BUILDING BILL 2010

Consideration in Detail

Resumed from 6 April.

Clause 59: Time for granting occupancy permit or building approval certificate —

Debate was adjourned after the clause had been amended.

Mr T.R. BUSWELL: So that the chamber can reacquaint itself with where we are at with the passage of the bill, we are on page 48 and we recently dealt with an amendment to lines 8 and 9. I have an additional amendment that is on the circulated paper in my name. I move —

Page 48, after line 24 — To insert —

(5) Despite subsection (2) and section 55(2), the permit authority may decide whether or not to grant or modify the occupancy permit or grant the building approval certificate, and may give the applicant written notice of its decision, after the period applicable under subsection (1), or the time specified under section 55(1), has expired, and the validity of the decision is not affected by the expiry.

For the information of the house, the purpose of this amendment is to make these occupancy permits consistent with the mechanisms that surround building permits, which are described in clause 23(6) on page 21 of the bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 60 to 65 put and passed.

Clause 66: Regulations —

Ms J.M. FREEMAN: Taking into account clause 59, clause 66(5) states that the regulations may provide that an occupancy permit is not required for a building of a kind specified by the regulations. Can the minister confirm that those regulations will state that the occupancy permits will not apply for homes owned and occupied by mums and dads, and that it is more about the occupancy for builders to enable them to have an occupant in the home, rather than for people who own the home?

Mr T.R. BUSWELL: The advice I have been given is that the term used will be "single residential equivalent". It will be anything from a single residential dwelling down. This provision is meant to exclude the mums and dads, which is the member's term, whether it be a single residential dwelling or a shed and the like. I think that is what the member is asking, and this clause will deliver on that.

Clause put and passed.

Clauses 67 to 75 put and passed.

Clause 76: No encroachment without consent or court order —

Ms J.M. FREEMAN: I understand that if consent is given or a court order is made, this clause will make it more difficult to pursue an adverse possession claim under common law. Clause 76(1)(c) refers to an encroachment that is prescribed as a minor encroachment. What is a minor encroachment? I am concerned that this clause will undermine a person's common law right with regard to land that the person has had for a period of time and believes is theirs. When subdivisions are done next door to a property, builders conduct structural and survey work that may encroach into the neighbouring property. So that it is on the record, I want some clarification from the minister about how this provision will make adverse possession more difficult and what the impact will be.

Mr T.R. BUSWELL: The member is right. If the encroachment occurs with consent or under a court order, as is discussed here, it will make it more difficult for a person to pursue adverse possession claims under common law. Under clause 76(1)(c), a minor encroachment could be a windowsill that pokes out a couple of hundred millimetres and is predominantly near a road or a footpath, I assume, of a commercial development. It could be a windowsill, a doorstep or a doorknob. I asked whether it could be an awning, but was advised that an awning would not be regarded as a minor encroachment. The advice I received was that a minor encroachment relates to something that encroaches up to a couple of hundred millimetres but no further. An awning is not a minor encroachment, but some of the other examples I gave are.

Ms J.M. FREEMAN: Given that this has such a serious impact on someone's common law rights to pursue an adverse possession claim, how will people be made aware of that? Land in Nollamara is being developed all the time. A builder may come next door and say, "We will just move in this fence for a short time while we do this building and you need to sign here and consent to it. It fits in with what we have done." If that person's land has been encroached upon and he has signed a consent agreement, how can he make sure that he is aware that he has not undermined his rights when he has had possession of the land for a significant time and has always understood it to be his? When it was first surveyed, it was his land, and therefore he should continue to keep possession of the land, not the developer. We must take into account that in many instances a developer buys an old block and subdivides it. It is in the developer's interest to get every extra centimetre of land because it makes a difference to how the land can be subdivided. The developer will sell those places, so his interest in them is purely business. However, the person next door suffers great distress and concern when his land is encroached upon when he has had ongoing possession of it and believes that it is his land because of the way it was surveyed in the first instance. How will that type of information be made available to people who would not necessarily have that information? Some people will have a lot of information and will be able to construe it so they do not undermine their rights, while others might not be well versed in this and may find that they have given away their rights to pursue an adverse possession claim, which I understand is a complex procedure. How can we protect the interests of people who are less aware of their rights and who are not well versed in this legislation?

