



Building Act 2011 Overview

Key Objectives

- ▶ Provide a comprehensive system of building control in WA.
- ▶ Set standards for buildings and demolition work in WA.
- ▶ Deal with building or demolition work that affects other land.

Building control

A permit authority controls the construction, occupation and demolition of buildings and incidental structures through the issue of permits and enforcement of compliance with permits. Registered building surveyors certify the building's design compliance and work with designers and builders. This provides certainty of approval and reduction in approval times.

Building standards

The primary building standard for new building work is the Building Code of Australia. Regulations may prescribe extra standards for new work and different standards for work on existing buildings. The Building Commissioner can, on request, vary how a standard applies to a specific building. This will allow for innovation or to deal with unjustifiable hardship.

Existing buildings

Regulations can prescribe that existing buildings must comply with specified building standards or that owners must provide information to specified persons in relation to an existing building. This will cover existing requirements for smoke alarms and swimming pool barriers, and can be extended to deal with mandatory disclosure of energy ratings and other matters on sale or lease of a building.

Building and demolition permits

Building or demolition work requires a building permit or demolition permit unless specifically exempted by the Minister or the Building Regulations.

A builder must be registered under the Building Services (Registration) Act 2011 to do building work where:

- ▶ a building permit is required;
- ▶ the value is \$20,000 or more; and
- ▶ located in an area of the State set out in the Schedule to the Regulations.

A demolition contractor may also need to be licensed with WorkSafe under the Occupational Safety and Health Act 1984.

Work affecting other land

Building or demolition work on or close to a boundary may affect adjoining or nearby land. Before work can be done that encroaches on it, adversely affects its structural bearing capacity or site drainage, or places a protection structure on it, the consent of the landowner must be obtained. If consent cannot be obtained, a court order can be sought. Similarly, fences cannot be removed or access gained to adjoining land, without consent or a court order. In the vast majority of applications, the neighbour's consent will not be required. A statement from a registered builder, building surveyor, engineer or architect that there are no adverse effects can be attached to the building permit application in order to satisfy this requirement.

Permit authorities

Local governments will remain the main permit authority responsible for building control. The State of Western Australia is also a permit authority, able to issue a permit for any building anywhere in the state. This power will primarily be used for government-owned buildings, but can also be used for private buildings of state significance, or where the State is obliged to give approvals under a State Agreement Act. Special permit authorities can also be created to allow local governments to join together to provide building control services, or to deal with special precincts that might cover more than one local government area.

Certified applications for building permits

A certified application is accompanied by a Certificate of Design Compliance signed by an independent building surveyor, that confirms the building will comply with the building standards and any other standard prescribed by the Regulations.

A certified application can be made for any class of building and gives certainty of approval and reduced approval times to building owners.

A permit authority has 10 business days to issue a building permit after receipt of a certified application.

Uncertified applications for building permits

An uncertified application is one in which the certification of building standards has not been done prior to the lodging of the permit application.

It is the role of the permit authority to arrange for the building to be certified and a Certificate of Design Compliance issued. An uncertified application is only available for single residential buildings or associated non-habitable buildings.

A permit authority has 25 days to issue a building permit after receipt of an uncertified application.

Occupancy permits

In order to occupy multi-residential, commercial and public buildings an occupancy permit is required. The occupancy permit sets out the building's classification under the Building Code of Australia and the use approved under planning laws. An occupancy permit may require inspections or tests of equipment or systems to ensure that the building remains safe to occupy. An occupancy permit is used to:

- ▶ occupy a completed building, following on from a building permit;
- ▶ occupy an unfinished building on a temporary basis;
- ▶ approve temporary change of use of a building, for a period of up to one year;
- ▶ approve permanent change of use of a building;
- ▶ confirm a building is suitable for registration of strata;
- ▶ retrospectively approve unauthorised building or demolition work; and
- ▶ bring an authorised existing building into the new building control system.

Building approval certificates

A building approval certificate is issued when an occupancy permit is not appropriate. It is used for retrospective approval or registering strata of single residential and associated non-habitable buildings or for bringing an authorised existing dwelling into the new Building Act requirements.

Applications for occupancy permits or building approval certificates

An application for an occupancy permit for a completed building must be accompanied by a Certificate of Construction Compliance signed by an independent building surveyor that confirms the building has been constructed in accordance with the relevant building permit.

An application for an occupancy permit for other uses or a building approval certificate must be accompanied by a Certificate of Building Compliance signed by an independent building surveyor that confirms the building complies with the relevant standards and is safe to occupy.

Enforcement

Permit authorities must ensure buildings are constructed and occupied in accordance with the relevant permit and may prosecute for failure to obtain a permit when required. Permit authorities will appoint authorised persons to inspect building work and issue building orders. A building order can be appealed to State Administrative Tribunal.

Building information

Permit authorities must keep a register of permits, building approval certificates and building orders, and make it available to the public. This keeps the community informed about what has been approved.

Permit authorities must also keep a copy of approved plans and specifications, and make them available for inspection by owners and interested parties. In due course electronic lodgement and storage will allow building records to be linked to the state's Shared Land Information Platform.

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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