister for Planning has already stated publicly that it will likely be the chairman of the WAPC, the Government Architect and the president of WALGA, so local government will participate in that regard. The final number of specialist members and the total number of members is to be consulted on through the establishment of the regulations in support of those DAPS over the coming months.

The member asked me to clarify local government involvement in significant development pathways. The first acknowledgement is that two local government members are on the commission. Two further key points are also worth mentioning. The first is that the type of development application that will qualify under the part 17 pathway

would ordinarily be determined by the development assessment panel. DAP applications were introduced in 2011 by the previous government. As we know, under the DAP system, local governments, especially the council, are already bypassed to some degree when making a decision. Proposed section 276(4) explicitly requires that WAPC consult any relevant local government and the commission must give due regard to those submissions. That reference to local government means the local government council, unless the council has delegated its powers and functions. In a meaningful way, part 17 will give a greater role to local governments, or at least to the role of councils.

The member asked if I could clarify the types of developments that will be considered as significant development projects. Although the prescriptive criteria that would apply under proposed section 271 are essentially types of residential and commercial development, the types of development that can be referred under proposed section 272 are broader than that. Proposed section 272 could capture industrial, tourism and other proposals. It could also capture residential and commercial proposals below the $30 million threshold, especially in rural and regional areas of the state. But it is important to stress that proposed section 272 is not unfettered. Any proposal that a developer wants referred to the commission under proposed section 272 will need to be scrutinised by the Premier first—which is to say cabinet. A full cabinet referral process will apply before these broader types of development will be allowed to take advantage of the part 17 pathway.

The member asked if I could clarify the definition of public work exemptions. The current definition of "public work" in the Planning and Development Act cross-references the Public Works Act 1902. That definition, in turn, is found under section 2 of the PWA, which is over a century old and, in places, outdated from a modern planning perspective. Although the definition in section 2 mostly remains fit for purpose, it does not have sufficient breadth and flexibility to address future planning development needs in a new age of GPS-guided self-driving vehicles to some, yet to be known, key disruptors to society and the economy. The COVID-19 pandemic has emphasised the need for a power to expand the potential definition of public works as prescribed in planning schemes.

The member had a question about clarification on planning codes. In something of a quirk of the current planning system, state planning policies such as the R-codes can also be read into planning schemes through an incorporation mechanism set out at section 77(1)(b) of the Planning and Development Act. After such incorporation, the SPP is to be read as part of the scheme. As planning schemes have the status of subsidiary legislation, akin to regulations, SPPs in effect can be elevated beyond being mere policies and can take effect as though they are law. Despite that, recent judicial determinations have called into question to what extent an SPP such as an R-code ever truly becomes any more than a mere policy. This legislative amendment will address this through new part 3A, which will in effect govern prescriptive and mandatory policies such as the R-codes as new planning codes.

I thank Hon Alison Xamon for her contribution, particularly her comments on the need for more legible, consistent and efficient planning systems—I think they are the words she used. Indeed, these aspects form key pillars of the state government's action plan for planning reform. I want to touch quickly on the question asked by Hon Alison Xamon about whether conflict resolution is needed to address the problem of a lack of communication across government departments. Currently, no framework exists to resolve these issues. This legislation proposes that instead of a developer spending months, or indeed years, being bounced around the system from government agency to government agency, and winding up in the State Administrative Tribunal or the courts, that a whole-of-government approach be adopted up-front. As the explanatory memorandum points out, the purpose of this is not to let the government ignore important issues about traffic, the environment or heritage, or indeed any other matter; it is quite the opposite. The whole point is to ensure that all these matters are dealt with in an up-front, whole-of-government way and not in silos, which governments of all persuasions have been blamed of doing from time to time.

Among the very worst examples of red tape is that the same development can sometimes attract contradictory conditions imposed by two government agencies that do not talk to each other—for little real benefit. Part 17 of the legislation will address that. What is being proposed is new and innovative for development approvals, but the concept is not new to planning or environmental legislation. For example, for new planning schemes and scheme amendments, I might make a decision as Minister for Environment that conflicts with a decision of the Minister for Planning. Conflict resolution provisions are already in place that entail both ministers conferring and coming to an agreement. If they cannot agree, the matter goes to the government; that is, cabinet. In concept, part 17 has essentially been copied from the conflict resolution provisions set out in environmental legislation. It has been copied because, quite frankly, it is best practice.

I thank Hon Colin de Grussa for his contribution and for the support of the Nationals WA. He also acknowledged the work that went into the explanatory memorandum and the briefings that were given. I acknowledge the honourable member's comments about the role of local governments, particularly in the regions where they closely reflect the views of their communities. I answered his particular question earlier in my response to Hon Tjorn Sibma. Finally, I thank Hon Colin Tincknell for his contribution. Again, he is sitting on the fence, but I dare say we will soon know how he will vote on this bill.

I believe I have answered the questions raised by members in the second reading debate. A number of amendments are on the supplementary notice paper, so of course we will need to go into Committee of the Whole.

Division

Question put and a division taken, the Deputy President (Hon Simon O'Brien) casting his vote with the ayes, with the following result —

Ayes (24)

Hon Martin Aldridge	Hon Stephen Dawson	Hon Rick Mazza	Hon Aaron Stonehouse
Hon Ken Baston	Hon Colin de Grussa	Hon Michael Mischin	Hon Matthew Swinbourn
Hon Jacqui Boydell	Hon Sue Ellery	Hon Simon O'Brien	Hon Dr Sally Talbot
Hon Jim Chown	Hon Donna Faragher	Hon Martin Pritchard	Hon Dr Steve Thomas
Hon Alanna Clohesy	Hon Laurie Graham	Hon Samantha Rowe	Hon Darren West
Hon Peter Collier	Hon Alannah MacTiernan	Hon Tjorn Sibma	Hon Pierre Yang *(Teller)*

Noes (5)

Hon Robin Chapple	Hon Diane Evers	Hon Charles Smith *(Teller)*
Hon Tim Clifford	Hon Alison Xamon	

Pairs

Hon Kyle McGinn	Hon Colin Holt
Hon Adele Farina	Hon Nick Goiran

Question thus passed.

Bill read a second time.

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon TJORN SIBMA: At the outset, I thank the Minister for Environment for the rather comprehensive clarifications he was able to provide to me and to all other members during his reply to the second reading debate. The course of the material traversed in everybody's contributions meant that some questions were serviced invariably a bit more comprehensively than others.

I want to pick up on a clarification the minister provided concerning the presentation of planning reform, as it is, through the three streams of legislative, regulatory and policy change. The issue I have is that although I understand that there are interrelations between those three streams, we have come here to scrutinise the bill and focus on the legislative component, quite obviously. I am seeking clarification regarding information provided in the second reading speech and how that information actually relates to the bill under contemplation here. It is under the section called "Cutting the red tape in the planning system" on page 9 of the second reading speech, as it was prepared for this house, at least. That makes reference to the Planning and Development (Local Planning Schemes) Regulations 2015 and says that reforms and changes to those regs will result in a range of positive outcomes. I am trying, however, to marry up those regulatory changes with what is in the bill, and I do so for this reason: the second dot point claims that a wider range of small residential projects will become exempt from planning approval, including minor extensions, patios, carports, shade sails and pergolas, making home improvements easier for home owners. Where can I find a direct reference to this enabling policy or regulation in the bill; and, is one contingent upon the other?

Hon STEPHEN DAWSON: I am trying to get a copy of the second reading speech that was handed out because the page numbers on my *Hansard* version are different. The bill does not specifically deal with those matters. They will be subject to further amendments to existing regulations. It is important to understand that this bill is just one part of the broader package that I spoke about. As explained in the explanatory memorandum, apart from this bill, a further bill will deal with other tranches of reform. I understand that a further bill is likely to be introduced in a few months. Amendments will also be made to the local planning scheme regulations and DAP regulations, and there will be further changes to policies. As the explanatory memorandum explains, emergency amendments have already been made to the local planning scheme regulations to deal with the impact of the COVID-19 pandemic on local governments, suppliers of essential goods such as toilet paper, as well as small and medium-sized businesses. This bill needs to be seen in that broader context of planning reform. We are ensuring that Parliament is made aware that this bill fits in with that broader planning context.

Hon TJORN SIBMA: For the sake of specificity, the claims made about the great enablement of small residential projects and renovations, as they relate to people's plans for patios, pergolas, carports and all the rest—the stuff of ordinary life—will not be de-bottlenecked or made easier to progress as a result of the passage of this bill. The passage of this bill, whether it is today or next Tuesday, will not, in and of itself, enable the claim being made at the second dot point.

Hon STEPHEN DAWSON: There is no specific amendment before us that deals with patios, but, as I indicated earlier, the whole package of reforms helps deal with that issue.

Hon TJORN SIBMA: I thank the minister. That is helpful. Obviously, the challenge the government has had is that the scope of planning reform is so vast that there is, I think, here in this bill and in the EM and in all the material that goes with it, an honest attempt to show how these parts interrelate with one another. Part of the challenge in providing that information, though, is that the mere deluge of information can be used by others to form a misapprehension about the substance of the bill. It was coincidental, but at least one industry association—I think it was the Housing Industry Association—lauded the government and talked in general terms about reform in the same week that the bill was introduced, and an inference was made that the passage of this bill would enable these small residential projects to go ahead. I want to clarify that this bill can be distinguished from the domestic application, which is claimed in the second reading speech. Why has the government included in the second reading speech of a bill that it introduced information that is not directly relevant to the bill?

Hon STEPHEN DAWSON: I refer the member to my previous answer, but I point out that this bill elevates the R-codes from a state planning policy to a provision, so that will be helpful in dealing with the issue the member raised earlier.

Hon TJORN SIBMA: I thank the minister. Would it be more accurate to say, as there seems to be a reference to it here, that people in the suburbs of Kingsley, Bicton, Kalamunda or whichever location members want to identify, who might be looking forward to their own domestic renovation projects, particularly now in light of a lot of the stimulus spending by the commonwealth and state governments that is directed their way, will not necessarily be able to avail themselves of an easier approval system to realise their hopes and aspirations domestically and that they will have to rely upon changes being made to the Planning and Development (Local Planning Schemes) Regulations 2015? Changes to that instrument are necessary for these intended changes for their aspirations to be realised. Is that a correct reading?

Hon STEPHEN DAWSON: Directly, yes, but, indirectly, this bill, of course, helps deal with that issue. I will say again that our action plan for planning reform includes amending the Planning and Development Act via the Planning and Development Amendment Bill, and making changes to regulations under the Planning and Development (Local Planning Schemes) Regulations 2015 and the Planning and Development (Development Assessment Panels) Regulations 2011 and also making changes to state planning policies. The package is all those things together. As I have said a couple of times now, this is the first part of that journey that will deliver all those things to the community.

Hon TJORN SIBMA: I thank the minister and I appreciate his patience in dealing with this theme of questioning. I am putting them for the reasons that I outlined in the second reading debate: in this chamber, we do not contemplate the vibe, the spirit of the times or the gist of the thing; we want to come to grips with the detail of the bill and its application. I am not here to give the minister a lecture. I thank the minister for at least confirming that the capacity to unlock the approvals bottleneck for small residential projects such as extensions, patios, carports and the like will be determined upon the appropriate changes being made to at least one regulatory instrument—the Planning and Development (Local Planning Schemes) Regulations 2015. My question is: what progress has been made to amend those regulations and when might that work conclude and be gazetted?

Hon STEPHEN DAWSON: I am told by Parliamentary Counsel's Office and government that it has the drafting priority. I cannot give the member a definitive time, but it is certainly being treated as one of the suite of COVID-19 responses, so it has the highest priority.

Hon TJORN SIBMA: I understand that the government is dealing with a range of competing high priorities. That is not a flippant point or a facetious observation, that is the reality, and I appreciate that. I just want to confirm that the passage of this bill, whenever it might occur, on this sitting day or the one subsequent, would not necessarily allow for people in the suburbs and towns of Western Australia to suddenly take advantage of a freer, more enabling approvals system that would permit them to undertake these residential projects, which is what is being referred to now. This might be a question that cannot be answered, but how patient should the community be for this change? Should community members hold off on making plans right now or should they wait until Christmas? Could these regulations to provide this great enabling of domestic projects potentially be drafted? Is there a target for the completion of this regulatory change?

Hon STEPHEN DAWSON: Far be it for me to suggest to Western Australian households that they should or should not do anything in their homes. We anticipate that in the second half of the year the regulations will be drafted and gazetted. I cannot give the honourable member anything more definitive than that. That is the time line we are working towards.

Hon TJORN SIBMA: I will continue the line of questioning only because these are examples that have been identified by the government in the course of explaining the overall reform package. I say again that this is a clever bill in political terms for its structure and substance. As the kids say, game recognises game to some degree. The government has done a very good job at presenting reform and explaining to different segments of the community, from regular people to industry association groups, what these reforms might mean for them. We have established that at the residential level, no great change will occur as a consequence of the passage of this bill. Similarly, I note that the reform package and this bill, announced at the same time, was—I will not say "sold"—communicated to small business constituencies in the following terms; that is, it would assist in their operations. One of the points made was included in the second reading speech, and I quote —

> … the cash-in-lieu framework will be made more consistent across the state, allowing for a clear and consistent approach for cash-in-lieu payments, and the proposed regulations would also abolish shortfalls of up to 10 car bays, which can place a significant financial impost and considerations for any small businesses wishing to establish or grow …

First of all, I commend the government on that measure, because that is an absolute irritation. I think that practice is an outrage, so congratulations on—I will not say "making"—intimating a desire to change that arrangement. I ask again: is that cash-in-lieu framework, as it relates to car bays specifically, directly referenced in this bill, yes or no?