Mr T.R. BUSWELL: That is a very good point. Our view is that this, in some ways, helps preserve the right of individuals to acquire consent. Adverse possession claims are dealt with under the Land Administration Act. I take it that the member's question is: how can we flag an individual who is giving consent who may have a lot less information than the person seeking consent about the full extent of the implications of giving that consent? That is a good question. The advice I have is that the person seeking the consent, which may be the builder or the landowner next door, for example, will have to obtain that consent using a prescribed form. That head of power is delivered under clause 85. I have not read the detail of clause 85 yet, but I can give an undertaking, which I am sure will be picked up by my advisers, that the prescribed form will indicate to the person affected that the encroachment could potentially have an impact on an adverse possession claim. That person may then choose to seek some additional advice to be better informed. It is an important issue. The fact that it will be done in a prescribed form and that the Building Commissioner–designate has indicated to me that he will pick up that issue should give the member comfort that people will be made aware that under the Land Administration Act this may have some impact on a person's rights.

Clause put and passed.

Clause 77: Other land not to be adversely affected without consent or court order —

Mr W.J. JOHNSTON: I want to clarify that this clause does what I think it does. This relates to a specific issue in the electorate of Cannington in the suburb of Wilson. I found there was a problem when I was first elected. There were three neighbours. The neighbour in the middle did a housing development and, for reasons that do not matter, the council agreed that this person would dig into the sandbank on the edge of the Canning River. On one side of the land, that was about 1.5 metres. The neighbour in the middle dug down below the level of the neighbour on that first side, and on the second side he dug 3.5 metres into the bank. That is a very considerable piece of engineering work. Quite extraordinarily, both people with the affected land are civil engineers, so I learnt an enormous amount about retaining walls very quickly with their assistance. It is also interesting that one of those two gentlemen is the president of the local residents' association, so he is very aware of his rights. They worked through the council. However, basically, under the previous legislation, the retaining wall had to retain the earth only and not the loads.

As I understand—the minister can advise me whether my understanding is correct—the effect of this provision is to say that an adverse effect includes a reduction in the stability or bearing capacity of the land. Therefore, as I understand it, this provision will deal with that issue. The current situation is that there is a first mover's advantage. If a person builds his retaining wall first, all he has to do is retain the soil, and future loads do not have to be retained, whereas when a person wants to subdivide his land and he is the second one to do it, he might have a non-structural retaining wall that cannot bear any loads. Therefore, as I understand the advice that I have had from these residents, effectively the height of the wall is the distance from the retaining wall that the person can build his new extension or, if he is subdividing, the new premises. In that case, where the height of the wall was 1.5 metres, the person would have to be 1.5 metres in from the boundary before he could start his construction work. On the other side, where the cut was 3.5 metres, he would have to be 3.5 metres in from the boundary before he started to build.

A range of other issues arose. A swimming pool was removed, and when the sand moved, there was an argument about what was the natural wear and tear on structures already on one of the properties and what related to the movement of sand for the removal of the swimming pool. There were also problems with sheet piling that was

driven into the sand to retain the sand temporarily until the retaining wall was constructed. In addition, when the sheet piling was removed when the retaining wall was complete, there was still a bit of shifting of the sand. As I understand, this provision will in fact deal with all those matters, and we will not have that situation that happened in Surrey Road, Wilson occur in the future. The person building the retaining wall will have to do so in prospect of the loads that will have to be carried by that retaining wall, so that removing the earth does not reduce the capacity of the neighbours to build on their properties. The minister might want to make some comments in response to that.

Mr T.R. BUSWELL: Again, that is a very interesting point. I am trying to conceptualise a 3.5-metre retaining wall. However, I think it is best if I read a broad definition of "adversely affect land" for the record. I think this addresses—I am sure the member will agree—the issues that the member has raised. The first thing I point out is that my understanding is that this removes the first-mover advantage and replaces it with a culture of cooperation, as it is called.

Mr W.J. Johnston: Welcome to the Parliament of Western Australia!

