

BUILDING SERVICES (COMPLAINT RESOLUTION AND ADMINISTRATION) BILL 2010

Introduction and First Reading

Bill introduced, on motion by **Mr W.R Marmion (Minister for Commerce)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR W.R. MARMION (Nedlands — Minister for Commerce) [12.47 pm]: I move —

That the bill be now read a second time.

The Building Services (Complaint Resolution and Administration) Bill brings significant reform to the Western Australian building complaint and compliance process. I acknowledge the previous government in preparing the way for such important legislative reforms. The main impetus for this bill arises from the need to update the current building dispute and enforcement processes in the Builders' Registration Act 1939. In the mid-1980s, all Australian jurisdictions except Western Australia modernised their building legislation. Much has changed in the building industry and society since the current legislation was enacted. Accordingly, the state needs to update its mechanisms for dealing with disputes of this nature.

The bill implements key recommendations of two inquiries that considered the current building dispute resolution framework. An inquiry launched in June 2007 by the Legislative Council Standing Committee on Legislation concluded that the current Building Disputes Tribunal—BDT—should have its functions transferred to the State Administrative Tribunal. Similarly, the Gunning Committee of Inquiry into Fair Trading Boards and Committees in 2000 also recommended major changes to the operation of the BDT.

The bill creates a statutory officer, to be known as the Building Commissioner, with primary responsibility for implementing and administering the suite of reforms to the building process and the regulation of the building industry in the state. The Building Commissioner will serve as executive director of the Building Commission, which currently operates as a division of the Department of Commerce. The Building Commissioner will be responsible for a wide range of functions in the cognate bills, including dealing with complaints and enforcement; overseeing building legislation; setting and monitoring building standards; providing advice, information and education on building service matters to consumers and industry; administering the registration of practitioners; and advising the government.

The key reform made by this bill relates to how building complaints or disputes are handled. The bill provides for a two-stage dispute resolution service, with complaints being received and dealt with at the front end by the Building Commissioner and intractable disputes being determined by SAT. For the first time, a formal process of conciliation will be put in place to bring together both parties to a building dispute in an attempt to reach an agreement before the dispute becomes entrenched and the courts become involved. This will ensure a more cost-effective and consumer-friendly process that saves time, money and resources for both the parties involved and the court system.

When a building dispute is unable to be resolved by the Building Commissioner, the bill provides for the matter to be heard and determined by SAT. SAT is a full-time specialist legal body already in operation that is independent of the Building Commission. By allowing SAT to hear complaints, SAT will be able to determine building disputes impartially and in a more professional, timely and consistent fashion.

A further key reform addressed by this bill relates to the inclusion of standard powers of inspection and investigation to examine issues concerned with the standard of work and the conduct of building service providers. Currently, the powers are antiquated and weak. There are no powers, for example, to compel the provision of information or to obtain a warrant to gather basic evidence. The result is that when a complaint or information regarding a potentially serious breach of the law by a builder is received, investigators effectively must ask for the builder's cooperation in the investigation.

To correct these deficiencies, the bill provides inspection and investigation powers relevant to a wide range of building-related occupations that are consistent with the powers contained in other modern occupational licensing statutes. Power to conduct audits of building work is also provided to enable the Building Commission to monitor building standards and as a means to inform building industry policy. Investigators and inspectors must be duly authorised by the Building Commissioner, and standard entry by warrant processes and powers will apply. Inspectors will also be empowered to order works to cease during the course of an inspection in the event that a dangerous situation is identified.

The bill establishes a building services account under the Financial Management Act 2006. The account will primarily be credited with funds raised from a building services levy that will be payable for building permits

and building approval certificates. The building services account can also receive registration fees, costs and other relevant moneys. The building services levy is imposed under the Building Services Levy Bill 2010 and replaces the levy currently levied under the Builders' Registration Act 1939.

In summary, this bill will significantly streamline and improve the way building disputes are handled in this state, and provide modern inspection and investigation powers to protect the public. I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.