Hon STEPHEN DAWSON: If only asking politicians to answer yes or no were a thing in real life! Of course, we never ever give a yes or no answer! As the second reading speech quite helpfully points out —

> These reforms and associated changes to the Planning and Development (Local Planning Schemes) Regulations 2015 will result in …

And it goes on to talk about the cash-in-lieu framework. It is mentioned in the second reading speech that the regulations are being drafted, and we anticipate having them drafted and, indeed, gazetted in the second half of the year. That will fix this issue.

Hon TJORN SIBMA: Again, it would be a fair reflection of the facts that, at least for the moment, small businesses will not be able to avail themselves of this positive change, and that any aspirational communication to the contrary, which is contingent on the passage of this bill, would be misleading or a mischaracterisation of the specifics in this bill. I am glad that the minister has clarified that, because this was another gentle encouragement provided to opposition parties and others that if we get in the way of this bill, we will be getting in the way of these positive reforms for small business and how dare we even give contemplation to that! It has now been revealed that that stuff is not in the bill at all. It is dependent on the regulations that follow this, and those regulations are at some mysterious stage of the drafting process and might come in by the second half of this year.

Hon STEPHEN DAWSON: I can confirm that the minister issued a notice of exemption in April, so I am advised that the provisions in relation to small business are currently in place, and the majority of them will stay in place until 90 days after the lifting of the state of emergency. We thought of that first, we dealt with the small business stuff first, and now we are progressing with the bill before us, and I am very hopeful that we will make good progress on it today, but we never know, we might be on this next Tuesday. Then, of course, we have those other things—the second phase later in the year and the changes to regulations—all as part of the package.

Hon TJORN SIBMA: I thank the minister because he has pre-empted where I was going to go next. I thought there were two options here. I wanted to reflect on those exemption notices that the minister issued very early on in the COVID-19 pandemic. This is still the other side of the time line here. Those changes have already been made under the pre-existing regulatory power—is that correct or not?

Hon STEPHEN DAWSON: I am advised that they were not made under the pre-existing power. We did amendments to allow for those.

Hon TJORN SIBMA: Nevertheless, in the second reading speech the minister referred to approvals reform that has already been completed and is therefore not contingent on the passage of this bill. Is that correct?

Hon STEPHEN DAWSON: It is only temporary, so, as I alluded to, that notice of exemption provided temporary exemptions that last for 90 days post the lifting of the state of emergency. They are only temporary and they will fall away.

Hon TJORN SIBMA: Noting their temporary application, will the passage of this bill or reforms and associated changes to the Planning and Development (Local Planning Schemes) Regulations 2015 result in a permanent

change? Will people who are enjoying this temporary relief need to reapply in some way at the conclusion of the state of emergency plus 90 days or will they automatically be rolled into this new system?

Hon STEPHEN DAWSON: I am told that most will not have to reapply. If they apply now in this COVID-19 time frame, they will not have to reapply once the state of emergency is lifted later in the year.

Hon TJORN SIBMA: I will not pursue this line of questioning other than to say it would be appreciated if at some stage clarification is offered about how that would apply, whether some businesses would automatically transition into a new regulatory framework and whether those that would not would have to make some special application. If there can be clarification of that at some stage, it would be welcome. It would be appreciated.

Hon STEPHEN DAWSON: I can, of course, provide that information to the member at a later stage. I am told it is complicated. It depends on the circumstances of the application. There is some discretion, but we will certainly provide some further information on that at a later date for the member.

Hon TJORN SIBMA: I thank the minister. I want to move on, although still on clause 1. I want to understand, in finer detail, how community engagement will be improved as a consequence of this bill, because reference has been made to that throughout the debate. It is not entirely clear to me how that will be enabled or improved in any substantial way, so I seek clarification on that. I will start with one question. In a contribution made in the other place, the member for Belmont praised her own government, but she also said—and this is a slightly lengthy quote —

> Community consultation is a really important element of the bill and will be very much welcomed by my constituency of Belmont. This bill will ultimately give residents a greater say in setting the future vision of their community. That is an important element as well, as it will give people an opportunity to feel a sense of ownership of the look and feel of the communities in which they live, play and work.

This is the important part —

> This is principally done by extending the minimum period of community consultation for local planning strategies from 21 to 35 days.

This is a big bill, and I could have jumped over this aspect, but could the minister direct me to the part of the legislation that clarifies that the community consultation period for local planning strategies will be extended from 21 to 35 days?

Hon STEPHEN DAWSON: I am advised that that will be in the next bill. It is probably important to make the point at the outset that we should remember that this bill has 106 clauses, 105 of which relate to planning reforms that mostly have been openly discussed for a long time. Some of these measures were first canvassed in 2013, when Hon John Day was Minister for Planning, so they have been around for a long time. But in answer to the member's specific question, that will be in the second bill.

Hon TJORN SIBMA: I am not here to be petulant, I am here to be pragmatic, but I looked at that member's contribution and thought it was an interesting observation to make, because obviously certain classes of parliamentarian have received certain classes of briefing on the content of this bill and the government's intentions for the subsequent bill. I do not know whether that bill has even been through cabinet yet, but one cannot put oneself into someone else's mind and ask, "Why would that person know something that nobody else seems to know, and rely on information undisclosed to anyone else that is contained in the second tranche of legislation as a reason for supporting the first tranche of legislation?" Some of the agony, or the pain points, for members in this chamber who are a little undecided about where they fall on this bill are largely due to the bill being a number of things simultaneously, and to certain claims being made about community consultation that are inconsistent with the views and concerns put directly to them by community members. The minister may not be able to answer this question because he was not involved in the process; nevertheless, I am obliged to ask it: how did a member of government in the other place gain access to the content of the second bill when nobody else has had access to it? I have been asking for weeks about the content of the second bill, and nobody can tell me what is in it.

Hon STEPHEN DAWSON: I understand that the second part of the bill has not been drafted, but as is the case with every debate I have in here, I am normally the last person to find out! I do not have an answer, but perhaps the bill may well have initially gone to cabinet as a broader bill and may have been split into two, with one of those bills before us. There is potentially some drafting required around some elements of the next bill.

Hon TJORN SIBMA: Before I fulfil an obligation to have a communication behind the Chair, is it true to say that the improved community engagement referred to in the second reading speech and in the member for Belmont's contribution to the second reading debate in the other place is actually inaccurate and does not reflect this bill at all? That is the first, probably rhetorical, question. My second question is: to what degree has the drafting of the second bill been advanced, what is in it, and when can we expect to see it?

Hon STEPHEN DAWSON: I cannot comment on what the member for Belmont said or did not say in the other place, but local planning schemes currently have streams of consultation. That change was made by the previous government and I am told it works very well. This bill will extend that idea to region schemes and state planning policies.

Hon NICK GOIRAN: On 16 June, two days ago, I tabled a petition containing 1 502 signatures. That petition reads, in part —

> We the undersigned are opposed to the redevelopment of the Glen Iris Golf Course, Dean Road Jandakot WA 6164, into residential housing and call for parliamentary oversight of any planning decisions being made in relation to the land by the Minister for Planning, the Western Australian Planning Commission and Local Government Authorities.
>
> We therefore ask the Legislative Council to inquire into whether sufficient mechanisms are currently in place, to provide local residents with means for reasonable consultation and procedural fairness, and whether these mechanisms will be enhanced or diluted if the State Government's Planning and Development Amendment Bill 2020 is passed by Parliament unamended.
>
> And your petitioners as in duty bound, will ever pray.

Which clauses in this bill will dilute the existing mechanisms of consultation and procedural fairness?

Hon STEPHEN DAWSON: The changes we are making are not about diluting consultation. We are removing the requirement to inform the community when preparing state planning policy. Let me go about it in this way. We are moving the process requirements for preparing or amending state planning policies from the existing act into regulations. The regulations will set out appropriate advertising and consultation processes, and those regulations will be subject to the oversight and potential disallowance of Parliament in the usual way. The reason we are doing this is to introduce streams or tracts for amendment, with different requirements depending on how substantial the change might be, similar to what the previous government did when it introduced complex, standard and basic tracts for amendments to local planning schemes.

I want to give the member a specific example and then I will go back to his question. "State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region" has a map. That map forms part of the policy and depicts where all the Bush Forever land is. Not all Bush Forever land is reserved, which means that it is technically developable, although it would be fair to say that if a person's land is on that map, it will pose some additional challenges if they want to further subdivide or develop their land. The value of the land on that map might also be affected in practical terms. The policy seeks to strike a balance between protecting our bushland and retaining a person's right to develop their land. I am informed that on occasion, the Bush Forever map is wrong, so landowners will contact the department to request that the map be updated. Normally, it is just an anomaly—a line probably drawn incorrectly on a map. Sometimes it might be due to changes in circumstances. It is the sort of thing that should probably be fixed very quickly with minimal fuss. Unfortunately, these landholders are told that under the current system, there will have to be a formal amendment to the state planning policy. It will require formal advertising and assessment, the local government will need to be contacted, an advertisement will need to be placed in the newspaper, and copies of the amendment will have to be made available for inspection, and this will probably take several months, if not years. This is what the new regulations will help to fix. The amendment is not about disenfranchising community consultation; it is about ensuring that appropriate community consultation occurs, as set out in the regulations.

If that does not answer the honourable member's question and he is looking for a clause in the bill under which he could more appropriately ask questions about the Glen Iris Golf Course—having sat opposite the member, I try to work out the intention—I am told that he could ask a question on part 6, which deals with the region schemes, or on part 15, which seeks to make some changes to the minister's powers.

Hon NICK GOIRAN: The minister indicated, according to my notes, that the government is removing the requirement to inform the community whenever a state planning policy will be prepared or amended, but then he said that the government is not diluting consultation. How are those statements consistent?

Hon STEPHEN DAWSON: It is going from the act into regulations. The reason is to make it more nimble so that we can deal with issues and concerns raised by the community as they arise rather than going through what is now quite a cumbersome process to make changes.

Hon NICK GOIRAN: The minister is saying that the government is not removing the requirement to inform the community; it is just shifting the place in which it is housed. At the moment, it is housed in the act. The government wants to allow things to be more nimble and wants to house it in the regulations. Otherwise, the consultation will be the same; the community will be informed in exactly the same way and there will be no dilution whatsoever. Is that what the minister is saying?

Hon STEPHEN DAWSON: I am advised that, generally, it will be the same. It will be different in the example that I gave, which was about an individual who had an issue with land, but, generally, the consultation will be the same.

Hon NICK GOIRAN: While the government is saying, "Generally, the consultation will be the same", and it just wants to do this because it would like to be nimbler, there are 1 502 pretty agitated Western Australians who have taken time to sign a petition. I am sure the minister understands their nervousness when they are asking for some specificity and the government's answer is, "Generally, the consultation will be the same." Keep in mind, minister, that at the heart of the concern of these 1 502 constituents and petitioners is that they are not thrilled with the existing levels of consultation, let alone do they want to hear that a bill that might dilute those existing mechanisms is flying through Parliament at the moment. The minister mentioned that one desire of the government is to carve out the consultation processes from the act and, instead, house it in the regulations. Which clause of the bill will do that? Which clause of the bill carves out the consultation from the act for it to be housed in regulations?

Hon STEPHEN DAWSON: For region schemes, it is clause 27, on page 45, and for state planning policies, it is clause 64 of the bill, on page 63.

Hon TJORN SIBMA: I was temporarily required outside the chamber, so I believe I was not in a position to receive the minister's answer to my question about the development of the second planning bill insofar as it may or may not relate to community engagement. I again apologise if the minister has already answered this, but if he has not, this gives him an another opportunity.

Hon Donna Faragher: I think he avoided it.

Hon TJORN SIBMA: Can I get a commitment from the government that it will at least introduce the second bill before the end of the parliamentary year?

Hon STEPHEN DAWSON: I would love to be able to give the member that guarantee, but I cannot at this stage. It is with the Parliamentary Counsel's Office, being drafted. I note that Hon Nick Goiran brought to the chamber's attention yesterday that the PCO has some capacity at the moment, so perhaps we will be very lucky and priority will be given to drafting a bill as soon as possible.

Hon TJORN SIBMA: I take that as a maybe—to be advised. I infer from the minister's answer that, indeed, something is being drafted to the degree that at least some members of Parliament have had privileged access to some content in that bill. It would be nice to at least have some early indication of the content and extent of that second piece of legislation to facilitate the passage of bills in some sort of professional manner.

I use that as my lead-in to this question: with whom and at what time, and how specifically, was consultation undertaken on the drafting of this bill? By that, I mean this bill, not the reform process overall. When did consultation on the content, the substance or the intent behind this bill take place? With whom did the minister consult?

