

Queensland



BUILDING ACT 1975

**Reprinted as in force on 1 June 1992
(includes amendments up to Act No. 52 of 1991 and SL No. 181 of
1991)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 1 June 1992. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the enacting words as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use gender neutral office names as permitted by section 25 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26(1) and (2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- reorder definitions as permitted by section 30 of that Act;
- use the names for instruments and provision units permitted by sections 31 and 32 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit certain provisions that are no longer required as permitted by sections 39 and 40 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act;
- correct minor errors as permitted by section 44 of that Act;
- make all necessary consequential amendments as permitted by section 7(1)(l) of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

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BUILDING ACT 1975

[as amended by all amendments that commenced before 1 June 1992]

An Act to prescribe standard by-laws for local authorities in respect of the erection of buildings and other structures, to prescribe the powers of local authorities in relation to certain buildings and other structures, and consequently to amend the *Local Government Act 1936* and the *City of Brisbane Town Planning Act 1964* each in certain particulars and for related purposes

PART 1—PRELIMINARY

Citation

1. This Act may be cited as the *Building Act 1975*³⁻⁶.

Commencement of Act

2.(1) Subject to section 7, the Governor may by proclamation—

- (a) appoint a date on which this Act shall come into operation; or
- (b) appoint dates on which the provisions of this Act specified in the proclamation shall come into operation.

(2) Such dates may be appointed in the one or in different proclamations.

(3) This Act or a provision thereof specified in the proclamation shall come into operation on the date appointed by proclamation made under this section for the coming into operation of this Act or, as the case may be, that provision.

Crown to be bound

4.(1) The provisions of this Act save—

- (a) such provisions as relate to the requirement to make application to a local authority for its approval to carry out building work;
- (b) such provisions of the Act, exclusive of the Standard Building By-laws, as confer on a local authority any power, authority or discretion or impose on a local authority any function or duty;

extend to and bind the Crown in right of the State, subject to the following provisions of this section.

(2) The carrying out on behalf of the Crown of building work shall not be unlawful by reason only of the absence of an approval by a local authority.

(3) In the application to the Crown in right of the State in respect of any building work being or to be carried out by or on behalf of the Crown in right of the State or by or on behalf of a person or body who represents the Crown in right of the State of any provision of the Standard Building By-laws that confers on a local authority any power, authority, or discretion or imposes on a local authority any function or duty, such provision shall be read and construed as if in every such case it conferred or imposed on the prescribed Minister or on a person authorised by the prescribed Minister for the purpose that power, authority, discretion, function or duty in place of the local authority.

(3A) The prescribed Minister is hereby empowered to authorise, either generally or in a particular case, any person to exercise a power, authority or discretion or to perform a function or duty construed under this subsection to be conferred or imposed on the prescribed Minister.

(4) Where building work is to be carried out by or on behalf of the Crown in right of the State or by or on behalf of a person or body who represents the Crown in right of the State, the local authority of the area in which the building work is to be carried out shall be supplied by the prescribed Minister or by a person authorised by the prescribed Minister for the purpose with such information as is prescribed by the Standard Building By-laws.

(5) For the purposes of this section—

- (a) the following shall be deemed to represent the Crown in right of the State within the limitations provided for in or under this

paragraph (a), that is to say—

- (i) the Queensland Electricity Generating Board constituted under the *Electricity Act 1976*, in respect of the carrying out of building work in relation to an electricity power station and its ancillary works on land declared by the Governor in Council, by order in council, to be land on which the board may erect such station or works in a capacity deemed to be representative of the Crown;
 - (ii) a Harbour Board constituted under the *Harbours Act 1955*, the Port of Brisbane Authority constituted under the *Port of Brisbane Authority Act 1976*, in respect of the carrying out of building work not being a building classified in Part A3 of the Building Code of Australia as forming part of the Standard Building By-laws;
 - (iii) any statutory body declared by the Governor in Council, by order in council, to the extent (if any) expressed in the order.
- (b) the expression “**the prescribed Minister**” means—
- (i) in the case where a department of the Government of the State is responsible for the carrying out of the building work in question—the Minister of the Crown for the time being administering that department; and
 - (ii) in the case where a board or an authority referred to in paragraph (a) or a statutory body specified in an order in council under paragraph (a) is responsible for the carrying out of the building work in question—the Minister of the Crown for the time being administering the Act under which the board, authority or body is constituted.

Use of Crown buildings in emergency

4A.(1) In so far as the provisions of this Act as relate to the classification of buildings under the Standard Building By-laws regulate the use to be made of such buildings, those provisions do not extend to and bind the Crown in right of the State where the use in question is authorised by the prescribed Minister.

(2) The prescribed Minister is not to authorise the use of a building for a

purpose that is contrary to the provisions referred to in subsection (1) unless the prescribed Minister is of the opinion that an emergency situation exists or is likely to exist such as justifies that use and the building is structurally adequate and reasonably suitable for that use.

(3) For the purposes of this section a board, authority or statutory body that is deemed to represent the Crown in right of the State for the purposes of section 4 is deemed to represent the Crown in right of the State for the purposes of this section.

(4) For the purposes of this section—

“prescribed Minister” means—

- (a) in the case where a department of the Government of the State is responsible for the building in question—the Minister of the Crown for the time being administering that department; and
- (b) in the case where a board, authority or statutory body that represents the Crown in right of the State is responsible for the building in question—the Minister of the Crown for the time being administering the Act under which the board, authority or body is constituted.

Interpretation

5. In this Act—

“area” means the district in which a local authority has jurisdiction and any place under the control of the local authority outside the boundaries of that district;

“building” means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a floating building and any part of a building;

“building tribunal” means a building tribunal constituted under Part 3;

“building work” means work in the nature of—

- (a) the erection, construction, underpinning, removal, repair, placing, alteration of, addition to, or demolition of, any building or other structure; and
- (b) the making of any excavation or filling for, or incidental to, the

erection, construction, underpinning, removal, repair, placing, alteration of, addition to, or demolition of, any building or other structure; and

- (c) the making of any excavation or filling—
- (i) for the purpose of facilitating the construction or erection of any building or other structure (whether now or at some future time) if the excavation may adversely affect the stability of, or the filling is likely to encroach upon, any land adjoining the allotment on which the excavation is made or the filling occurs; or
 - (ii) that may adversely affect the stability of any building or other structure on the allotment on which the excavation is made or the filling occurs or on any land adjoining that allotment;

but does not include work of a kind declared by the Standard Building By-laws not to be building work for the purposes of those by-laws;

“by-law” includes a by-law made by a local authority and an ordinance made by Brisbane City Council;

“chairperson”, in relation to a local authority, shall have the meaning assigned to it under the *Local Government Act 1936* and includes the Mayor of the City of Brisbane within the meaning of the *City of Brisbane Act 1924*;

“Commissioner of Fire Service” means the corporation sole constituted under section 15 of the *Fire Service Act 1990*;

“committee” means the Building Advisory Committee constituted under Part 4;

“Director” means the Director of Local Government for the State, and includes any person who at the material time performs the duties of the Director;

“erect” includes—

- (a) erect or commence or continue to erect; and
- (b) do or commence or continue to do work in the course of or for the purpose of erecting; and

- (c) perform any structural work or make or do any alteration, addition or rebuilding; and
- (d) move from one position on an allotment to another position on the same allotment or on another allotment or partly on the same and partly on another allotment; and
- (e) re-erect, with or without alteration, on or partly on the same or another allotment; and
- (f) where a building or other structure is located on more than one allotment—
 - (i) move to another position on the same allotments or any of them or on another allotment or other allotments or partly on the same allotments or any of them and partly on another allotment or other allotments; and
 - (ii) re-erect with or without alteration on another position on the same allotments or any of them or on another allotment or other allotments or partly on the same allotments or any of them and partly on another allotment or other allotments;

“local authority” means a local authority or joint local authority constituted under the *Local Government Act 1936* and includes—

- (a) any person who at the material time is to be deemed to be a local authority under that Act; and
- (b) Brisbane City Council constituted under the *City of Brisbane Act 1924*; and
- (c) any person or persons to whom are delegated any of the powers, authorities, duties and discretions had by a local authority;

“Minister” means the Minister of the Crown for the time being charged with the administration of this Act, and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;

“owner”, in relation to any land, building or other structure, includes any person having an estate or interest therein, or the occupier thereof, or any person who is a registered mortgagee or registered encumbrancee in respect thereof;

“registrar” means the registrar of building tribunals appointed under

section 20;

“**structure**” includes a wall or fence and anything that is affixed to or projecting from a building, wall, fence or other structure;

“**this Act**” includes the Schedule;

“**underpinning**” means the provision of support (whether permanent or temporary and including vertical or lateral support) for any land, building or other structure.

PART 2—STANDARD BUILDING BY-LAWS

Schedule prescribes Standard Building By-laws

6.(1) The by-laws set forth in the schedule, as amended from time to time, are the Standard Building By-laws of the State.

(2) Subject to any modification thereof duly made, the Standard Building By-laws shall have force and effect in every area, on and from the coming into operation of the schedule.

(3) The Standard Building By-laws having force and effect in any area, whether as enacted in the schedule or as duly amended, or duly modified in relation to any area, shall be administered by the local authority having jurisdiction in that area as if they were by-laws duly made by that local authority.

(4) A reference in this Act to the Standard Building By-laws shall be taken to include a reference to those by-laws as modified under section 9.

Amendment of Standard Building By-laws

8.(1) The Governor in Council may, by order in council, amend the Standard Building By-laws in such manner as the Governor in Council thinks fit, and every amendment so made shall have force and effect (unless it is disallowed according to law) as if it had been made by Parliament and shall become and be part of the Schedule.

(1A) An amendment may be made under this section—

- (a) to repeal a provision of the by-law or any part of a by-law; or
- (b) to substitute a new by-law or provision for any repealed by-law or provision; or
- (c) to add a by-law or provision; or
- (d) to vary a by-law; or
- (e) to effect any other purpose that the Governor in Council thinks desirable.

(2) An amendment of the Standard Building By-laws shall not be made under this section where it is intended that the amendment to be effected thereby is to have force and effect in 1 or some only of the areas within the State.

Modification of Standard Building By-laws

9.(1) Where the Governor in Council is satisfied that the Standard Building By-laws having force and effect within any area should be modified the Governor in Council may, by order in council, modify those by-laws in such manner as he thinks fit and until the order in council is revoked or a further modification to those by-laws is duly made in respect of that area the Standard Building By-laws shall have force and effect in that area as so modified.

(1A) A modification of the Standard Building By-laws may be made for such purpose as is permitted by section 8 in relation to an amendment of those by-laws under that section and may be limited in its application as to any area or locality or otherwise as to time, place or circumstance as is specified in the order in council whereby it is made.

(2) A modification made under this section shall not have the effect of amending the Standard Building By-laws as enacted in the schedule for the time being.

Standard Building By-laws a complete code

11.(1) Subject to subsection (1A), the Standard Building By-laws shall, in respect of the carrying out of building work, be a complete code and a local authority shall not have power to make a by-law prescribing standards to be observed in the carrying out of building work within the meaning of

the Standard Building By-laws.

(1A) Subsection (1) applies subject to section 49H of the *Local Government Act 1936* (Control and regulation of swimming pool fencing).

(2) A by-law made by a local authority prescribing standards to be observed in the carrying out of building work within the meaning of the Standard Building By-laws and subsisting at the date of the commencement of the *Building Act Amendment Act 1978* shall be inoperative as from that date.

Application of Acts Interpretation Act

12. The provisions of the *Acts Interpretation Act 1954* apply in relation to an amendment or modification made under this Act to the Standard Building By-laws as if such amendment or modification effected a repeal or amendment of those by-laws by Act of Parliament.

Variation of Standard Building By-laws

12B.(1) Where building work is proposed to be carried out, is being carried out or has been carried out and that building work does not comply in all respects with the Standard Building By-laws, application may be made to have those by-laws varied by a building tribunal in its application to that building work in the particular or particulars specified in the application.

(2) The Crown in right of the State or a board, authority or statutory body deemed to represent the Crown in right of the State for the purposes of section 4 may make application in the manner prescribed by subsection (4)(a) for variation of the by-laws as provided for by subsection (1).

(3) An application shall not be made under subsection (1) for a variation in any particular that, under the Standard Building By-laws, lies within the power of a local authority to approve.

(4) An application under subsection (1) shall be made by—

- (a) lodging a duly completed notice of application in the prescribed form, together with the prescribed fee, with the registrar; and
- (b) giving a copy of the notice of application to the clerk of the local authority of the area in which the building work to which the application relates is proposed to be carried out, is being carried

out or has been carried out.

Constitution of building tribunal

12BA.(1) Upon receipt by the registrar of a duly completed application under section 12B, the registrar shall refer the matter of the application to the Director who shall thereupon constitute a building tribunal to determine the application.

(2) The registrar—

- (a) shall give to the member composing, or the chairperson of, the building tribunal the writing constituting the tribunal and the application or, if the application is not readily available, a copy of the application; and
- (b) shall give to each of them, the applicant and the clerk of the local authority to which a copy of the application is to be given under section 12B(4)(b), a copy of the writing constituting the building tribunal that is to determine the application.

Determination of application to vary

12C.(1) A building tribunal—

- (a) after considering an application made under section 12B; and
- (b) in the case of an application made under section 12B(1)—after consulting upon the application with the local authority of the area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out;

may—

- (c) approve the application; or
- (d) approve the application subject to conditions; or
- (e) refuse the application.

(2) The registrar shall, in writing, notify the building tribunal's decision on an application to the applicant and, in the case of an application made under section 12B(1), to the local authority of the area in which the building

work to which the application relates is proposed to be carried out, is being carried out or has been carried out.

(3) Such notification or notifications shall be given within 7 days from the date on which the building tribunal made its decision.

Effect of variation

12D. Where a building tribunal has approved an application made under section 12B(1) or (2), with or without conditions—

- (a) the Standard Building By-laws shall, subject to the result of any appeal brought in respect of the application, be construed to apply in relation to the building work to which the application relates, and to no further extent, as if they had been amended in accordance with the building tribunal's decision and, if that decision is subject to conditions, shall be so construed only if those conditions are satisfied; and
- (b) it shall not be competent to a local authority to refuse an application for its approval to carrying out of building work to which the building tribunal's decision relates on the ground that the building work does not comply with the Standard Building By-laws in the particular or particulars in which those by-laws are to be construed as if they had been amended.

