BUILDING AMENDMENT BILL 2012

Second Reading

Resumed from 16 October.

MR P.C. TINLEY (Willagee) [12.25 pm]: I thank members for the opportunity to address the house as the lead speaker for the opposition on this bill, which was introduced in the other place and was debated at length in the second reading and Committee of the Whole stages. As we previously indicated to the government, the opposition in this chamber does not intend to unnecessarily delay this bill. The principal reason is because we have made a strong case about the failures of the bill that was rushed into this Parliament last year. We are particularly concerned that the industry, once again, is supported by both sides of the house. That said, we cannot let it go past without putting on the record both the impacts and/or concerns about whether the bill will address the needs of the industry.

It is important to understand the changing circumstances in which the Western Australian housing market finds itself in. Most members would have been aware of the issues relating to housing, including housing starts and the take-up rate et cetera, in this state. We all pretty much agree that we will be progressing strongly towards a population of 3.5 million by 2036 or thereabouts, which is no small beer. I worked out the other day that I think when I was 15—only a few years ago—the population of Perth was 600 000. It was genuinely a big country town. With a forecasted population of 3.5 million, the growth of the state and the growth of this city warrant a much wider view of what we need to do to ensure that we meet the needs of that growing population and the changing expectations of that group of consumers who occupy different forms of housing. One of the things that we know in this state, particularly in this city, is that we have one of the lowest numbers of multiunit dwellings per capita compared with the east coast where there is a far greater acceptance of multilevel, multiunit dwellings and all the attendant issues that are required around them, particularly public transport et cetera. We also know that we have one of the highest levels of land apportionment to consumers in this state per capita. The Minister for Planning may know off the top of his head but I think it is something like 600 square metres per Western Australian. That compares to something like 400 square metres per person in New South Wales. Our land apportionment to occupants is pretty high, although I note—I am reaching too far into the memory banks here—that at approximately 600 square metres, that has substantially reduced over our lifetimes.

We currently have a rental vacancy rate of 1.8 per cent. For the benefit of members who do not follow this, three per cent is considered the equilibrium. A 1.8 to 1.9 per cent vacancy rate means we are looking at significant pressures within the driver of housing demand, certainly in the city. The regions are slightly different but no less important in terms of demand requirements. I notice that the regions are far more sensitive to a slight change. I will use Albany as an example. I was in Albany last week. It was widely reported a few weeks before that there were many vacant properties in Albany. I spoke to a journalist there who said that within the space of only a few weeks the rental housing market had tightened. It is partly seasonal. Albany real estate agents say that for reasons they cannot explain, a very small number of properties are now available to rent.

Interesting things are happening with discretionary spending in this state, including new car sales. People prefer to buy a new car or change over their car rather than change over their house. Expenditure on renovations is at a five-year high. People are choosing to improve their current accommodation rather than change it. One of the principal drivers for that is credit or lending conditions—trying to find a 30 per cent deposit for a house is actually quite difficult.

On Monday, Mark McGowan and I met with an executive group from the Real Estate Institute of Western Australia, who gave us an interesting picture of what is happening. Typically, the churn for established housing is 13 000 dwellings a year. I asked the obvious question: why has that figure of 13 000 remained constant when there are 1 000 people a week moving to this state? How is it that that number never changes? It is about the churn, or the turnover of property, as opposed to the total number. It is calculated on days of listing, which blew out to something like an average of 90 days before a property moves. For those people who were in the market or exposed to it at any point in 2006–07, in some cases it was a matter of hours before properties were sold. I remember going to a home open in Kardinya, with my parents, looking for a place. There was no sign at the front of the property. It was a home open, but it was virtually an auction. I really hope we do not ever end up back in that super-heated environment. Post-2008, a lot of people lost a lot of value very quickly.

I will quote an article related to property recovery. In the context of this bill, it is important to talk about the demand that the Building Act will have to service. At the REIWA briefing I was told—I do not have the number; it is not really important, it is just the intent of it—that the biggest single mover is first home owners taking up established homes and not building new homes. That movement has been over the past 12 months. I do not want to be controversial and draw a bow between that and the Building Act. It is far more complex than that; I am sure they all contributed at some point. When that established housing group is taken up by first home owners, people

are able to apply to build new stock. I will read an article from *The West Australian* that caught my eye reasonably recently; on Tuesday, 16 October. It provides a good snapshot. The article was written by Shane Wright, an economics editor —

> There is growing evidence the nation's housing market has turned the corner, with WA leading the way.

We should not be surprised about that of course. It continues —

> According to an Australian Bureau of Statistics report, the number of new home loans in August rose 1.8 per cent to reach a two-year high.

That is a good indicator that the market in Western Australia is on the turn. The article continues —

> In WA they recorded a three-year high, rising more than 16 per cent in the past year to reach their highest level since October 2009.
>
> Nationally, loans have grown at a much more subdued 3.3 per cent …

It provides the context of how loans are growing. People are finally working out that the sentiment that sometimes pervades the economy of Western Australia and Australia—which is talked down by so many doomsayers, or naysayers and doom merchants—is in fact not necessarily always true. I suspect people in Western Australia can quote the price of a tonne of iron ore quicker than they can quote the cost of a litre of fuel, although that might be something neither here nor there. At barbecues and functions I have attended I have heard more speculation than I ever care to hear again about the price of iron ore. Too many people are focused on too small a data set to determine their investment or purchasing choices. Mr Wright goes on to say —

> The figures predate the Reserve Bank's interest rate cut this month,

Which it did —

> with analysts expecting a further quarter percentage point reduction next month.
>
> Although the focus on rate cuts has been on the property market, there are signs —

That is what I was talking about; these other things that feed into the multifactor aspects of it —

> they are also being used to finance new cars.
>
> The ABS also reported car sales grew 4.7 per cent last month to almost 99,000.
>
> In WA, they lifted 4.8 per cent to be 19.3 per cent higher over the past year.
>
> Many of the new cars are SUVs with sales up almost 45 per cent in the past 12 months. Passenger car sales rose just 1.5 per cent.

Clearly, people are making discretionary choices with their spending. Maybe it is indicative of general wage conditions and higher disposable incomes, which I understand in Australia has been moving at 27 per cent over CPI. I will not quote any more from that article. Further on, it talks about interest rate speculation et cetera.

I now want to come back to the Building Amendment Bill. If we accept that the conditions in Western Australia, certainly in the Perth metro area, are that we expect a greater increase in numbers of people taking out established homes, what will be left—if we listened to some developers—is a supply-constrained market in new dwellings and new starts. That is why something like the Building Act gets the support of the opposition; simply because we cannot retard in any way the capacity of the sector to deliver. When we consider the lag time it takes to bring on these developments—in some cases as much as 10 years, depending where they sit in the planning process—it is very difficult. I spoke with a few developers yesterday who are developing in Middle Swan. It was very interesting that one of the Aspen Group's developments has taken 10 years to get four different projects. Each one of those is now delivering in the order of 2 500 to 3 000 lots. That is a significant contribution.