Hon STEPHEN DAWSON: I am not sure whether the honourable member was in the chamber or away from the chamber on urgent parliamentary business when I advised that it was important to remind the chamber that the bill has 106 clauses, and that 105 clauses relate to planning reforms that have mostly been discussed over a long time. Some of those measures were first canvassed in 2013 when Hon John Day was the Minister for Planning. Significant comprehensive public consultation and extensive stakeholder engagement took place on the concepts and principles of the proposed amendments to the Planning and Development Act in 2013 and 2018 through previous and current planning reform processes. That included consultation in 2018 on Evan Jones' independent planning reform green paper, along with the government's response, released in August 2019, the "Action Plan for Planning Reform". The concepts and principles were also outlined and discussed with state agencies in 2019 through briefings on the action plan and stakeholder reference groups on planning reform. Stakeholder reference groups included representation of all state agencies, key industry bodies and local governments.

Proposals formulated in direct response to the need to effectively support recovery from the impacts of the COVID-19 pandemic and to provide economic certainty have had limited opportunity for wider consultation due to the current restrictions in place. All feedback received through the forums that I have mentioned has been taken into consideration in the formulation of the proposed bill. Further briefings and consultation, I am advised, was undertaken during drafting with WALGA, peak industry development bodies and planning practitioners. The Department of Treasury and other state government agencies were involved in the referral process. However, the COVID-19 pandemic was declared in March and the bill came to Parliament in May. There was a two-month window in which things were closed down, so that was a restriction.

Hon TJORN SIBMA: I accept all that. It is to some degree understandable. I am not being difficult here. Consultation on reform takes a long time, particularly when undertaking a lot of reform. I have read all the material, but perhaps I will start with a simpler question. This might be the place to start: when did cabinet approve the drafting of this bill?

Hon STEPHEN DAWSON: My advisers do not have that information before them, but we will seek to ascertain it and provide it at a later stage of the Committee of the Whole.

Hon TJORN SIBMA: I appreciate the minister's constructive response to that question. These facts are not always easy to ascertain. If it might be of some assistance to the staff facilitating the minister's offer to get back to me, I might guide them in their efforts. It would be useful for everybody to understand the consultation that went into this bill and the date on which cabinet made that determination. I am interested in the formal consultation that took place, in the very least, in that window between the cabinet decision to go ahead with this draft and the introduction of the legislation in the other place. That is probably a very limited window of time. I would like to understand with whom government consulted and when, and whether any parameters were put around those briefings. For example—I am not making any accusations—was anybody subject to signing a non-disclosure agreement or a confidentiality agreement in the course of those deliberations?

Hon STEPHEN DAWSON: That was good guidance, honourable member. I will certainly see whether we can provide the member with an answer to that level.

Hon TJORN SIBMA: I am not doing this to delay the bill's progress; I am trying to understand how it was constructed in certain ways because I have questions around threshold setting. Hon Rick Mazza has an amendment on the supplementary notice paper that suggests we alter thresholds downwards to provide a broader application for this streamlined approval treatment. We got to a position like that because people were possibly not in a position to fully comprehend the substance of the bill. While we are automatically going to get a response from anybody engaged in any constructive, productive commercial venture when they hear about reform—de-bottlenecking and the taking out of red tape—of course they will be quite energised by that prospect. But again, the devil is always in the detail. I have received correspondence from the Western Australian Local Government Association and the Urban Development Institute of Australia, and joint correspondence from the WA division of the Property Council of Australia and the Master Builders Association. I give credit to all those groups taking different approaches to the dimensions of this legislation. They have identified issues they have some difficulty with, and matters that they think should be included or excluded. It seems to me, and it is probably consistent with the government's narrative, that the COVID-19 emergency response under which the government put this legislation together, forced, of necessity, some sort of arbitrariness in its decision-making. I want to return to this because we have to deal with the substance of this bill and its implications. I want to understand the consultation process that went into this bill so that I can better ascertain what consultation process the government is almost now obliged to enter into as it drafts a second piece of legislation. This is where we lose time. We spend time in Committee of the Whole dealing with different interpretations or levels of discomfiture or comfiture for certain provisions in a bill. When the bill came to the other place, it was fully formed and perfect; it needed no amendment. I know that things change—we understand that. But in the rush to pass this bill, I am guiding the chamber against overcorrecting and meeting an arbitrary threshold set with another set of arbitrary figures. But we will have that discussion later on. I want to put into context why I am very interested in the formation of the bill and who was consulted and when.

During consultation on this bill, some expectations would have been set. I will deal specifically with the special COVID-19-related provisions of this bill, particularly as they relate to the streamlined approvals process and how that will be enabled. I will ask a simple question of the government. I think that that part of the bill will be advanced the day after royal assent, which I assume will happen sometime in July, but we cannot predict these things. Has the department made the regulatory changes to give effect to this provision? I think the answer to that is probably no. Can the minister at least give industry some guidance as to when it might be able to submit a form to apply for consideration under this streamlined approvals system; and, if the department is not ready two days after royal assent, when might industry be in a position to jump into this system?

Hon STEPHEN DAWSON: I am told that it should come into place the day after the bill receives royal assent.

Hon TJORN SIBMA: What is specifically meant by that? For argument's sake, does that infer that if a developer is ready to lodge a development application at or above the threshold that this chamber ends up setting, the department will be able to deal with that application on the very next day—yes or no?

Hon STEPHEN DAWSON: Yes.

Hon TJORN SIBMA: What kinds of information or forms and staffing or resources will be necessary to enable that?

Hon STEPHEN DAWSON: I am told that there is a new application form. The developer essentially needs to provide the same information as they currently do, but the extra bit is that it now has to tell the commission why it thinks it should be able to avail itself of the new pathway. I think I previously mentioned in my second reading reply that $4 million of additional resources will be provided to the Department of Planning, Lands and Heritage over the next two years to establish this new part 17 assessment team. DPLH is likely to seek new personnel with specific background in assessing significant development applications, especially from the local government sector. That is all I have for the member at this stage.

Hon TJORN SIBMA: For clarity's sake, insofar as the conforming development applications are consistent with the threshold levels set in the bill, I take at face value that the government has undertaken that the department would be prepared and ready to accept an application that conforms. There will be—this is my expression; the government might have a different construction—nonconforming applications because the government is writing into this bill the capacity to refer projects that might be deemed to be of state or regional significance. For example, this happens in the tourism industry. I have had briefings with people who say that the state government and all instrumentalities comprehend tourism accommodation. That is almost a linear construct; it is not very difficult to put together. For something like a tourism attractor—the magnets that we want; whether it is a wave park, a cable car, a zip-line or any other kind of exciting new thing—an avenue is not necessarily available. I see those people being serviced only by this regional or state significance window of application, potentially. I imagine there will be others in the agricultural industry and in all kinds of sectors. Is the government equally prepared to accept and contemplate those matters? For example, would one have to fill in a form?

Hon STEPHEN DAWSON: Yes, there will be a form—I think I mentioned that earlier—and there will be guidelines to help applicants fill in that form. Obviously, there will need to be guidance on how it might get to the cabinet process.

Hon TJORN SIBMA: I thank the minister for his confirmation. I do not want to jump ahead clauses unnecessarily; suffice to say it would be to the advantage of everybody that clarity around that framework, which might guide the decision-making of cabinet, would be very useful. I think that framework should be objective and understandable and public facing. My fear about these determinations being made by cabinet is that there will invariably be the invocation of cabinet-in-confidence protections around divulging too much information, which would shed light on the decision-making process. I will leave that as a comment rather than necessarily a question. I indicate that I personally have no further questions at clause 1.

Hon TIM CLIFFORD: I have a question about the economic projections, specifically jobs. Announcements have been made about stimulating the economy or retaining jobs in certain sectors. Has any modelling been done about how many jobs that could potentially save? Given there has been a lot of talk around jobs falling in the construction industry in the next six months, surely some level of background work would have been done to see exactly how many jobs—for example, electricians—might be protected through this legislation going forward.

Hon STEPHEN DAWSON: No, we do not have any modelling. It is difficult, and a little like: how long is a piece of string? Potentially, projects could benefit from the new pathway, but until they come forward, we do not know what the benefit is.

Hon COLIN TINCKNELL: I just want some clarity about projects of state and regional importance, or even projects of significant importance. In the interests of transparency and clarity, can the minister explain what that means?

Hon STEPHEN DAWSON: The term "state or regional importance" is deliberately broad, precisely to ensure a degree of flexibility. It is especially the case with proposals in regional areas or in new major tourist projects that may not otherwise fit neatly into established criteria. Within the planning context, State Planning Policy 2.5 already defines it as a land use, area or issue of significance to a planning region by virtue of any or all of the economic, social, cultural or environmental values for that land use area or issue. I am advised that the commission is developing a further formal policy on the matter. The criteria being considered include the following factors. Public interest: is there a need for urgency and would the public interest be served by the referral? Jobs: Does the project create local jobs during planning and construction phases? Will the project result in local jobs on an ongoing basis? Investment certainty: To what extent is funding for the project secured? Is finance for the project fully committed? Constraints: Are there key site or other constraints that mean it is unlikely that a determination can be made within the usual time frame? Are there flooding, bushfire, contamination or ecology concerns? Can these be resolved or suitably mitigated? Timing: Can a decision on the project be made quickly? Can the project commence within six months of receiving approval? Public benefit: can the project deliver or support the delivery of public benefits—for example, affordable housing or significant public space? There will be a further tweaking of these, but it is important to stress that there has been some thinking on this issue already.

I have some examples from the past that could have met the criteria. In the Shire of Three Springs, there was a proposal for a photovoltaic solar farm. The Woolstores Fremantle Shopping Centre and car park potentially met the pathway. Also in the Shire of Three Springs was another solar farm, tourist area and temporary workers' accommodation. They are examples of what has happened previously, and if they come forward again, they could potentially benefit from the pathway.

Hon COLIN TINCKNELL: I thank the minister for providing a little clarity around what that means. In a similar sense, lowering or removing the threshold could achieve a similar result in having a larger number of proposals. Is the Minister for Planning's department able to take a larger number of proposals if the threshold is lowered or

reduced? Is it because of a possible lack of capacity at the minister's department that this is why the threshold is as it is?

Hon STEPHEN DAWSON: I just confirm that the honourable member is asking about that $30 million threshold being lowered —

Hon Colin Tincknell: Yes, or even removed.

Hon STEPHEN DAWSON: — or the resourcing removed. If that $30 million threshold were removed, we would probably have about twice the number of applications before the commission than we would with that $30 million threshold in place. We think that is about 60 projects a year. That is an estimated figure; of course, it is a guess, but that is what we estimate at this stage.

Hon COLIN TINCKNELL: I thank the minister. That gives us a little bit of clarity.

I will move on to another area—statutory time frames and assessments. Would it not be a good idea to review this program in six months or have an opportunity after 60 days or 90 days to review it, but to at least have a six-monthly review? At this stage, there is no review plan.

Hon STEPHEN DAWSON: The program goes for only 18 months and is in response to the COVID-19 pandemic, so we do not see a need to review it in six months.

Hon NICK GOIRAN: Does any clause create a new right of review for a proponent?

Hon STEPHEN DAWSON: Part 17 has the same review rights as the existing act, but there is a new dispute resolution provision, which is under clause 4.

Hon NICK GOIRAN: Does any clause, including whether it is clause 4 or otherwise, modify an existing right of review for a proponent? I want to distinguish that from the previous question I asked, which was about the creation of a new right of review for a proponent. I want to be clear on whether any clauses modify an existing right of review.

Hon STEPHEN DAWSON: No, they do not, honourable member.

Hon NICK GOIRAN: To be clear, we are told that in the bill before us, any existing rights of review for a proponent will be maintained in part 17 and there is no modification of those existing rights of review. They will be maintained by part 17. Not one element, not one iota, of the existing review provisions will be modified. They will be maintained in their entirety, as they are at the moment. Let us be clear about what we are saying. The existing rights of review for a proponent will be maintained in their entirety by part 17. That is the advice that we are being —

Hon Stephen Dawson: That is a different question.

Hon NICK GOIRAN: Okay. That is the question I am asking. Does any clause modify an existing right of review for a proponent? I understood that the answer was that part 17 will maintain the existing rights of proponents. If there is a modification or anything shifty going on, I want to know about it now before we move past clause 1. I will paraphrase the advice that I understood the minister gave, and if a correction is needed, we can deal with that now before we get into any further complications. My understanding is that, first, the minister is saying that part 17 will retain all the existing rights of review for a proponent, without modification. Second, the minister is foreshadowing that when we get to clause 4, we will deal with an element that will create a new right of review. They are the two elements of the bill that deal with the rights of review for proponents. I seek confirmation from the minister whether that is the case. If the minister needs to correct that, now would be an excellent time to do so.

Hon STEPHEN DAWSON: Proposed section 283 replicates the current State Administrative Tribunal appeal rights, but under the COVID provisions, part 14 of the existing act is turned off. At proposed section 283, the existing rights are being tweaked. Under the COVID provisions, the minister loses their call-in power under section 246 of the act. From a proponent's perspective, the same process applies, but, to be clear, the minister loses that call-in provision that the minister currently has.

Hon NICK GOIRAN: Forget about the minister and the minister's call-in power for the moment; I am talking about the rights of review for a proponent.

Hon Stephen Dawson: If you are being technical, could the minister losing her call-in power be to the detriment of the proponent? I am not being tricky; I am just trying to answer your question in the best way I can.