Mr T.R. BUSWELL: I often say to people that a lot of the legislation that passes through this place is done in a genuine spirit of making something better, and I think this is a good example of that. The definition reads —

> **"*adversely affect land*"** is defined … as including: —

This deals with the member's first issue —

- reduce the stability or bearing capacity of the land or a building or structure on the land;
- damage, or reduce the structural adequacy of, a building or structure on the land; and —

That deals with some of the issues the member raised about the swimming pool, the sand moving and structures being damaged —

- the changing of the natural site drainage in a way that reduces the effectiveness of the drainage of the land or existing or future buildings or structures on the land.

I am comfortable, and I hope the member is also, having more broadly understood this concept of "adversely affect land", that it will give a much greater level of protection, with a lot more clarity, to people whose land is negatively impacted on. A number of the stories that were shared in this house in the second reading debate on this bill dealt with those sorts of horror stories, let us call them, because they are horror stories. The problem is that seeking a remedy has historically been very difficult.

Mr W.J. Johnston: Can I just seek clarification. One of the problems for these residents was the approval process by the council.

Mr T.R. BUSWELL: Yes.

Mr W.J. Johnston: These people had objected to the plans early on, but the council then gave approval, having amended the plans. Is there going to be some way of making sure that their rights will continue to be protected as the approval procedure goes through?

Mr T.R. BUSWELL: The advice I have is that these consent requirements will go a long way towards removing that problem, because people will be made aware of a situation a lot earlier than would otherwise have been the case.

Clause put and passed.

The DEPUTY SPEAKER: Does anybody wish to deal with any further clauses?

Mr C.J. Tallentire: I think the minister might have an amendment.

Mr T.R. BUSWELL: That amendment to clause 81 is no longer required. There are some ongoing discussions, as I understand it, between a couple of government agencies—Regional Development and Lands and Commerce, or the Building Commission. If that issue needs to be dealt with, we will deal with it by an amendment in the other place, and it will come back to this house.

Clauses 78 to 92 put and passed.

Clause 93: Changing building standards, requirements, as to existing buildings —

Mr C.J. TALLENTIRE: During the second reading debate I raised this issue with the minister. He committed to respond to the issues that I raised during consideration in detail. The matter for discussion is about a thing known as mandatory disclosure. This is, if one likes, the other side of the coin to something that the government did recently regarding new homes. This mandatory disclosure will tackle problems relating to energy efficiency

in the existing housing stock. We had the announcement last week that all new homes would become six-star rated, setting a minimum standard for energy efficiency in new homes starting from 1 May 2012, with there being a phase-in period from 1 May this year—in a few days, in fact. That is commendable. I look forward to seeing the government promote this.

However, we have a problem with our existing housing stock. The energy efficiency standards of our existing housing stock are not up to scratch, so we have to do something to encourage people to improve the energy efficiency of much of the existing housing stock. How can we go about doing that? One way is to make sure that at the point of sale, or at the point at which a property is put out for rent, there is some disclosure of the energy efficiency rating of the property. That is the point of my proposed amendment to this clause. It would mean that we would be able to go into the property market, whether as renters or as potential property buyers, knowing the energy efficiency rating of a property. That seems very reasonable. We do it in many other domains. Most of us will be familiar with the energy efficiency ratings on whitegoods and the fuel efficiency ratings on motor vehicles. It is quite consistent with other policy directions that we ensure we have this energy efficiency rating, known as mandatory disclosure, in the housing sector.

How will we bring this very important thing in? There are two ways of going about it. One is through the Building Bill. The other approach that could be taken—other states are looking at this—is by going through conveyancing law. I use the term "conveyancing law" in a fairly generic sense because we do not have a conveyancing act in Western Australia. Queensland does. There was a possibility of amending the conveyancing act to include mandatory disclosure. I have alluded to the fact that other states are working on this issue. Indeed, we are seeing this development right across Australia. It has come through the COAG process. In July 2009 our Premier committed to mandatory disclosure through the National Strategy on Energy Efficiency, along with the heads of the other states and territories. This move is occurring right across Australia. COAG provides for each state to work out how its own legislation can best be used to bring this into effect. Section 3.3.2 of the National Strategy on Energy Efficiency refers to the phasing in of mandatory disclosure. By passing the amendment to clause 93 standing in my name on the notice paper, we will create the legislative provisions that will enable regulations to come in later that will enable us to have this mandatory disclosure, thereby honouring the Premier's and the government's commitment to mandatory disclosure in Western Australia. It is very important that we do not miss this opportunity to ensure that the Building Bill, soon to be the Building Act, has the legislative powers to enable the creation of regulations that will be essential to this important development in the energy efficiency of Western Australian homes. I look forward to hearing the minister's response to my points.