It is important to note that we are renovating 50 years of established legislation with this bill, which is no small thing. It is also on the back of what we saw as a failure in terms of legislation. In being able to bring a large and complex piece of legislation into force, we would have hoped that there would not have been the teething problems—I probably use that term generously—that have occurred with this legislation. The opposition made a significant point in this place, as is our responsibility, in terms of accountability in noting that by the April following the introduction of this legislation—April being the month of its introduction—there was a 47 per cent drop in building approvals. It was at the lowest figure of approvals since 1983. It really created what I would term legislative vandalism. It created disarray in the industry and it really is emblematic of a government that really needed to pause and consider the situation a bit more judiciously. The legislation was very hastily introduced in 2011 after the Christmas break, by, I think, Minister Marmion, and it was very hastily debated. It is important we put on record the impacts of some problems that occurred—not so much to use for some political whip hand to the government, but for the benefit of members and the public record. The effect of legislation that

has not been properly considered or implemented, for a range of reasons that we will come to, must be understood not just in relation to this legislation, but for its impact on other public legislation. I quote an article in *The West Australian* by Gareth Parker and Shane Wright about the impacts of the legislation that discusses some issues in relation to the pressures experienced. It reads —

> Building approvals for April dropped 47 per cent, compared with March, to just 950 dwellings.
>
> The figure was the lowest since the end of the 1983 recession, when WA had 1.3 million people.

That was the population of the entire state, whereas the city of Perth alone now has that number —

> It is now the fastest-growing State in the country with 2.4 million residents and growing about 1000 a week.

We all know that —

> The drop in approvals came as new home sales recorded a 10 per cent increase, the seventh monthly rise in a row.
>
> Industry sources said the increased new home activity showed the underlying economics of the sector were improving. They said the drop in approvals was down to the new Building Act, which came into effect on April 2.
>
> Industry sources said councils were applying the new rules inconsistently and builders were confused about what information they had to provide.

The Housing Industry Association obviously never went missing in action during this period. I have enjoyed dealing with it and it has honest dealings, I am sure, with both sides of politics, and probably more with the government in terms of assisting it. I believe that the HIA is of great assistance, as opposed to just sitting on the sidelines carping. It did not miss the government and it was important that it did get its comments reported. The article continues —

> Housing Industry Association chief John Dastlik —

He is the executive director there —

> said he hoped the Act could be changed.
>
> "Jobs are already at risk in builders' offices and in the manufacturing sector," …
>
> "It hasn't translated to the contracting sector yet.

That was because there was still a bit of work in that area. I note that this article was written on 1 June; it continues —

> "But if we don't resolve the situation and get the … jobs out on to the sites, it's going to have impacts very, very quickly."
>
> ABN Group —

One of the larger producers of housing in this state —

> managing director Dale Alcock said the new regulations had added paperwork and red tape for builders …

That is something he consistently says —

> "It's vital that (the Act) is fixed urgently," he said. "We've got a far more onerous system now … and those regulations are being interpreted differently by a multitude of local authorities.
>
> "It's been stressed to Government that this is really, really problematic."

Of course, the Master Builders Association went on to add its point of view on the situation —

> … housing and economics director Gavan Forster said many smaller builders were having cashflow problems because of the delays.
>
> He said it would take months to work through problems, which were largely caused by local councils either misinterpreting or misapplying the new building rules.

There we have some of the impacts and some of the commentary on this issue. There is a quantum to this; there is a value to this. The Urban Development Institute of Australia also weighed in to the debate and made a comment on 3 July. It is very interesting and I am happy for it to be diffused or rebuffed. I will not read the entire quote, but it said —

> The number of private sector detached house approvals fell 37.6 per cent in April —

It had the figure of 37.6 per cent, which is slightly less —

> from a seasonally adjusted 1,444 dwellings. In May, the number of private sector houses approved has increased to only 1,019, still 29.4 per cent below February levels. The number of private sector house approvals recorded in April and May are the lowest monthly figures since April 2001 when the industry was coming to grips with the introduction of the GST.

The CEO of the UDIA, Debra Goostrey, said —

> "Whilst the government has made amendments to the regulations that allow builders to start work pending approvals for applications many banks will not release funds until the building has been approved," …

That is a key problem. Even though they were ministerial orders that were delivered, the banks did not necessarily have to let them, because their progress payments were tied to approved building starts. The UDIA media release continues —

> The total value of residential building projects approved in April and May was $241.8m and $345.9m —

So, a total of $587.7 million of approved projects —

> respectively, which is far less than the average monthly value —

An important point —

> in 2011 of $447.2m …

There was an average of $894.4 million, so in those two months alone there was a missing value to the tune of $306.7 million worth of starts. One wonders how those will come back into the market and how they will not create a bottleneck, when in a conservative estimate there are $300 million worth of missed residential building projects. When they do finally come on the book, one wonders what bottleneck they may create, particularly in the situation in which, as I have previously said, the majority of buyers of established housing are first home owners. The first home owners are taking up established housing, there is a constraint on starts and there is a pent-up demand also in starts over a two-month period to the tune, in this case, of over $300 million. Will that create a further bottleneck as that rolls through? I do not have any information for the chamber in relation to the lag factor of some of these projects, but we can imagine that it takes about 12 months to get a house designed, approved and built in a standard subdivision.

There are also other stakeholders affected by this legislation, which include the Western Australian Local Government Association. I see it was active this morning following the release of the Robson report —

Mr C.J. Barnett: It hasn't been released yet; it's being released tomorrow.

Mr P.C. TINLEY: WALGA has been active anyway!

Mr C.J. Barnett: It has been active, yes.

Mr P.C. TINLEY: I can tell the Premier that I fielded some phone calls from my local electorate, as I am sure many members have, about the issue. WALGA is never slow in coming forward and placing its case, and it had an interesting point to make in an article in *The Weekend West* entitled "Builders in crisis talks with Barnett" from 2 June. It states —

> WALGA president Troy Pickard said there had been insufficient consultation and training for the Act's implementation.

I am not one to necessarily do the spruiking for any other stakeholder, but that comment bears out for me. When I went around to see my local councils—Melville, Fremantle and Cockburn—I asked about the impact. I talked to directors of their planning, because they are people who watch these things all the time. I asked them whether it was true, and they said, "Yes, it is. We have not had any formal training. We have not even really had any offers of formal training." But I will temper that. I am sure that the Department of Commerce would have provided briefings at some point, but was it at the level of detail that they needed to get a building approval application across the counter and actually get it done, because the majority of the confusion seems to be around the interpretation of "could" and "should", "would" and "won't", and "may" and "should"? Certainly, when there is a developer or a builder on one side interpreting it one way, there is a very good chance that those on the other side of the counter will have a different interpretation. This is borne out by some of the newspaper quotes. I will quote from the *Sound Telegraph*, the local newspaper in Rockingham, of 6 June, which refers to the drop in the number of housing approvals and states —

> Rockingham Mayor Barry Sammels said there had not been adequate time allowed for the industry to make the changes that the laws now require.
>
> "The City has been meeting current challenges raised by the implementation of the changes to the Building Act," he said.