Hon NICK GOIRAN: That is fair. The minister is saying one could argue that the proponent knocking on the minister's door and asking to call it in is a type of review and that will be, as I understand it, temporarily turned off because of the COVID-19 pandemic.

Hon Stephen Dawson: Only for this pathway.

Hon NICK GOIRAN: Only for this pathway. Will that be for a period of only 18 months?

Hon Stephen Dawson: Yes.

Hon NICK GOIRAN: With that exception or, shall we say, modification, all the existing rights of review for a proponent will be maintained, courtesy of part 17 of the bill. No? If the answer to that is there will be some difference, let us get this right before we move forward.

Hon STEPHEN DAWSON: What I told the honourable member is correct, but we are making further tweaks. At the moment, section 238 of the Planning and Development Act says that a State Administrative Tribunal member has to have some qualifications. Under this bill, under proposed section 283(3), for this pathway there needs to be a judicial member, so there will be a change in who can hear the case.

Hon NICK GOIRAN: It is reasonable for the minister to describe that as a "tweak", because I think that is right. That is really not at the heart of the question of making sure that the proponents' existing rights of review are maintained. I thank the minister and his advisers for drawing my attention to that level of detail. If potentially a different individual is involved in that review process, it will be appropriate for us to get it clear. At its core, the existing rights of review for proponents will be maintained courtesy of part 17, with the exception of the modification of the temporary turn-off of a minister's call-in power. Otherwise, the existing rights of review will be maintained. Under clause 4 we will shortly be examining a new right of review for a proponent, and we will deal with that when we get to it. We have just dealt with the rights of review for a proponent. Does any clause in the bill modify any existing right of review for any other person?

Hon STEPHEN DAWSON: No, honourable member.

Hon NICK GOIRAN: Will any clause in the bill modify any existing provision for policies and schemes to be applied, in that now, courtesy of the bill, they will need to have been given due regard?

Hon STEPHEN DAWSON: Would the honourable member mind repeating that question? We are trying to work through it.

Hon NICK GOIRAN: As it happens at the moment in certain circumstances, schemes and policies have to be applied. But I want to know whether in any circumstance at the moment a plan or a scheme needs to be applied, this bill will now lessen that to simply have due regard. For example, maybe the commission will be able to give due regard to a scheme or a policy, whereas perhaps at the moment it has to apply the scheme; it does not simply get to have due regard for it, but actually has to apply it. There is a significant legal difference between "due regard" and "applying", and I want to make sure that we are clear whether there are any clauses in which there is an attempt to lessen applying the scheme or the policy and instead simply have due regard for it.

Hon STEPHEN DAWSON: In clause 4, proposed section 275(5) makes it clear that the commission can do anything a normal decision-maker can do, which means that just as a normal decision-maker would, the commission can consider those legal instruments. Proposed section 275(6) makes clear that the commission must give due regard to those instruments if they are relevant considerations; that has been made explicit in the provisions. Obviously, as the member would know, "due regard" has an established legal test in its proper, genuine and realistic consideration. I am further advised that the commission's powers here are not really that new. Similar powers of discretion and variation already exist in the planning system, and this includes things in relation to public works, heritage variations, alternative R-code approvals, pathways, ministerial call-ins and general local planning scheme discretion. Ninety-nine per cent of existing planning schemes have such discretion, so part 17 is an extension of those existing concepts.

Hon NICK GOIRAN: I thank the minister for drawing our attention to proposed section 275 in clause 4, and in particular proposed section 275(6), because it is a good example of what I am talking about. My question at clause 1 is to identify which clauses in the bill, if any, will result in a decision-maker, who currently needs to apply the scheme or the policy, not having to apply it as a result of this bill, but simply having to give it due regard, which is a lesser standard. I want to identify in which clauses that might be. The minister has kindly drawn our attention to clause 4 as an example, and in particular proposed section 275(6). Is that one of the clauses in the bill in which that standard will be dropped from "application" to "due regard"?

Hon STEPHEN DAWSON: I am told that, yes, this is an example of where the application of it will be made more flexible. The member used the word "dropped", but it will change.

Hon COLIN TINCKNELL: I will be brief; I have only one question. We belong to a democracy system that has lots of checks and balances. I have one principal concern about the potential that this bill could foster corrupt practices, because there will be so much power with one or two individuals. Can the minister give this chamber and the public of WA some assurance, or is there a mechanism in the bill that protects the people of WA in case that power is abused? Are those checks and balances in this bill to protect the people of WA?

Hon STEPHEN DAWSON: I will answer this way: the commission includes six directors general, plus representatives from the Western Australian Local Government Association and experts. The directors general represent Planning, Transport, Environment, Water, Housing and public sector management. All have many years' experience and are subject to legal, professional and ethical standards as high-ranking public servants. The nature of their employment as neutral public servants means that they are neither subject to the political pressure of a local government councillor nor part-time members from the development industry. The members of the commission are perceived as independent and trustworthy. Those directors general are obviously captured by the Public Sector Management Act at the moment, so if they do something untoward, there are significant penalties. The Corruption, Crime and Misconduct Act would also apply. There is significant legislation with penalties already in place should someone do the wrong thing. It is also important to make the point that the commission's decisions and reasons need to be published, and that gives them a level of scrutiny that they would not have if they were not published, so it is transparent in that way. As I said, these are significant people—directors general who have been in the public sector for a long time and are delivering. They are trustworthy people.

Hon NICK GOIRAN: Noting the time, can I take this opportunity to ask the minister two questions that he might take advice on over the adjournment. The first is: will any clause in the bill allow the minister to give directions to the Western Australian Planning Commission and other agencies, requiring them to act even if those actions are beyond power? The second question is: will any clause in the bill reduce existing capacity to access the courts by way of judicial review?

Hon STEPHEN DAWSON: There is one minute to go. I am advised that the answer to both of those questions is no. I was given a very forthright response that time.

Sitting suspended from 1.00 to 2.00 pm

Hon TJORN SIBMA: It was not my intention to open up any further lines of inquiry in addition to the questions that I have already put to the minister at this clause, but I might ask a few tidy-up questions, if no-one else is keen, to explore some matters in clause 1 ahead of the rest of the bill. First of all, I was wondering whether there was an answer to the question that I asked about the decision-making process in cabinet to draft this bill.

Hon STEPHEN DAWSON: I was told that approval to draft was given on 27 April and approval to print was given on 15 May.

Hon TJORN SIBMA: The supplementary question I asked previously was: in light of that new information, which I appreciate, whether the government is in a position to advise the consultation it undertook with specific reference to this bill after permission to draft was provided, which the minister has indicated was 27 April

Hon STEPHEN DAWSON: I am advised that an industry briefing took place on 30 April with the Planning Institute of Australia, the Housing Industry Association, the Master Builders Association of Western Australia, the Urban Development Institute of Australia, and the Property Council of Australia in attendance. The issue went back to cabinet on 15 May and the bill that is before us now came out of that.

Hon TJORN SIBMA: I thank the minister for providing the sequence. So that I can understand it, on 27 April, cabinet granted approval to draft the bill; on 30 April, quite quickly afterwards, an industry stakeholders' consultation meeting was convened; and on 15 May, the bill was in sufficient shape and permission to print was sought.

Hon STEPHEN DAWSON: I have been further advised that permission to print was given on 22 May, so I misled the member earlier. No, it was on Monday, 25 May, that approval to print was given.

Hon TJORN SIBMA: I thank the minister. I am going to take it as an operating assumption that the information that has been passed along is correct. However, I am trying to reconcile it with my understanding of the Minister for Planning's attempt, prior to 25 May, to read in the bill in the other place. On 27 April, permission to draft occurred, and on 25 May, approval to print was provided—presumably that is a Monday. The week before and plus one day, on Sunday, I started getting messages. I am a little confused about the status of the bill in terms of the cabinet approval that had been granted at the very time at which the minister was intending to introduce the bill and proceed through all stages of reading it in in the week preceding approval to print. I am trying to reconcile that the bill had not been fully endorsed by cabinet before there was an attempt to read it in. I am trying to get a sense of what shared cabinet ownership there could possibly have been, let alone caucus consensus, prior to this bill being introduced for our contemplation. Could the minister elaborate, please, because I find that time line difficult to reconcile?

Hon STEPHEN DAWSON: I am seeking further advice on that, honourable member.

Hon TJORN SIBMA: I thank the minister. Is the minister seeking a further answer to the last question?

Hon STEPHEN DAWSON: Yes.

Hon TJORN SIBMA: I will sit down.

Hon STEPHEN DAWSON: Honourable member, I apologise. It has been guaranteed that it went to cabinet on 18 May, the opposition were offered a briefing on 19 and 20 May, and it was read in on 20 May.

Hon TJORN SIBMA: I understand. I thank the minister for that clarification. There is a lot going on all at once and it is very easy to lose grip of the time line. I appreciate that; nevertheless, I am interested in the briefing that the minister mentioned that was provided to industry three days after. I think 30 April was the prior advice. Presumably, that was a meeting initiated by the minister or her office?

Hon STEPHEN DAWSON: I am advised that the member is correct.

Hon TJORN SIBMA: In addition to the stakeholder groups identified, who else was present from government, either from the Western Australian Planning Commission or the minister's office, at that meeting?

Hon STEPHEN DAWSON: In light of this line of questioning, I am going to switch out advisers, because I think we may get swifter movement, if that is okay. I ask the assistants to help facilitate the change of advisers for me, please.

From the top of my advisers' heads, to the best of their recollection, in attendance were Kathy Bonus, the chief planning adviser; Gail McGowan, the director general of the Department of Planning, Lands and Heritage; the minister; and the minister's advisers, Mr David McFerran and Ms Emma de Jager.

Hon TJORN SIBMA: I thank the minister. Were minutes of that meeting kept?

Hon STEPHEN DAWSON: I am advised that minutes were not kept.

Hon TJORN SIBMA: Were any conditions placed on the attendees of that meeting insofar as divulging the substance or contents of that meeting; and, if so, could the minister elaborate on what those conditions might have been?

Hon STEPHEN DAWSON: I am advised that those present were asked not to take any written information from the room.

Hon TJORN SIBMA: One would therefore conclude that written material was distributed at that meeting. Would that be a correct assumption?

Hon STEPHEN DAWSON: There was some written material shown to attendees.

Hon TJORN SIBMA: Could the minister precisely identify the material that was distributed at that meeting, please?

Hon STEPHEN DAWSON: I am told that it was the broad framework of the bill, so the key principles that the drafters were working on. Because the issue had not been back to cabinet for a decision, it was not appropriate for information to be taken away, because it was still under consideration.

Hon TJORN SIBMA: Minister, I assume that, effectively, there was a request that no written material that was distributed or revealed in the course of that briefing by the government be taken from the room. Was there also a request that no notes be taken at that meeting, or is that an incorrect assumption?

Hon STEPHEN DAWSON: I am advised not to the advisers' recollection, no.

Hon TJORN SIBMA: How long did this specific meeting last for?

Hon STEPHEN DAWSON: To the best of our knowledge, it went for about 90 minutes.

Hon TJORN SIBMA: Was the minister present for the entirety of those 90 minutes or thereabouts—the whole length of the meeting?

Hon STEPHEN DAWSON: I am advised thereabouts, honourable member.

Hon TJORN SIBMA: In broad terms, could we be enlightened about the particular issues or responses that were elicited by those industry stakeholders during the course of this meeting?

Hon STEPHEN DAWSON: Unfortunately, honourable member, I cannot divulge that information. I do not have it, but also, without checking with those who were present, it is not appropriate to talk about what they might have spoken about.

Hon TJORN SIBMA: I accept that. I might ask a more specific question about the issue of the thresholds of this bill and how they might be set, which we will inevitably come to as a result of amendments moved by Hon Rick Mazza. Some movement in that dimension will probably end up in a reasonable place. Specifically, on the issue of thresholds as they relate to the financial cost component, the net lettable area or the dwelling yield, was the government's position on that matter briefed to the stakeholders; and, if so, what was their response?

Hon STEPHEN DAWSON: I am advised that it was a fairly open discussion. The minister sought feedback on the appropriate thresholds. I understand organisations were able to have a think about it and provide their feedback to the department.

Hon TJORN SIBMA: I anticipated that something like that would have occurred. The four stakeholder groups that the minister mentioned were, I think, the Planning Institute Australia, the Housing Industry Association, the

Property Council of Australia and the Urban Development Institute of Australia. I want to make sure I am not missing anybody.

Hon STEPHEN DAWSON: There was a fifth one. It was the Australian Property Institute, the HIA, the Master Builders Association, the UDIA and the Property Council of Australia.

Hon TJORN SIBMA: We almost have a full complement of acronyms, I think, though not the whole way. Subsequent to this meeting, did one or all of those five stakeholder groups provide feedback, either through the minister's office, the department or the Western Australian Planning Commission, on the issues that were canvassed at that meeting prior to the bill being introduced into the other place?

Hon STEPHEN DAWSON: We do not have that level of detail with us. I am aware that some of those organisations made contact with the department and some made contact with the minister's office. As to who did what, I do not have that information available.