Appeal from building tribunal's decision

12E.(1) An applicant dissatisfied with a decision of a building tribunal under section 12C may appeal against that decision to the Building Advisory Committee.

(2) Every such appeal shall be instituted within 30 days after notification of the building tribunal's decision is given to the applicant by the registrar, and not later, by lodging with the secretary to the committee a duly completed notice of appeal accompanied by the prescribed fee.

(3) A notice of appeal—

- (a) shall be in or to the effect of the prescribed form; and
- (b) shall specify the grounds of appeal and the facts and circumstances relied on by the appellant in support of those

grounds.

(4) If the secretary to the committee is of the opinion that an appeal, in respect of which a notice of appeal has been lodged, has not been instituted within the time prescribed by this section, the secretary shall as soon as practicable advise the Director of that fact and of the grounds for the secretary's opinion and if the Director is also of that opinion the secretary shall direct that no further action be taken in respect of that notice.

(5) Where the Director so directs, the secretary shall notify the appellant and, in the case of an application under section 12B(1), the clerk of the local authority of the area in which the building work to which the application relates is proposed to be carried out, is being carried out or has been carried out.

Procedure on appeal

12F.(1) Subject to this Act, as soon as is practicable after receipt of a notice of appeal, the secretary to the committee shall, after consulting with the chairperson of the committee, appoint a time and place when and where the committee will consider the matter of the appeal and shall notify the appellant of the time and place in writing.

(2) If at the time and place so appointed a quorum of the committee is present, including at least 4 members of the committee of whom none was a member of the building tribunal against whose decision the appeal in question is brought, the committee—

- (a) shall enter upon consideration of the matter of the appeal; and
- (b) shall receive such representations on the matter of the appeal as are made to it by or on behalf of the appellant.

(3) If at the time and place so appointed or at any time and place to which the appeal is adjourned there is no appearance by or on behalf of the appellant (as permitted by section 49), it shall be taken that the appellant does not wish to make any representations or, as the case may be, further representations on the matter of the appeal and the committee may proceed to decide the appeal without further reference to the appellant.

(4) Upon its entering upon consideration of an appeal, the committee—

- (a) may adjourn the proceeding to such time and place certain as it

considers necessary to a proper consideration and decision of the appeal; and

- (b) shall be competent to give its decision on the appeal notwithstanding that a change or vacancy in its membership has occurred since the time of its entering upon such consideration; and
- (c) in respect of the decision appealed against—
 - (i) may confirm it; or
 - (ii) may vary it in such manner and to such extent as the committee thinks fit; or
 - (iii) may quash it.

(4A) The power of the committee to vary the decision appealed against includes the power to revoke that decision and approve the application in respect of which the decision was made, with or without conditions.

(5) The secretary to the committee shall, in writing, notify the committee's decision on an appeal to the appellant, the registrar and, except in the case of an appeal lodged by the Crown in right of the State or by a board, authority or statutory body deemed to represent the Crown in right of the State for the purposes of section 4, where the decision has the effect of approving, with or without conditions, an application made under section 12B(1), the secretary shall also, in writing, notify the local authority of the area in which the building work to which the application relates is proposed to be carried out, is being carried out, or has been carried out.

Effect of committee's decision

12G.(1) The decision of the committee upon an appeal against a decision of a building tribunal under section 12C—

- (a) shall, subject to the right of appeal conferred by this Act, be final and binding; and
- (b) shall be deemed to be the building tribunal's decision on the application in respect of which it made its decision appealed against; and
- (c) where it has the effect of approving such application, with or without conditions—shall have the effect prescribed by section

12D for a variation approved by a building tribunal.

(2) Where the decision of the committee referred to in subsection (1) is not appealed under this Act, that decision takes effect upon the expiration of the period within which any such appeal could have been duly instituted.

(3) An appeal duly instituted under this Act against a decision of the committee referred to in subsection (1) acts as a stay of that decision until the appeal is disposed of or struck out.

Transitional provisions

13.(1) Building work that was lawfully carried out before the coming into operation of the Standard Building By-laws shall not cease to be lawfully carried out by reason of its not conforming in any respect with any provision of those by-laws.

(2) Where—

- (a) the lawful carrying out of building work had commenced before the coming into operation of the Standard Building By-laws; or
- (b) approval of a local authority to the carrying out of building work had been granted before the coming into operation of the Standard Building By-laws, but such building work had not commenced before such coming into operation; or
- (c) approval of a local authority to the carrying out of building work had been duly sought before the coming into operation of the Standard Building By-laws, but the application for such approval had not been disposed of before such coming into operation; or
- (d) planning for the carrying out of building work had commenced before the coming into operation of the Standard Building By-laws and the local authority having jurisdiction in the area where the building work is to be carried out is of the opinion that to require the building work to be replanned so as to conform with those by-laws would cause hardship to the person for whom the building work is to be carried out having regard to—
 - (i) the stage the planning has reached; or
 - (ii) the nature of the building work; or
 - (iii) the means and circumstances of that person;

or any 1 or more of such matters;

it shall be lawful for the building work to be carried out or completed or for the approval of the local authority to be granted as the case may be, subject to and in accordance with the law in force and applicable in the area in question in respect of the carrying out of the building work in question at the material time before the coming into operation of those by-laws.

(3) The carrying out of building work comprising the erection of an alteration of or addition to a building or other structure that was erected before the coming into operation of the Standard Building By-laws shall conform with the provisions of those by-laws save where, in the opinion of the local authority having jurisdiction in the area in which the building or structure is located, the general safety and structural standards of the building or structure would not be impaired by the erection of the building or structure otherwise in which case it shall be lawful for the approval of the local authority to be granted otherwise than in accordance with those by-laws and for the building work to be carried out in accordance with such approval but otherwise than in conformity with those by-laws.

(4) Where approval of a local authority is sought to the carrying out of building work comprising the erection of an alteration of or addition to a building or other structure that was erected before the coming into operation of the Standard Building By-laws and in the opinion of the local authority the building or structure is unsafe or structurally unsound the local authority may require, as a condition of its approval of the erection, that the whole building or structure be brought into conformity with those by-laws or (if the local authority thinks fit) with such of the provisions of those by-laws as will ensure that the building or structure is made safe and structurally sound.

Provisions to effectuate s. 13

14.(1) For the purpose of effectually applying the provisions of section 13(2) and (3), by-laws in force in an area immediately before the coming into operation in that area of the Standard Building By-laws shall be deemed to continue to be operative notwithstanding their inconsistency in any respect with a provision of the Standard Building By-laws.

(2) The provisions of section 13 apply not only in relation to the initial coming into operation of the Standard Building By-laws within an area but also in relation to the coming into operation of—

- (a) the Standard Building By-laws substituted by the *Building Act Amendment Act 1991* in respect of that area; and
- (b) the Standard Building By-laws as duly amended or as duly modified in respect of that area from time to time;

and for that purpose the expression “**the coming into operation of the Standard Building By-laws**” is to be construed to include reference to the coming into operation of—

- (c) the Standard Building By-laws referred to in paragraph (a); and
- (d) the Standard Building By-laws as so duly amended or modified at the material time.

PART 3—REFEREES AND BUILDING TRIBUNALS

Appointment of referees

15.(1) The Minister may, by notification published in the Gazette, appoint such number of persons (qualified as prescribed) as the Minister thinks necessary to be referees for the purposes of this Act.

(2) A referee may be appointed in respect of the whole of the State or in respect of any portion of the State and the extent of the referee’s appointment shall be specified in the notification of the referee’s appointment.

(3) The jurisdiction of a referee as a member of a building tribunal may be exercised by the referee within the State or within the portion of the State specified in such notification, according to the terms of the referee’s appointment.

Qualification of referee

16.(1) A person is qualified to be a referee if the person is—

- (a) an architect registered in accordance with the *Architects Act 1985*; or
- (b) a professional engineer registered in accordance with the

Professional Engineers Act 1988; or

- (c) the holder of a current certificate of competency as an engineer issued under the *Local Authority Engineers and Overseers of Works Regulation* made under the *Local Government Act 1936*; or
- (d) registered under the *Builders' Registration and Home-owners' Protection Act 1979* as both a registered house builder and a registered general builder neither of which registration is subject to any condition or restriction and who after—
 - (i) completion of the person's apprenticeship; or
 - (ii) a date determined by the committee;
 has had not less than 8 years' experience in building construction; or
- (e) considered by the Minister to have a knowledge of this Act or of matters relating to fire safety such as would enable the person to adequately discharge the functions of a referee.

(2) An officer of the Department of Housing and Local Government or of any other department of the public service of the State may be appointed as a referee, if the officer is otherwise qualified as prescribed, and may hold that appointment in conjunction with any other appointment the officer holds in the public service.

Term of referee's appointment

17.(1) A person may be appointed as referee for any term not exceeding 3 years as the Minister thinks fit.

(1A) The term of appointment shall be specified in the notification of appointment.

(1B) A referee, if the referee remains qualified as prescribed, is eligible for re-appointment.

(2) A referee may at any time—

- (a) resign the referee's appointment as such by writing under the referee's hand given to the Minister;
- (b) be removed from the referee's appointment as such by writing

under the hand of the Minister given to the referee.

Remuneration of referee

18.(1) A referee, as a member of a building tribunal, shall be paid such remuneration as the Governor in Council from time to time determines.

(2) A referee who is an officer of the public service of the State shall not be paid any remuneration on account of acting as a member of a building tribunal during the referee's ordinary hours of duty as such an officer but shall be entitled to expenses necessarily incurred by him or her in so acting.

Referee to make declaration

19.(1) A person appointed as a referee shall make and subscribe before a justice of the peace a declaration in the prescribed form, before the person first sits as a member of a building tribunal.

(2) A referee, having made such declaration, shall forthwith send the same to the Director.

Building tribunals

19A.(1) There shall be constituted from time to time for the purposes of this Act 1 or more tribunals each to be known as a building tribunal.

(2) Subject to this Act a building tribunal shall determine any matters arising for its determination with all reasonable despatch.

(3) A building tribunal has jurisdiction to determine any matter referred to it under this Act.

Membership of building tribunal

19B.(1) A building tribunal may consist of 1 but shall consist of not more than 3 referees nominated in writing by the Director having regard to the matter or matters with which the building tribunal is to deal.

(2) A building tribunal that is to consider an application for a variation of the Standard Building By-laws under section 12B made by the Crown in right of the State or a board, authority or statutory body deemed to represent

the Crown in right of the State for the purposes of section 4 shall—

- (a) where the tribunal is to consist of 1 referee only—have as its member a referee employed by the Crown in right of the State; or
- (b) where the tribunal is to consist of 2 or more referees—have at least 1 member who is a referee employed by the Crown in right of the State.

(3) In respect of a building tribunal that is to consist of 2 or more referees, the Director shall—

- (a) consult with a representative of the Local Government Association of Queensland in respect of the nomination of at least 1 of the referees; and
- (b) in the writing nominating the referees as members of the tribunal, appoint 1 of their number as chairperson of the tribunal.

Procedure of building tribunal

19C.(1) A building tribunal shall meet at such times and places as it determines and conduct its business in the manner prescribed or, in so far as the manner is not prescribed, as it thinks fit.

(2) A matter arising for determination by a building tribunal consisting of 2 or more members shall be determined by majority vote of its members present at a meeting.

(3) The chairperson of a building tribunal shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(4) An act or determination of a building tribunal shall not be invalid by reason only of a defect or irregularity in the nomination of a member of the tribunal or the appointment of a referee who is such a member.

Constitution of building tribunal

19D.(1) A building tribunal constituted to determine an objection or application must continue to be composed of the same persons.

(2) If a building tribunal is unable to enter upon or complete the determination of an objection or application, the Director may constitute another building tribunal to deal with the matter de novo.

Referee not to act as member of building tribunal in certain cases

19E.(1) A referee shall not act as a member of a building tribunal in respect of an objection or application—

- (a) that concerns any building or other structure of which he or she is the owner or for which he or she is the architect, engineer, planner or builder, or in which he or she has directly or indirectly a specific interest; or
- (b) that concerns any building or other structure that is to be situated or is situated in the area of a local authority of which he or she is an officer or member.

(2) A referee who is employed by the Crown in right of the State or by a board, authority or statutory body deemed to represent the Crown in right of the State for the purposes of section 4 shall not act as a member of a building tribunal in respect of an application under section 12B if the referee—

- (a) is employed in the department of the Government of the State making the application or responsible for carrying out the building work to which the application relates; or
- (b) is employed by the board, authority or statutory body making the application.

Appointment of registrar and other officers

20.(1) The Governor in Council may, from time to time, by notification published in the Gazette appoint a registrar of building tribunals and such other officers as the Governor in Council thinks necessary for the effectual discharge of the functions of building tribunals.

(2) An officer of the public service of the State may be appointed under subsection (1) or may be assigned by the Director to perform duties to assist building tribunals and may hold such appointment or perform such duties in conjunction with any other appointment the officer holds in the public service.

PART 4—BUILDING ADVISORY COMMITTEE

Constitution of committee

21. There shall be constituted from time to time, for the purposes of this Act, a committee to be called the Building Advisory Committee.

Membership of committee

22. The committee shall consist of the following members—

- (a) 2 representatives of the Department of Housing and Local Government (1 of whom shall be chairperson) nominated by the Minister of the Crown who for the time being is responsible for that department; and
- (c) a representative of the Department of Administrative Services nominated by the Minister of the Crown who for the time being is responsible for that department; and
- (d) a representative of the Minister of the Crown for the time being charged with the administration of the *Fire Service Act 1990*; and
- (e) a representative of local authorities nominated by the executive committee of the Local Government Association of Queensland; and
- (f) a representative of Brisbane City Council nominated by that council; and
- (g) a representative of the Royal Australian Institute of Architects (Queensland Chapter) nominated by that chapter; and
- (h) a representative of the Queensland Master Builders Association nominated by that association; and
- (i) a representative of the Institution of Engineers, Australia (Queensland Division) nominated by that division; and
- (j) a representative of the Building Industry Specialist Contractors Organisation of Australia nominated by that organisation; and
- (k) a representative of the Housing Industry Association (Queensland Division) nominated by that division.

