

FACT SHEET

Building Bill 2016 **&** ***Building (Consequential Amendments) Bill 2016***

The Building Bill 2016 is a new approach to building and construction in Tasmania. It is part of the revised Tasmanian Building Regulatory Framework which reduces unnecessary red tape and supports the industry, whilst providing additional support and protection for consumers.

Key features of the Bill include:

- Accreditation of building practitioners moved to the *Occupational Licensing Act 2005*.
- Building, plumbing and demolition approvals based on risk. Low risk work can be performed by a licensed practitioner without the need for a permit. Medium risk work, assessed by a building surveyor, can be performed by a licensed practitioner without the need for a permit, but the council must be notified. High risk work requires a permit.
- The Director of Building Control may make Determinations to react to changing circumstances within the Building and Construction Industry (for example, the introduction of new technologies or materials).
- The Director of Building Control will exercise greater oversight of permit authorities and building surveyors and increased compliance auditing of practitioners.
- Greater clarity of role and functions of building surveyors and strengthened immunity from litigation when performing statutory role.
- Owner builders are limited to two projects in a ten year period, residential only.
- Clearer process for granting occupancy permits.
- Improved process for granting temporary occupancy permits.
- Clarified responsibilities for performance of maintenance of essential building services.
- Building Levy replaced by Building Administration Fee of the same quantum, but now payable on building and plumbing work over \$20,000 instead of \$12,000.
- Greater emphasis on rectification of defective work and responsibility for higher standards by responsible builders or plumbers.
- Permit authority or building surveyor may serve Notices and Orders where illegal works have been performed, or a building is no longer fit for occupation.
- Additional requirements for building in hazardous areas to be provided through building regulations.

Accreditation of practitioners

The accreditation of building practitioners will be moved into the *Occupational Licensing Act 2005* ensuring that the Building Act is about the process of building.

However the Building Bill retains the role of councils, building surveyors and the Director of Building Control to ensure rectification of defective work.

Regulatory processes for new building or plumbing work

The Building Bill proposes significant changes to the way building and plumbing approvals are made.

Previously all work required a building or plumbing permit unless it was exempted by the regulations. However that imposed high costs for some relatively straightforward work. For example, it was not uncommon for the cost of a building permit for a shed to exceed the cost of the shed itself.

Building, plumbing and demolition work have now been assigned to risk-based categories. The Director of Building Control will issue a comprehensive list of the type of work in each category. This list has already been shared with stakeholders and refined with their assistance and endorsement.

For high risk building or plumbing work the owner will need to apply for a permit from their local council, in the same way they do now. This will be referred to as "Permit" work.

For medium risk building work, a private building surveyor will be able to assess the proposed work, and if it is likely to comply with this Act, the building surveyor will be authorised to issue approval for the work to proceed. The building surveyor will then notify the council that this work will be undertaken, and then notify the council again when the work is complete.

This medium risk work which does not require a permit from the council will be referred to as "Notifiable" work.

For medium risk plumbing work, the council plumbing surveyor will give approval for the work to proceed.

For low risk work, no permit or notification will be required, but the work must be carried out by a licensed builder or plumber.

Director of Building Control

With the changes to building and plumbing approval processes, there is a greater role for the Director of Building Control in ensuring that standards are still met.

The new Building Bill expands the functions of the Director of Building Control in these areas:

- Compliance auditing of standards and practitioners and others.
- Ensuring that standards of work meet minimum the National Construction Standard.
- Greater oversight of statutory functions of permit authorities and building surveyors and the collection of information about their activities.
- Making of Determinations for miscellaneous procedural requirements.
- Issuing of guidelines to assist in complying with this Act.
- Specifying time periods and the documents required for making applications.

Building Surveyors

The Bill continues private certification of building work by a licensed building surveyor. However, there are significant reforms:

- Clearer separation of private and council employed building surveyors to ensure no unfair competition.
- Clearer performance standards to enable consistency of approach to performing statutory functions.