Hon TJORN SIBMA: I want to elicit that information, if I can, because the industry response to the intent of the bill has generally been quite positive. Nevertheless, in drafting policy, legislation or regulations, a line inevitably has to be drawn somewhere and, obviously, one finds oneself on either side of that line. I would like to understand whether any of those industry representatives put observations about the effectiveness or efficiency of the land assembly side, the metropolitan region scheme or structure planning procedural side, because this bill deals specifically with built form development applications. The government has consistently ruled out that this would apply to a new structure plan, a subdivision or a rezoning of a MRS. Were any of those issues raised at that meeting? For what reason did the government exclude those kinds of considerations, if indeed these considerations were put to it at this forum?

Hon STEPHEN DAWSON: Yes, representations were made. Structure plans and scheme amendments have quite different applications to land development applications. Structure plans are master planning documents with a legal status akin to policy documents, such as state planning policies. As planning schemes have the status of subsidiary legislation, the scheme amendment is in fact a type of legislative process. Structure plans and scheme amendments are also a very extensive process, much more extensive, and they impact multiple landowners. We do not believe that grafting structure plans and scheme amendments into this bill, or into the part 17 process, would have been an easy fit. There might be a different or easier way to achieve similar outcomes. It was discounted.

Hon TJORN SIBMA: I thank the minister for that clarification. The commitments entered into at this meeting specifically lead me to my question: were any commitments made by the government during the course of this meeting; and, if so, could the minister please elaborate on those commitments?

Hon STEPHEN DAWSON: I think a commitment was made that we would consider the feedback that they would give us, but that was the extent of it, to my knowledge.

Hon TJORN SIBMA: Were industry stakeholders present at that meeting also given an insight into the government's preferred timing for the introduction and passage of this bill?

Hon STEPHEN DAWSON: I am advised that those present were told that this bill would form part of the state government's COVID-19 response.

Hon TJORN SIBMA: Is there a reason why the representation of that meeting was as it was? Was a representative from the Western Australian Local Government Association invited to that meeting?

Hon STEPHEN DAWSON: I am advised that WALGA was briefed through three prior informal sessions and was provided a draft bill at the same time as the honourable member, but there was a different conversation, plainly because it is a different organisation. Those five that I previously listed are all in the property development space.

Hon TJORN SIBMA: Yes, I understand the distinction, minister, but the obvious point is that the implications and the impact of this bill cut across all different stakeholder groups, including WALGA, but more specifically local governments, which comprise its membership. Could the minister please indicate the specific dates of the three meetings, I think, that he identified in his answer?

Hon STEPHEN DAWSON: No, I do not have that information before me, honourable member, but it was three informal sessions.

Hon TJORN SIBMA: Who was the WALGA official who represented the organisation at those three meetings?

Hon STEPHEN DAWSON: I am advised that the CEO, Nick Sloan, was involved in two of those sessions. I also understand that Vanessa Jackson and Mark Batty were involved in a third session.

Hon TJORN SIBMA: Similarly, were any conditions around the disclosure of information put around those meetings at all that would circumscribe even communication of the essence of what was discussed to a broader audience in the local government sector or within WALGA itself?

Hon STEPHEN DAWSON: I am aware of the details of only one of those sessions. In that session, the same type of thing happened as occurred with the other five organisations; that is, they were spoken to about the key principles that the drafters were working on. The information was obviously relayed to them. They were not directed to speak to anybody further. That relates to only one session; I have no detail about the other two sessions.

Hon TJORN SIBMA: Were any minutes of those three meetings taken?

Hon STEPHEN DAWSON: Not to my knowledge, certainly not in the meeting when my adviser was present. I understand that no minutes were taken at either of the meetings.

Hon TJORN SIBMA: Perhaps when the minister is able, because we will get past this very quickly, would he please table the times and dates at which those three consultation meetings with WALGA occurred?

Hon STEPHEN DAWSON: Yes, I am happy to provide that information provided that it does not hold up the progress of the bill.

Hon TJORN SIBMA: Did those organisations that were mentioned so far during this line of inquiry constitute the entirety of organisations that were consulted on the development of this bill between the dates that we have already identified?

Hon STEPHEN DAWSON: We cannot say. We do not have that information before us. Along with the other information sought, I am happy to find out who else might have been consulted, bearing in mind it is within those dates because, obviously, as I alluded to, 105 of the 106 changes in the bill have been around variously since 2013.

Hon TJORN SIBMA: I have a final question along these lines. It refers to the bill that is to be drafted. Can the minister advise whether consultation has commenced on the drafting of this next bill; and, if so, with whom has the government consulted?

Hon STEPHEN DAWSON: I am advised that it would have been mentioned in those briefings that a second bill was on the way. I understand that there will be standard consultation on the second bill. Obviously, because of the COVID-19 pandemic, we had a shorter period in which to consult. It is anticipated that a second piece of legislation will be brought forward later in the year. There will be fulsome consultation on that legislation.

Hon NICK GOIRAN: I have one last question about clause 1. It is a follow-up to an answer that was given before lunch. One of the two questions I asked was: will any clause in the bill allow the minister to give directions to the planning commission and other agencies requiring them to act even if those actions are beyond power? The minister might remember that it was one of two questions I asked. I suggested that some advice be taken over the lunchbreak but the minister kindly provided a rapid response. I want to draw his attention to clause 4 and, in particular, proposed section 281(6) on page 24 of the bill. It states —

> The decision-maker must comply with the direction —

Remember, minister, this direction has been given by the minister to the decision-maker —

> (a) even if that involves doing something, or omitting to do something, that, apart from this subsection, the decision-maker could not do, or could not omit to do, under any legal instrument; and
>
> (b) without limiting paragraph (a), despite any time limit that would, apart from this subsection, apply under any legal instrument in relation to anything to which the direction relates.

I would have thought that that was exactly one of the clauses that would relate to the question I asked earlier. I seek the minister's clarification on that and ask whether there are any other like clauses in the bill.

Hon STEPHEN DAWSON: I am advised that, as set out in proposed section 281(1)(b), the decision-maker is not the commission. The commission is defined, so the decision-maker is not the commission.

Hon NICK GOIRAN: I reiterate my question. I appreciate that the minister does not have the *Hansard* and it was all done very quickly before lunch. I asked: will any clause in this bill allow the minister to give direction to the planning commission and other agencies, requiring them to act even if those actions are beyond power? The minister quite correctly drew to my attention the fact that the definition of "decision-maker" at proposed section 281(1)(b) does not appear to include the commission but includes a person or body. I would have thought that would be captured by the essence of my question or the particular provision of my question when I referred to other agencies. I want to be clear: are there any clauses in the bill that allow the minister to give directions to, let us say for the purpose of this exercise, anyone? Can the minister give directions to any person requiring them to act even if those actions are beyond power; and, if so, what are those clauses?

Hon STEPHEN DAWSON: I apologise because I had the question written down before the break as any clause in the bill that allowed the minister to direct the commission. We did not take notice of "any other agency".

Absolutely, the answer is no in relation to the commission. In relation to other agencies, the answer is yes. If we misunderstood the question and I misled the chamber, I apologise.

Hon NICK GOIRAN: I thank the minister. There is no problem because it was rushed prior to the lunchbreak. I wanted some clarification. Is the provision that I have identified at clause 4, proposed section 281(6), the only one of these types of provisions in the bill that will allow or require a person to comply with a direction from the minister that would otherwise be beyond power? I want to see whether this is a one-off aberration in the bill or whether some sort of systemic pattern is emerging.

Hon STEPHEN DAWSON: I am told that proposed section 282 is similar to proposed section 281. Further, proposed section 275(4)(b) is similar, although it does allow an additional degree of flexibility. For example, at the moment, if there was a requirement to consult the Heritage Council of Western Australia and it had to reply within, say, 42 days, a direction could be given that it reply within 24 days.

Hon NICK GOIRAN: Just to be clear that we are referring to the same things here, when the minister said "further at proposed section 275", does he mean "earlier at proposed section 275"? The reason I say that is because, as the minister will appreciate, this bill amends a number of provisions in a number of acts, and I want to be clear that we are referring to clause 4. In other words, if I have further issues about this, is clause 4 the place to deal with it?

Hon STEPHEN DAWSON: Yes.

Clause put and passed.

Clause 2: Commencement —

Hon NICK GOIRAN: I move —

Page 2, after line 10 — To insert —

(2) However if a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

I will provide a brief explanation to save the time of the chamber. This is what I would like to think is becoming a customary provision. I thank Hon Michael Mischin, who is the original author of this provision. As members will be aware, this amendment will ensure that if any provisions do not come into effect in the next 10 years, they will be repealed.

Hon STEPHEN DAWSON: I indicate that the government does not oppose this amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Parts 17 and 18 inserted —

Hon TJORN SIBMA: We will probably stay parked in this clause for some time to make progress and seek clarification. I indicate to the minister that I have a number of amendments to clause 4 listed on the supplementary notice paper, as do other members. I hope that we can get through them in an orderly way. I will sit down, because I know that Hon Rick Mazza is very keen to move his amendment, which appears well ahead of mine.

Hon RICK MAZZA: I might look for a bit of direction from you, Mr Deputy Chair, on this clause. This is a consequential amendment to a substantive amendment that appears as amendment 46/4. My question to you is: do we defer a couple of the inconsequential amendments and recommit the bill at a later stage or do we progress in chronological order, given that there is general agreement from the majority of members that they support amendment 46/4?

The DEPUTY CHAIR (Hon Martin Aldridge): I cannot make a decision about whether a clause is deferred or recommitted; that is a decision of the chamber. The matter you raise is that your amendment 43/4 is linked to the more substantive amendment 46/4. Similar to the way in which the chamber has dealt with other bills recently, I will allow some latitude for you to canvass the substantive amendment now so the chamber can make a decision on the first amendment, which will inform the chamber later.

Hon RICK MAZZA: Mr Deputy Chair, just to be clear, do you want me to move my amendment 46/4, which is the substantive amendment?

The DEPUTY CHAIR: You will move the amendment 43/4 and I will allow you to speak to the two related amendments as one. The chamber will then make a decision on amendment 43/4, which will then inform, I suspect, how the chamber will consider amendment 46/4 at a later time.

Hon RICK MAZZA: I think I have got that. Thank you, Mr Deputy Chair.

Amendment 46/4 seeks to ensure that any project with an estimated value of $10 million or more within the metropolitan region, or an estimated value of $5 million outside the metropolitan region, would comply and would not have to meet any other criteria. The consequential amendments relate to removing the criteria for 100 or more units or 20 000 square metres, as it applies to warehouses and industrial-type developments. With that, I move —

Page 4, lines 7 to 13 — To delete the lines.

Hon TJORN SIBMA: I seek some guidance. It is one thing to deal with amendment 43/4, which, itself, is contingent on some consensus on or determination of the member's substantive amendment at 46/4. I will do this now unless I am told to sit down and wait for the appropriate opportunity. If we are going to deal with the substance of amendment 46/4 now, I seek confirmation of the government's interpretation of this. I was led to believe—I might be wrong; I do not want to ascribe views to anybody who is not in our party—that consensus was reached behind the Chair that, should the threshold be dropped, it would be lifted to $20 million. I understand that, behind the Chair, the government was keen to accept that position and would move an amendment to the amendment to that degree. That might be wrongly constructed in my mind. I think it behoves everybody that we get clarification of what the government is going to do, not so much with the principle of lowering the threshold, but on the level of threshold that is likely to be established. If the minister can confirm where we are going with this, that would be appreciated.

Hon STEPHEN DAWSON: Mr Chairman —

The CHAIR: If you would just give me one moment, minister, because there has been a change of Chair. I understand that Hon Rick Mazza has now formally moved at page 4, lines 7 to 13, to delete the lines, so the question is that the words proposed to be deleted be deleted. Obviously, this amendment, and several of the other amendments, relate to clause 4. Therefore, minister, it is perfectly logical that we canvass the central issues implicit in the amendment, and members should be free to do so. Minister, your comments, please.

Hon STEPHEN DAWSON: Thank you very much, Mr Chairman. The honourable member stole my thunder. I was about to indicate what the government is going to do, and the member has probably told the chamber what I am going to do. The member is certainly correct.

Hon Tjorn Sibma interjected.

Hon STEPHEN DAWSON: We have very little fun in this place, and I have some good news to deliver, but my thunder was stolen—no apology needed!

The CHAIR: Order! The minister has good news, apparently.

Hon STEPHEN DAWSON: I appreciate the latitude that has been provided by the Chair. The amendments standing in the name of Hon Rick Mazza at 43/4, 44/4, 45/4 and 46/4 are, of course, all interrelated, with 46/4 being the substantive amendment. The government is very keen to work constructively with honourable members in this place. We appreciate the confidence, I guess, that Hon Rick Mazza has in the WA Planning Commission by moving an amendment that seeks to lower the threshold to $10 million. However, there has been discussion behind the Chair, and my intention is to support amendments 43/4, 44/4 and 45/4, and to move an amendment to 46/4 that would delete $10 million and substitute $20 million. We think that would be a reasonable outcome. The risk of lowering the threshold to $10 million is, quite frankly, that we would shift the balance and put too much work through the special pathway. The figure of $20 million is one that we could support and that could still deliver the outcomes that are sought through the amendment bill before us.

Hon ALISON XAMON: I am afraid that it would appear that the good news is relative. The Greens are not enamoured with the news from the government about how it intends to treat the proposed amendment from Hon Rick Mazza. I reiterate the concern of the Greens about the creation of this pathway in the first place. Therefore, the idea that the threshold is proposed to be lowered even further does not instil confidence. It is redefining "significant" to a substantially lower level than is anticipated by the bill. The concern of the Greens is that it will expose more projects to the transparency and oversight risks that my colleague Hon Tim Clifford and I have identified within this legislation and have already outlined to the chamber.