Appointment of members of committee

23.(1) Every member of the committee shall be appointed by the Governor in Council by notification published in the Gazette.

(1A) In the notification appointing the members referred to in section 22(a) the Governor in Council shall appoint 1 of them to be chairperson of the committee.

(2) An officer of the public service of the State may be appointed as a member of the committee and may hold that appointment in conjunction with any other appointment the officer holds in the public service.

(3) At least 1 month before the date when the committee is to be constituted or re-constituted the Minister shall cause notice in writing to be given to each person (other than the Minister) or body that is entitled, under section 22, to nominate a person to be a member of the committee and shall in the notice specify a date and shall require such person or body to furnish the Minister, before the specified date, with a nomination of a person to be appointed as a member of the committee.

(3A) If, by the specified date, 1 or more of the persons and bodies entitled to do so has not furnished the Minister with a nomination for appointment, the members of the committee may nevertheless be appointed from persons who have been duly nominated and, in addition, the Governor in Council may appoint any person as if the person had been nominated by a person or body entitled to make a nomination and who has failed to duly so do, and the committee so constituted shall be taken to have been duly constituted or reconstituted, as the case may be.

(4) The committee shall be taken to be constituted upon the publication in the Gazette of notification of the appointment of its members.

Term of Appointment of committee member

24.(1) A person may be appointed as a member of the committee for any term not exceeding 3 years as the Governor in Council thinks fit.

(1A) The term of appointment shall be specified in the notification of appointment.

(1B) A member of the committee shall be eligible for re-appointment.

(2) A member of the committee may at any time—

- (a) resign the member's appointment as such by writing under the member's hand given to the Minister;
- (b) be removed from the member's appointment as such by writing under the hand of the Minister given to the member at the direction of the Governor in Council.

Casual vacancies

25.(1) When a vacancy occurs in the office of a member of the committee before the expiration of the member's term of appointment the Governor in Council may, by notification published in the Gazette, appoint another person (duly nominated) to the committee.

(1AA) Unless a person sooner resigns or is removed from the person's office as prescribed, a person appointed to fill such a casual vacancy shall hold office until the time when the person's predecessor's term of appointment would have expired.

(1A) Where the vacancy is in the office of the member who was chairperson of the committee, the Governor in Council, by notification published in the Gazette, may appoint 1 of the members referred to in section 22(a) to be chairperson.

(2) Where the vacancy has occurred in the office of a member nominated by a person or body other than the Minister, the Minister (if the vacancy is to be filled) shall cause notice to be given to the person or body who nominated the member in whose office the vacancy has occurred and shall in the notice specify a date and shall require such person or body to furnish the Minister, before the specified date, with a nomination of a person to be appointed to fill the vacancy.

(3) If such person or body fails to comply with the Minister's requisition before the specified date, the Governor in Council may appoint any person as representative of that person or body as if the person had been duly nominated.

Nomination of deputy members

26.(1) A person or body who or which is entitled, under section 22, to nominate a person to be a member of the committee may from time to time nominate another person as the deputy of the member nominated by that

person or body.

(2) Where under section 23(3) a person or body is required to nominate a person to be a member of the committee and that person or body fails to duly do so, the person appointed a member of the committee under that subsection is, for the purposes of subsection (1), taken to have been nominated by that person or body.

(3) Notification in writing of the nomination of a deputy member, otherwise than by the Minister, is to be given to the Minister as soon as practicable after that nomination.

(4) The Governor in Council may by notification published in the Gazette appoint the nominee as a deputy member of the committee.

(5) For as long as a deputy member's appointment as such continues, the deputy member is entitled to attend meetings of the committee in the absence of the member for whom that deputy member is deputising and is taken to be a member of the committee.

(6) The deputy of the member who is chairperson of the committee is, while attending any meeting in the absence of the chairperson, taken to be the chairperson of the committee.

(7) The appointment of a person as a deputy member terminates and is of no further effect—

- (a) in the case of an appointment expressed to be for the purpose of any meeting or meetings of the committee—upon the conclusion of that meeting or, as the case may be, the last of those meetings; and
- (b) in the case of an appointment expressed to be for a period—upon the expiration of that period; and
- (c) if the member for whom the deputy member is deputising dies or otherwise vacates the office of member.

Functions of committee

27. The committee—

- (a) shall consider and decide appeals brought under section 12E or 37; and

- (b) shall consider and advise the Minister on such matters as the Minister may refer to it from time to time; and
- (c) may initiate and refer to the Minister recommendations for amendment or modification of the Standard Building By-laws; and
- (d) may initiate consideration of and inform the Minister on matters touching the administration of this Act.

Remuneration of members

28.(1) A member of the committee or of any subcommittee appointed under section 28A shall be paid such remuneration as the Governor in Council from time to time determines.

(2) A member of the committee or of a subcommittee who is an officer of the public service of the State shall not be paid any remuneration on account of the member's attendance at meetings of the committee or subcommittee during the member's ordinary hours of duty as such an officer but the member shall be entitled to expenses necessarily incurred by the member in so attending.

Advisory and technical subcommittees

28A.(1) The committee may appoint such advisory subcommittees and technical subcommittees as it thinks fit to advise it on such matters within the scope of its functions as are referred to those subcommittees by the committee.

(2) A person may be appointed to be a member of a subcommittee whether or not the person is a member of the committee.

(3) An officer of the public service of the State may be appointed as a member of a subcommittee and may hold that appointment in conjunction with any other appointment the officer holds in the public service.

Proceedings of committee

29.(1) All business of the committee shall be conducted by a quorum at the least, which shall consist of 5 members.

(2) The committee shall meet at such times and places as it determines and shall conduct its business in such manner as is prescribed or, in so far as it is not prescribed, as it determines from time to time.

(3) The chairperson of the committee shall preside at all meetings of the committee at which the chairperson is present and, in the chairperson's absence from any meeting, the members present shall elect from their number a member who shall preside at that meeting.

(4) The person who presides at a meeting of the committee shall have a deliberative vote and, in the event of an equality of votes on any matter on which more than 3 members have voted, shall have a casting vote.

(5) A proceeding of the committee shall not be invalidated by reason of a defect in the appointment of a member or a deputy member or by reason of a vacancy in the membership of the committee.

Appointment of officers to assist committee

30.(1) The Governor in Council may, from time to time, by notification published in the Gazette, appoint a secretary to the committee and such other officers as the Governor in Council thinks necessary for the effectual discharge of the committee's functions.

(2) An officer of the public service of the State may be appointed under subsection (1) or may be assigned by the Director to perform duties on behalf of the committee and may hold such appointment or perform such duties in conjunction with any other appointment the officer holds in the public service.

(3) The secretary and other officers appointed or assigned as such under this section shall be paid such remuneration as may be prescribed but, in the case of an officer of the public service who holds the appointment or assignment in conjunction with any other appointment the officer holds in the public service, only upon the recommendation of the Director.

PART 4A—APPROVAL OF LOCAL AUTHORITIES

Approval to be obtained

30A.(1) A person shall not carry out or cause to be carried out building work in respect of which the Standard Building By-laws require the approval of the local authority unless such approval has first been obtained.

(2) An application to the local authority for approval referred to in subsection (1)—

- (a) shall be in or to the effect of the form prescribed for the application in the Standard Building By-laws; and
- (b) shall be accompanied by the plans, specifications, information and details prescribed from time to time in the Standard Building By-laws; and
- (c) shall be accompanied by the written consent, to the making of the application, of the owner of the land on which the building work is to be carried out if the applicant is not the owner.

(2A) An application is not duly made to the local authority unless subsection (2) is complied with.

(3) A person shall not, in, or in connection with, an application to a local authority for approval to the carrying out of building work make a statement that is false or misleading in a material particular knowing it to be false or misleading.

Action by local authority in respect of application

30B.(1) A local authority to which is made an application for approval to the carrying out of building work—

- (a) shall obtain a report from the appropriate building officer as to whether the building work complies with the Standard Building By-laws; and
- (b) shall forward to the Commissioner of Fire Service the information required to be furnished by it under the Standard Building By-laws;

and, after considering the building officer's report and any report received by it in respect of the building work from the Commissioner of Fire Service, the local authority shall determine—

- (c) whether the building work complies with the relevant provisions of the Standard Building By-laws, having regard to any variation of the application made under section 12C or 12F; and
- (d) if the building work does not so comply—the particulars in which it does not so comply.

(1A) In subsection (1)—

“appropriate building officer”, in relation to a report, means the principal building surveyor, deputy principal building surveyor, building surveyor or restricted building surveyor appointed by or under the Standard Building By-laws who having regard to the building work to which the application relates is, under those by-laws, competent to make that report.

(2) Following its making the determination required by subsection (1) and within the time required by this Act, a local authority shall decide on the application and in so doing may—

- (a) approve the application; or
- (b) approve the application subject to reasonable conditions as to matters to which this Act and the Standard Building By-laws are relevant; or
- (c) refuse the application.

(2A) In approving an application under subsection (2)(b) a local authority shall not subject the approval to conditions relevant to the effect of the building work on the amenity or likely amenity of the building work’s neighbourhood or to the aesthetics of the building work.

(3) The clerk of a local authority shall, in writing, notify the local authority’s decision on an application to the applicant and, where the decision has been made as the result of a direction of a building tribunal given under section 35, the clerk shall also, in writing, notify the registrar .

(3A) Such notification or notifications shall be given within 7 days from the date on which the local authority makes its decision.

(4) A notification given under subsection (3) shall—

- (a) identify the provisions of the Standard Building By-laws with which the building work does not comply (if any); and

- (b) state the grounds for the imposition of any conditions to which a local authority's decision on an application has been made subject; and
- (c) state the reasons for the refusal of an application by a local authority.

(5) An approval to the carrying out of any building work shall lapse and be of no further force or effect if the building work is not commenced or having commenced is not substantially completed within the time prescribed for that purpose in the Standard Building By-laws.

(6) In carrying out building work under the approval of a local authority, a person shall comply—

- (a) with the Standard Building By-laws; and
- (b) the terms of the approval and the conditions (if any) to which the approval is subject.

Local authority to advise applicant where town planning laws are applicable

30BA.(1) Where an application for approval to the carrying out of building work is made under this Act to a local authority, the local authority shall forthwith decide whether having regard to—

- (a) the Town Plan for the City of Brisbane in force under the *City of Brisbane Town Planning Act 1964*;
- (b) a town planning scheme having the force of law under section 33 of the *Local Government Act 1936*; or
- (c) an interim development by-law (being one made under section 33(21) of the *Local Government Act 1936* to regulate and control the subdivision and use of land and the erection or use of buildings or other structures on land to be included within a town planning scheme pending the coming into force of the scheme) that is applicable in respect of the area or part of the area of the local authority in which is situated the land to which the application relates;

the building work may be lawfully carried out only if—

- (d) the land on which the building work is to be carried out is rezoned

to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application was made; or

- (e) the approval, consent or permission of the local authority is obtained to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application was made;

or both those conditions are satisfied.

(2) Where, under subsection (1), a local authority decides that building work may be lawfully carried out only if the condition specified in subsection (1)(d) or (e), or both those conditions, is or are satisfied, it shall notify the applicant in writing of that decision within 14 days of its receipt of the application unless the necessary town planning application has or, as the case may be, the necessary town planning applications have been received by it.

(3) An applicant who is dissatisfied with the decision of the local authority contained in a notification issued under subsection (2) may appeal to the Local Government Court against that decision.

(4) The Local Government Court may allow an appeal under subsection (3) in whole or in part or may dismiss the appeal.

(5) An appeal under subsection (3) shall be instituted within 30 days after the date of the receipt by the applicant of written notification of the local authority's decision.

Times within which applications for approval to the carrying out of building work to be decided

30BB.(1) Subject to section 30BC(2), where an application for approval to the carrying out of building work, and the necessary town planning application or town planning applications in respect of building work, are made to a local authority, it shall decide on the application for approval to the carrying out of building work within—

- (a) where only 1 town planning application is required to be made—
14 days after the town planning application has been finally disposed of; or

- (b) where more than 1 town planning application is required to be made—14 days after the last town planning application has been finally disposed of;

or within 40 days after the date on which the application for approval to the carrying out of building work is received by the local authority whichever period is the last to expire.

(1A) Provided that where the application for approval to the carrying out of building work relates only to a building of Class 1 or 10 as classified by the Standard Building By-laws, the numeral '40' referred to in subsection (1) shall be construed as the numeral '30' and this subsection shall apply accordingly.

(2) For the purposes of this section and section 30BC, a town planning application shall not be taken to have been finally disposed of until—

- (a) where the application is required by law to be decided by the Governor in Council—when the Governor in Council decides the application and such decision is communicated to the local authority; or
- (b) where rights of appeal are conferred by law in respect of the application—
 - (i) subject to subparagraph (ii), when such rights have been exhausted and the result of the last appeal (if any) has been communicated to the local authority or the time limited by law within which those rights are to be exercised has expired without those rights having been exercised; or
 - (ii) in respect of rights of appeal conferred on objectors by section 22 of the *City of Brisbane Town Planning Act 1964* or section 33(18) of the *Local Government Act 1936*—when such rights have been exhausted, or the time limited by law within which those rights are to be exercised has expired without those rights having been exercised, and the local authority has made its decision in respect of the application.

(3) Where an application for approval to the carrying out of building work is made under this Act to a local authority and—

- (a) a notification is not given to the applicant under section 30BA(2) because no town planning application is necessary; or

- (b) a notification is given to the applicant under section 30BA(2) and upon appeal by the applicant under section 30BA(3) in respect of the decision contained in the notification the Local Government Court determines that no town planning application is necessary;

the local authority shall—

- (c) in the case referred to in paragraph (a)—decide the application within 40 days after the date on which the application is received by it except where the application relates only to a building of Class 1 or 10 as classified by the Standard Building By-laws in which case it shall decide the application within 30 days after the date on which the application is received by it; and
- (d) in the case referred to in paragraph (b)—decide the application within 14 days after the determination of the Local Government Court is communicated to the local authority.

(3A) Where the Commissioner of Fire Service objects under section 36J and the objection relates to an application for approval to the carrying out of building work, the time within which the application is required to be determined is that provided for in the preceding provisions of this section, or 7 days after the date on which the local authority receives written notice of the determination of the objection or of its having been withdrawn, whichever is the later to occur.