Mr M. McGOWAN: The amendment moved by the member for Gosnells will ensure —

The DEPUTY SPEAKER: I do not think he moved an amendment.

Mr M. McGOWAN: I am referring to the amendment on the notice paper.

The DEPUTY SPEAKER: It has not been moved.

Mr M. McGOWAN: In any event, we are dealing with clause 93. There is an amendment to this clause on the notice paper standing in the name of the member for Gosnells. It aims to give a specific head of power to put regulations into effect relating to the mandatory disclosure of energy ratings. The Premier made some statements over the past couple of years indicating his support for mandatory disclosure of energy ratings on properties. I assume that the government will deliver on the commitment made by the Premier about mandatory disclosure.

The arguments in favour of mandatory disclosure are that a party buying a new house or a property should be fully aware and informed of the energy rating of the house so that they can maximise the energy efficiency of that property. With the massive expansion in the cost of electricity and water, people who abide by or learn new techniques for minimising their use of those utilities can save themselves a lot of money. The idea is that if someone builds or buys a new house, they are advised on how to reduce their use of electricity and water. It makes some sense. I understand that there is a "tick and flick" system in Queensland whereby a form is filled out by the vendor and passed on to the purchaser. The system that is in place advises on how to minimise the use of power and so forth using the energy efficiency measures in a house. The vendor gets a piece of paper with some ticks or flicks on it which gives that sort of advice.

There are other systems around. Some of them involve a building sustainability assessor coming to the property and advising the new purchaser of the property essentially on ways in which they can minimise their use of electricity and water; that is, what sort of products will minimise the use of water and electricity, what can be put in the roof to minimise the loss of heat during winter or the loss of cool air during summer, what sort of measures can be put in place to minimise water use, what can be planted in the garden to minimise water use and what can be done when using showers, baths and so forth to minimise water use. Sometimes an ordinary person is not aware of these things. People offer that service. Mandatory disclosure can work through different

techniques, whether that involves a building sustainability assessor coming to the property to give that advice or whether a form is merely handed out.

We want to know three things. First, is the government still committed to that change? Second, is a head of power—such as the quite cleverly drafted head of power provided by the member for Gosnells in the amendment on the notice paper—necessary? Assuming that the government is still committed to that, what system will the government put in place to ensure that people are fully aware of the ways they can minimise their utility use? As I said, there are different systems in different places. I understand that Queensland has a minimalist system. I understand that the ACT is moving more towards a higher level of advice for purchasers. We want to know whether the government is still committed. Does it want or need that head of power or is there a power already? Third, what system does the government propose to put in place?

Mr C.J. TALLENTIRE: I move —

Page 73, line 17 — To delete "building." and substitute —

building; and

(c) the mandatory disclosure of energy ratings whether or not an occupancy permit is required for the building.

Ms J.M. FREEMAN: There are a lot of subdivisions in Nollamara and in Mirrabooka in particular. Many of the people who purchase properties in that area are first home owners because of the affordability of some of those properties. Unfortunately, housing that used to be affordable is still quite expensive when it comes to mortgages. Whilst people think they are buying something that they can manage in relation to their income, when they add the costs of operating the house because it does not have eaves, it is not situated properly for energy efficiency and all of those things, suddenly they are faced with additional costs that they may not have had when living in other properties. This is because the new owners did not take into account the energy aspects of the house. These people may make decisions that would have an impact on the sort of properties that are built in that area, which can only benefit the consumers of the properties in these areas in the long term. I think this is a really important amendment. I thank the member for Gosnells for bringing this issue to the attention of the house.