> "The act has changed about 30 years of building legislation —

It is actually about 50 years of building legislation, depending where we want to start —

> and requires change from everyone involved in the industry including builders, local governments, owner-builders, engineers, architects and draftsmen, without any transition period to implement the changes and internal procedures.
>
> "It is important to acknowledge that issues for builders and local governments are still being addressed and worked through. City officers have invested considerable time and effort to make sure the Act changes do not slow down our approvals processes."

Rockingham and that whole south west corridor is one of the fastest growing areas in the state.

The Housing Industry Association came back and had another crack on 20 June. I will quote again from Gareth Parker's article in *The West Australian* —

> The Housing Industry Association has renewed its attack on the Barnett Government's bungled Building Act, telling its members in the construction industry that the law is "the most dysfunctional piece of legislation ever introduced into the WA home building industry".

They are pretty strong words from a fairly moderate group. The Leader of the Opposition was also quoted in that article, and it is emblematic of the situation that he and many other members have received advice from their local governments that the Building Act was not working because it contained too many uncertainties and neither the industry nor local councils were prepared for the changes. The article further states —

> However, the HIA letter says the changes do not fix the problems, will not unblock the system and will not "resolve the industry grinding to a halt".

Again, that is from the HIA.

Mr J.M. Francis: What date is that?

Mr P.C. TINLEY: That is on 20 June, so it had been in play for a little while. It is important that we record the impacts of this.

Going back to Dale Alcock, who is the head of Australia's second-biggest building company, he said that it will take months to sort out the problems caused by the new Building Act. He is quoted as saying —

> … the "incredibly frustrating" problem would take time to untangle.
>
> "The new legislation is dysfunctional and local authorities and builders are in a confused state," …
>
> "We have to be positive that government sees it as a concern, but then so they should … construction is probably the second-biggest employer in the state."

We know that to be true —

> Mr Alcock, who heads up the ABN Group, said his whole management team was focused on getting approvals through councils, rather than on growing the business.
>
> "After two or three subdued years, just when we see the light at the end of the tunnel, this happens."

Goodness knows what would have happened if this act had been introduced in, say, 2006 or 2007 when the industry was absolutely flogging along. One would only hope that the flat or depressed housing market has given us a bit of cover to be able to get through all this. The interesting point is also made that it is not just the builders who are taking the pressure; they represent a whole group of suppliers, and they supply those builders. The supply chain for the building industry is also not insignificant in the numbers that it employs, so it is a really important part of it. The componentry of housing now is much more modularised and less bespoke, if you like. A lot of it has to be ordered and to come in a just-in-time fashion, so it becomes problematic.

I want to quote again on some of these issues regarding the interim ministerial orders and the effect that they had. I do, I suppose, in some backhanded fashion, applaud the government for making a rapid response to this situation—as rapidly as governments can move, I would have thought—to fix or patch a piece of poorly implemented, I will call it, legislation with the ministerial orders that it released. I have already identified some evidence that that did not help in relation to some financial products that would not release progress payments on the basis that there was no approved project. When the ministerial orders came in, Mr Gavan Forster of the Master Builders Association is quoted as saying —

> … it showed the government was committed to resolving the issue.

Hence, my point —

> "They have been quite audacious to let builders start work. In my 30 years in the industry I've never heard of such a ballsy solution," he said.

The article then goes on to quote Mr Dale Alcock —

> But Mr Alcock said the temporary measure meant nothing to builders waiting on progress payments from their lenders, normally only paid out once a building licence was granted.

Again, the HIA is quoted as follows —

> The order lets builders start work on buildings after they have lodged paperwork with councils before the paperwork has been approved. Builders must still meet all standards and accept that they have to stop work or fix any problems that councils identify.

However, that does not necessarily address the issue because, as I said, a lot of these progress payments shifted the risk from one part of the business model to another; that is, without the approval, the builder had to go out and build, and there was not necessarily any indemnity coverage from the government under the ministerial orders, and initially there was no financial coverage. Therefore, the builders could go out and start the building—no problem—but if there was a particularly difficult local government authority, which I understand there is from time to time, it could have made things very difficult; we may yet hear of some of these cases. For projects that were started and/or completed on the basis of the ministerial order, I would really like to hear from the government about the implications should one such builder interpret the act in one way and build on the basis that they have coverage under the ministerial orders, and then be required to do some remedial works—hopefully, nothing substantial.

The 10-point checklist was issued by the Building Commission and addresses the misconception of the local government authorities et cetera. The MBA and the Australian Institute of Building Surveyors made an interesting point about that. I will read some of that into the record —

> The first draft of a l0-point checklist issued by the Building Commission to clear confusion around the Building Act that slowed approvals in WA's new housing market has received a mixed reaction from the building industry.

Mr J.M. Francis: Sorry, what date is this one?

Mr P.C. TINLEY: It is from *The West* on 4 July. It continues —

> Building approvals for WA houses plummeted 47 per cent in April … The checklist issued on Monday night is one of several interim initiatives rushed to the market by the Building Commission to try and avert a more serious slowdown affecting the building industry.

However —

> Terry Bush, the national president of the Australian Institute of Building Surveyors said the checklist had fallen short of what was needed.
>
> "I don't think we are any further down the road than we ever have been, it just hasn't hit the mark at all," …
>
> "It was supposed to give industry certainty that they could follow the checklist and be guaranteed they had an acceptable application.
>
> "For permit authorities it was supposed to provide certainty that the applicant had done everything they were supposed to do and had all the correct documentation together but all it has done is reiterated what's in the Act and the Act is open to interpretation."

Which is the key point —

> The WA Local Government Association is collating data on the number of building applications being submitted, processed and still awaiting processing to determine whether a backlog exists.
>
> WALGA president Troy Pickard said councils were processing building applications within the set time frames.

So WALGA came out and said —

> … the new '10-point checklist' currently being developed will provide that clarity …

But if it is just reiterating what is already in the act —

Mr J.M. Francis: Sorry, can you say that last sentence again?

Mr P.C. TINLEY: In fairness, I should quote the full quote from him —

> WALGA president Troy Pickard said councils were processing building applications within the set time frames.

Therefore, WALGA went out of its way to collect data to disprove the fact that there had been a drop in approvals. I think it was a lone voice, though. Mr Pickard continues —

> "We hope the advice and the new '10-point checklist' currently being developed will provide that clarity, —

It was a hope —

> not only for Local Governments but also for industry and private applicants."

Again, the impacts of this are far reaching. The remedial impact—the patch, if you like—with the ministerial orders was not necessarily well received. I think it is a bit too early, because of the lag time for these approvals, to see whether that has remedied anything in any substantive way. I am not able to give the house any further information other than anecdotal information about what people do when they go to talk to the local councils.