(4) A local authority may, with the prior approval of the Minister, by notice served on the applicant for approval to the carrying out of building work before the expiration of the period within which it would otherwise be required to decide the application under the preceding provisions of this section or, if that period has been extended under an approval or approvals previously given under this subsection, before the expiration of the period as so extended, extend or further extend the period.

When application for approval to the carrying out of building work to be refused

30BC.(1) Where an application for approval to the carrying out of building work is made under this Act to a local authority and a notification is given to the applicant under section 30BA(2), the local authority shall forthwith refuse the application if the applicant fails to make the necessary town planning application or town planning applications—

- (a) where no appeal is instituted by the applicant under section 30BA(3) in respect of the decision contained in the notification—within 90 days after the date on which the notification is given; or
- (b) where, upon appeal by the applicant under section 30BA(3) in respect of the decision contained in the notification, the appeal is terminated or the Local Government Court determines that a town planning application or town planning applications is or are necessary—within 90 days after the date on which notice that the appeal has been terminated or determined is communicated to the local authority;

or within such longer period as the local authority, with the prior approval of the Minister, allows.

(2) Where an application for approval to the carrying out of building work is made under this Act to a local authority and—

- (a) for the purposes of the application, the necessary town planning application is or has been made or, as the case may be, the necessary town planning applications are or have been made; and
- (b) that town planning application or, as the case may be, any of those town planning applications, upon being finally disposed of (within the meaning of that expression as defined in section 30BB(2)), is or are not approved;

the local authority shall refuse the application for approval to the carrying out of building work within 14 days after that town planning application or, as the case may be, the last of those town planning applications is finally disposed of.

No right of objection under section 31

30BD. There shall not be a right of objection to a building tribunal under section 31 in respect of the refusal by a local authority of an application for approval to the carrying out of building work under section 30BC.

Interpretation

30BE. In sections 30BA, 30BB and 30BC—

“Local Government Court” means the Local Government Court constituted under the *City of Brisbane Town Planning Act 1964*;

“town planning application” means an application for—

- (a) the rezoning of land the subject of an application for approval to the carrying out of building work to permit the use of the land or the erection or use of buildings or other structures on the land for the purpose in respect of which the application for approval to the carrying out of building work was made; or
- (b) the approval, consent or permission of a local authority to permit the use of land the subject of an application for approval to the carrying out of building work or the erection or use of buildings or other structures on the land for the purpose in respect of which the application for approval to the carrying out of building work was made.

Application of sections 30BA, 30BB and 30BC

30BF. Sections 30BA, 30BB and 30BC do not apply in respect of an application for approval to the carrying out of building work made to a local authority where the application was received by the local authority prior to the commencement of those sections.

Local authority to consider amenity and aesthetics on applications to erect certain buildings

30BG.(1) Despite the provisions of section 11, where an application for approval for the erection of a single detached Class 1 building or a Class 10 building as classified by the Standard Building By-laws is made under this Act to a local authority, the local authority, in addition to making a decision under section 30BA(1), shall forthwith also decide—

- (a) whether, in its opinion, the building when erected will have an extremely adverse effect on the amenity or likely amenity of the building’s neighbourhood; and
- (b) whether, in its opinion, the aesthetics of the building when erected will be in extreme conflict with the character of the building’s neighbourhood.

(2) Where under subsection (1), a local authority decides that—

- (a) a building when erected will have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood; or
- (b) the aesthetics of the building when erected will be in extreme conflict with the character of the building's neighbourhood;

it shall notify the applicant in writing of that decision and the reasons for the decision within 14 days of its receipt of the application or within such longer period as the Minister, before the expiration of the period of 14 days, allows.

(2A) If the Minister allows a longer period than 14 days, the local authority as soon as practicable thereafter shall advise the applicant of the expiry date of that longer period.

(3) If a local authority does not notify the applicant within the time prescribed by subsections (2) and (2A), the application for approval shall be dealt with in accordance with the preceding provisions of this Part.

(4) Where a local authority gives a notification to an applicant under subsection (2) and the applicant does not object against the decision in question, or does object and the objection is dismissed, the local authority shall refuse the application.

(5) Where a local authority gives a notification to an applicant under subsection (2) and the applicant objects against the decision and the objection is allowed or the application is varied, the local authority shall make a determination under section 30B in respect of the application within 7 days after the determination made under section 36H(2) is communicated to it.

(6) An application referred to in subsection (5) shall be decided in accordance with the preceding provisions of this Part as if the local authority were of the opinion that—

- (a) the building when erected will not have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood; and
- (b) the aesthetics of the building when erected will not be in extreme conflict with the character of the building's neighbourhood.

(7) Where a local authority in accordance with the requirement of

subsection (4) refuses an application, the decision of the local authority shall be final and binding on the applicant.

Provision of security in certain cases

30BH.(1) Where an application for a local authority's approval to the carrying out of building work relates to the removal and re-erection or removal or re-erection of a building or other structure, the local authority may, as a condition precedent to its approving the application or as a condition of the approval, require the applicant to deposit with it security in such amount and form as is determined by it by resolution.

(1A) The amount of the security required by the local authority shall be commensurate with the value of the building work to be carried out and in respect of which the Standard Building By-laws require the approval of the local authority.

(2) If a local authority approves the carrying out of building work and a condition of the approval requires the deposit of security under subsection (1), a person shall not carry out the building work or cause it to be carried out until the condition is complied with.

(3) If a local authority approves the carrying out of building work such as is referred to in subsection (1) and that approval lapses under section 30B(5) because the building work has not been substantially completed within the time prescribed for that purpose in the Standard Building By-laws, the local authority may, itself, cause such steps to be taken and such things to be done as it considers necessary so as to have that building work completed in accordance with the approval and for that purpose may utilise the whole or any part of the security lodged in respect of that building work.

(4) If a local authority approves the carrying out of building work such as is referred to in subsection (1) and there is lodged, under that subsection, a security in respect of that building work, the local authority—

- (a) may, having regard to the progress being made in carrying out that building work, from time to time refund part of that security to the person who gave it; and
- (b) shall, where that building work has been completed in accordance with that approval (otherwise than under subsection (3)), refund that security or, as the case may be, the balance of the security to

the person who gave it.

Application for preliminary decision

30C.(1) Before a person makes an application under section 30A to a local authority for approval to the carrying out of building work the person may make application to the local authority for its decision—

- (a) as to the application of the Standard Building By-laws to any aspect of the design or method of construction of the building work; and
- (b) where the building work involves the erection of a single detached Class 1 building or a Class 10 building as classified by the Standard Building By-laws, as to whether, in its opinion—
 - (i) the building when erected will have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood; or
 - (ii) the aesthetics of the building when erected will be in extreme conflict with the character of the building's neighbourhood.

(2) An application under subsection (1) shall—

- (a) be in or to the effect of the form prescribed for the application in the Standard Building By-laws; and
- (b) contain information which accurately identifies the aspect of the design and the method of construction of the building work to which the application relates; and
- (c) be accompanied by such other information (including drawings drawn to a scale that is reasonable in the circumstances) as will assist the local authority in deciding the application.

(2AA) The local authority may, in writing, request an applicant to provide it with such additional information as to it seems necessary to enable it to decide the application.

(2A) The local authority shall decide an application duly made to it under subsection (1)—

- (a) where subsection (1)(b) only is relevant to the application—within 14 days after it receives the application; or

- (b) where the application relates to a building of Class 1 or 10 as classified by the Standard Building By-laws and subsection (1)(b) is not relevant—within 30 days after its receipt of the application; or
- (c) in any other case—within 40 days after its receipt of the application.

(2AB) Where the local authority requests additional information under subsection (2) within the time within which it would otherwise be required to decide the application, the application is taken not to have been duly made until the information is received by the local authority.

(2B) A local authority may, with the prior approval of the Minister, by notice served on the applicant before the expiration of the period of 14 days, 30 days or, as the case may be, 40 days mentioned in subsection (2A) or, if that period has been extended under an approval or approvals previously given under this subsection, before the expiration of the period as so extended, extend or further extend the period.

(3) The clerk of a local authority shall, in writing, notify the local authority's decision on an application under subsection (1) to the applicant within 7 days from the date on which the local authority makes its decision.

(4) Where a local authority has given a decision on an application made under subsection (1) it shall subject to any alteration or reversal of the decision upon a reference or appeal under this Act be bound by that decision for the purposes of an application made to it under section 30A in relation to the building work to which the first application related.

Application of Act etc. to offshore building work

30D.(1) A person shall not, on foreshore abutting upon the area of a local authority or in or over the waters superadjacent or adjacent to such foreshore, carry out building work in respect of which the Standard Building By-laws would require the approval of the local authority were the building work within the area, unless the approval of that local authority has first been obtained.

(2) A local authority may exercise in respect of an application for approval to the carrying out of building work on foreshore or in or over the waters referred to in subsection (1) and in respect of building work being

carried out at such a site and in respect of the person for whom the building work is being carried out at such a site, all or any of the powers conferred on it by this Act or the Standard Building By-laws as if such site were within its area.

PART 5—OBJECTIONS AND APPEALS AGAINST LOCAL AUTHORITIES' DECISIONS

Division 1—Objections against local authorities' decisions

Objection to decision

31.(1) Subject to this Act, an applicant, or a person on whose behalf an application is made, to a local authority for—

- (a) approval to the carrying out of building work; or
- (b) a statement or certificate of classification of a building or other structure; or
- (c) a change of the classification of an existing building or other structure; or
- (d) a decision on an application under section 30C;

who is dissatisfied with the local authority's decision on the application may object against the decision to a building tribunal except where the decision is one referred to in subsection 30BG(2) or 30C(1)(b), in which case the applicant or other person may object to a panel constituted under section 36F.

(1A) If, after approving the carrying out of any building work, a Local Authority makes a decision in respect of that work with which the applicant for the approval, or other person on whose behalf the application was made, is dissatisfied, the applicant or other person may object against the decision to a building tribunal.

(2) The provisions of subsection (1) apply whether the application in question was made to the local authority under the Standard Building By-

laws or under the law in force prior to the coming into operation of those by-laws.

Institution of objection

32.(1) An objection under section 31 shall be instituted within 30 days, except in the case of an objection against a decision referred to in section 30BG(2) or 30C(1)(b), in which case it shall be instituted within 21 days after the notification given to the applicant by the clerk of the local authority informing the applicant of the decision against which the objection is to be made, and not later, by—

- (a) lodging a notice of objection, duly completed, together with the prescribed fee, with the registrar ; and
- (b) giving a copy of the notice of objection to the clerk of the local authority to whose decision the objection relates.

(2) A notice of objection—

- (a) shall specify the grounds on which the objector is dissatisfied with the decision to which it relates and the facts and circumstances relied on by the objector in support of those grounds; and
- (b) if a form of notice of objection is prescribed—shall be in or to the effect of that form.

Constitution of building tribunal or panel

33.(1) Upon receipt by the registrar of a notice of objection the registrar shall refer the matter of the objection to the Director who shall—

- (a) in a case to which paragraph (b) does not apply—constitute a building tribunal to determine the objection;
- (b) in the case of an objection against a decision referred to in section 30BG(2) or 30C(1)(b)—cause a panel to be constituted under section 36F.

(2) The registrar —

- (a) shall give to the member composing, or the chairperson of, the building tribunal the writing constituting the tribunal and the

notice of objection or, if the notice is not readily available, a copy of the notice; and

- (b) shall give to each of them, the objector and the clerk of the local authority against whose decision the objection is made, a copy of the writing constituting the building tribunal that is to determine the objection.

(3) If the registrar is of the opinion that an objection in respect of which a notice of objection has been lodged has not been instituted within the time prescribed by section 32, the registrar shall as soon as practicable advise the Director of that fact and of the grounds of the registrar's opinion and, if the Director is also of that opinion the Director shall direct that no further action be taken in respect of that notice.

(4) Where the Director so directs, the registrar shall notify the objector and the clerk of the local authority to whose decision the objection relates.

Duty of building tribunal

34.(1) As soon as is practicable after receipt by the member or, as the case may be, chairperson of a building tribunal of the writing constituting the building tribunal to be that which is to determine an objection and of the relevant notice of objection, or copy of the notice, the building tribunal shall appoint a time and place when and where it proposes to enter upon the determination and shall cause notice in writing of such time and place to be given to each of them, the objector and the clerk of the local authority against whose decision the objection is made.

(2) Before it determines any objection the building tribunal shall receive such representations on the objection as are made to it, in accordance with this Act, by or on behalf of the objector and the local authority.

(3) If at the time and place appointed by the building tribunal under subsection (1) or at any time and place to which it adjourns a proceeding under section 35 there is no appearance by or on behalf of the objector or the local authority (as permitted by section 49), it shall be taken that the party who does not so appear does not wish to make any representations on the matter of the objection and the building tribunal may proceed to determine the objection without further reference to that party.

Powers of building tribunal

35.(1) Upon its entering upon the determination of an objection a building tribunal—

- (a) may adjourn the proceeding to such time and place certain as it thinks necessary to a proper consideration and determination of the objection; or
- (b) may reverse the local authority's decision or vary the same in such manner and to such extent as it thinks fit; or
- (c) may dismiss the objection.

(2) Where an objection relates to an application for approval to carry out building work in respect of which the local authority to whom it was made has refused the application without making the determination referred to in section 30B(1)(d), the building tribunal may, either before or after entering upon the determination, direct the local authority, in writing, to decide the application in accordance with section 30B within a time limited in the direction by the building tribunal and, if it does so, shall notify the objector accordingly.

(2A) The building tribunal may from time to time by notice in writing to the local authority extend the time within which the local authority is to comply with a direction issued by it to the local authority, then—

- (a) the direction shall be construed as if the time as last so extended were limited in the extension in lieu of the time actually limited in the direction; and
- (b) the building tribunal shall notify the objector accordingly.

(3) Where a building tribunal has exercised the power conferred on it by subsection (2), it shall, upon receipt by it of notification by the clerk of the local authority concerned under section 30B(3), enter upon or continue with its determination of the relevant objection (in its amended form, where the objector has exercised the objector's entitlement conferred by section 35A) in accordance with section 34 and this section.

Amendment of notice of objection

35A. Where a building tribunal has exercised the power conferred on it by section 35(2), the objector is entitled to amend or add to the grounds of

the objector's objection, having regard to the decision of the local authority on the objector's application, before the building tribunal enters upon or continues with its determination of the objection under section 35(3).