Mr D.A. TEMPLEMAN: I had the great honour of hosting the member for Gosnells at Mandurah's sustainability house in Meadow Springs, which is a display home supported by the City of Mandurah. It has been open for over five years. It was designed according to passive solar principles. It utilises the appropriate configuration to maximise the northern sun. The north-facing orientation showcases various energy efficiency principles and appliances. It has, as I said, been open to the public for the past five years for people to look at and get ideas from. I am also very pleased to have in Mandurah Eddie Roe, who is a qualified and accredited energy rating assessor. Along with other affiliates, he has shown great interest in this bill and in the way that Western Australia needs to move forward generally in our approach to building and construction.

This amendment highlights that, at some stage, we have to get dinkum about the issue of the sorts of houses we are allowing to be constructed in Western Australia. If the minister has a chance to meet with, talk to and listen to Eddie Roe and others, he will find that much of the hysteria surrounding the supposedly outlandish costs involved in building more energy efficient homes can be put to rest. Eddie and others have highlighted to me that, in many respects, we start with the design of the home and the aspect of the block. We then use the principles of solar passive design to construct the house according to the orientation of the block. Even though a block may not necessarily have the most efficient and effective orientation, there are very simple design methods that can be used. We know that other states have moved various degrees of building requirements, and we are all conscious of not wanting to see additional expenses imposed upon first home buyers. Rather than respond to the hysteria that some sectors have engendered in the past to discredit a sustainable approach to building, we should look around the table for a real way forward. The net result will be more affordable housing and a legacy of more affordable living. If we design the houses properly according to principles that have been put in place at the start of the process, then issues of future energy costs and comfort in the home will be addressed right at the beginning. We will then have dwellings that are sustainable and will be assets that can be sold on.

[Member's time extended.]

Mr D.A. TEMPLEMAN: We will then have an asset that is actually of greater resale value. There will come a time when, because of rising energy and water costs and scarcity of resources, particularly water, homes that are built appropriately for our climate and conditions will be more desirable. Over the past 15 years there has been a trend towards building houses that do not have eaves and require significant air conditioning and artificial ventilation, rather than using principles of cross-ventilation and orientation. I actually think that they will become expensive dinosaurs in the longer term.

I hope that the minister will support the amendment moved in good faith by the member for Gosnells. I do not think it is overly controversial, and I think it will be an important step in our progress towards a greater understanding of the need to build houses that are sustainable and that will leave a legacy for the owners. The minister will have access to the statistics, but it is my understanding that things are very different today compared with 30 years ago, when it might have taken decades for the average household to change hands; my understanding is that it is now closer to every five years, on average.

Mr T.R. Buswell: It is five to seven years.

Mr D.A. TEMPLEMAN: Five to seven years. With that knowledge, it is important and sensible to have, as the amendment would provide, a mandatory aspect towards energy efficiency. I think it is a good amendment; I hope members of the government will agree, although the house is bereft of any of them, apart from the member for Darling Range, who is an exceptionally avid supporter of sustainable principles! I could not say the same for the member for Kalgoorlie, however, given that he probably lives in a five-storey mansion in Kalgoorlie! It is a bridge too far for the member for Kalgoorlie!

Mr J.J.M. Bowler interjected.

Mr D.A. TEMPLEMAN: I can see the member for Kalgoorlie pottering about in his organic garden!

I think that this is a good, sensible amendment; I do not think that it is a threat at all. Let us be dinkum about this and make Western Australia a leader rather than a state that responds very reluctantly to these issues in comparison with other states. We know that our climate has changed dramatically. The rainfall has changed, our summers have lengthened and the temperature profiles are consistently changing due to climate change. It is time to be dinkum. If the minister supports this amendment, he will be applauded for it.

Ms L.L. BAKER: While we are on the subject of mandatory disclosure, it is an opportune time for me to mention an apartment block project in the city called Square One Apartments. We have been talking about sustainability features and the affordability of housing. I want to put this project on the record because it is an amazing complex and it is directly relevant to the principles that we have been talking about. It was built in Money Street, Perth, by Colgan Industries. I will quickly run through some of the sustainability features that have already made the apartments sell really quickly. They are very competitively priced; some members are probably aware of this development. It is absolutely state of the art. It has solar gas-boosted hot-water systems rather than the traditional electric storage units. All apartments, including the commercial tenancies, are fed from a centrally located solar gas-boosted hot-water system that uses evacuated glass tubes, storage tanks and Bosch instantaneous boosters. The minister asked me whether it has edible gardens when I mentioned this a while ago. It does.