There is a feeling out there that the Building Act simply shifted or loaded up for local government a lot of what it would do in the planning phase into the building licence phase. Therefore, when somebody puts in a development application to construct a dwelling, typically, a lot of things that could be attended to in that planning phase are now, I am told—this is just information from the field, if you like—because of the act, being pushed onto the building licence phase.

I wonder about the philosophy behind having the Building Act sit inside the Department of Commerce. This is more commentary about the organisation of government, if you like. When we look at the operation and implementation of the Building Act, we see that, sure, it has a large component around consumer protection and the consumer as the first stakeholder who needs to be looked after—I would be grateful to get answers to questions about this in consideration in detail—but, philosophically, oversight of the Building Commission should be better managed not in Commerce, but somewhere else and there is a range of suggestions as to where. One could say that a renovated Department of Housing would not be insignificant in its ability to regulate and oversight the Building Commission, but that is just a suggestion. It could also be put in the Department of Planning—and why not?—because it does planning approvals.

The old problems still remain, and I will quote a builder on this. I have quoted Dale Alcock extensively. He is obviously not shy in making public commentary, as a positive contributor to the community of Western Australia, as is his right and he ought to do, and I encourage him to do so. However, I will now quote a different builder —

> Paul Marshall, managing director of luxury home builder Riverstone said some owners were happy to sign but builders were reporting that as many as 50 per cent of neighbours were refusing to sign.

That is, in relation to the changes that means builders have to get deemed approval to enter neighbouring land and must do so within 25 days. The article continues —

> "The intention of the Act was admirable but the detail has turned out to be somewhat of a disaster," Mr Marshall said.
>
> If neighbours would not sign, Mr Marshall said the only option for builders was to get a court order. "At a time when the industry is struggling for enough work, we need to get every job we possibly can to site immediately and get building so we can generate income," …
>
> "I'm a relatively small builder but this must also be hurting big builders that have 20 or 30 house starts each week in a huge way.

This is about the right of access or the right to continue work, using the BA20 form, giving neighbouring consent for the project to go ahead. Again, these are further impacts.

Local government authorities went further to claim that delays are not their fault. An article in *Business News* on 30 August stated —

> LOCAL governments have claimed they are not to blame for a drop in building approvals in Western Australia since the introduction of the controversial Building Act in April.
>
> Since the Act was introduced, approvals have slumped as builders and councils struggled with the new rules.

We know that the government spent a significant amount on redressing it by allowing for external private surveyors to speed up the process in certain councils. Even though WALGA will say that local government was

not responsible for the delays, why is it that the department needed to expend money, after the ministerial orders were made, to accelerate the process by using private certifiers? I would say that one probably counters the other.

One of the amendments in the Building Amendment Bill deals with the 25-day stop-the-clock provisions for uncertified applications for class 1 to class 10 buildings. I think that will be a good way to go if it can actually be done.

Another issue is about the Fire and Emergency Services Authority and the implementation of the Building Act. So that members can understand the problem, I will quote a little from a letter to the Building Commissioner, which was written on 20 April by the Master Builders Association and which it shared with us. The letter states —

> Master Builders is receiving numerous complaints from members regarding the delays experienced due to Building Regulation 2012 requirements for FESA consultation. In an effort to assist our members we recently met with representatives of FESA Manager Plans … with a number of concerns we have with the requirements of Regulation 17(e).
>
> Under previous legislation, FESA adopted a position regarding "minor work" that with the more relaxed approach with an old building control framework enabled work that FESA would not add any real value to provide comment on (i.e. small internal fitouts of existing buildings and new Class 2–9 buildings with a floor area less than 500m^2 that do not require any active fire suppression installations) to not require FESA consultation. FESA accepted applications of this nature, but did not necessarily provide comments.
>
> The requirement for all Class 2 to 9 buildings to buildings to be provided to FESA for the 15 business day consultation period does not provide for any exercise of judgment on behalf of the Building Surveyor on whether this is appropriate. The provisions only allow judgment to be exercised by the Registered Building Surveyor once the 15 day period has lapsed from submission of plans to FESA.
>
> FESA is working with industry and is open to suggestions for improvements, however are bound by the requirements of the legislation to accept all the applications submitted.

Therefore, FESA has to look at all applications; there is no discretion —

> This means that valuable time is spent accepting, receipting, assessing, and filing, projects that potentially do not require a FESA assessment.

As a result of this act, in this instance, we have created more red tape, rather than remove it. It appears to me that we have kind of thrown the baby out with the bathwater. The letter goes on to say —

> Minor projects that should have quick turn-arounds for assessment by the Private Certifier and then for the Building Permit, actually have the additional step of completing the FESA form, submitting hard-copy plans, and waiting 15 days before the Certificate of Design Compliance can be signed. This effectly makes minimum processing times for minor work 25 business days as the processes cannot run concurrently with the 10 business days for the Permit Application.
>
> Most importantly, the developments that need the time and assessment for the operational requirements of the brigade are not being assessed because of the backlog created from unnecessary applications being sent through to FESA for assessment. This leaves the Private Certifier with a choice to issue the Certificate of Design Compliance without receiving comments, or holding back the CDC and waiting for FESA to provide the comments.

They are caught between a rock and a hard place. The letter continues —

> As the processes evolve and projects that are still in the system from prior to 2 April will filter through, the systems FESA is implementing for projects that have Alternative Solutions, and those without will work well for all industry stakeholders. However, the officers at FESA cannot be expected to administer applications made that have no need to be assessed or delayed for 15 days because of these Regulation requirements.

That is emblematic of the issues relating to the management and implementation of the Building Act. I want to save my more detailed commentary on this bill until the consideration in detail stage. However, I will say that in relation to one significant part of this legislation we are half pregnant. I am talking specifically about private certifiers. I have no problem with the idea of private certification as long as there is an even playing field and that there is a transparent process by which we can have a competitive market. Right now, we do not have a competitive market in private certification, and I will tell members why. If someone goes to a private certifier and the private certifier stamps the application and then the applicant goes to the local council and submits it—

there are variations between the councils—the council just duplicates what the private certifier has done. Some councils—although not all—do not accept the fact that a private certifier has stamped a plan and said that it complies with the Building Code of Australia and all the relevant legislation. Those councils then go through their own processes, which cause further delays. There is not enough clarity in either this amended legislation or the original legislation that puts the position of private certifiers right in the centre where they need to be, or to not have them at all.

