

BUILDING AMENDMENT BILL 2012

Introduction and First Reading

Bill introduced, on motion by **Hon Simon O'Brien (Minister for Commerce)**, and read a first time.

Second Reading

HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce) [7.32 pm]: I move —

That the bill be now read a second time.

The Building Amendment Bill 2012 addresses some problems that have become apparent with the Building Act 2011 since it came into operation on 2 April 2012. Members will recall that the Building Act and associated building services acts passed last year delivered the most comprehensive update of building regulation in over 50 years. As with any major reform in a large and complex industry, the implementation of these acts has identified a number of issues that have prevented the full benefits of the reforms from being realised.

Australian Bureau of Statistics figures showed a marked decline in housing approvals in April this year, with a partial recovery in May. In late May the Master Builders Association warned the government that if this decline continued, there may be serious cash flow implications for the housing industry, including the many subcontractors and suppliers that rely on steady work from project home builders. The government responded immediately with a series of targeted actions to address areas of delay or uncertainty in processing housing applications under the new Building Act. On 26 June 2012, I advised the house of these measures and that the government was considering amendments to the Building Act to address problems that could not be managed through advice or regulation changes. This bill contains several amendments to the Building Act 2011 identified by a working group of industry representatives as necessary to deal with urgent issues facing the volume housing industry.

The Building Act introduced new measures to require neighbour consent for work on boundaries or other land. These measures, although necessary to address some longstanding problems, have had additional unforeseen consequences. For example, it has become clear since April that the need to obtain neighbour consent in new subdivisions in which most lots are vacant and ownership changes rapidly through sales, has put an unreasonable burden on builders who routinely use vacant land for access or construction purposes. It has also become clear that the requirement to obtain neighbour consent to remove a fence in order to build a wall or other structure on a boundary is unreasonable if the wall has been properly authorised through planning and building approvals. Each of these examples has been a major cause of frustration for builders seeking to complete an application for building approval. The bill removes the offence of accessing land without consent when the land or buildings on it are vacant, and the offence of taking down a fence to build a boundary wall if a building permit has been granted to build the wall. The bill also provides a head of power for regulations to prescribe the nature of neighbour consent required for all work that affects other land.

The Building Act introduced a new process of ministerial order to provide a rapid response when building permits cannot be obtained for reasons beyond the control of applicants. Ministerial orders were successfully used to address processing delays for domestic building work by allowing work to commence when a permit application had been lodged. New provisions in this bill will expand the scope of ministerial orders to include modifying the need for owner or builder signatures. Housing builders have found it difficult to obtain signatures, and local governments processing applications have been uncertain about the level of proof of ownership that they need to be satisfied about in order to issue a permit. A ministerial order will allow this requirement to be relaxed for some applications while builders and local governments get used to the new processes. The ongoing need for owners and builders to agree to be bound by the requirements of a building or demolition permit will be considered when the operation of the Building Act is reviewed.

The bill will provide a head of power for regulations to clarify how permit authorities can request missing information as an alternative to refusing a deficient application. This will differentiate between an informal request that has no impact on the prescribed time for processing an application and a formal request that stops the clock pending provision of missing information. The bill will also change the way processing time is affected by a request for missing information. Where previously the time available to the permit authority to process an application was re-set whenever missing information was provided, the bill will change this so that the time is paused when a request is made, and only the residual of the prescribed time will be available to process the complete application.

In addition, certain aspects of the act will be put beyond doubt in order to avoid unintended interpretations of key act provisions. These include making clear that local governments have the power to arrange and issue compliance certificates, make arrangements with other local governments to provide these services, and be

named as the builder on a building permit. By precluding legal challenges to local governments' powers to do these things, the bill will avoid unintended consequences and support the flexibility inherent in the act.

By using the consistent expression "applicable building standards", the bill will confirm the original intention that regulations can prescribe different building standards for different types of applications under the act, and clarify what version of the building standards in the Building Code applies to various applications under the act, including applications for building or demolition permits, and occupancy permits or building approval certificates. Clarification of building standards will potentially save extra cost for owners of authorised commercial buildings who might otherwise be required to meet new building standards in order to obtain occupancy permits. Nevertheless, such buildings will continue to be required to meet the current safety and health building standards. This has the additional benefit of preserving the validity of the certificate of design compliance for such buildings issued at the time the building was authorised.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party. Nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 4912.]

Debate adjourned, pursuant to standing orders.