



Government of **Western Australia**
Department of **Commerce**

Building
Commission

The New Building Approvals System

What the building industry needs to know about the Building Act

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Welcome to the new *Building Act 2011*

The implementation of the new Building Act is the final stage of major reform to building regulation in WA. It has been over fifty years since the last reforms, so it is time they were updated for our modern building industry.

The new rules will introduce some major changes to the way we do things and focus on improving the entire building process for all involved, introducing greater flexibility by allowing for the private certification of compliance with building standards. Also, a single application form that is common to all local government authorities makes the process easier for builders. This leaflet highlights some of the important changes.

What are some of the changes and how do they affect you?

Private certification

Builders can choose to engage local government or a private certifier to confirm the building design complies with building standards. A certificate of design compliance can be provided by a private certifier (registered "building surveying contractor") or a building surveyor employed by local government.

Visit the Building Commission's website to confirm the registration and qualification of building surveying contractors who can provide private certification as from 2 April 2012.

Time limits for local governments (permit authorities) to grant approvals

If your application has prior certification, for example a signed Certificate of Design Compliance, and any other required approvals, then the permit authority (the local government) has 10 business days to approve or reject the application. This kind of application is called a **certified application**. If the local government is being asked to confirm compliance with the BCA for Class 1 and Class 10 then the time limit is 25 business days. This kind of application is called an **uncertified application**.

You need to organise all information before applying for a permit

All prior approvals (planning, health, heritage, etc) need to be obtained **before** a certified application is made for a permit. If the application is not complete the permit authority can reject the application. Each application form has a guide and a checklist to help you fill in the form correctly.

Builders are required to provide a Notice of Completion or a Notice of Cessation

When a builder has finished the building work covered by the building permit, he/she must submit a Notice of Completion to the permit authority within 7 days. This is not connected to practical completion under a contract but both can be on the same day. If a builder is unable to complete a project, a Notice of Cessation must be provided to the permit authority within 7 days. All plans, specifications and evidence of tests/inspections up to that point must accompany the Notice.

Some other things you should know

The new Act sets out the new process for obtaining a building permit. It requires the person named on the permit as the builder to ensure that the building is completed in accordance with the plans and specifications in the certificate of design compliance and in accordance with the building permit.

The new Act also covers the building standards that must be complied with. Again, it is the responsibility of the person named as the builder on the building permit to ensure compliance with the applicable standards. As mentioned, all building work must comply with the new Act and Regulations and, of course, with the *Building Code of Australia* (BCA) unless specifically exempted.

The new legislation includes a separate Act covering the new processes for dealing with complaints. You should be aware that anyone can make an official complaint to the Building Commission about work done by a builder if they feel they have been adversely affected by the work.

Work affecting other land

The new Act deals with work affecting other land.

The key point to work affecting other land is that the owner, or the builder on behalf of the owner, must get consent from the owner of adjoining land before doing anything that may affect the land (or that might affect the neighbour). If there is a likelihood that the building work may require access to a neighbour's land, or if there may be a need to remove a fence or any other structure, owners should be advised and their consent obtained as early as is possible. If consent cannot be obtained, a court order can be applied for. A standard form to request consent is available from the Building Commission website.



Builders or owners must obtain consent from the owner of land affected by your building work.

What is work affecting other land?

Encroachments

The need to encroach will usually be identified at the design stage and be covered in the certificate of design compliance, so builders who are also responsible for design should ensure that either consent or a court order is obtained before construction commences. Encroachment without either of these is illegal.

Please note that adjoining owners are allowed to remove any encroachments placed without consent or a court order, so if there is any doubt about the exact position of a boundary it can be accurately located by a licensed surveyor.

Protection structures

These cannot be placed in adjoining land without either the consent of the owner or a court order, **except** in an emergency where it is necessary to prevent imminent collapse of or damage to land or building structure.

Adversely affecting other land

Building work must not reduce the stability or bearing of either the land or any building or structure on it. It must not change the natural site drainage in a way that reduces the effectiveness of the drainage of the land or existing or future buildings or structures on the land.

Removal of fences

Boundary fences or other similar boundary barriers must not be removed without the consent of the adjoining owner, or a court order, **except** in an emergency where it is necessary to prevent imminent collapse of or damage to land or building structure.

Finishes on close walls

The new Building Act requires walls built along boundaries to have a reasonable standard of finish on the side of the wall that faces the neighbour. These standards apply even when consent to access may not have been given by that neighbour.

Further information

Legislative

The legislation can be found on the Building Commission website at the following location: www.buildingcommission.wa.gov.au/regulations then click on 'Building Act 2011'.

The new rules come into force on 2 April 2012 so all applications from that date must be submitted on new forms which you will find at <http://www.buildingcommission.wa.gov.au/forms-publications/forms/> then click on 'Building Act'. You may find it useful to bookmark this page for future reference.

Industry Associations

You may also wish to check the websites of the MBA at www.mbawa.com and the HIA in Western Australia for any information they may provide at <http://hia.com.au/hia/region/WA.aspx>

Local Government

The *Building Act 2011* and the Building Regulations 2011 replace the old *Local Government (Miscellaneous Provisions) Act 1960* and the Building Regulations 1989.

Building Code of Australia

It is worth noting that the Building Code of Australia (BCA) is now part of the National Construction Code (NCC). The NCC has been developed on a national level to incorporate all on-site construction requirements into a single code. The NCC comprises the BCA as Volumes One and Two; and the Plumbing Code of Australia (PCA), as Volume Three. All three volumes are drafted in a format that allows a choice of Deemed-to-Satisfy Provisions (or flexibility) to develop Alternative Solutions based on existing or new innovative building, plumbing and drainage products, systems and designs.

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This publication is available in alternative formats upon request.

Disclaimer - The information in this fact sheet is intended as an explanatory guide to the legislation and requirements of the Building Act 2011 and its subsidiary legislation.