The private certifiers are running a commercial business that needs to make money and be viable and sustainable as they service the market yet they must compete with public certifiers—I will call them that—that do not have the same compliance costs as the private certifiers. I will give members an example. If a developer wants a commercial building project in the CBD certified, he would go to the City of Perth and the council's building surveyors could certify it and provide a quote for what it would cost. The developer can go down the road to a private certifier and get another quote. That is all fair and reasonable except for two things that concern me. The first concern is that it is the department—the public certifier, if members want to use that term—that approves the plan and also certifies it for a fee. If a developer wants to give his plan the best opportunity to get through, of course he would accept that. The second point is that the public certifier is more than likely to be cheaper than the private certifier. The developer would say, "That's great." Why would a public certifier not be cheaper? I will tell members why a public certifier will always be cheaper and able to undercut the private certifiers. It is because the public certifiers do not pay professional indemnity insurance or rent and they are public servants in so much as they are paid by the public purse through the ratepayers. In addition, they do not have to pay overheads and the normal outgoings as a proportion of their business because they sit in local government. The private certifier has to pay an exorbitant fee, which is understandable, given the nature of the risk. Next to wages, the insurance premium for a private certifier is the second-biggest cost, and rent on the premises they occupy would be a distant third. These are problems that I believe need to be addressed not necessarily here but certainly in a subsequent approach. In Victoria—I will be pleased to get better educated about this in consideration in detail—local governments do not approve plans. Local governments receive the plans that have been stamped by private certifiers and they book them and get on with it. We do not have a level playing field for private certifiers or a competitive marketplace. People say that private certifiers are more expensive. Of course they are, because there is not enough competition. We need more, not fewer, private certifiers. We also need a level playing field in which local governments that do private certification or public certification on a tender basis also must comply with the same sorts of compliance input costs as the private certifiers.

We need to address a matter that I hear about anecdotally from the local governments I have spoken to. As many as 40 per cent—I am quoting the City of Cockburn—of privately certified applications that come across its desk are noncompliant. That concerns me. It is a similar number for the other local governments. It is concerning that 40 per cent are noncompliant in some way, shape or form. That leads me back to the Building Commission and to wonder who is regulating the private certifying industry. Who is responsible for following up the red flags that may, or should, be presenting every time if a local government authority referred them incidentally, as they should, to the Building Commission for noncompliant certification? That is really important. One of the features of private certification in other jurisdictions is that, on my assessment, they have a fairly deregulated but highly integrated system, in a competitive context, of ensuring that they keep the private sector certifiers accountable. They do that in just the same way that we do with finance brokers or people who sell other financial products, such as stockbrokers and so on. Financial disclosures and disclosures of interest are all features of other professional bodies. Engineers, for example, have a professional code of conduct. The organisation and regulation of private certifiers in Western Australia seems to me to be unsophisticated.

Much of the Building Act crosses over into adjoining public policy and public administration. I am talking specifically about being unable to reform the Building Act without dovetailing into substantive planning reform and the way we go about planning and approvals in this state, and we cannot talk about planning reform without talking about local government reform. I am happy to see that the Metropolitan Local Government Review—the Robson report—is finally coming down. However, I am unhappy—I record it here—that the government will not comment on that local government report, funnily enough, until a couple of weeks after the next election. That is politics 101—do not get caught in the headlights. We cannot avoid the problem. The Building Act is only one piece of a complex, intertwined and multilayered system of how we develop the urban space in this state. It does not reach as far as it ought to reach and it does not provide clarity. These amendments will go some way towards that, although we will raise our concerns about some of the amendments that will not remediate the problem. Setting that aside, we must take an omnibus approach to the reforms we are talking about between local government, planning generally and planning reform, and also the integration of that with the operative pieces of legislation, principally, in this case, the Building Act.

That is enough for now; I think I will reserve any further commentary for consideration in detail. As I said, we do not want to delay the passage of the bill and I do not think there will be too many speakers; we will just crack into it and see if we can get it cleared up. I thank members for their time.

MR C.J. TALLENTIRE (Gosnells) [1.19 pm]: I rise to speak to the Building Amendment Bill 2012 and begin by noting that we have a building industry in Western Australia that anticipates building something in the order of 20 000 new dwellings every year. It is an industry whose most vocal representative bodies are quite conservative. It is not an industry that really likes change and it therefore struggled with the introduction of the Building Act 2011 and changes around household energy efficiency measures; I will come to those in more detail in a moment. It is an industry that does not like regulation. I think many people in the industry probably wake up every morning saying, "Red tape! Red tape!" That is the industry's automatic reaction. It sees everything as a regulatory constraint. Nevertheless, the implementation of that legislation last year has, overall, gone relatively smoothly. However, some teething problems were identified during the introductory phase relating to issues such as properties adjoining vacant lots and builders working on such properties being required to seek permission to gain access to the vacant lots, which in many cases are investment properties. Builders in some cases have struggled to make contact with the owners of such blocks and have therefore been unable to get permission to use the vacant lots to gain access to the adjacent building sites. I can see how issues like that were perhaps unanticipated when the legislation was first enacted, which means that now, a few months down the track, we find that there are such problems. This legislation seeks to amend those kinds of problems. Indeed, there will now be the potential for a ministerial order to remove the need for an owner to obtain that signature on a building application.

When I first heard about these amendments, I was concerned that there might be some watering down of building standards. We see throughout the legislation reference to "applicable building standards", and I was concerned that this might represent a move away from the Building Code of Australia. We fought quite a long battle to make sure that the standards set out under the Building Code of Australia were maintained and to implement a requirement to move to a six-star energy rating for new homes. The Housing Industry Association was very vocal in its opposition to the move to the six-star rating. It said that it could not see the difference between five-star and six-star ratings, that at best the difference was marginal, and that the industry had done its own costings—an assertion that went almost unchallenged in some media circles. It said that it had found that there was very little benefit in the six-star rating. However, the reality is that when the six-star rating is properly applied, it makes a huge difference. It ensures that new dwellings are made from the best available materials, that the actual buildings are the best ones for the block and that subdivisions are oriented the correct way such that up to 80 per cent of a subdivision can have the right layout to maximise solar passive qualities et cetera. Properly applied, planning codes will ensure that a maximum number of lots are correctly oriented, but that benefit is destroyed by builders who come along and put the wrong house on the block.

Six-star ratings put us beyond that point, because six stars are given only if the right house is on the right block. That is how it works in theory, and I would like to be reassured that the system is working to great effect because I still hear stories from people expressing disappointment with the quality of Western Australian housing stock. The building industry is very good at blowing its own trumpet; every time we look at the new homes section of the newspaper, we see some sort of awards section. There seems to be a constant stream of black-tie dinners and awards ceremonies; it is a very self-congratulatory industry, but the lived experience tends to be different. I recently spoke to people working in the oil and gas industry who had just come out from Europe—highly qualified people with engineering qualifications, as many new arrivals in Western Australia are these days, which is a reflection of our resources boom. They compared the quality of the housing stock in Western Australia with what they had seen in their country of origin, and they found it severely deficient. They made observations about our new homes still being very cold in winter and very hot in summer, so something is still not quite right. I suppose there is a lag time, and we are perhaps waiting for the full benefit of the six-star rating to come through. Things will no doubt improve with time, but the reports I heard were about quite new dwellings, and I was unable to confirm whether they had received the six-star certification or not. However, that is a lesson to us—that our housing stock is viewed as being of a mediocre quality when it comes to basic thermal efficiency. That is something that we really have to move beyond.

