



Speech by

Michael Crandon

MEMBER FOR COOMERA

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BUILDING AND OTHER LEGISLATION AMENDMENT BILL

Mr CRANDON (Coomera—LNP) (6.09 pm): I rise to add to the debate on the Building and Other Legislation Amendment Bill 2009. I congratulate the shadow minister, the member for Gympie, for his very comprehensive research and response in relation to this bill. This side of the House is totally committed to the concept of sustainability, as the shadow minister made very clear in his contribution.

Let us have a look at the policy objectives of the bill. One objective is to make amendments to a number of acts relevant to sustainable building practices, among other things, including amending the Building Act 1975 to 'ban the banners'. Of course we agree with that, but let us be careful. Smaller houses, as the shadow minister mentioned, that undermine the concept of more efficient use of existing infrastructure and undermine the concept of optimising the use of land should be carefully considered.

Another objective is to improve the current process for mitigating the impact of noise. We agree with that, too. Another objective is to expand the role of building surveying technicians. Once again, we agree. Let us be sure, though, that appropriate supervision is in place for these people. Under the Plumbing and Drainage Act 2002, the Plumbers and Drainers Board will be replaced with the Plumbing Industry Council. We have no issue there—and so it goes on. There is no issue, from my reading, with much of the bill.

Then we come to the sustainability declaration, and I am afraid that I must object. I contacted a well-respected real estate agent from my electorate. This gentleman has been in the industry for about 45 years, so he certainly knows the industry very well. He said, in part—

We were aware such legislation was due to come into force from January 2010, however our understanding is that it was to apply to new homes only. Such declaration for new homes is easily obtained.

Should the legislation apply to existing homes, which it appears is the case, there is very little likelihood a seller could answer these questions without the assistance of qualified trades people. As such this form will be impossible to be completed. The form would have to be simplified.

Just to confirm that we are talking about existing dwellings, the website talks about the sustainability declaration form and states—

It will increase the awareness and marketability of the dwelling's sustainable building features and will act as an incentive to improve the sustainability performance of Queensland's 1.6 million existing homes.

There is no doubt; it is on the website. We are talking about all homes in the Queensland marketplace. We are going to affect every man, woman and child in the state eventually, because I would suggest that every home eventually will come under this document. When we come to the sustainability declaration—

A government member: Have you lost your way?

Mr CRANDON: Yes, I lost my place. I had to go to a form. The interpretation of my good gentleman's comments are, 'Off you go and pay someone to complete the form because we can't market it until you have. You'll also be competing with other newer homes so start revising your sale price down!'.

His comments go some way to refute the member for Waterford's comment about real estate agents being able to fill out the form. I had a closer look at the small print at the top of the sustainability declaration

form. I do not know whether anyone else managed to read it, but I certainly did. I just blew it up a couple of times and used a magnifying glass to have a look at it. It states at the top in six-point font, as pointed out earlier—

Please complete this form. A guideline will be available to assist completion ...

At the bottom of that section it says that a fact sheet and detailed guidelines are available on the website. I can inform the minister that the detailed guidelines are not there as we speak. It goes on to state—

From 1 January 2010, the completion of a sustainability declaration is a mandatory requirement under the *Building Act 1975* when selling a house, townhouse or unit. The form is designed to help sellers and buyers understand both how to make homes more sustainable and the potential for ongoing savings associated with sustainable features.

No, it is not really. It is going to be determining whether or not you are going to get a reasonable price for your house, I would submit. I then had a look at the frequently asked questions on the website, because that is available. One of the frequently asked questions is, 'What is a sustainability declaration?' It states—

The declaration will inform buyers about the sustainability features of a property and increase community awareness of the value of such features.

It has taken the seller out of the equation and it is just talking about the buyer. So it is putting some pressure on the seller. The second question asks, 'Is the sustainability declaration related to the contract of sale?' The answer states—

No. The declaration does not form part of the contract of sale.

I will flick over to the next page. Another question asks, 'What could happen if the information on the declaration was false or misleading?' I would add to the question 'even if by mistake'. The answer states—

If a buyer purchased a home and the sustainability declaration was found to be false or misleading or prepared without reasonable skill and care, the seller may be liable to compensate the buyer for the loss or expense ...

So here we have, 'No, it does not form part of the contract.' Then we have, 'Yes, they could go after you for some compensation.' Another question asks, 'Could a buyer terminate a contract if the declaration is incorrect?' The answer states—

No. The buyer would not be able to terminate a contract on the basis of information contained in the sustainability declaration as the declaration does not form part of the contract of sale.

That is giving a legal opinion, I would suggest, in that aspect of the questions and answers. Down the bottom it clearly states—

This fact sheet—

and, by the way, it is not a fact sheet; it is frequently asked questions—

is not a comprehensive statement of the law. The laws referred to can be complex and various qualifications may apply to the provisions in different circumstances.

By the time someone has finished reading the frequently asked questions right through and absorbed exactly what they are saying, they are nowhere near where they want to be as far as frequently asked questions and answers are concerned. On the one hand it says that it is not part of the contract. Then it says that you could be liable. Then it says, no, they could not terminate the contract. By the way, there is a disclaimer at the bottom that 'this fact sheet is not a comprehensive statement of the law'. So all bets are off. You do not have to worry about the document. You do not have to worry about what is said there. Just be very careful what you put on that piece of paper.

The member for Morayfield said that this government is doing something, which is better than doing nothing. I respectfully suggest—and perhaps someone can pass this on—that sometimes it is better to do nothing than to do the wrong thing. I suppose as time goes on he will learn a little bit more in life and realise that it is not always better to do something, particularly if it is very wrong. The information that I have got from the website is telling me that there are some major flaws in this document. The information that I have been getting from the real estate industry is telling me they have issues with regard to this document as well.

This sustainability declaration, I have to say, is by all accounts the wrong document. It needs quite a bit of revision before it becomes user friendly for existing housing stock. According to the website, we are talking about 1.6 million houses that this document is going to relate to.