Determination of building tribunal

36.(1) Upon a building tribunal determining an objection, the registrar shall give written notification of the determination—

- (a) to the objector; and
- (b) to the clerk of the local authority against whose decision the objection was made.

(2) If by its determination of an objection a building tribunal reverses or varies the decision of a local authority against which the objection was made, the determination shall take effect upon the expiration of the period allowed by this Act within which an appeal against it may be duly instituted as if it were the decision of the local authority in respect of the application to which that decision relates and, subject to the right of appeal conferred by this Act, shall be final and binding on the objector and the local authority.

(3) Where an appeal against the Building Tribunal's determination is duly instituted the effect of the determination shall abide the outcome of the appeal.

Division 1A—Objections against failure by local authorities to decide applications

Objection to building tribunal

36A.(1) Where an application referred to in section 31(1)(a) is made to a local authority and the local authority—

- (a) fails to make its decision on the application within the prescribed time; or
- (b) fails to inform the applicant of its decision (whenever made);

the applicant, or a person on whose behalf the application was made, may, at any time after the expiration of the prescribed time, make an objection in respect of that failure to a building tribunal.

(2) Every such objection shall be instituted by lodging with the registrar a duly completed notice of objection accompanied by the prescribed fee.

(3) A notice of objection shall be in or to the effect of the prescribed form.

Constitution of building tribunal

36AA. Upon receipt by the registrar of a notice of objection the registrar shall refer the matter of the objection to the Director who shall thereupon constitute a building tribunal to determine the objection.

Procedure on objection

36B.(1) As soon as is practicable after receipt by the registrar of a notice of objection, the registrar shall, in writing, inform the clerk of the local authority to which the application in respect of which the objection was lodged relates, of the receipt of the objection and require the clerk to furnish to the registrar, within a period of 14 days—

- (a) all relevant documentation (including plans and specifications) relating to the application in question; and
- (b) a statement setting out in detail the reasons why the local authority or its delegate had not decided the application in question within the prescribed time; and
- (c) any additional information which the registrar may request.

(2) The clerk of a local authority shall duly comply with the tenor of a requisition addressed to the clerk by the registrar, under subsection (1).

Reference to building tribunal

36C. Upon receipt of the material furnished to the registrar by the clerk of the local authority under section 36B(1), the registrar shall refer that material together with the notice of objection lodged, to the appropriate building tribunal for its consideration.

Powers of building tribunal

36D.(1) Upon its entering upon consideration of a reference under section 36C, the building tribunal may where it considers such action appropriate, by notice in writing, direct the local authority to decide the application to which the objection relates in accordance with section 30B within a time specified in such notice and, if it does so, shall notify the objector accordingly.

(1A) Any such notice may include such other lawful directions (not being directions in respect of matters subject to determination by the local authority under the Standard Building By-laws) as the building tribunal sees fit.

(2) The building tribunal may, from time to time by notice in writing to the local authority, extend the time within which the local authority is to comply with a direction issued by the building tribunal to the local authority, then—

- (a) the direction shall be construed as if the time as last extended were limited in the direction in lieu of the time actually limited in the direction; and
- (b) the building tribunal shall notify the objector accordingly.

(3) The local authority shall comply with the tenor of a direction issued upon it by the building tribunal under subsection (1).

Division 1B—Objections against decisions by local authorities on amenity and aesthetics

Constitution of panel

36F.(1) A panel constituted for the purpose of hearing an objection against a decision referred to in section 30BG(2) or 30C(1)(b) shall consist of three members of whom—

- (a) 1 shall be the chairperson of the Building Advisory Committee, or the chairperson's nominee (who shall be an architect), who shall be the chairperson of the panel; and
- (b) 1 shall be a person, not being a member or employee of the local authority whose decision is the subject of the objection,

nominated by the Director after consultation with the Local Government Association of Queensland; and

- (c) 1 shall be a person nominated by the Director after consultation with the Master Builders' Association of Queensland and the Housing Industry Association (Queensland Division).

(1A) If a panel is unable to enter upon or complete the determination of an objection another, panel may be constituted to deal with the matter de novo.

(2) Members of a panel shall be entitled to such fees and expenses for attendance at meetings of a panel as are approved by the Governor in Council save that a member of a panel who is an officer of the public service of the State shall not receive fees or remuneration for attendance at a meeting of a panel during the officer's ordinary hours of duty.

(3) The registrar is empowered to undertake such duties as are necessary for the effectual discharge of a panel's functions.

Duty of panel

36G.(1) As soon as is practicable after a panel is constituted under section 36F to determine an objection, the registrar, after consultation with the chairperson of the panel, shall appoint a time and place when and where the panel will consider the objection and shall give notice in writing of such time and place to the objector and the clerk of the local authority against whose decision the objection is made.

(2) At the time and place so appointed the panel shall enter upon consideration of the matter of the objection and, before it determines the objection shall receive such representations on the objection as are made to it, in accordance with this Act, by or on behalf of the objector and the local authority.

(3) If at the time and place appointed under subsection (1), or at any time and place to which consideration of the objection is adjourned under section 36H(1), there is no appearance by or on behalf of the objector or the local authority it shall be taken that the party who does not so appear does not wish to make any representations on the matter of the objection and the panel may proceed to determine the objection without further reference to that party.

Powers of panel

36H.(1) A panel may make such inspections and may adjourn consideration of an objection to such time and place certain as it considers necessary to a proper consideration and determination of the objection.

(2) A panel may—

- (a) allow an objection; or
- (b) dismiss an objection; or
- (c) with the consent of the objector vary the application in question so that in the opinion of the panel—
 - (i) the building when erected will not have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood; and
 - (ii) the aesthetics of the building when erected will not be in extreme conflict with the character of the building's neighbourhood.

Decision of panel

36I. When a panel has determined an objection the registrar shall give written notification of the determination—

- (a) to the objector; and
- (b) to the clerk of the local authority against whose decision the objection in question was made.

Division 1C—Objection by the Commissioner of Fire Service**Objection to decision**

36J. Where the Commissioner of Fire Service has under the Standard Building By-laws advised a local authority that any special fire services proposed to be included or included in a building do or do not comply with the requirements of those by-laws and the local authority has, under those by-laws, advised the Commissioner of Fire Service that it disagrees with that advice, the Commissioner of Fire Service may object in respect of that

disagreement to a building tribunal.

Institution of objection

36K.(1) An objection under section 36J shall be instituted within 7 days after the Commissioner of Fire Service is advised of the disagreement in respect of which it wishes to object, and not later, by—

- (a) lodging a notice of objection, duly completed, with the registrar; and
- (b) giving a copy of the notice of objection to the clerk of the local authority concerned.

(2) A notice of objection—

- (a) shall specify the grounds of the objection and the facts and circumstances relied on to support those grounds; and
- (b) if a form is prescribed—shall be in or to the effect of that form.

(3) The registrar shall give a copy of the notice of objection to—

- (a) where the disagreement relates to advice given in respect of an application for approval to the carrying out of building work—the applicant for that approval; or
- (b) where the disagreement relates to advice given in respect of a certificate of classification of a building—the applicant for that certificate.

Constitution of building tribunal

36L.(1) Upon receipt by the registrar of a notice of objection under section 36K, the registrar shall refer the matter of the objection to the Director who shall constitute a building tribunal to determine the objection.

(2) The registrar —

- (a) shall give the member composing, or the chairperson of, the building tribunal the writing constituting the tribunal and the notice of objection or, if the notice is not readily available, a copy of the objection; and
- (b) shall give to each of them, the Commissioner of Fire Service, the

clerk of the local authority concerned and the applicant to whom a copy of the notice of objection was given under section 36K(3), a copy of the writing constituting the building tribunal that is to determine the objection.

Duty of building tribunal

36M.(1) As soon as practicable after receipt by the member composing, or chairperson of, the building tribunal of the material referred to in section 36L(2)(a), the building tribunal shall appoint a time and place when and where it proposes to enter upon the determination and shall cause notice in writing of such time and place to be given to each of them, the Commissioner of Fire Service, the clerk of the local authority concerned and the applicant to whom a copy of the notice of objection was given under section 36K(3).

(2) Before it determines any objection made under section 36J, the building tribunal shall receive such representations on the objection as are made to it, in accordance with this Act, by or on behalf of the Commissioner of Fire Service, the local authority and the applicant to whom a copy of the notice of objection was given under section 36K(3).

(3) The applicant is a party to the proceedings before the building tribunal.

Powers of building tribunal

36N.(1) Upon its entering upon the determination of an objection made under section 36J, a building tribunal—

- (a) may adjourn the proceeding to such time and place certain as it thinks necessary to a proper consideration and determination of that objection; and
- (b) may determine whether the special fire services concerned do or do not comply with the requirements of the Standard Building By-laws.

(2) The determination by a building tribunal of an objection made under section 36J—

- (a) is final and, despite section 37, an appeal does not lie against that

determination to the committee; and

- (b) shall be given effect by the parties to the objection.

Notice of determination to be given to parties

360. Upon a building tribunal determining an objection, the registrar shall give written notification of the determination to each party to the proceedings before the tribunal.

Division 2—Appeals against building tribunals' determinations

Appeal to committee against building tribunal's determination

37. Subject to this Act, an objector who or a local authority that is dissatisfied with the determination of a building tribunal on an objection made under section 31 may appeal against such determination to the committee.

Institution of appeal

38.(1) An appeal under section 37 shall be instituted within 30 days after notification of the building tribunal's determination against which the appeal is to be brought is given by the registrar to the appellant, and not later, by—

- (a) lodging a notice of appeal, duly completed, together with the prescribed fee, with the secretary to the committee; and
- (b) giving a copy of the notice of appeal—
 - (i) in the case of an appeal instituted by an objector, to the clerk of the local authority against whose decision was made the objection that has led to such appeal; or
 - (ii) in the case of an appeal instituted by or on behalf of a local authority, to the objector.

(2) A notice of appeal—

- (a) shall specify the grounds of appeal and the facts and circumstances relied on by the appellant in support of those grounds; and

- (b) if a form of notice of appeal is prescribed—shall be in or to the effect of that form.

(3) If the secretary to the committee is of the opinion that an appeal in respect of which a notice of appeal has been lodged has not been instituted within the time prescribed by this section, the secretary shall as soon as practicable advise the Director of that fact and of the grounds for the secretary's opinion and if the Director is also of that opinion the Director shall direct that no further action be taken upon that notice.

(4) Where the Director so directs, the secretary to the committee shall notify—

- (a) in the case of an appeal instituted by an objector—the clerk of the local authority against whose decision was made the objection that has led to such appeal; and
- (b) in the case of an appeal instituted by or on behalf of a local authority—the objector.

Duty of committee

39.(1) As soon as is practicable after receipt by the secretary to the committee of a notice of appeal, the secretary to the committee, after consultation with the chairperson of the committee, shall appoint a time and place when and where the committee will consider the matter of the appeal and shall give notice in writing of such time and place to the appellant and to any other person or body, as the case may be, who was party to the proceeding before the building tribunal against whose determination the appeal is brought.

(2) If at the time and place so appointed a quorum of the committee is present, including at least 4 members of the committee of whom none was a member of the building tribunal against whose decision the appeal in question is brought, the committee shall enter upon consideration of the matter of the appeal and, before it decides such appeal, shall receive such representations on the matter of the appeal as are made to it, in accordance with this Act, by or on behalf of the appellant and such party.

(3) If at the time and place appointed under subsection (1) or at any time and place to which the appeal is adjourned under section 40 there is no appearance by or on behalf of the appellant or such party (as permitted by

section 49), it shall be taken that the party who does not so appear does not wish to make any representations on the matter of the appeal and the committee may proceed to decide the appeal without further reference to that party.

Powers of committee

40.(1) Upon its entering upon consideration of an appeal, the committee—

- (a) may adjourn the proceeding to such time and place certain as it considers necessary to a proper consideration and decision of the appeal; and
- (b) shall be competent to give its decision on the appeal even though—
 - (i) a change or vacancy in its membership has occurred since the time of its entering upon such consideration; or
 - (ii) no more than 3 of its members have attended at all times when the matter of the appeal has been considered; and
- (c) may confirm, or vary in such manner and to such extent as it thinks fit, the determination against which the appeal is brought; and
- (d) may quash the determination against which the appeal is brought.

(2) The power of the committee to vary the determination appealed against includes the power to revoke that determination and substitute for the determination its own determination which may include the imposition of conditions.

Decision of committee

41.(1) When the committee has decided an appeal the secretary to the committee shall give written notification of the decision—

- (a) to the appellant; and
- (b) to any person or body, as the case may be, who was party to the proceeding before the building tribunal against whose determination the appeal was brought.

(2) The decision of the committee on an appeal brought against a determination of a building tribunal on an objection shall take effect upon the expiration of the period allowed by this Act within which an appeal against it may be duly instituted and, subject to the right of appeal conferred by this Act, shall be final and binding on the objector and the local authority against whose decision the objection in question was made and on any other person who is affected by the decision.

(2A) Where an appeal against the committee's decision is duly instituted, the effect of the decision shall abide the outcome of the appeal and any further decision of the committee made as a result of the appeal.

(3) Where, because of the Local Government Court's remission of any matter to the committee under section 45, the committee makes a further decision on an appeal brought against a determination of a building tribunal on an objection, that further decision shall take effect as the committee's decision instead of any decision of the committee previously made on that appeal.

(4) If, by a decision of the committee, the determination of a building tribunal upon an objection is varied, the determination as so varied shall be deemed to be the determination of the building tribunal and shall take effect accordingly as prescribed.

Division 3—Appeals against committee's Decisions

Appeal to Local Government Court

42.(1) Subject to this Act, any person who or local authority that is aggrieved by a decision of the committee on an appeal brought against the decision of a building tribunal on an application made to it under section 12B or the determination of a building tribunal on an objection may appeal against the decision to the Local Government Court constituted under the *City of Brisbane Town Planning Act 1964*.

(1A) An appeal brought under subsection (1) shall be limited to the ground of—

- (a) want of jurisdiction in the committee; or
- (b) mistake or error of law by the committee.

(2) Jurisdiction is hereby conferred on the Local Government Court to hear and determine every such appeal duly brought.

