

**BUILDING BILL 2010**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Simon O'Brien (Minister for Finance)**, read a first time.

*Second Reading*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Finance)** [6.01 pm]: I move —

That the bill be now read a second time.

The Building Bill, along with the three related building services bills, delivers the most significant reform to building regulation in Western Australia in 50 years. The existing process for building approvals was established in the Local Government Act 1960. It reflects the way buildings were designed and built in the 1950s. It relies on builders registered under the Builders' Registration Act 1939. It is clearly time for change. I acknowledge the significant work done by the previous government in preparing the way for these reforms and I look to the support of all parties in enacting these bills without any further delay.

Our built environment is at the core of our culture and our community. The quality of our buildings impacts directly on our quality of life, how efficiently we work, and how effectively we relax. We need our buildings to be safe, accessible and sustainable. This means setting high standards and ensuring that those standards are met. The building industry is a significant contributor to our economy and our quality of life. Building, construction and renovation account for more than nine per cent of this nation's gross domestic product. Approximately 10.5 per cent of the state's total workforce is engaged in building and construction, and it is a critical training ground for the wider economy. Efficient processes are critical, and delays in approvals must be eliminated. Innovation is essential in improving our living standards and growing our economy. The Building Bill 2010 plays a central role in facilitating these outcomes.

The philosophy that underpins the Building Bill is to encourage and empower qualified people to do things right the first time, rather than to build a series of hurdles along each step of the way. The bill does not restrict who can design a building, but it requires a qualified building surveyor to certify that the building complies with building standards. The bill allows building surveyors to work in private practice or local government, and to work alongside the design team, exploring options and confirming compliance as the design progresses. This will encourage innovation in building design and get the best value from performance-based standards in the Building Code of Australia.

Formally registering building surveyors under the Building Services (Registration) Bill 2010 and providing the Building Commissioner with auditing and advisory powers under the Building Services (Complaint Resolution and Administration) Bill 2010 provide effective oversight of the quality of the building surveyor's work without having to build complexity into the approval process for individual buildings. Skilled building surveyors can do more than just check compliance with the building standards; they can help owners, builders and their design teams through the approvals process. They can advise whether building proposals are consistent with other approvals that have been obtained, such as planning or heritage. They will continue to play a significant role in helping permit authorities enforce compliance with both standards and processes.

It is not practical or economical to design and document every aspect of a building so that it can be checked by a building surveyor. We rely on competent builders to construct buildings in accordance not only with the certified plans, but also with good trade practice and the building standards that are not documented. Builders will be registered under the Building Services (Registration) Bill and will be named on building permits. The Building Bill sets out the builder's obligations and provides for a notice to the permit authority when these obligations have been met.

Buildings are becoming more complicated and often rely on mechanical or electrical systems to ensure the safety of occupants. The Building Bill requires occupancy permits for buildings other than single residential buildings and outbuildings. The occupancy permit not only confirms that new buildings have been constructed in accordance with the certified plans, but also confirms the use of the building approved under planning or other legislation, and requires inspection and maintenance of essential services. These inspections can be carried out by any qualified building practitioner and reported to the permit authority. Responsible building owners already do this, and these provisions are no extra burden; rather, they provide a robust system for owners to demonstrate that they have effectively managed their risks.

Occupancy permits allow one simple system to be used to approve temporary use of a building before it is completed, or a different use for a short period of time. They allow for a permanent change of use or classification to confirm that a building is suitable for strata titling or to retrospectively approve a building that

was constructed or altered without authorisation. Over time, existing buildings as well as new buildings will be issued with occupancy permits, and these will provide a simple basis for data to be loaded onto the state land information platform. Single residential buildings will not require an occupancy permit, so that most people will not be restricted from occupying their own homes. Owners of single residential buildings can apply for an occupancy permit or a simpler building approval certificate if they wish.

The Building Bill requires all buildings in the state to comply with the building standards. Previous exemptions for buildings owned, occupied or controlled by the state are removed, but the Building Commissioner is given power to exempt a building from complying with a standard if this will help innovation or prevent unjustifiable hardship. High-risk buildings or parts of buildings require thorough checking and inspection. Processes for medium risks are simpler and allow for self-certification by registered practitioners. If risks are low, the bill does not require approval up-front, but still allows for enforcement action if standards have not been met.

Approval processes in the Building Bill are based on a proportionate response to risk. Buildings incidental to infrastructure, ports, mining and petroleum installations, and industrial plants are already regulated through processes under other legislation to ensure their safety. They do not require separate building approval under this bill, thereby avoiding duplication and unnecessary red tape in important sectors of the state's economy.

Most buildings will require a building permit, an occupancy permit and, at times, a demolition permit. The permit authority that grants these permits will normally be the local government in which the building is located. The state of Western Australia is also a permit authority under the bill, able to deal with any building anywhere in the state. In practice, the state will provide permits for its own buildings, thereby preserving its current independence from local government building control. The state might also provide permits for privately owned buildings of state significance, or where state agreement acts require the state to provide all approvals for a project. Local governments can also ask the state to take over responsibility for complex or specialised buildings if the local government does not have the skills or capacity to deal with it effectively. The Building Bill also allows the minister to approve special permit authorities. These can be used when a group of local governments wish to combine their building control functions; where facilities are located in more than one local government area; or to give redevelopment authorities building control as well as planning functions.

The Building Bill will clarify issues related to construction on boundaries that have caused anxiety and uncertainty for many years. The Dividing Fences Act provides a mechanism for seeking a contribution to the cost of building or maintaining a dividing fence, but does not specify construction standards or processes. The bill has been drafted to align with that act and reinforce the principle that a person's home is their castle and that other people must get permission to intrude, be they workmen seeking easy access to work on a neighbour's building or encroachment on the building itself. If permission is refused, a builder can seek a court order to get access, but cannot just march in. There are clear rules dealing with removal of fences, protection of adjoining buildings during construction, jointly owned walls, and quality of construction along boundary lines. Local governments are given effective powers to intervene when a builder does the wrong thing.

The bill continues the role of local governments and other permit authorities in enforcing compliance with building standards and processes. A local government will monitor building activity in its area and can give notices requiring owners to improve, obtain approval for, or demolish unsafe or unauthorised buildings. The permit authority for a building will be able to inspect at any time and require compliance with certified plans. The bill provides a range of enforcement options, including infringement notices, improvement notices and prosecution for noncompliance. If dangerous situations are not being dealt with, the permit authority can take action itself and recover the costs from the owner or builder. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.