When we last had this debate and Hon Simon O'Brien as then Minister for Housing was pushing the six-star program, I put out media releases welcoming and encouraging the initiative, and encouraging the industry to get on board. I will note that some prominent builders in the sector really did embrace the program; BGC being one. It was very supportive of the initiative and still uses it in its promotional material. It says, "If you come to us, we will get you a six-star quality product". That is to be commended. I have to say, though, that the Alcock Brown-Neaves Group does not have the same enthusiasm and, in fact, has a high degree of negativity about it. I understand that that group has a strong influence over the Housing Industry Association, which is where the problem arises—at a peak body level, there is a negative view of this important innovation in the sector.

Nevertheless, I was putting out media releases about the program and, as members know, it is sometimes difficult to get a satisfactory airing of the content of media releases. I approached the editor of the new homes lift-out section that appears in the Saturday edition of *The West Australian*, Melanie Anderson, and said to her that it was unfortunate that my media release had not been given a run. I was told, "Oh, we don't actually need your comments; we have lots of comment from people in the industry, but we will refer your comments on to the Housing Industry Association". I found that really quite disappointing, because anybody picking up the new homes lift-out section of *The West Australian* would see that there is an editor, journalists and photographers working in that section, and would think that they are reading a section of *The West Australian* that is independent and abides by the Australian Journalists' Association code of ethics, so I was disappointed to hear that my media release would be referred to the Housing Industry Association. It leads me to believe that, in reality, that section of that newspaper should be clearly marked as advertorial, but that is not the case. Anybody picking up that section in next Saturday's edition will not see it marked as advertorial, but if they were to look through it they will appreciate that much of it is about advertising and is obviously written in very close connection with the industry. I question how independent the commentary is in that section, and I think it would be better if it were truly independent, not beholden to the building industry in any way, and had some independent commentary—possibly even the odd comment from a member of Parliament, when we make comments challenging the standard views within the sector.

Nevertheless, that program is in place for people contemplating building a new home. I hear, as many members do, that it is a tough and very competitive industry to be in, and I think that is the case because many people have heard or lived through the horror stories about building a new home. It is an expensive thing to do; it is a huge investment to make and it is often fraught with all kinds of nerve-wracking experiences. People find the process of going through a new home builder—whether it is a project homebuilder, architect or designer—to be a challenging and very energy-consuming task. Therefore I think there might be something there about why some people are reluctant to engage in this industry. That is perhaps one explanation for the low level of activity in the industry. I am sure some people have had very good experiences. In building those 20 000-odd dwellings each year, some people would have worked closely with excellent builders, they would have very satisfactory reports of how the whole process went, they would be absolutely thrilled with the end product and they would feel that it was a relatively stress-free process. But on the whole I do hear that building a home is highly stressful. The building industry needs to be aware of that.

Amendments and other changes will be made to the legislation around issues about the various levels of certification, such as the grant of a building permit. However, I am disappointed that one very important certificate—the certificate to occupy—will not apply to individual dwellings. It will apply to blocks of flats and larger buildings. That issue of such a certificate is for very good reason; it provides the opportunity for an independent body to give the final sign-off on whether a block of, say, 30 flats has been built to the Building Code of Australia standards. That final sign-off by an independent body gives all consumers a high degree of assurance, but the system does not apply to individual dwellings. It really comes down to the new occupant registering complaints with the company to which they have just handed over lots of money. They have been through probably a very long, 12-month process, they have had the home delivered to them and they have been handed the keys. Only then can they start making complaints about all the little things that are not quite right with the property. That is okay if they are minor niggles, such as cracks in a bit of plaster or the installation of the wrong appliance. Those sorts of things can be sorted out. I am particularly concerned, though, when really major problems are not discernible at the key-handover stage. I am more concerned about problems such as incorrectly poured concrete for the footings of the building and the owner finding out only when over time a wall starts to move. This is the real experience that I am hearing about. When I talk to people in the City of Gosnells about the inspections they do, they tell me that there is a very high noncompliance rate with building standards. Therefore, they are quite rightly cautious when they are in the situation of issuing a certificate to occupy; they make sure that a building has been correctly finished.

There is a quite famous case of some flats outside my electorate in Sheoak Road, Maddington that were commissioned by the Department of Housing for eventual handover to Access Housing. We first heard about these flats back in September 2011. They looked to my eyes like they were finished. They were magnificent. They looked really good. But when the now Leader of the Opposition and I went there in September 2011 and investigated them, we heard that the balustrading was not up to standard and that there were all sorts of issues around the demise of the building firm. We were told that in due course the balustrading would be replaced. It turned out, though, that the building was not ready until about 10 days ago when the first occupants moved in. We actually went back out there in September this year—I could almost say to celebrate—to acknowledge or mark the 12-month anniversary, and found that the property was still empty. We were out there with journalists looking at it, but it has taken 12 months to rectify these problems. I know the government has said that it is now a better building, but it was extremely unfortunate with the housing shortage that 30 to 32 units of quality public

housing were not available with much more haste to people. However, the property was not up to a standard that made it safe to inhabit, and that is why the City of Gosnells was not prepared to issue the certificate to occupy.

There are therefore some good reasons for these regulatory checks. That is why I find it irksome when I hear some in the industry say, "Oh, get rid of all the red tape." Some of these checks are absolutely essential when we are handing over to consumers a product that in many cases is worth well over $200 000. It is rare for a project home to be built for any amount under $150 000—I think that might be the very cheap end. Why, though, should we hand over to a buyer a product of that sort of value when it is in any way deficient? That is just unacceptable. With the nature of the industry, they are problems that a lay person such as I would not pick up. An independent, professionally qualified verification of the property is needed, and that is why certification is so very important. I think in future we need to look at the issue of class 1 properties getting a certificate to occupy. I am sure people in the industry would probably respond to that by saying, "Oh, it'll slow things down tremendously. It would be a huge burden on people." They would probably say that it would make it unaffordable or would add a cost to housing. I just do not accept that. When people are making big investments, they deserve to have the right regulatory framework around the finalisation of a contract they have entered into with a home builder. That is therefore an important aspect in all of this.

Another part of the legislation relates to requests for further information. This is a sensible change in the bill. It is the introduction of a stop-the-clock mechanism. I know we have this in other legislation, so it does make sense. When an application is incomplete, it will not just be rejected; instead we will stop the clock. That is a sensible change to the whole process. I think that means in those instances it will actually speed up the whole approval process.

I support these amendments. They are necessary and will help the industry, and that is useful. I will conclude my remarks, but I must say that the industry does need to embrace legislative change. The industry must recognise that the legislation will protect consumers and give consumers confidence, and with that we might see more people prepared to build new homes. At the moment, while there are nightmare stories out there from people who are dissatisfied with the whole building process, that damages confidence in the industry, scares people away and frightens them off, especially when they realise there is an inadequacy in the regulatory framework.