Procedure on appeals to Local Government Court

43.(1) Subject to this Act, an appeal under section 42 shall be instituted within the time prescribed by this Act but in all other respects shall be brought, heard and determined and any order made in the appeal shall be enforced in accordance with the practice and procedure of the Local Government Court.

(2) The power to make rules of court conferred by section 33 of the City of *Brisbane Town Planning Act 1964* includes power to make such rules not inconsistent with this Act to govern the institution and conduct of appeals under section 42.

Institution of appeal

44. An appeal under section 42 shall be instituted within 30 days after notification of the committee's decision is given by the secretary to the committee to the appellant and not later.

Powers of court on appeal

45.(1) Upon the determination of an appeal duly brought under section 42 the Local Government Court—

- (a) may quash the decision of the committee, in whole or part, as the case requires, where the appeal is on the ground of want of jurisdiction; or
- (b) may declare the law and remit the matter, the subject of the appeal, to the committee with a direction that it make its decision according to law, where the appeal is on the ground of mistake or error of law; or
- (c) may dismiss the appeal.

(2) Upon the application of a person or local authority affected by delay in prosecuting an appeal brought under section 42, or of its own motion, the Local Government Court may strike out the appeal and make such order as

to the costs of the appeal as it thinks fit.

Appeal from decision of court

46. No appeal shall lie from a decision of the Local Government Court upon an appeal brought under section 42 save as prescribed with respect to decisions of that court by the *City of Brisbane Town Planning Act 1964* and the rules of that court and, subject thereto, every such decision shall be final and binding on the parties to the appeal and, where the case requires it, shall be given effect to by the committee.

Division 4—Regulation of proceedings under Act

Decisions and determinations reviewed only under Act

47. Save as is prescribed by this Act, no appeal lies from a local authority's decision of a kind referred to in section 31, or from a referee's, building tribunal's or panel's determination on an objection brought against such a decision, or from a building tribunal's decision under section 12C, or from a decision of the committee or the Local Government Court made in relation thereto or in connection therewith nor shall any such decision or determination be impeached for any informality or want of form or be reviewed, quashed or in any way called in question in any court.

Building tribunal, panel and committee control own proceeding

48. A building tribunal, panel or the committee shall not be bound by rules of evidence or of procedure or by any practice in relation thereto in the discharge of its function under this Act but may inform itself and may conduct proceedings in such manner as it considers sufficient to allow a proper discharge of that function and, in particular, may refer to a person considered by it to be an expert any question that appears to it to be of a technical nature or otherwise to require expert opinion by way of assistance to it and may accept the written report of that person as evidence in the proceeding.

Representation of parties

49.(1) Subject to subsection (3), a party to any proceeding before a building tribunal or a panel or the committee—

- (a) being a local authority or other incorporated person, may appear in that proceeding by its agent duly notified as prescribed; or
- (b) being a person other than one described in provision (a), may appear in that proceeding in person or by the person's agent duly notified as prescribed.

(2) Where any person proposes to appear in any proceeding by an agent, the person shall, at least 3 days before the date appointed for the commencement of the hearing, notify in writing the name, address and occupation of the agent—

- (a) in the case of a proceeding that is to determine an objection made under section 31—to the building tribunal or, as the case may be, panel constituted to determine the objection; or
- (b) in the case of a proceeding that is an appeal brought under section 37—to the secretary to the committee.

(3) In no case shall any person be represented before a building tribunal or a panel or the committee by an agent who has a legal qualification under the laws of this State or of any other place.

(4) Where an agent appears on behalf of any party to a proceeding before a building tribunal or a panel or the committee, it shall be conclusively presumed that the agent has sufficient authority to bind the agent's principal in all matters concerned in or arising out of the proceeding.

(5) Contravention of any provision of this section shall not invalidate the taking of the proceeding in which or in relation to which the contravention occurs, or any determination or decision made therein.

PART 6—REGULATORY POWERS OF LOCAL AUTHORITY

Notice to cease erection without approval

50.(1) If it comes to the knowledge of a local authority that building work or any part of building work is being carried out—

- (a) without an approval required by the Standard Building By-laws having been obtained in respect of the work; or
- (b) otherwise than in accordance with plans and specifications approved, and conditions (if any) imposed, by the local authority in connection with an application made for the purposes of the Standard Building By-laws;

the local authority may, by notice in writing, require the person to whom such notice is given to cease the carrying out of that building work or part.

(2) A notice given under subsection (1) shall be given to the owner of the land on which the building work in question is being carried out and to any person engaged in carrying out the building work in question.

(3) A person to whom a notice referred to in subsection (1) is given who fails to comply with the notice commits an offence against this Act.

(4) A notice under this section must state that the person to whom it is given has a right of objection under section 57.

Lawful to perform emergency work

51.(1) Where, because of an emergency that endangers the life or health of any person, or the structural safety of any building or other structure, it becomes necessary to carry out building work without an approval required by the Standard Building By-laws having been obtained in respect of the work, a person shall not be liable as for an offence on account of the person's performing or procuring to be performed such work if the person who performs such work gives to the local authority notice in writing of its commencement as soon as is practicable after its commencement.

(2) Subsection (1) does not apply in relation to the carrying out of building work in respect of which there exists a notice given under section

50.

(3) A person who, being required under the condition expressed in subsection (1) to give notice of the commencement of building work, fails to give such notice as prescribed commits an offence against this Act.

Buildings erected unlawfully

52.(1) If it comes to the knowledge of a local authority that any building or other structure has been erected—

- (a) without an approval required by the Standard Building By-laws having been obtained in respect of the building or other structure; or
- (b) otherwise than in accordance with plans and specifications approved, and conditions (if any) imposed, by the local authority in connection with an application made for the purposes of the Standard Building By-laws;

the local authority may, subject to section 54, by notice in writing, require the owner of the building or structure to perform such work on the building or structure as is necessary to bring the same into conformity with the Standard Building By-laws or, if in its opinion formed on reasonable grounds it is practically impossible to bring the same into such conformity, to demolish or remove the same, in any case within the time specified in such notice.

(2) If the owner of a building or other structure to which a notice given under subsection (1) relates fails to comply with such notice then—

- (a) the local authority may, itself, cause the building or structure to be demolished; and
- (b) the owner commits an offence against this Act.

(3) A notice under this section must state that the person to whom it is given has a right of objection under section 57.

Approval to be sought where building erected without approval

52A.(1) If it comes to the knowledge of a local authority that any building or other structure is being or has been erected without an approval

required by the Standard Building By-laws having been obtained in respect of the building or structure, the local authority may, by notice in writing, require the owner of the building or structure to apply to the local authority for that approval within a specified time.

(2) If an owner of a building or other structure to which a notice given to the owner under subsection (1) relates fails to comply with the notice the owner commits an offence against this Act.

(3) It is not competent to a person who, under a notice under subsection (1), applies for an approval required by the Standard Building By-laws, to withdraw the application.

(4) A person who, under a notice under subsection (1), applies to a local authority for an approval required by the Standard Building By-laws, shall comply with all written requisitions given to the person by the local authority for the supply of plans, specifications, drawings, certificates or other information relating to the building or other structure to which the application relates.

(5) An application of a type referred to in a notice under subsection (1), made in respect of the building or other structure to which the notice relates by or on behalf of the person to whom the notice was given shall be deemed to have been made under the notice.

(6) The other provisions of this Act which apply to or in respect of an application for the local authority's approval to the carrying out of building work apply, with such adaptations and modifications as may be necessary, to and in respect of an application made under a notice under subsection (1) except that section 30A(2)(c) does not apply to any such last application.

Building etc. dangerous, neglected or unfit for use or occupation

53.(1) If in the opinion of a local authority formed on reasonable grounds any building or other structure or any part of a building or other structure is dangerous, the local authority may, subject to section 54, by notice in writing, require the owner of the building or structure to do any 1 or more of the following:—

- (a) shore-up or otherwise secure such building or structure or part;
- (b) erect a proper hoarding or fence for the protection of persons using any road, path or way upon which the building or structure

or part abuts;

- (c) demolish or take down the building or structure or part;
- (d) repair the building or structure or part;
- (e) remove the building or structure or part;

as the local authority directs within the time specified in the notice.

(2) If in the opinion of a local authority formed on reasonable grounds any building or other structure or any part of a building or other structure is a ruin or so far dilapidated as to be unfit for use or occupation or is, from neglect or other cause, in a structural condition prejudicial to the inhabitants of or to property in the neighbourhood, the local authority may, subject to section 54, by notice in writing, require the owner of the building or structure to do any 1 or more of the following—

- (a) demolish the building or structure or part;
- (b) repair the building or structure or part;
- (c) remove the building or structure or part;
- (d) fence the land on which the building or structure or part stands;
- (e) repair any fence that encloses or is on that land;
- (f) secure the building or structure or part;

within the time specified in the notice.

(3) If in the opinion of a local authority formed on reasonable grounds any building or other structure or any part of a building or other structure is in a filthy or dilapidated condition, or is infected with disease, or is infested with lice, bugs, rats or other vermin, or is improperly constructed, or from any other cause is unfit to be used or occupied, the local authority may, subject to section 54, by notice in writing, require the owner of the building or structure to do any 1 or more of the following—

- (a) demolish the building or structure or part;
- (b) cleanse, purify and disinfect the building or structure or part so as to make it fit to be used or occupied;
- (c) repair the building or structure or part so as to make it fit to be used or occupied;
- (d) alter the building or structure or part so as to make it fit to be used

or occupied;

- (e) remove the building or structure or part;

within the time specified in the notice.

(4) If an owner of a building or other structure to which a notice given to the owner under any provision of this section relates fails to comply with such notice, then—

- (a) the local authority may itself cause such steps to be taken and such things to be done as it has, by the notice, required the owner of the building or structure to take or do; and
- (b) the owner commits an offence against this Act.

(5) A notice under this section must state that the person to whom it is given has a right of objection under section 57.

Local authority to give owner opportunity to show cause

54.(1) Before it gives a notice, which it is empowered to give under section 52 or 53, a local authority shall afford to the owner of the building or other structure in question an opportunity to show cause why the notice should not be given, by notifying the owner in writing of a day (being not earlier than 30 days after the giving of the notification), a time and place when and where the owner may show cause why the notice, which it is proposed to issue, should not be issued.

(1A) Provided that it shall not be necessary for a local authority to afford an owner an opportunity to show cause where it is proposed to give a notice under section 52 or section 53 in respect of the performance of work on a building or other structure which work in the opinion of the local authority is of a minor nature.

(2) Any person to whom a notification is given under subsection (1)—

- (a) may appear at the day, time and place so notified and take such steps as are calculated to show the prescribed cause; or
- (b) may endeavour to show the prescribed cause by writing furnished to the clerk of the local authority concerned at any time before the time so notified.

Register of notices given

55.(1) A local authority shall make and keep a register of—

- (a) all notices given by it under section 39(5) or (6) of the *Local Government Act 1936* before the commencement of this section, which are not complied with at such commencement; and
- (b) all notices given by it under sections 50, 52, 52A, 53, 54 and 56.

(2) The register shall show, in respect of every such notice—

- (a) the purport of the notice; and
- (b) the date on which the notice is given; and
- (c) the real property office description and postal address of the land on which is the building or other structure to which the notice relates; and
- (d) the name and address of the owner to whom the notice is given; and
- (e) the extent (if any) to which the notice has been complied with.

(3) The register shall be open to inspection by the public.

Building etc. made dangerous by act of nature or other calamity

56.(1) If in the opinion of a local authority found on reasonable grounds any building or other structure or any part of a building or other structure is, because of fire, flood, tempest or other act of nature, explosion, vehicle impact or other calamity, a danger to users of any road, path or way upon which the building or structure abuts or to which it is adjacent or to users of adjacent land, the local authority—

- (a) may, by notice in writing, require the owner of the building or other structure to do any 1 or more of the following—
 - (i) shore-up or otherwise secure such building or structure or part and erect a proper hoarding or fence for the protection of persons using any such road, path or way;
 - (ii) demolish or take down the building or structure or part;
 - (iii) secure the building or structure or part;

- (iv) repair the building or structure or part;
 - (v) remove the building or structure or part;
within the time specified in such notice; or
 - (b) may, itself, cause such steps to be taken and such things to be done as it could have required the owner of such building or structure to take and do by notice given under paragraph (a).
- (2) A notice given under subsection (1)(a) may specify different times within which the several requirements of the notice are to be complied with.
- (3) If an owner of a building or other structure to which a notice given to the owner under subsection (1) relates fails to comply with such notice, then—
- (a) the local authority may, itself, cause such steps to be taken and such things to be done as it has, by the notice, required the owner of the building or structure to take or do; and
 - (b) the owner commits an offence against this Act.
- (4) A notice under this section must state that the person to whom it is given has a right of objection under section 57.

Objection against local authority's notice

57.(1) A person to whom a notice is given under section 50, 52, 53 or 56 may object to the giving of the notice or to any requirement of the notice.

(2) An objection under subsection (1) shall be made—

- (a) in respect of a notice given pursuant to section 56—within 7 days;
- (b) in respect of any other notice—within 30 days;

after the giving of the notice and no later.

(3) An objection under subsection (1) shall be made to and be heard and determined by a building tribunal as if it were an objection made under section 31 and such building tribunal shall have and may exercise in respect of such an objection the jurisdiction conferred on it by Division 1 of Part 5 of this Act.

(4) Divisions 2, 3 and 4 of Part 5 of this Act shall apply in respect of a determination of a building tribunal on an objection made under this section

and in respect of a decision of the committee on an appeal brought in respect of such a determination as if the determination were a determination on an objection made under section 31 or, as the case may be, the decision were a decision on an appeal brought under section 37.

Effect of building tribunal's determination

58. Where, by its determination on an objection under section 57(1), a building tribunal—

- (a) allows the objection (being one made against the giving of a notice) in whole, the notice to which the objection relates shall thereupon be of no further effect;
- (b) allows the objection and varies any requirement of the notice to which the objection relates, the notice shall have effect as if the requirement as so varied were contained in the notice instead of the requirement actually specified in the notice by the local authority.

Disposal of building material and recovery of costs by local authority

59.(1) Where a local authority takes any step which it may lawfully take to secure compliance with a notice given by it under section 52, 53 or 56, it may—

- (a) take possession of any building material or any other property resulting from the taking of such step; and
- (b) dispose of such material and property by public auction or by public tender.