Mr T.R. Buswell: Are they on the roof?

Ms L.L. BAKER: They are actually in the central courtyard of the building. Seventy per cent of all the plants are fruits, vegetables or herbs.

Mr T.R. Buswell: Member, I do have a vegie garden.

Ms L.L. BAKER: I bet it is not as big as this one, and it will not feed all the people —

Mr T.R. Buswell: Size is not everything when it comes to vegie gardens.

Ms L.L. BAKER: An excellent comment, minister!

The communal photovoltaic system is a 9.8 kilowatt communal photovoltaic array that feeds the communal power needs of the complex—things such as lifts, lighting, mechanical services to the basement, rainwater harvesting, pumps and hot water–circulating pumps. There are also individual photovoltaic systems. Every apartment has the infrastructure to allow those systems to be installed. There is separate remote monitoring of hot, cold and rain water harvesting. The apartments have been built so that most living areas are north facing. Thirty of the 35 apartments' living areas face the north—another amazing bonus. Ninety per cent of the apartments have cross-ventilation. The apartments have lofts with mezzanine floors with electrically operated south light glazing, which allows for what we call in the business "heat dumping" in summer. Lots of louvres are used throughout this incredibly modern building. It has great insulation—that is, R3 batts and 50 millimetre Anticon—to all roof areas. All lighting is LED, including in the kitchen bulkheads and all the main entries. The original 1928 portion of the building is in place. Recycled timber has also been used all the way through. There is a component of affordable housing in the development, as the minister would be aware, with the inclusion of a number of affordable housing units in this building. I think every consideration, from both a strata perspective and an overall building services perspective, can be seen to comply with the sort of ideal we have been looking for in moving forward on this kind of sustainable building. I thank the minister very much for the opportunity.

Mr T.R. BUSWELL: I thank the member for Maylands for that description of that building. Before I make my comments on the amendment, I must say that in April last year I visited a building out near Ellenbrook. It was the suburb next door—Aveley. They had one of these new sustainable houses, quite a newfangled thing from my point of view. I saw a lot of what the member talked about, which I think is fine. I point out that technically, for members of the house, new buildings are pretty much picked up elsewhere. What we are talking about here is the requirement for mandatory disclosure of energy ratings for existing buildings. I support what the member for Gosnells is trying to deliver through the amendment. I understand exactly his intent; I do not have a problem with that. The advice I have basically comes from two directions. Firstly, the bill before us more than adequately provides the government with a head of power to do what the member suggests. It does not exactly specify "mandatory disclosure of energy ratings is required" but it gives us the head of power. I will point to the two areas. Clause 93(1)(a) and (b) provide a head of power for regulations effectively to deal with health and safety, amenity or sustainability of existing buildings. Clause 93(2)(b) also provides —

> … for an owner or occupier of an existing building to comply with a specified requirement, including the provision of information to specified persons, —

That is, the purchaser —

> in relation to the building from a specified day or when a specified event occurs;

My advice is that that covers the provision of information on areas such as, but not limited to, energy ratings or smoke alarms. The technical advice I have is that although the bill does not specify the level of disclosure the member seeks, it does provide the head of power and the capacity to make that happen. Members are correct—the ACT, as I understand it, is the jurisdiction with mandatory disclosure.

Mr C.J. Tallentire: It has been in place for 12 years.

Mr T.R. BUSWELL: Yes; well ahead of the Council of Australian Governments process. As a number of speakers pointed out, the Premier committed the state to mandatory disclosure. Again, the advice I have is that the states are still working on the detail of that mandatory disclosure regime. As that crystallises—I assume in coming months—nothing in this bill will be inconsistent with providing the head of power we need to introduce the mandatory disclosure regime that will flow out of that COAG process. I am not disputing the intent of the member for Gosnells' amendment; however, it is our view that clause 93 provides us with a head of power and the capacity to introduce mandatory disclosure at the time COAG—predominantly now the states—deals with the mechanisms for the introduction of that mandatory disclosure regime.