MR T.G. STEPHENS (Pilbara) [1.38 pm]: I rise briefly to give the opposition spokesperson a chance to tell me whether he is expecting one of my other colleagues to speak on this bill now?

Mr P.C. Tinley: No.

Mr T.G. STEPHENS: In that case then I do not intend to delay the house any longer.

The ACTING SPEAKER (Ms L.L. Baker): Thank you, member for Pilbara. That was extraordinary!

Mr T.G. STEPHENS: In those circumstances, Madam Acting Speaker, I could do that but I will save that for another moment. I will sit down and leave the house to continue with the debate.

MR J.M. FRANCIS (Jandakot — Parliamentary Secretary) [1.39 pm] — in reply: Firstly, let me start by thanking the members for Armadale and Willagee for their contributions. I also gracefully accept the acknowledgement by the opposition that it supports this bill to sort out these teething problems. I am sure that the building industry and the potential and current buyers of new homes that have been built appreciate the opposition's support in expediting this process.

The member for Willagee, who is the shadow spokesman on this portfolio, went through a number of different issues I will touch on briefly. He spoke of the pressures of population growth and the demand for housing. Obviously, we all know that the population of Western Australia is growing faster than that of any other state in the commonwealth; Queensland might be a distant second as the cockroaches migrate north to sunnier weather in the eastern states. However, Western Australia has for some time had significant pressures placed on it with increasing population and housing demand. The member for Willagee spoke about the rental vacancy rate; I am not quite sure I take the member at his word that these are correct figures in that we have vacancy rate in WA of about 1.8 per cent, and that in other areas it is about three per cent. I expect that figure applies to metropolitan Perth, but in most of the regions of Western Australia it will be a lot higher; this is in considering issues that affect certain towns across the state, such as Ravensthorpe, where the mining operation has shut its doors for a period, creating a massive burst in what could be called its property bubble. If we consider the Pilbara—South Hedland and Port Hedland, where the member for Pilbara comes from—there is no doubt that there are exceptionally high pressures on housing and accommodation. I have a friend who was in Port Hedland about a year and a half ago working at the OPSM store or one its sister stores, and he had to live in a caravan in a friend's backyard because it was just too expensive for him to compete, being in that kind of business, with the mining sector that is paying the big bucks for accommodation up that way. I would hazard a guess that the rental vacancy rate in certain parts of Western Australia may well be lower than 1.8 per cent. I am sure the member for

Pilbara will correct me if I am wrong, but his electorate is probably at the coalface of the greatest demand for accommodation within the state.

The member for Willagee spoke about what I call the property bubble that happened in 2007, and he said that he hopes it does not happen again. Let me make it clear: many people who buy a house only own one house; they do not have an investment property. They have superannuation and they may have a small amount of shares, but for a lot of people, their house is their primary savings piggy bank. Growing equity in their own house is very important so that they can draw it down if they need it for a future unforseen circumstance. They need it so they can give their kids a head start in life and they can have a bit of cash reserve, and so that when they get to the retirement age—without going over issues from yesterday—they can sell their house, downsize, and retire with substantial equity. That equity would contribute a substantial amount to their family's nest egg and help with their family's basic standard of living. My point is that to have equity in a house is so important for so many people in Australia that the last thing I would ever want to see happen is what happened when the so-called bubble burst in 2007 and 2008.

Looking at my own circumstances, if I may, I purchased my house in Atwell in Harvest Lakes in 2003; I moved in at the end of 2004. I have had a significant increase in equity in that fairly basic, cheapest kind of builder-built house on a cheap block of land. I have been quite fortunate, and many, many neighbours around me—in fact most of the suburb I live in—have benefited from the same growth in real estate value. A block of land that eight years ago cost $100 000 is now worth something like $350 000 to $380 000 in like-for-like comparison in location.

What has happened since the bubble burst in 2008 is that a lot of people who purchased their house at the end of 2007 and start of 2008 have been left with a substantial amount of negative equity. I know people who purchased $600 000 houses on my street, and, having ticked all the boxes—dotted all the i's, crossed all the t's and had all the valuations done—took out a mortgage to buy their house, and are now left with a substantial amount of negative equity. Could members imagine the financial grief caused to an average family trying to raise kids, if, after taking out a $600 000 mortgage, that house was worth only $500 000 after three to six months? Nobody wants to see that happen ever again.

Government has two levers to control that. First is the rate at which government releases land for development, because if too much is rolled out too quickly, negative equity issues will be back on the agenda; if it is rolled out too slowly, there will be over-demand because of the lack of housing, which will create another property bubble. It is a carrot-and-stick situation, and it is all about finetuning and getting the balance as close to perfect as possible so that people can see some growth in their property equity without creating the issues of another property bubble and avoiding the issues of negative equity. So put in a very long way, I appreciate exactly the point the member for Willagee was making. I also hope it never happens again.

The member did, however, call the last building bill to go through this place an act of legislative vandalism. I have to say that that is out of step with what the member for Gosnells reflected on—I will get to his comments—and also the reality. The bill had to address a lot of problems within the building industry and the approvals process, which it did, but, as the member for Gosnells said, we faced some minor teething problems. I do not accept that it was legislative vandalism, and if what the member said is the case, why did the industry and the opposition not say anything at the time? The truth is —

Ms R. Saffioti: Was it our fault that you stuffed up?

Mr J.M. FRANCIS: Member for West Swan, the number of times —

Ms R. Saffioti: Seriously!

Mr J.M. FRANCIS: — the opposition comes into this place and takes up a lot of time —

Ms R. Saffioti: Why don't you take responsibility for your stuff-up?

Mr J.M. FRANCIS: I am taking responsibility, but let me just mention —

Ms R. Saffioti: Just take responsibility and sit down.

Mr J.M. FRANCIS: — the number of times that the opposition comes into this place and goes on and on about its right—which I accept is its right—to scrutinise government legislation. It happens every single day. But the truth is that although the government takes responsibility for some of the unforseen issues in this reform we are trying to correct today, I do not recall anyone else foreseeing them.

Mr P. Papalia: It was a disaster! It was an absolute disaster. Take responsibility for it and sit down.

Mr J.M. FRANCIS: Maybe the member for Warnbro might want to tell me where he predicted it also at the time.

Mr P. Papalia: Goodness me!

Mr J.M. FRANCIS: The bottom line is that there were a number of issues —

Mr P.C. Tinley: Parliamentary secretary, I would refer you to the Leader of the Opposition's speech.

Mr P. Papalia: That's right; he told you not to do it!

Mr P.C. Tinley: He actually proposed amendments in that very speech.

Mr P. Papalia: You ignored him!

Mr P.C. Tinley: I have refrained from quoting it because I didn't want to say the old, "I told you so."

Mr J.M. FRANCIS: Okay.

Mr P. Papalia: You should have.