(2) A local authority that sells material or other property under subsection (1) shall appropriate the proceeds of such sale as follows—

- (a) firstly, in payment of the expenses of such sale; and
- (b) secondly, in payment of its costs and expenses duly incurred in or with a view to securing compliance with the notice given by it under section 52, 53 or 56 and whereby it became possessed of the material or other property sold; and
- (c) thirdly, in payment of all rates and charges due, at the time of

such appropriation, to the local authority by the owner of the building or other structure to which the notice given under section 52, 53 or 56 related together with all interest payable on such rates and charges; and

- (d) fourthly, in payment of all moneys due, at the time of such appropriation, to the Crown or to any Crown instrumentality by the owner of the building or other structure to which the notice given under section 52, 53 or 56 related and of which the local authority, at that time has notice together with all interest payable on such moneys; and
- (e) lastly, in payment to the owner of the building or other structure to which the notice given under section 52, 53 or 56 related of all such proceeds remaining unappropriated in the hands of the local authority.

(3) If the proceeds of a sale of materials or other property referred to in subsection (1) are insufficient to cover the costs and expenses referred to in subsection (2)(a) and (b) or if for any other reason the costs and expenses incurred by a local authority in or with a view to securing compliance with a notice given by it under section 52, 53 or 56 are not reimbursed to the local authority the local authority may recover from the owner of the building or other structure to which the notice given under section 52, 53 or 56 related such costs and expenses, or, as the case may be, such part thereof as have not been reimbursed to the local authority, by way of action in a court of competent jurisdiction for a debt due and owing by the owner to the local authority.

(4) If a local authority that has taken steps to secure compliance with a notice given under section 52, 53 or 56 has made demand on the owner of the building or other structure to which the notice related for payment of its costs and expenses incurred in or with a view to securing such compliance or of any part of its costs and expenses and such demand remains unsatisfied for a period of 3 years from the date of its being made, the local authority may realise the amount outstanding, by sale of the land on which stood the building or other structure as provided by the *Local Government Act 1936* with respect to the sale of land for arrears of rates (with such adaptations of the provisions of that Act as the case may require) and shall deal with the proceeds of any such sale—

- (a) firstly, in payment of the expenses of such sale; and

(b) secondly, in satisfaction of the demand;

and then in accordance with the directions and priorities prescribed by subsection (2)(c), (d) and (e).

(5) No claim shall be brought against a local authority or any of its officers or agents on account of damage to or loss of building material or other property suffered while such building material or other property is in the possession of the local authority, officer or agent in the circumstances referred to in subsection (1), save where such damage or loss is due to any wrongful act or negligence of the local authority, its officer or agent.

Removal of persons in buildings to be demolished

60.(1) If it is necessary or expedient to remove any person from a building or other structure, which is to be demolished, in whole or in part, by a local authority under any provision of this Act it shall be the duty of every member of the Police Force of Queensland—

- (a) to comply with a request made on behalf of the local authority to remove such person; and
- (b) to act in aid of an officer of the local authority in removing such person.

(2) For the purpose of removing any person from a building or other structure referred to in subsection (1)—

- (a) any officer of the local authority concerned who is authorised in writing in that behalf by the clerk of the local authority and any member of the Police Force of Queensland acting on a request of the local authority in that behalf may, without other authority than this Act, enter upon such building or other structure and all parts of the building or structure and upon the land on which it stands; and
- (b) any such officer and any such member of the Police Force may remove from such building or other structure all persons found in the building or structure, using such force as is reasonably necessary for the purpose.

Erection on impregnated land prohibited

61.(1) A person shall not carry out building work comprising the erection of a building or other structure on land that has been filled with matter impregnated with faecal, animal or vegetable matter, or on land upon which matter so impregnated has been deposited, unless such matter has been effectively removed or has been rendered or has become innocuous.

(2) If after the expiration of 30 days from the person's conviction of the offence defined in subsection (1) a person suffers the building or other structure to remain erected in circumstances such that its erection in those circumstances would be a contravention of subsection (1) the person commits an offence against this Act which shall be taken to be a continuing offence and is liable to a daily penalty for each day during which the building or other structure remains so erected and the person may be prosecuted in respect of such continuing offence from time to time for as long as the offence continues but the person shall not be punished more than once in respect of the same period.

Right of entry to remedy offence

62. Where a person who has carried out building work comprising the erection of a building or other structure on land in contravention of section 61 is not the owner of such land, the person shall, nevertheless, be entitled without other authority than this Act to enter upon such land, together with all necessary assistants and equipment, for the purpose of effectively removing all matter impregnated as prescribed by that section or of rendering the same innocuous.

Act extends to premises of gas supplier

63. Despite the provisions of any other Act, the expression "**building or other structure**" used in this Act includes (save where a contrary intention appears) any building or other structure owned, occupied or used by a person or body for the purpose of making, storing or supplying gas in any area or for any purpose in connection with that purpose and every local authority has and may exercise in respect of such building or other structure the powers and authorities which it could exercise under this Act were such building or other structure owned, occupied or used for any other purpose.

Notice given to body corporate taken to be given to proprietors

63A.(1) A notice referred to in this Part that is given to the body corporate constituted by the registration of a building units plan or a group titles plan is taken to have also been given to the proprietor of each lot affected by the notice and shown on that plan.

(2) In this section the expressions “**building units plan**”, “**group titles plan**”, “**lot**” and “**proprietor**” have the meanings assigned to them respectively by the *Building Units and Group Titles Act 1980*.

PART 7—GENERAL PROVISIONS**Provisions concerning notices under Act**

64.(1) Any notice in writing required or permitted by this Act to be given by a local authority may be given without the seal of the local authority and shall be signed by the chairperson or clerk or other duly authorised officer of the local authority.

(2) Subject to this Act, the provisions of section 52 of the *Local Government Act 1936* regarding the giving or serving of notices by a local authority under that Act shall apply to the giving or service of notices under this Act by a local authority within the meaning of this Act.

(3) Any notification or other document whatsoever required to be given by a building tribunal or by the registrar or by the secretary to the committee or by the Director of Local Government for the purposes of this Act may be given or delivered to or served upon any person—

- (a) by delivering the same to that person personally; or
- (b) by leaving the same at the usual place of business or address of such person or at the person’s last known place of business or address; or
- (c) by forwarding the same by post in a prepaid letter addressed to such person at the person’s usual place of business or address, or at the person’s last known place of business or address.

(4) Any such notification or document forwarded by post shall be

deemed to have been given at the last moment of the day on which the same ought to be delivered at its destination in the ordinary course of post and in proving service it shall be sufficient to prove that the same was properly stamped and addressed and put in the post.

Power of local authority to delegate

64A.(1) A local authority may by resolution delegate either generally or otherwise as provided in the resolution, to the chairperson, a committee or an officer of the local authority or, in the case of Brisbane City Council, to a board of the Council duly established by ordinance made under the *City of Brisbane Act 1924*, all or any of the functions, authorities, powers, duties and discretions had by the local authority—

- (a) for the purposes of the Standard Building By-laws except where—
 - (i) the functions, authorities, powers, duties or discretions are prescribed to be exercised by resolution of the local authority; or
 - (ii) the Standard Building By-laws prohibit such delegation; and
- (b) for the purposes of this Act, except where—
 - (i) the functions, authorities, powers, duties or discretions are prescribed to be exercised by resolution of the local authority; or
 - (ii) the Act prohibits such delegation; or
 - (iii) under section 52 or 53, the local authority may cause a building or structure to be demolished or taken down;

as may be specified in the resolution.

(2) A function, authority, power, duty or discretion so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the resolution.

(3) A delegation may be made subject to such conditions or such limitations as to the exercise or performance of any of the functions, authorities, powers, duties or discretions delegated or as to time, place or circumstances as may be specified in the resolution.

(4) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section has the same force and effect as if the act or thing done had been done or suffered by the local authority.

(5) The local authority may make such and so many delegations of the same function, authority, power, duty or discretion and to such number of persons as it considers necessary or desirable.

(6) A delegation may be revoked by a local authority at any time and does not prevent the exercise of a power, authority or discretion or the performance of a function or duty by the local authority.

Power of Director to delegate

64B.(1) The Director may, by instrument in writing, delegate to any officer of the department of Government within which this Act is administered all or any of the Director's powers, authorities, functions and duties under this Act, except this power of delegation.

(2) A delegation may be made subject to such terms and limitations as the Director thinks fit.

(3) More than 1 delegation may be made in relation to the same power, authority, function or duty.

(4) A power, authority, function or duty, if exercised by a duly authorised delegate, is to be exercised or discharged in accordance with the instrument of delegation and is taken to be exercised or discharged by the Director in accordance with this Act.

(5) A delegation is revocable, by instrument in writing, at the will of the Director, and does not prevent the exercise or discharge of the power, authority, function or duty by the Director.

Offences generally and penalty

64C.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) Save where a specific penalty is otherwise prescribed, a person convicted of an offence against this Act is liable—

(a) in a case to which paragraph (b) does not apply—to a maximum

penalty of 200 penalty units or, if the offence is a continuing offence, a maximum daily penalty of 20 penalty units; or

- (b) where the offence relates to—
- (i) a building or other structure of Class 1 or 10 as classified by the Standard Building By-laws; or
 - (ii) the carrying out of building work in relation to such a building; or
 - (iii) a failure to comply with a notice under this Act that relates to such a building or building work;

to a maximum penalty of 20 penalty units or, if the offence is a continuing offence, a maximum daily penalty of 2 penalty units.

Continuing offences

64D.(1) If after a person's conviction of an offence that consists of a failure to comply with a notice given to that person under this Act that person continues to fail to comply with that notice, that person commits an offence against this Act which is taken to be a continuing offence and is liable to a daily penalty for each day during which the failure has continued.

(2) In respect of a continuing offence, a complaint may be laid from time to time alleging the commission of that offence over a period, but the offender shall not be punished more than once in respect of any period.

Owner liable for offences under By-laws

64E. Where the Standard Building By-laws require that an act be done or not done but do not state who is to do, or not to do, the act, and the act is not done or, as the case may be, done in breach of the by-laws, the owner of the building or other structure in respect of which the breach occurs is taken to be guilty of the offence occasioned by the breach and may be proceeded against accordingly.

Prosecution of offences

65.(1) A prosecution in respect of an offence against this Act (including any offence that consists of a breach of the Standard Building By-laws as

enacted in the schedule or as duly amended or duly modified in relation to any area) shall be by way of summary proceeding under the *Justices Act 1886* upon complaint laid within 12 months after the commission of the offence or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire.

(2) A person who may lay a complaint in respect of an offence against this Act is a local authority or a person authorised in that behalf by a local authority.

(3) It shall not be necessary to prove the authority of the complainant in any proceeding in respect of an offence against this Act.

Liability for corporation's default

66. Where an offence against this Act is committed by a body corporate each member of the governing body of that body corporate shall be taken to have committed the offence and may be punished for the offence accordingly, in addition to the body corporate, unless the member proves that the member had no knowledge of the commission of the offence or could not have prevented its commission by the exercise of reasonable diligence.

Application for approval where building work commenced

66A.(1) It is competent to a person to make and for a local authority to decide on an application for approval to the carrying out of building work even though the building work to which the application relates has been commenced or completed.

(2) Subsection (1) must not be construed as affecting the operation of section 30A(1).

Certain applications not made unless fees paid

66B. An application made to a local authority under section 30A or 30C is taken not to have been duly made unless and until the fees required to be paid in respect thereof under the Standard Building By-laws had been paid as required by the by-laws.

Regulations

67.(1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the payment of remuneration to referees, members of the committee and sub-committees; and
- (b) the form of declaration to be made and subscribed by a referee under this Act; and
- (c) fees payable for the purposes of this Act; and
- (d) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

(2) Regulations may be made under this Act at any time after the passing of this Act.

(3) A regulation may be made to apply throughout the State or within any part or parts of the State and may be of general application or be limited as to time, place or circumstance prescribed in the regulation.

PART 8—AMENDMENT OF LEGISLATION**Repeal of s. 39 of Local Government Act. Fire Zones**

71.(1) The *Local Government Act 1936* is amended by repealing section 39.

(2) Land that immediately before the commencement of this Part comprises a first-class section under a declaration made under section 39(5) of the *Local Government Act 1936* shall, upon the commencement of this Part—

- (a) where the land meets the requirements of By-law 5.8 of the Standard Building By-laws, be a primary fire zone;
- (b) where the land meets the requirements of By-law 5.9 of the Standard Building By-laws, be a secondary fire zone,

and, in either case, Part 5 of those by-laws shall apply accordingly.

(3) The Minister may, if requested by the local authority of an area that contains a fire zone referred to in subsection (2), by notification published in the Gazette declare a part of the area, defined in the notification, to be excluded from the fire zone constituted by it or of which it forms a part, and thereupon the defined part shall cease to constitute or to form part of that fire zone.

Ordinance 801 of City of Brisbane Ordinances inoperative. Fire Zones

75.(1) Ordinance 801 of the City of Brisbane Ordinances published in Government Gazette dated 1 January 1972 at pages 1 to 180, both inclusive, shall cease to be of any force or effect on and from the commencement of this Part.

(2) Land that immediately before the commencement of this Part comprises a first-class section under a declaration made under Ordinance 801 aforesaid shall, upon the commencement of this Part—

- (a) where the land meets the requirements of By-law 5.8 of the Standard Building By-laws, be a primary fire zone;
- (b) where the land meets the requirements of By-law 5.9 of the Standard Building By-laws, be a secondary fire zone,

and, in either case, Part 5 of those by-laws shall apply accordingly.

(3) The Minister may, in respect of land that is or is in a fire zone under subsection (2) if requested by Brisbane City Council, by notification published in the Gazette declare that land or part thereof, in either case defined in the notification, to be excluded from the fire zone, and thereupon the defined land shall cease to constitute or form part of that fire zone.

SCHEDULE

STANDARD BUILDING BY-LAWS 1991

PART 1—PRELIMINARY

Title

1.1. This Schedule may be cited as the *Standard Building By-laws 1991*.

Exclusion of certain building work

1.2. All work in relation to any Class 10 building or other structure that is used exclusively for the purposes of a green-house, conservatory, summer-house, private boat-house, fuel shed, lawn locker, tool-house, cycle shed, aviary, milking bail, hay shed, stable, fowl-house, pigsty, barn or the like, is declared not to be building work for the purposes of these by-laws where—

- (a) the work is to be performed on an allotment used for agricultural, horticultural, floricultural or pastoral purposes; or
- (b) no part of the building or other structure is within 200 m of any road or within 200 m of any boundary of the allotment on which the building or the structure is situated.