I note also that the Department of Planning, Lands and Heritage is working within a $4 million budget to set up a new team to support the WAPC to make assessments, based roughly on last year's numbers, of the 50 or so applications that would have met the criteria as defined originally within the bill. I ask the minister to confirm how many applications would meet the proposed $20 million threshold, and can I also please get confirmation that the budget would support that increase?

Hon STEPHEN DAWSON: I am advised that based on data for last year, 2019, the development assessment panels determined 89 applications that would fit a threshold of $20 million for the metropolitan area and $5 million for regional areas. That was approximately 63 metro projects and 26 regional projects.

Hon ALISON XAMON: Can I confirm that we are looking at almost double the number that was originally anticipated with the $30 million threshold? What sort of increase in numbers are we talking about?

Hon STEPHEN DAWSON: Originally, I said 60. I am now saying 89. The honourable member might not have been very good at maths, but that is not a doubling. It is 30 more, which is a 50 per cent increase on the previously proposed threshold.

Hon ALISON XAMON: I confirm that I was actually in advanced maths at school—I just thought I would let the minister know that—and as I have said that to the chamber, people will know it is not a lie. The number that I had was 50-odd, which of course is slightly under the 60 that has been claimed here, but it is still a significant increase. The second part of my question was about whether the original budget allocation that has been put aside to set up the team that will manage these new projects will facilitate the increased threshold, or whether more moneys are likely to be required to deal with the additional workload.

Hon STEPHEN DAWSON: Obviously, I am not the minister with responsibility for the bill, and, indeed, this bill has not gone through the Expenditure Review Committee of cabinet, but I am advised that if this amendment is passed, we will work through the implications for the budget. The likelihood is that should additional moneys be required, further support would be sought from Treasury.

Hon ALISON XAMON: I recognise that the minister has not yet gone through the processes to fully determine the implications of the proposed amendment, but is there an approximate indication of the additional moneys that would need to be sought in order to meet the amendment in front of us?

Hon STEPHEN DAWSON: Not at this stage.

Hon COLIN de GRUSSA: Just to continue with the theme of establishing some numbers around these possible projects, the minister said 60 under the scheme as originally proposed in the bill. Does the minister have the numbers around how many of those would have been regional projects?

Hon STEPHEN DAWSON: I do not have a breakdown of the approximately 60 applications that fit the current threshold. I have breakdown figures only on the possible $20 million or $10 million thresholds. I do not have the initial breakdown. If I can find that, I will provide it, but it is not available to me at this stage.

Hon COLIN de GRUSSA: I thank the minister for that. In terms of what would happen under the $5 million threshold as proposed in the amendment to this clause, is there any geographic breakdown of where those projects might be, or is there a number of projects in regional areas that would fall within that threshold?

Hon STEPHEN DAWSON: There is not. These figures are based on the 2019 data. It is what we have had previously. We do not know what is ahead of us or what will be before us, because, obviously, we are not sure what projects are out there or might come forward if the threshold is changed.

Hon COLIN de GRUSSA: In terms of the threshold that is proposed in this amendment, would the government consider it fair to say that a project of $5 million in value in, say, a small wheatbelt shire would be a very significant project? Perhaps a project of $5 million in Karratha, for example, would not be such a significant or big project. Is there a view on that?

Hon STEPHEN DAWSON: That really is a value judgement. It is fair to say that it is more costly to build in regional Western Australia generally. It is more costly to build in certain places in regional Western Australia. Although a $5 million project in the wheatbelt might be significant for that town, travel costs and transportation costs et cetera are involved, and, really, we are not dealing with apples and apples. However, we have settled on a $5 million threshold for regional Western Australia, and it is hard to go anywhere else with it.

Hon COLIN de GRUSSA: Why then is it necessary to have a separate threshold for regional areas, or areas outside of the metropolitan area, when there is already a referral pathway in this legislation?

Hon STEPHEN DAWSON: I am not sure whether this answers the question, but we are keeping a referral pathway for any proposals that fall outside the box. But I think members' concerns will fall away if this amendment is passed. I do not think there is anything to worry about in that regard.

Hon TJORN SIBMA: This might be a leading question, and we will probably get to it when the amendment to the member's substantive amendment is put by the government, but while I have the opportunity, I want to follow on the line of questioning that Hon Colin de Grussa put to the minister, because it is not an inconsequential consideration. It is obvious, quite clearly, from the way that the bill is presented that at the time the government set those thresholds, initially it contemplated the potential for proposals to fall outside the thresholds but, nevertheless, be on some measure meritorious. My concern is with that original window of opportunity being reasonably ill-defined and there not being a commonly understood threshold or set of criteria by which we might enter it. I do not want to pre-empt what I will say at the appropriate opportunity, but, just on this point, I want to know whether that capacity to designate a regionally significant or state significant project is actually required at all in light of these thresholds being set. I see

that one of the advantages is that at least a minimum floor has been established that might—if I might be a little bit pejorative—serve as a filter that prevents less meritorious and potentially lamentable projects from getting a look-in in this expedited system. I am just trying to get a sense. It might be too early to judge this, but will the minister proceed with this regional/state significant approvals pathway outside the threshold now that these new levels are being set?

Hon STEPHEN DAWSON: The substance of the honourable member's question is correct, but we are still keeping a referral pathway. The likelihood is that it may not be used often or, indeed, it may rarely be used in regional Western Australia, but the minister's and the government's view is that it would be helpful to have because at some stage there may well be some weird tourism proposal, for example, that would benefit from such a pathway.

Hon TJORN SIBMA: No doubt what the minister meant to say was a unique, novel proposition; a one-of-a-kind—a real attractor.

Hon Stephen Dawson: No, I meant "weird", but "unique" is another possible word for it.

Division

Amendment put and a division taken, the Chair (Hon Simon O'Brien) casting his vote with the ayes, with the following result —

Ayes (24)

Hon Ken Baston	Hon Donna Faragher	Hon Martin Pritchard	Hon Matthew Swinbourn
Hon Jim Chown	Hon Laurie Graham	Hon Samantha Rowe	Hon Dr Sally Talbot
Hon Alanna Clohesy	Hon Alannah MacTiernan	Hon Robin Scott	Hon Dr Steve Thomas
Hon Peter Collier	Hon Rick Mazza	Hon Tjorn Sibma	Hon Colin Tincknell
Hon Stephen Dawson	Hon Michael Mischin	Hon Charles Smith	Hon Darren West
Hon Sue Ellery	Hon Simon O'Brien	Hon Aaron Stonehouse	Hon Pierre Yang *(Teller)*

Noes (7)

Hon Martin Aldridge	Hon Robin Chapple	Hon Colin de Grussa	Hon Alison Xamon *(Teller)*
Hon Jacqui Boydell	Hon Tim Clifford	Hon Diane Evers	

Pairs

Hon Adele Farina	Hon Colin Holt
Hon Kyle McGinn	Hon Nick Goiran

Amendment thus passed.

Hon Dr STEVE THOMAS: I move —

Page 4, line 21 — To delete the line.

We discussed this during the second reading debate. My view is that it is unacceptable to remove the Environmental Protection Act as a part of this process, and I am very pleased to see that the Minister for Environment has convinced his cabinet colleagues to agree to that position. I think that is a win for the environment. For those members who missed a riveting second reading contribution, I asked the Minister for Environment how many proposals that would have met the thresholds would have been assessed under the Environmental Protection Act and at what levels. The answer came back that two proposals would have met the threshold and that neither went to formal assessment. It was deemed that they did not need to be assessed. In terms of the minister's answer it is the case that there are nil projects or proposals that were blocked by the Environmental Protection Act that would have met the threshold. For that reason, I seek to remove the Environmental Protection Act as a legislative instrument that can be ignored. I thank the minister for taking the same position. I ask members of the chamber to support the amendment to remove that legislation from this bill.

Hon STEPHEN DAWSON: I indicate that we are in support of this amendment. As Hon Dr Steve Thomas indicated, I had placed a similar amendment on the supplementary notice paper. The purpose of the amendment is to clarify that the Environmental Protection Act will not be captured by new part 17 and it does that by altering the definition of "legal instrument". I agree with Hon Dr Steve Thomas and will support his amendment. I further flag that the Parliamentary Counsel's Office has recommended that if this amendment is passed, further changes will be required. Simply deleting the reference to the Environmental Protection Act in proposed paragraph (b)(ii) will not be enough. Even with that deletion, the Environmental Protection Act could still be covered under proposed paragraph (c), which refers to "any enactment, other than this Act". The Interpretation Act defines an enactment to mean any written law, and the Environmental Protection Act is clearly a type of written law. I indicate that I have further amendments on the supplementary notice paper at 15/4, 17/4 and 19/4 that are linked to this.

I will support this amendment, and for those who support this amendment, hopefully they will support those further amendments.

Hon NICK GOIRAN: My question flows from the response that has just been provided by the minister and the advice that he has been given by, I think, parliamentary counsel, or some legal adviser anyway. If that is the case, why do we need proposed paragraph (b) in the definition of "legal instrument" at all? The advice that the minister has been given and has advised the chamber of is that if we delete proposed paragraph (b)(ii), which deals with the Environmental Protection Act, there is a concern that, as the bill currently reads, it will be captured by proposed paragraph (c). By definition, it follows that the enactments in proposed paragraphs (b)(i), (iii),(iv) and (v) would also be covered by proposed paragraph (c). I do not think that the advisers can have it both ways. Either the enactments listed under proposed paragraph (b) are captured by proposed paragraph (c) or they are not. I would think that one way in which proposed paragraph (c) could be interpreted would be to say that Parliament has gone out of its way with proposed paragraph (b) to list those matters. The dialogue that is happening right now about this matter should be noted, and it is not the intent of the Parliament that the Environmental Protection Act 1986 be included. I seek clarification on that because, otherwise, it seems as though proposed paragraph (b) of the definition of "legal instrument" is entirely unnecessary.

Hon STEPHEN DAWSON: Wiser people than me advised me, but I am told that proposed paragraph (b) technically need not exist. Its sole purpose is to aid readers by referring them to the most common enactments that interact with or influence planning decisions.

Hon NICK GOIRAN: I do not find that satisfactory. I think that the entirety of proposed paragraph (b) could be deleted. Be that as it may, I will leave it to others to determine those things. The government has come late to the party that has been started by Hon Dr Steve Thomas and has now joined his party by deciding that the Environmental Protection Act 1986 should not be mentioned here as a legal instrument. Somebody in the government must have decided at the first instance that it was sufficiently important to go out of their way to put it in the bill in proposed paragraph (b). I do not want to quibble with the minister about that. My question is: if we are now as a chamber being told by the shadow Minister for Environment, and I take my lead from him in this respect, and by the Minister for Environment that we should carve out the Environmental Protection Act 1986, why should we leave in the other acts that are listed?

Hon STEPHEN DAWSON: The Environmental Protection Act is a special case in Western Australia. I think it is section 5 of that act that states its pre-eminence. The amendment ensures that the Environmental Protection Act retains its pre-eminent status as the primary legislation to protect Western Australia's environment. The bill has been drafted to deliver conditions for a rapid recovery in this state, and it is not since 1929 that we have faced circumstances such as we have faced recently. It was never the intention for this bill to override the requirements of the Environmental Protection Act. In fact, it retains a requirement for proponents to comply with the Environmental Protection Act processes to achieve environmental approvals. However, to put it beyond doubt that we remain steadfast in our commitment to good environmental management, we seek to remove reference to the Environmental Protection Act.

Hon NICK GOIRAN: I understand that. I would like clarification that the government is saying that it does not want to override the Environmental Protection Act because it has important provisions that it does not want to override. By implication, the minister is saying that the government does want to override the Heritage Act. For the purposes of this legislation, it does not care about heritage, but it cares about the environment. That implication is made by what we are doing here right now. I profess to have no expertise in the area of heritage, but I make the point, as a lawmaker and a legislator, that if we are about to carve out the Environmental Protection Act because we are saying that it is a special act and that it has a special place in Western Australia and in the hearts of members, then the Heritage Act apparently does not have a very special place in the hearts of members. I would like some clarification from the government about this particularly, minister, and I drive home this point. Somebody in government, including every single cabinet minister, on a date that has been extracted by Hon Tjorn Sibma, at some point in time decided that they specifically wanted these five acts to be listed—all five of them. They went out of their way. I know that cabinet ministers will have read the bill in detail. They would not have felt rushed in any way, unlike other members. They certainly would have jostled with the Minister for Planning and would have made sure that the Minister for Planning did not simply get her way by presenting whatever she liked to the cabinet table and having it approved. I am sure that none of that would have happened. Someone has decided that all five acts must be specifically mentioned. Now we have the government coming to the Hon Dr Steve Thomas party—excellent party that it is—and saying that it no longer wants to include the Environmental Protection Act. I am asking for some clarification about why the Heritage Act should be treated differently.