Mr P.C. Tinley: But he told you so.

Mr P. Papalia: He did tell him so.

Mr J.M. FRANCIS: Anyway, the point is that the reason we are here today is to correct a number of issues that were unforeseen at the time, and that have developed through the implementation of that act. The member for Willagee also spoke about comments made by John Dastlik from the Housing Industry Association, who raised the some of the problems that were faced at the time of the implementation of the reforms. In regard to where we are at today, it is worth reflecting on some of the more recent comments by people in the industry. I refer to an ABC news article from 22 October—this is fairly recent history—by Graeme Powell. He wrote —

> **The Housing Industry Association says a report out today which points to weak housing construction figures in Western Australia is out of date.**
>
> A report by CommSec shows building approvals in the state have slumped by 27 per cent compared to the long term average.
>
> The HIA's John Dastlik says State Government changes to the Building Act earlier this year caused problems which saw building approvals fall sharply.

Nobody is going to dwell on that point. He said —

> "The slump is predominantly due to a fall in building approvals in the June quarter and that was as a result of the introduction of the new Building Act," he said.
>
> "There were a lot of new processes to be put in place and both builders and local governments had to get their minds across the issue as to how the new process worked."
>
> Mr Dastlik says those problems have been rectified and there has been a surge in building approvals in recent months.
>
> He says dwelling starts are expected to surge by more than 20 per cent this financial year.

That is a significant amount —

> "We're starting to see some very significant improvement, for example, in building finance; last month, in August —

This is not too long ago —

> … we recorded the highest level of building finance for new housing construction for the last ten years.
>
> "So, the initial signs for an improvement in the number of building starts in the September and December quarters is certainly there.
>
> "We're forecasting an improvement of some 23 per cent throughout the 12/13 financial year in comparison to the 11/12 financial year.
>
> "The market certainly has turned in Western Australia and I think give it another couple of quarters and you'll start to see that WA is probably leading the nation in terms of its growth in dwelling housing starts."

That is a significant complimentary comment from the HIA on where we are right now.

The member for Willagee spoke at some length about the fall in non-uniform applications for local councils. As a member of Parliament, I also had conversations with a number of people in the industry. I met with people from the Real Estate Institute of Western Australia and I met with Dale Alcock. My impression was that different sets of standards were being applied by different local governments in Western Australia. I do not want

to turn this little contribution into a local government–bashing exercise by any account, so I hope that no-one misinterprets what I am trying to say. I am reliably told by builders that, for example, the approval rate in the City of Rockingham was by far the best in Western Australia and the approval rate for applications in the City of Cockburn was by far the worst.

Mr P. Papalia: The best in the state was Dardanup.

Mr J.M. FRANCIS: I have not seen those figures. This is what the industry has told me. They complimented the City of Rockingham on how it adapted and overcame the challenges of the reform and how other councils dropped the ball. The member for Willagee spoke about the temporary drop of average monthly building approvals in April. I am sure that the member for Willagee already has them, but I have those statistics and if the member needs me to share them with him, I am more than happy to do so. Interestingly, the member for Willagee raised a very important issue. He spoke about how applications are moving away from what he termed bespoke design to more run-of-the-mill applications. In the conversation we just had I explained to him that my house is pretty much a run-of-the-mill house in Atwell; I drive around my suburb of Atwell and maybe 20 houses are absolutely identical. When the member tells me that the City of Cockburn is saying that 30 per cent of its applications that have pre-approval or certificates of design compliance attached to them do not meet and do not comply, I am not saying that the member is wrong at all. I am saying that I find that interesting considering that there is a move away from bespoke design of houses to run-of-the-mill houses. I expect many of the applications that are presented to local government for approval in this day and age are very much like in a sausage factory; a lot of house designs are identical. It is just a matter of builders using exactly the same plans and exactly the same information, with the only variations being the lots on which the houses are built and perhaps the direction the houses face. To gain the six-star rating, houses may have windows on different sides or be flipped in the plans. However, generally, an awful lot of these plans and applications are extremely similar. For the City of Cockburn to knock back 30 per cent of applications, I would have to question what kind of small issues the council is picking up on to turn those down.

The member for Willagee also suggested that the Building Act should be administered by a department other than the Department for Commerce. He suggested the Department of Planning or making it a revamped Department of Housing. It is not for me to speak for the will of the government on this issue, but the building industry has a significant role to play in business-to-business relationships. The member for Willagee spoke about how some suppliers further down the chain have faced some hiccups because of the downturn in April. My default position is to say that an industry such as the building industry should remain with the Department for Commerce. The member mentioned the stop-clock provisions and I am happy to go into them in further detail in consideration in detail. He also mentioned the delays when getting approval from the Fire and Emergency Services Authority. The reality is that FESA was not prepared for the reforms when they kicked in. I do not want to speak too poorly of that agency, but perhaps it could have done a little more to prepare itself for the process. Either way, that has now been made a lot easier with the reforms in this bill.

The member for Gosnells mentioned, and I concur with his comments, that the reforms to the original bill went through the change process fairly smoothly. I believe that the four or five issues we are looking at here concern minor teething problems with unforeseen issues. The member for Gosnells summed up the situation in a fairly honest and accurate way. He raised the point that he had a fear of the dilution of standards, especially with five-star versus six-star energy ratings. The member questioned the independent editorial content of particular sections of *The West Australian*. I hope that the member for Gosnells understands that I will not indulge him and comment on that, but I guess he will live by his comments. I want to finish up in a couple of minutes.

The member for Gosnells mentioned that a certificate to occupy does not apply to an individual dwelling as it now does to a block of units. That could be for a number of reasons. I stand to be corrected, but a form has to be sent to local governments when a house becomes occupied. That allows the council to start a certain rate evaluation. That is what gets the rubbish bins delivered to a new house so that the council can come and start picking up the rubbish bins and deliver all the benefits that come from living in a local council when a house is finalised.

Mr C.J. Tallentire: That does not amount to building certification.

Mr J.M. FRANCIS: No, it does not, but I am saying that there is one form. If all the boxes are ticked through the whole process and everyone is certified and everyone is qualified to do all the work on the building anyway, there should not be any issues with the final finished product of the house that cannot be covered under the statutory warranty offered by building under Western Australian law anyway.

Mr C.J. Tallentire: Then someone has already moved into the house.

Mr J.M. FRANCIS: Absolutely. I suspect that it applies to units because there could be a structural defect there that would be far more dangerous to far more people than a single dwelling.

Mr C.J. Tallentire: So is a wall that falls over.

Mr J.M. FRANCIS: Absolutely. My concern would be that adding another layer of red tape, another form to fill out, another fee, another engineer to go and look at a house and tick it off, would add maybe another $1 000 to the cost of building a house and create another delay. It might take about 50 weeks at the moment to go from start to finish when building a house.

I look forward to continuing my comments on this in consideration in detail. I commend the bill to the house.

Question put and passed.

Bill read a second time.

[See page 7604.]