Mr M. McGowan: What will the mechanisms be?

Mr T.R. BUSWELL: We are still working through that with the other states. It will be disclosure at time of sale, and the various bits and bobs sitting around that.

Mr C.J. Tallentire: Why do we have to wait for the other states?

Mr T.R. BUSWELL: We are a great state of cooperation. We are always up for a good bit of national reform. We will work through that process with the other states. I think the idea here was to come up with a relatively consistent approach to the application of mandatory disclosure of energy efficiency in existing buildings. That is where we are at.

Mr C.J. TALLENTIRE: I thank the minister for those comments. I am encouraged he has received advice that the current legislation provides the heads of powers for those sorts of regulatory provisions to be developed. I will just clarify a few points relating to the COAG process. As I understand the COAG process—I think this is presented in the National Strategy on Energy Efficiency—different states may have different legislative mechanisms, and in fact there will be different forms of mandatory disclosure in different states. I do not think there really is a case to say we need to wait for total national agreement on this before we can have mandatory disclosure in Western Australia. As the minister has acknowledged, in the ACT mandatory disclosure has been in place for 12 years. Queensland is pressing on with its version of things, using quite different legislation. Queensland will probably end up with a form of mandatory legislation significantly different from what we will end up with in WA. I think WA has the potential for a much better system—a more scientifically based one. We may have a computer program involved to determine what star rating a home will have.

What the minister might be referring to, in terms of a reason for delay, is the presentation of a regulatory impact statement. I have contacted the federal government agency with responsibility for this, which is the Department of Climate Change and Energy Efficiency. I am happy to table an email from that department. It is an official email stating that it has received the regulatory impact statement relevant to WA. It is looking to release it into the public domain by May 2011—in a matter of days. They will progress things from their end. I do not think there is actually any reason for there to be a delay at this end. I am encouraged to hear the minister's full

endorsement of a system of mandatory disclosure. Given the minister has given us that commitment, he should provide a far more precise indication of when the Western Australian government will move to set up our Western Australian system of mandatory disclosure, given that we have already produced our own regulatory impact statement in WA. The minister might like to produce that so we can examine it and so that it is in the public domain. Why wait for the commonwealth to release the regulatory impact statements from other states? I am encouraged by what the minister is saying, but I would like to know when mandatory disclosure will come into effect in Western Australia.

[The paper was tabled for the information of members.]

Mr T.R. BUSWELL: As I understand it, what the member is referring to is the Western Australian component of the commonwealth RIS process. The process will be that the RIS, and no doubt other matters that sit around the issue of mandatory disclosure, will come back to the Western Australian government. We have agreed in principle with mandatory disclosure, and I have acknowledged that our position is consistent with the commitments that have been given by the Premier through the COAG process. The government will need to formally review the RIS and run that through our own regulatory gate-keeping model, and it will then need to move through the executive processes for government approval. I accept what the member has said. However, we are not in a position to do that at the moment, because we have some further processes to work through.

Mr M. McGOWAN: I am interested in what mechanism the government intends to adopt in Western Australia to inform people about the sustainability of a property that they want to buy or sell. I understand that in Queensland, people who want to sell a house have to fill in a form that provides details about the sustainability of that house. Another mechanism that the minister might want to consider is the Association of Building Sustainability Assessors. One of the directors of that association is a woman by the name of Wendy Lamotte. That association is able to provide written reports detailing the sustainability of a property. Different types of mechanisms are in place. Considering that mandatory reporting is rapidly approaching us, the building industry, as well as the assessors, would like to know what mechanism is proposed in this state.

Mr T.R. BUSWELL: That is a fair question. It is our view that, irrespective of the mechanism we may adopt, clause 93 of the bill provides us with the head of power and the framework to deliver on the mandatory disclosure requirements. I think I am on pretty safe ground with that statement. As the member has pointed out, at one end of the scale there is a simple disclosure, whereby a person who wants to sell a house would need to produce a written report that outlines the things that have been done to improve the sustainability of that house, such as insulation. At the other end of the spectrum, an independent assessor would run the property through a computer program and determine a star rating for that property. The issue is where we are at on that spectrum; that is, whether it will be either a star rating or a written report that details certain things that must happen. I am not in a position to provide any advice to the house about which of those mechanisms will be adopted, other than to say that this matter will be considered as we work through our assessment of the RIS. We have not made a decision around that yet, and this bill does not canvass those options.