Hon Dr STEVE THOMAS: Before the minister responds, I thank Hon Nick Goiran for his comments. He is absolutely right. In the amendment that I have moved, it is absolutely the case that I expect the Environmental Protection Act to be treated as a separate entity and a higher act than the other acts that are listed in that process. That is absolutely

the case. I think the Environmental Protection Act protects the future of Western Australia, whereas many of the other acts, in my view, can be managed under the auspices of the Department of the Premier and Cabinet process. It is absolutely the case that I have highlighted a specific act.

I also take the opportunity to say to the Minister for Environment that it is absolutely my intent to support his further amendments. They are good amendments; they follow up. If I had the assistance of parliamentary counsel, I probably would have ended up including those as well; unfortunately, this was a fairly rushed process for me. But it is absolutely the case that I have highlighted the Environmental Protection Act as a special case. I am very pleased that the government has seen that and also agrees that the EP act is a special case. I thank the minister for his subsidiary proposed amendments, which will come up, and I ask all members of the chamber to support those amendments when they are proposed.

Hon STEPHEN DAWSON: I thank Hon Dr Steve Thomas for his contribution. Honourable member, we are not saying that the Heritage Act is not important, but we are acknowledging the pre-eminence of the EP act. As I have previously stated, the EP act has been treated to a higher degree and has had a more prominent role in state legislation than other legislation previously, and it is our intention to keep that into the future.

Hon ALISON XAMON: It should come as no surprise to anybody that the Greens will of course be supporting the amendment as proposed by Hon Dr Steve Thomas. I look forward to receiving his membership application for the Greens. We certainly accept that the EP act must be treated as a pre-eminent act within this state, and I hope that continues to be the case in all legislation that comes before this place. I am not going to hold my breath. I do want to say, though, that I still remain concerned about the inclusion of acts such as the Contaminated Sites Act and the Heritage Act, as well as the Swan Valley Planning Act and other important acts. I certainly take the point of law made by Hon Nick Goiran that it raises the question of why these are even here in the first place, but as the Greens are not supportive of the inclusion of any of these acts in the first place, that is not where I am going to be focusing my energy. However, we will absolutely be supporting the amendment in front of us, as well as the subsequent amendments to give effect to it.

Hon RICK MAZZA: I, too, rise to support the amendment that has been proposed by Hon Dr Steve Thomas. I take on board some of the comments made by Hon Nick Goiran about the other acts that are defined within the bill. However, if we were to remove any of the other acts, I think it would greatly diminish the effectiveness of this bill and the proposed cutting of red tape. I am quite convinced by Hon Dr Steve Thomas that the other acts can be managed. Contaminated sites can be managed; obviously, there will be requirements to remove contaminated soil and replace it. I am quite comfortable with the other acts that are in the bill, and I support the amendment of Hon Dr Steve Thomas to remove the Environmental Protection Act.

Amendment put and passed.

The CHAIR: Proposed amendment 14/4 on the supplementary notice paper will now not be proceeded with. There is a further amendment proposed by Hon Tjorn Sibma.

Hon TJORN SIBMA: I want to begin by following the thread of the conversation. We have just come to a very sensible resolution concerning the striking out of the reference to the Environmental Protection Act 1986 and identified that in the scheme of all acts, this occupies a very special place. I think, in the course of doing that, and continuing the logical thread put by both Hon Rick Mazza and Hon Nick Goiran, what then is the logic and purpose for the inclusion of the Contaminated Sites Act, the Heritage Act, the Swan and Canning Rivers Management Act and the Swan Valley Planning Act? The answer that has been provided is that these acts are effectively—this is my construction—the source of the mischief. That is a phrase someone put to me this week. These acts are the source of the mischief in the orderly and timely determination of planning approvals. This is where the rub points are. These acts are the origin of most of the problems. I am prepared to accept that to some degree, as long as we can substantiate it in proportional terms. How much of a problem has the operation of the Contaminated Sites Act been on projects of the scale that we were contemplating initially and are about to include after this point? The same goes for each of the acts listed there. I am not asking this question to be obtuse or to extract more big data from the government, but we need to have the justification for this tested when we have the opportunity. I also reflect on this: whether a member is in government, opposition or any other party, people will complain to them quite regularly about approval systems and red tape in a general sense. Members could ask, "What specifically is the problem here? Give me a time and motion study. Where could you objectively identify there being a problem, and is the problem a cultural issue, a personal interpretation issue or a professional credibility issue, or are you just making excuses for the fact that you did not do your paperwork properly and nobody in their right mind could actually approve your proposition?" If we could at the very least identify which of these acts listed here proportionately carries the biggest load of disgruntlement, upset or obstruction, that would be very, very useful, because that has largely informed why I have included the Local Government Act in my amendment on the supplementary notice paper, and I will explain a bit about that next. But if the minister could provide some insight not in qualitative terms—we have that already—but quantitative terms, that would be very useful.

Hon STEPHEN DAWSON: I am told that these acts place an obligation on the commission when making a decision. The Contaminated Sites Act relates to memorials on title and the Heritage Act relates to a heritage agreement. This bill will allow for a more flexible approach. We will not ignore those acts, but this will allow more flexibility. I understand that the biggest offender that causes the most issues, if the member was going along those lines, is probably the Heritage Act.

Hon TJORN SIBMA: That is really useful information to know. Sometimes we can take a scalpel rather than a sledgehammer to legislation. The government could have possibly dealt with the interface of the Heritage Act three years prior to the presentation of this bill, if that act, as the minister told me—I have every reason to believe him—is the prime suspect or major offender of mischief that occurs in the orderly processing of development application determinations. Is that the case across the spectrum of planning determinations made, or is that specifically the case for the kinds of significant developments that are contemplated in this legislation? This is an important question, because the government is creating a streamlined approval system for an identified subclass of significant developments that we are about to effectively determine by the dollar value, which is fair and reasonable. Does the Heritage Act have a disproportionate impact on a structure plan and does that impact, to a large degree, redevelopments up and down St Georges Terrace, for example?

Hon STEPHEN DAWSON: Just to be clear, this does not involve structure plans; however, I am told that it is site specific. Larger complex developments are most likely to equal larger complex impacts.

Hon TJORN SIBMA: Would it be possible to provide the last two or three problems, or some case studies at least, regarding the operation of the Heritage Act and its interface with determinations made on development applications? At the very least, this would be useful information. I imagine that it would be within the capacity of the government to extract that kind of information, because these kinds of cases might end up at the State Administrative Tribunal and we could just look at the hearings listed as one metric. That is one question, I suppose. My next point is: if the logic of the listing of these acts, in particular the Heritage Act 2018, is to focus the mind on the enactments that cause the majority of trouble, as I have asked over the course of the last week through questions without notice, what about the Main Roads dimension? Main Roads WA features significantly within the Department of Planning, Lands and Heritage's own reform approvals information material as being the source of a substantial degree of irritation. I have been advised that it is not the Main Roads Act 1930 but the Local Government (Uniform Local Provisions) Regulations 1995 that is apparently the source of the mischief. I would like to get a sense of the proportion of the encumbrances, dysfunction or obstacles in the approval space that are caused by the application of those regulations compared with any of these other enactments that the bill has listed, and specifically the Heritage Act 2018. I have not been in this shadow portfolio very long, but nobody has yet complained to me about the Heritage Act to the degree that they have complained about the conduct of Main Roads WA. I find this dissonance worthy of interrogation at the very least.

Hon STEPHEN DAWSON: I do not have those numbers that the honourable member is asking for about heritage and how much of an issue heritage is. I am sure that that is easily available. Heritage is obviously in the same department as planning, but I am not sure how the information is tracked or whether it is available. However, I will ask the question, and if, at a subsequent date, I can provide something to the chamber, I will. I am not undertaking to provide it before the passage of this bill, because it might take a bit longer than that. The member is, of course, correct when he said that when people have issues with road access, they think the Main Roads Act is involved, but it is not; it is the Local Government Act. The member obviously has an amendment on the supplementary notice paper to insert the Local Government Act 1995. I am in a position to indicate that we will support that amendment. We certainly highlight the issue with Main Roads WA in the action plan that I mentioned previously.

Hon TIM CLIFFORD: I might have missed it within the bill, but if a decision is made to bypass any one of the acts that the previous member mentioned, whether it be the Heritage Act or the Contaminated Sites Act, will reasons be given by the minister or the Western Australian Planning Commission? It would be great to know that.

Hon STEPHEN DAWSON: The commission must give reasons for its decision and publish those decisions.

Hon NICK GOIRAN: Further to this line of questioning, it is not just the commission that has a stake in all of this. Correct me if I am wrong, but following on from our line of questioning on clause 1, will the minister not have the power to direct an agency or a person to comply and do something that is currently out of their power? There is a long list of acts and we are about to add another one. Has the honourable member moved his amendment at this stage?

Hon Tjorn Sibma: Not yet.

Hon NICK GOIRAN: Not yet. There is an intention in an amendment on the supplementary notice paper to reference the Local Government Act. Does that mean that the minister will be able to direct a local government to make a decision that would ordinarily be outside of their power?

Hon STEPHEN DAWSON: Yes, the member is correct: the minister can do so with the agreement of the Premier. Essentially, cabinet can override the conflict resolution provisions. The Western Australian Planning Commission

may well put certain conditions on the project. If another agency says something to the contrary, the minister and, indeed, cabinet have the power to override that. However, there are some amendments on the supplementary notice paper—we will get to them later—such that if something were to happen, that decision would be published.

Hon NICK GOIRAN: I will use this as an example. The minister is saying that the minister can direct a local government to act outside a power or beyond power. There was some discussion with Hon Tim Clifford about whether reasons would be given but he was discussing the commission. Be that as it may, what was the feedback from WALGA and local governments about the notion that the minister can direct them to act beyond power?

Hon STEPHEN DAWSON: First, it is not the minister directing. As I indicated earlier, the Premier has to agree, so it would in effect be the cabinet. The issue is not normally with local governments; it often relates to Main Roads. Quite often, local government is the meat in the sandwich. This new power would allow cabinet to direct another agency to do something in line with the Planning Commission's decision.

Hon Nick Goiran: Including local government.

Hon STEPHEN DAWSON: It does include local government. In relation to consultation, I am not aware of what they said. My advisers who are present are not aware of what feedback they provided.

Hon NICK GOIRAN: To conclude on this point, if the government is not aware of the feedback, is that because no feedback has been sought or that some feedback has been sought but it is not readily available at the moment? I am having a wild guess but I could not imagine that local governments would be enamoured or doing cartwheels over the idea that the minister, subject to the Premier and cabinet, will tell them to do something beyond power. It is not just a case of telling them to desist from doing something. It includes a provision; we will get to that later in clause 4. It provides that a person must do something that is currently beyond power. It is not a case of just cease and desist. It is not just the Premier, Mr McGowan, who currently loves all the restrictions and telling people what they can and cannot do—we know that —

Hon Alannah MacTiernan interjected.

The CHAIR: Order! Just ignore interjections and address me, Hon Nick Goiran.

Hon NICK GOIRAN: Thanks, Mr Chair.

It is not just the case that the Premier can tell somebody to desist from doing something. As I read this part of the clause we will get to in a moment, it can force the person to do it by saying, "You must do this." That is the context in which I ask for the status of the consultation with local governments. I assume that local governments would be quite wild about this. Maybe it is the case that the government has not spoken to WALGA or maybe it has not consulted local government. Maybe it has and it does not care what the response is. Can we get some clarification? If the answer is that the information is not readily available now, that is fine, and maybe an undertaking could be given to inform us at a later stage.

Hon STEPHEN DAWSON: I am not sure whether this answers the member's question, but it is an important point to make. At the moment, Main Roads essentially overrides local governments. This bill allows for Main Roads to be overridden. As previously indicated, at least on three occasions WALGA was briefed on the legislation or on the principles behind the legislation. I am not aware of the comments made. It was invited to give feedback. My advisers at the table today indicated that some advice was provided to the minister's office verbally and some was provided to the agency. The format in which it was provided is not clear. If it is available, I will provide the advice from WALGA to the member. I do not see any reason why I could not do that. I will undertake to investigate the issue.

Hon NICK GOIRAN: I make this point. If the mischief that the minister is trying to solve is Main Roads, which appears to be the case, I have no difficulty supporting the government in remedying that mischief that the government has identified. Why everybody else gets caught up in this, including local government, the Heritage Act and so on and so forth, is not clear to me. In the absence of the government being able to say that local government is the mischief-maker that it is trying to resolve, and it is trying to blunt it by way of this instrument that it is about to put through at page 4 of the bill, I am not clear why all these other enactments need to be included. Is there a reason we are including all other enactments when the mischief appears to be at Main Roads?

Hon Stephen Dawson: Sorry; say that again.

Hon NICK GOIRAN: If the mischief is at Main Roads, why is it necessary for us to include all these other enactments, specifically on page 4, line 26?

Hon STEPHEN DAWSON: That is a catch-all clause, as the member would understand. If it does not relate to planning issues, it would not be captured. In relation to WALGA, I hazard a guess as to what WALGA generally opposed. I am not saying anything to this effect, but WALGA has a specified consultation time line that it likes government agencies to use when consulting with it. We have already spoken today about the COVID element of this bill—the fact that a state of emergency was declared on 16 May and this bill moved very quickly afterwards.

It would not have been aligned with WALGA's preferred consultation time line. That would be at least one concern. I am not aware of any other concerns that have been raised by WALGA. As I indicated, I will look into that aspect.