Higher insurance premiums and litigation against building surveyors have been of concern to the profession. The Bill provides clarification of immunity from litigation for building surveyors when performing their regulatory role, where they have acted in good faith with due diligence.

The Bill also allows building surveyors to grant Temporary Occupancy Permits, instead of councils.

Other changes

Objectives

The Bill includes a statement of objectives. This gives clear guidance to practitioners and the community on meeting expected minimum standards and ensuring work does not negatively affect the health and safety of persons.

Technical Standards

The Bill references the National Construction Code for all technical requirements of building and plumbing work. That code is the minimum standard for all work in Tasmania. The NCC currently consists of the Building Code of Australia and the companion Plumbing Code of Australia.

Duties of Parties

The Bill allocates the responsibilities and duties of all participants in the building process including owners or developers, building and plumbing practitioners and local government.

Demolition work

A separate approval process has been introduced for demolition work, to avoid unnecessary steps that resulted from it being included with building work under the previous legislation. Demolition work will also be categorised as low, medium or high risk and therefore will be either no permit, notifiable or permit work. The focus will be on the safe performance of that work.

Required upgrading of certain buildings

Where new building work is performed on part of an existing building, the Bill clarifies when the whole building may need to be upgraded to meet current standards. Current or proposed new work, to more than half of the volume of the original building, will require the entire building to be upgraded to comply with current standards.

Council roles

The Bill retains Permit Authorities for granting Building and Plumbing permits for high risk work.

Other changes for councils include:

- More emphasis on risk based compliance and inspections.
- Permit Authorities take on compliance functions from the General Manager.

- Council has wide powers for dealing with non-compliance with the legislation.

Occupancy permits

More certainty is provided for granting of these permits, which are required after new work is completed, or where the building has undergone a change of its current use.

Temporary Occupancy Permits

Temporary occupancy permits can now be granted by a private building surveyor instead of only by the council. This will streamline applications and reduce the administrative burden for owners and event managers.

The Bill also allows a temporary occupancy permit to be granted to a particular temporary structure allowing its re-erection at different locations, providing considerable savings in fees for owners.

Maintenance of Essential Building Services

The Bill provides the requirements for the maintenance of a building's essential services. The emphasis is on having a schedule of essential maintenance tasks and an audit regime which ensures that tasks have been undertaken.

- Clarification that the maintenance responsibilities for a building are primarily with the building owner.
- Building owner to have an up to date maintenance schedule and records of maintenance tasks available for inspection by an authorised officer or the Tasmanian Fire Service.
- No longer a requirement to display an annual maintenance statement in the building.

Appeals

Any Decisions under the Bill affecting the rights or interests of parties may be appealed to the Resource Management Planning Appeals Tribunal (RMPAT).

Disability access Determinations

RMPAT continues in the current role of being an access panel for consideration of applications for modification of disability (access to premises) standards on grounds of causing unjustifiable hardship if the owner had to fully comply.

Building in Hazardous areas

The Bill provides for the application of additional requirements for the assessment of risks on building sites, design and construction requirements for building in certain areas, such as bushfire prone, landslip, erosion or flood-prone areas. Those detailed requirements are to be provided for in the building regulations, consistent with the current Building Act.

Regulations

The Bill provides for the making of building and plumbing regulations under the Act.

Transitional

Comprehensive transitional provisions are included in the Bill for a seamless change from the current Act and to facilitate moving accreditation of practitioners into the *Occupational Licensing Act 2005*.

Repealed legislation

The Bill repeals the *Building Act 2000*, and rescinds the *Building Regulations 2014* and the *Plumbing Regulations 2014*.

Building (Consequential Amendments) Bill 2016

Because the *Building Act 2000* and its regulations are referred to in many pieces of Tasmanian legislation, it is necessary to update these Acts to refer to the *Building Act 2016* and the new regulations. The Building (Consequential Amendments) Bill 2016 lists these changes.