Mr C.J. TALLENTIRE: On the basis of that discussion, I am prepared to withdraw my amendment. I note that the document that the Premier signed said that mandatory disclosure would be in place by May 2011.

Mr T.R. Buswell: Member, I can assure you that that will not happen. Unfortunately, one of the problems with COAG—without being disrespectful to that collective grouping of Premiers—is that occasionally COAG sets timetables that are very difficult to deliver. The unfortunate reality is that this will not be the first of the COAG time lines that has slipped.

Mr C.J. TALLENTIRE: The minister can be sure that we will be keeping a very close eye on this. The benefits of a system of mandatory disclosure will be enormous, but we also need to make sure that the community is properly engaged in the development of that system. Therefore, now that there will be a bit more time before mandatory disclosure comes into effect, I urge the government to consult with the community on the ideal form of mandatory disclosure, and particularly on the issue of who would undertake this work. I have heard from people in the real estate industry who would like to acquire the skills necessary to conduct energy efficiency assessments of homes. However, that could present all sorts of dangers if they were also in the position of selling that home. As the member for Rockingham has indicated, a growing body of people have acquired the necessary skills to provide energy efficiency ratings of homes. In fairness to those people, and to enable them to develop professional standards and to build their numbers so that they can perform their work in a way that will be satisfactory to Western Australians, the government should give them a clear indication of when mandatory disclosure will come into effect. Now that the minister is saying that the date has slipped back from May 2011, he should present to us the new time line.

I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr T.R. BUSWELL: The member has raised a very valid question about how these people will be registered or monitored. I do not have a specific answer at this stage, because that is one of the things we will need to tease out. However, although we have not decided at this stage how mandatory reporting will be dealt with, the Building Services (Registration) Bill, which we passed last week, will give the government the capacity, if it emerges that it is required, to register people who perform this activity. I point that out because it does highlight some of the benefits of the package of reforms that we have been moving through the Parliament in the past couple of weeks.

Clause put and passed.

Clauses 94 and 95 put and passed.

Clause 96: Authorised persons —

Ms J.M. FREEMAN: Subclause (4) states —

> The regulations may limit to persons belonging to prescribed classes of public service officers or employees the persons who may be designated as authorised persons under subsections (1), (2) or (3).

Will that designation apply also to people who have been contracted or privatised out; that is, to people who are not public service officers? What is intended by that designation away from people who are public service officers? My concern is that they will no longer be public officers, but officers who are contracted to private employers. I would like clarification on that aspect.

Mr T.R. BUSWELL: The advice I have is that authorised persons must be public officers in that they are employees of state or local governments or permanent authorities. Subclause (4) will enable further limitations to be imposed on and around the qualifications that a particular person has. Those limitations may be around building surveying and other types of skills.

Ms J.M. Freeman: So, they will be public officers—either of the public sector or of local government?

Mr T.R. BUSWELL: That is the advice I have.

Clause put and passed.

Clauses 97 to 132 put and passed.

Clauses 133: Prosecutions —

Mr T.R. BUSWELL: I move —

> Page 101, line 21 — To delete "jurisdication" and insert —
>
> jurisdiction

This is simply correcting an error in the spelling of "jurisdiction".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 134 to 143 put and passed.

Clause 144: Extent of duties as to certificates —

Dr A.D. BUTI: I have a small point of clarification. From my reading of this clause, it appears that there is no duty on local government to ensure the accuracy of the documents on which they base the issuing of the permit. Therefore, if the information or documentation is deficient, is anyone going to be held responsible?

Mr T.R. BUSWELL: That is a very good question. It will be the licensed building surveyor who signed the material that the local government would have dealt with as it went through the process of issuing the permit.

Clause put and passed.

Clauses 145 to 203 put and passed.

Title put and passed.