Hon RICK MAZZA: I will be supporting Hon Tjorn Sibma's amendment 2/4 to include the Local Government Act 1995. It is important that we maintain some flexibility in this fast-tracked process. Obviously, the Department of Planning, Lands and Heritage manages some of these acts. I appreciate that the Environmental Protection Act 1986 has been removed and that the normal processes will have to take place. Management of the other acts is important to provide the department with some flexibility to deal with these applications. With that, I will support the amendment.

Hon TJORN SIBMA: I am reminded that I have not formally moved my amendment, just in case we get ahead of ourselves and we want to ensure that we are in the right place at the right time. This provides me with the opportunity to explain that I will move my amendment for the reasons largely identified by Hon Rick Mazza, such as the requirement for flexibility. I will be specific, though, before I move the amendment. Local government is not the target of my amendment. Rather, the complex set of interactions between local government and Main Roads is the target of, and reason or justification for, my amendment. I will move the amendment for three reasons. First, because in proportional terms, at least anecdotally, this seems to be a primary source of irritation in the approvals process overall. Second, its absence from this list was more about face-saving than equity and treatment. Third, if there is one minister who has the capacity to make this change in this dimension, it is the very minister who Hon Stephen Dawson represents here—the one who has brought forward this planning bill. If anybody can potentially broker or arbitrate a meeting between the senior officials of Main Roads Western Australia, the Western Australian Planning Commission and the Department of Planning, Lands and Heritage, it is the honourable minister.

I was in two minds about whether I would move this amendment. I thought I would give the government fair opportunity to prove whether it had undertaken substantial progress in attempting to fix this bit of approvals blockages. I have been advised, over the course of the last two days, that only very preliminary exploratory discussions have taken place that may have canvassed some modifications. I asked a specific question yesterday. I want the government to time and date stamp this kind of stuff for me. I do not come into the chamber just to ask questions to fill the time available, even though some might form that unfortunate and unfair conclusion. I want the government to tell me whether it has pursued this reform agenda with vigour and zeal and used all the powers at its disposal. Hon Stephen Dawson is the minister who gets the opportunity to direct himself as the other minister to fix this problem. I want him to show me how he has gone about doing that. The minister referred to this in the planning approvals overview documentation, which is excellently crafted and drafted. It is really good. I know that "explainer" is a common phrase. I used to use the word "explanation" or "description", but anyway. Towards the end, the minister names Main Roads Western Australia as being the source of irritation and he anticipates some approvals remediation in this space. The government has gone to the effort of undertaking a three-year reform process; that is, three years of consultations, submissions, contemplations, meetings, drafts, endless talking points and notes, press releases and the like. My question is: has the government done anything? What has been accomplished? I understand that there are complications, and there is the added complication of tidying up the application of the Local Government (Uniform Local Provisions) Regulations 1996, which is the focus of my attention here. I thought the government would have done something by now.

Through the course of these questions and answers, the government has identified that of the major offenders in the list of what was five but is now four enactments, the Heritage Act 2018 is the most mischievous of the lot. It is the naughty one that is causing all the upset and grief. We asked the government to please quantify the claim so that we could understand that it has gone through this with some rigour. But for the Main Roads interface to not have been talked about at all makes it the elephant in the room. I was prepared to not make more of a claim about this than anything else until I received the last two answers from the minister, which indicated that absolutely no progress has been made whatsoever and that we cannot anticipate, in the next six months at least, any change. It is not just a glib, kneejerk reaction: "Why don't you include this or take this out?" I welcome the fact that the minister has indicated that the government will accept my amendment, and I very much appreciate that.

Before I move the amendment, I want to say that I wish that I did not have to move it. I wish more progress had been made in this respect. With that, I move —

> Page 4, after line 25 — To insert —
>
> (vi) the *Local Government Act 1995*;

Amendment put and passed.

Hon NICK GOIRAN: Before the minister looks to move the amendment standing in his name at 15/4, I refer to the growing list of enactments at paragraph (b) under "legal instrument" on page 4. Five enactments were listed in the original bill but that number decreased to four because Hon Dr Steve Thomas moved an excellent amendment, which was supported by the chamber. It has now gone back to five because we have added the Local Government

Act 1995. I note that there are a number of acts under the planning portfolio. For example, the College Street Closure Act 1958; the Forrest Place and City Station Development Act 1985; the Hope Valley–Wattleup Redevelopment Act 2000; the Metropolitan Region Improvement Tax Act 1959; the Metropolitan Region Scheme (Fremantle) Act 1994; the very important Perry Lakes Redevelopment Act 2005; the Planning and Development Act 2005, which, of course, we are in part amending now; the Planning and Development (Consequential and Transitional Provisions) Act 2005; the Port Kennedy Development Act 2017; the Road Closure Act 1969; and, of course, the Swan Valley Planning Act 1995, which is included at subparagraph (v). Why does the government not list all those enactments in paragraph (b)?

Hon STEPHEN DAWSON: I am told that if it is made under the act, they are already captured. That is part of the development application process.

The CHAIR: Minister, while you have the call, do you want to move your amendment now, which is next on the supplementary notice paper?

Hon STEPHEN DAWSON: I move —

Page 4, lines 26 and 27 — To delete the lines and substitute —

(c) any enactment, other than the following —

(i) this Act;

(ii) an enactment covered by paragraph (b);

(iii) the EP Act;

As I previously indicated, this goes hand in hand with the amendment that I was going to move early on, but was obviously moved in the name of and supported by Hon Dr Steve Thomas. That has passed and this amendment is tied to that.

Hon Dr STEVE THOMAS: I have moved to the table, because I was right at the back of the chamber, but I was awake, though, and listening.

I thank the minister for moving this amendment. This is a very good amendment. Obviously, if I had had the same capacity through parliamentary counsel, I would have reached the same process myself. This amendment again reinforces that the Environmental Protection Act is critical to the future of Western Australia. It is not an act that always stops development. It is an act that looks after the landscape of Western Australia for future generations. I thank the minister for his support previously. I offer my support now and ask all members in the chamber to support this amendment.

Hon TJORN SIBMA: I indicate that the formal position of the Liberal Party room is completely consistent with the contribution made by Hon Dr Steve Thomas.

Amendment put and passed.

Hon RICK MAZZA: I move —

Page 5, lines 5 to 20 — To delete the lines.

By way of explanation, this is a consequential amendment to a substantial amendment that I will move later, which basically will remove the definition of “net lettable area”, which will become redundant.

Amendment put and passed.

Hon RICK MAZZA: I move —

Page 5, lines 27 to 29 — To delete the lines.

This amendment is similar to the previous amendment. It seeks to remove the definition of “R-codes”, which will also become redundant.

Amendment put and passed.

Hon RICK MAZZA: I move —

Page 6, lines 3 to 22 — To delete the lines and substitute —

(a) development that has an estimated cost of —

(i) in the case of a development that is wholly or partly in the metropolitan region — $10 million or more;

or

(ii) in any other case — $5 million or more;

or

By way of explanation, this amendment seeks to lower the threshold for developments that comply from $10 million for the metropolitan area and $5 million for regional areas. I take on board some of the debate earlier, when I moved the first consequential amendment that we spoke about. The discussion behind the Chair is that the $10 million threshold that is proposed in my amendment will be amended to $20 million for metropolitan Perth and $5 million for regional areas. I did not just pluck these figures out of the air. I received some information from the Property Council of Australia—as I am sure other members did also—that in New South Wales, regional projects are required to meet a threshold of $5 million. The Property Council also put in its submission to me that it preferred a $10 million threshold, because that would enable more projects to comply with the purposes of this bill. I accept that a $20 million threshold may be what we need to move to if we want to reduce the number of applications through this process and if the department is concerned that it will be overwhelmed. However, I note that the figures that have been used are historic up to COVID-19. They are all pre-COVID-19. Therefore, even at $10 million, the estimated number of applications that will flow might be overstated, because I think a lot of developers will shelve their projects. I hope the chamber will support my amendment. However, I will accept an amendment to my amendment when we get to that point. It is very important that we give the economy a good rev by providing some employment, work and development within the state as we move forward on the challenge of trying to repair the budget.

The CHAIR: Obviously, if Hon Rick Mazza's amendment succeeds, there will need to be a Clerk's amendment to change paragraph (c) to paragraph (b), but that is beyond what we are talking about here. The question is that the words proposed to be deleted be deleted.

Hon STEPHEN DAWSON: As I foreshadowed earlier at amendment 43/4, it is my intention to move an amendment to the amendment, for the reasons that I outlined previously, and I do not propose to range over those reasons again. I move —

In subparagraph (i) — To delete "$10 million" and substitute —

$20 million

The CHAIR: Hon Rick Mazza has moved an amendment to delete certain words and substitute other words. The minister representing the Minister for Planning wishes to test the Committee of the Whole's desire to amend that amendment. Therefore, although the question immediately before us is that the words proposed to be deleted be deleted, if there is a desire to resolve the $10 million versus $20 million question first, I will seek leave of the chamber to deal with the minister's amendment to the amendment before we deal with that other question. Is leave granted?

Hon TJORN SIBMA: Yes, it is. I was just going to indicate that that was a very wise ruling.

The CHAIR: Good. I am glad someone appreciates my wisdom.

Leave granted.

The CHAIR: The question now is that the words proposed to be deleted be deleted, being "$10 million".

Hon NICK GOIRAN: During the debate on clause 1, I drew to the minister's attention that I have tabled a petition containing 1 502 signatures relating to Glen Iris Golf Course. The matter that we are dealing with at the moment is the tampering with the definition of "significant development". At the moment, a "significant development" is a development that is estimated to cost $30 million. Hon Rick Mazza has asked the chamber to agree to lower that to $10 million, and the government is now asking, in some kind of bidding war against its own bill, for it to be $20 million. Whatever the figure may be, will the Glen Iris Golf Course redevelopment be captured or not captured by this?

Hon STEPHEN DAWSON: I am advised that it will not be captured by this if it relates to a subdivision or a structure plan.

Hon TJORN SIBMA: I want to speak briefly to the minister's amendment to the amendment. I do not think we can afford to be too puritanical about the level at which we establish a threshold. My initial reservation with the level set by Hon Rick Mazza was that I thought it would give licence to a greater range of more speculative propositions, which would affect character and amenity in suburban Perth in a way that could be potentially damaging. I do not want to impute that there is a relationship between money spent and quality delivered, but that can sometimes be a useful metric. I had an initial reservation with the specifics of the original level that was recommended, and I take the member's contribution that it was not an arbitrary sum; there was some substantiation for it. But I thought that at that level, we would at least have a development assessment panel system. It seems that that system is always

being tinkered with, but, nevertheless, it performs its function quite diligently and could quite easily, and would ordinarily, deal with development applications at that $10 million level.

Another opportunity was presented through the course of this bill to create another avenue for consideration by, or referral into, the streamlined approval system. If it was determined that a project was a state or regionally significant development, it could be treated this way. The problem I have is the criteria for that consideration is yet to be written. There is no objective framework that might usefully or helpfully guide consideration at this stage, which is in stark contrast to the examples provided in the New South Wales and South Australian jurisdictions. Nevertheless, there is a need to be a little more flexible and there is a proposition here that raising the level to $20 million is probably an acceptable compromise. However, in essence, we do not know what we do not know. At the conclusion of the 18 months, we will see the results of this and see whether this was an effective measure.

Perhaps if we are ever in this kind of economic territory again, we will have a better idea of the specific levers we want to pull and when we want to pull them. We go into this not completely knowing what lies ahead, other than the fact that today we received some quite shocking, but not completely surprising, unemployment figures. I suppose that this is the final determination that at least provides some measure of comfort to the Liberal Party to support this $20 million figure. Western Australia's unemployment level was at 8.1 per cent for May. It may well be worse for June; we will know once the figure comes out. To apply the principle of charity to this bill, as I have indicated from the outset, it is at least some attempt to activate economic activity, stimulate development, attract investment and create jobs. We are faced with the situation that we are faced with. Any political party that gets in the way of job creation needs to have a long, hard look at itself. We are here to support job creation and economic recovery, and on that basis I want to formally indicate, in consideration of all the circumstances, that we are going to accept the government's compromise amendment to the principal amendment moved by Hon Rick Mazza.

Hon COLIN TINCKNELL: I would also like to make a contribution to this. The One Nation party is very pleased that some work has been going on in this space, and we accept the changes by the government to Hon Rick Mazza's original amendment. As the previous member mentioned, it will hopefully have a positive effect on jobs and employment for Western Australians at a time when it is needed, and for me that is the main crux of this bill. Therefore, One Nation members would like to put on notice that we support this amendment to the amendment.

Hon ALISON XAMON: I indicate that the Greens will be supporting the government amendment, but only because it helps to ameliorate an amendment that we do not support at all. I just wanted to make it very clear that although we support the government's amendment, we still will not support the substantive amendment.

Amendment on the amendment put and passed.

Hon COLIN de GRUSSA: I applaud Hon Rick Mazza for what he is doing here in trying to find a way to both increase investment and ensure investment by changing those thresholds and simplifying what will be considered to be a significant development. I have a concern with applying this quite arbitrary figure across a state as large and diverse as Western Australia.

Committee interrupted, pursuant to standing orders.

[Continued on page 3890.]

Sitting suspended from 4.15 to 4.30 pm