Interpretation

Definitions

1.3.(1) In these by-laws—

“**Act**” means the *Building Act 1975*;

“**allotment**” means a parcel of land, and includes a lot in a group title resubdivision made under the *Building Units and Group Titles Act 1980*;

“**appropriate building officer**”, in relation to the performance or exercise of any duties, functions, authorities, powers or discretions under these by-laws in relation to any building or other structure, means the person

who, under by-law 5.7, is authorised to perform or exercise those duties, functions, authorities, powers or discretions;

“approved” means approved by the local authority;

“architect” means a person—

- (a) who is a registered architect under the *Architects Act 1985*; and
- (b) who, in the opinion of the local authority, is competent to practise in the design of the relevant building work by reason of the person’s skill and experience in architecture;

“AS” means Australian Standard published by Standards Australia;

“Building Code of Australia” means the edition, current at the relevant time, of the Building Code of Australia (including the Queensland Appendix) published by the body known as the Australian Uniform Building Regulation Co-ordinating Council and includes that edition as amended from time to time by amendments published by that body;

“Certificate of Accreditation” means a certificate issued by the Australian Uniform Building Regulations Co-ordinating Council, or under Part 12 of these by-laws, stating that the properties and performance of a building material or method of construction or design fulfil specific requirements of the Building Code of Australia;

“certificate of classification”, except in by-law 6.4(4), includes an interim certificate of classification prepared under that subclause;

“Class”, in relation to a building, means the classification of that building under the Building Code of Australia;

“construct” includes erect;

“erect” includes—

- (a) erect or commence or continue to erect; and
- (b) do, or commence or continue to do any work in the course of or for the purpose of erecting; and
- (c) perform any structural work or make any alteration or addition; and
- (d) move from one position on an allotment to another position whether wholly or partly on the same allotment or another allotment; and

- (e) re-erect with or without alteration whether wholly or partly on the same or another allotment; and
- (f) where a building or other structure is located on more than 1 allotment—
 - (i) move the building or other structure to another position on the same allotments or any of them or to another allotment or allotments; or
 - (ii) re-erect the building or other structure with or without alteration at another position on the same allotments or any of them or on another allotment or allotments;

“fire safety installation”, in relation to a building, means any of the items referred to in appendix 5;

“floor area” means (with respect to a Class 1 building) the gross area of all floors in the building measured over the enclosing walls but excluding the area of any verandah, roofed terrace, patio, garage or carport in or attached to the building;

“integrated building work” means building work connected with 2 or more buildings, none of which is a Class 1 or Class 10 building, which building work is integrated with common recreational, sporting, entertainment or other similar type facilities on—

- (a) the land on which the buildings are to be constructed; or
- (b) land or a waterway contiguous with the land on which the buildings are to be constructed; or
- (c) land or a waterway separated by Crown land from the land on which the buildings are to be constructed.

For the purpose of this definition buildings connected by a podium or basement section are taken to be separate buildings;

“mean height” means the height determined by dividing the total elevational area of the building or structure facing the boundary by the horizontal length of that building or structure facing the boundary;

“mechanical engineer” means a person—

- (a) who is a registered professional engineer under the *Professional Engineers Act 1988*; and

- (b) who, in the opinion of the local authority, is competent to practise in the design of the relevant building work because of the person's skill and experience in mechanical engineering;

“natural ground surface”, in relation to an allotment, means the ground level of the allotment at the date of registration of the title deed for that allotment; where the ground level at that date is not known, the natural ground surface is as determined by the local authority;

“outermost projection” means the outermost projection of any structural part of a building or other structure including, in the case of a roof, the outside face of the fascia, or the roof structure where there is no fascia, but does not include any rainwater fittings, ornamental or architectural attachment;

“registered professional engineer” means a person—

- (a) who is a registered professional engineer under the *Professional Engineers Act 1988*; and
- (b) who, in the opinion of the local authority, is competent to practise in the design of the relevant building work by reason of the person's skill and experience in engineering;

“required” means required by these by-laws;

“road” means any street or road that is dedicated to the public and includes any part of any common property shown on a group titles plan under the *Building Units and Group Titles Act 1980*, that is set aside for vehicular access but does not include any pathway or the like which is not intended for vehicular use;

“road boundary clearance” means the shortest distance measured horizontally from the outermost projection of the building or other structure concerned to the vertical projection of the boundary of the allotment which is adjacent to a road;

“side and rear boundary clearance” means the shortest distance measured horizontally from the outermost projection of the building or other structure concerned to the vertical projection of the boundary of the allotment but does not include a road boundary clearance;

“special fire service” means, in relation to—

- (a) a building—an item mentioned in appendix 6; and

- (b) matters that the Commissioner of Fire Service—
 - (i) is to assess—an item mentioned in appendix 7; or
 - (ii) is to inspect—an item mentioned in appendix 8;

“special structure” means any structure that cannot be classified in accordance with Part A3 of the Building Code of Australia;

“structural engineer” means a person—

- (a) who is a registered professional engineer under the *Professional Engineers Act 1988*; and
- (b) who, in the opinion of the local authority, is competent to practise in the design of the relevant building work because of the person’s skill and experience in structural engineering;

“swimming pool” means an excavation or structure—

- (a) that is capable of being filled with water to a depth of 300 mm or more; and
- (b) that is solely or principally used, or designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, bathing, wading, paddling or of some other human aquatic activity;

and includes a wading pool, spa pool, spa tub or similar swimming pool, but does not include—

- (c) a fish pond or pool used for ornamental purposes; or
- (d) a dam or tank solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purposes of aquaculture or storage of water; or
- (e) a river, creek, stream, canal or watercourse in which water flows permanently or intermittently, or a lake or other natural collection of water whether permanent or intermittent; or
- (f) a portable wading pool that—
 - (i) is capable of being filled with water to a depth of no more than 450 mm; and
 - (ii) has a volume of no more than 2 000 l; and
 - (iii) has no filtration system;

“town planning scheme” has the meaning assigned to the term **“planning scheme”** by the *Local Government (Planning and Environment) Act 1990*, and includes a scheme which under section 8.10(3) of that Act is to continue to have force and effect as if it were a planning scheme approved by the Governor in Council under that Act.

References and language

(2) In these by-laws—

- (a) references to Parts, by-laws and Appendices refer respectively to the Part into which these Standard Building By-laws are divided, the by-law of these Standard Building By-laws and the Appendix to these Standard Building By-laws indicated by the context; and
- (b) a reference to a specified subclause, paragraph, or subparagraph refers to a subclause of the by-law, paragraph of the subclause (or the by-law, if it has no subclause), or subparagraph of the paragraph, as the case may be, in which the reference is made; and
- (c) a reference to a Form quoted by a numeral is a reference to the Form so numbered in the Appendices; and
- (d) a reference to a Table quoted by a numeral with or without a letter or other numerals is a reference to the Table contained in or next following the by-law, subclause, or paragraph similarly referred to; and
- (e) language referring to a building or other structure in being is to be construed with all necessary changes, for a proposed building or other structure, so that among other things—
 - (i) a reference to the owner of a building or other structure is to be construed as a reference to the person who, if the proposed building or other structure were then completed, would be its owner; and
 - (ii) a reference to a structural member of certain materials is to be construed as a reference to a proposed structural member which, if erected as proposed, would be of those materials; and
 - (iii) a reference to the purpose of a building or other structure is to be construed as a reference to the purpose for which the

proposed building or other structure is to be used on completion; and

- (f) a reference to a building is to be construed as a reference to an entire building or a part of a building, as the case requires; and
- (g) abbreviations and symbols for units and multiples and submultiples of units have the same meaning as they have ascribed to them in Australian Standard 1155-1974, 'Metric Units for Use in the Construction Industry including Amendment 1 of June 1979'; and
- (h) the numerical values prescribed are subject to tolerances according to the standard, code or specification concerned, normal trade practice, or good practice, as the case may be.

Building Code of Australia requirements

Code part of by-laws

1.4.(1) The Building Code of Australia forms part of and is to be read as one with these by-laws.

Proof of Code

(2) The production in any proceedings of a document purporting to be a copy of the Building Code of Australia published by the Australian Uniform Building Regulations Co-ordinating Council is prima facie evidence of the Code.

Certificate

(3) The production in any proceedings of a certificate purporting to be signed by the Director or by the chairperson, clerk or other duly authorised officer of a local authority and stating that a particular edition of the Building Code of Australia was the current edition at a specified time or during a specified period is prima facie evidence of the certificate's contents.

Alterations to existing buildings or other structures

Application of by-law

1.5.(1) This by-law applies wherever alterations are proposed for a building or other structure and any other provision of these by-laws affects

those alterations.

Certain alterations not permissible

(2) The local authority must not approve any structural alterations unless it is satisfied that those alterations will not unduly reduce any of the following:—

- (a) the existing level of fire protection provided to persons accommodated in or using the building or other structure;
- (b) the existing level of resistance to fire of the building or other structure;
- (c) the existing safeguards against spread of fire to adjoining buildings or other structures.

Local authority may require entire building or other structure to conform in some cases

(3) The local authority may require that a part of the building or other structure or the entire building or other structure be brought into conformity with these by-laws or parts of these by-laws as though it were a new building or other structure if—

- (a) the proposed alterations, together with any previous structural alterations completed or approved within the previous 3 years, represent, in the case of a building, more than half the total volume of the original building, measured over the roof and the external walls; or
- (b) the local authority considers that the safety of persons accommodated in or using the building or other structure, or the risk of the spread of fire to adjoining buildings or other structures, warrants it.

Alterations associated with a change of use

(4) If alterations to a building are associated with a change of use from one class to another class, Part 7 applies.

Local authority to decide

1.6. Where the Building Code of Australia or other provisions of these by-laws permits a discretionary decision or uses the word 'suitable' or

‘adequate’ with regard to any material, system, method, form of construction or other thing whatsoever, the local authority must decide whether the material, system, method, form of construction or other thing is suitable or adequate.

Certificate of accreditation

1.7. The properties and performance of a building material or method of construction or design in relation to which there is a current certificate of accreditation fulfil the requirements of the Building Code of Australia to the extent specified in the certificate.

PART 2—BUILDING APPROVALS

Application—general

2.1.(1) The approval of the local authority is required to the carrying out of all building work other than work declared not to be building work by by-law 1.2 and except as provided by by-law 2.3.

(2) An application for approval to carry out building work must be made to the local authority in accordance with the Act and these by-laws.

(3) The form of application referred to in section 30A(2)(a) of the Act is that set out in appendix 3 of these by-laws.

Application to construct swimming pool

2.2. An application for approval to construct a swimming pool that is required by law to be fenced must relate also to the swimming pool fencing.

Local authority may dispense with necessity to lodge drawings etc. or to obtain approval in some cases

2.3. Despite anything to the contrary in this Part, the local authority may dispense with the necessity—

- (a) to lodge drawings, specifications and a plan in relation to—
 - (i) building work consisting of a minor alteration to an existing building or other existing structure; or
 - (ii) building work connected with a fence other than a fence required to be constructed around a swimming pool under section 49H of the *Local Government Act 1936*; or
- (b) to obtain its approval to the carrying out of building work connected with any of the following Class 10 buildings or other structures—
 - (i) a building or other structure that is a greenhouse, conservatory, summerhouse, private boathouse, fuel shed, lawn locker, tool house, cycle shed, aviary, milking bail, hay shed, stable, fowl house, pigsty, barn or the like;
 - (ii) a fence, other than swimming pool fencing required to be constructed by section 49H of the *Local Government Act 1936*;
 - (iii) a non-load-bearing aerial, antenna, flagpole, mast or tower, which is detached from a building or other structure and is not more than 10 m in height or which is attached to a building or other structure and is not more than 2.5 m in height.

Information required

2.4.(1) Except for building work in relation to the demolition of a building or other structure and except where it is otherwise agreed by the appropriate building officer, the following information must be lodged with each application for approval to the carrying out of building work—

- (a) drawings showing—
 - (i) the plan at each floor level, elevations, sections and dimensions of the building or other structure drawn to a scale of not less than 1:100; and
 - (ii) the sizes and locations of structural members to a scale of not less than 1:100; and
 - (iii) any other details required by the appropriate building officer

- drawn to a scale of not less than 1:20; and
- (iv) where the application relates to a Class 1 or 10 building, the heights of the building in relation to the natural ground surface; and
- (b) specifications—
- (i) describing materials to be used in the construction; and
 - (ii) where not indicated on the drawings referred to in paragraph (a), providing any other information necessary to show that the building work would, if carried out in accordance with the specifications and drawings, comply with these by-laws; and
 - (iii) describing the method of drainage, sewerage and water supply; and
 - (iv) stating whether the materials will be new or second-hand and, if second-hand materials are to be used, giving particulars as required by the appropriate building officer; and
- (c) a plan of the allotment to a scale of not less than 1:200 showing—
- (i) the boundaries and dimensions of the allotment and any relevant easements; and
 - (ii) the position and dimensions of the building or other structure and its relationship to the boundaries of the allotment and any existing building or other structure on the same or adjoining allotments with details of the purposes for which any other buildings or other structures on the same allotment are used or intended to be used; and
 - (iii) the levels of the allotment and of the floors of the building or other structure in relation to the adjacent ground and to any street or drainage channel, and to any drain maintained by the local authority, on or adjacent to the allotment; and
 - (iv) any fences, including swimming pool fencing, already erected or to be erected on the allotment or on the boundaries of the allotment; and
 - (v) the location of the nearest fire hydrant situated on a road or

on the allotment; and

- (d) reports, and such calculations of stress and other technical details of or relating to the building work, as may be required by the appropriate building officer; and
- (e) where more than 1 professional discipline is involved in the design of the building or structure, the name of the person, being a member of 1 of those disciplines, who has agreed to be responsible for the coordination of the preparation of the plans and specifications relating to the building work in so far as the Act or these by-laws apply to that work; and
- (f) plans and specifications of all work associated with the building work that is required to comply with the requirements of the town planning scheme in force in the area in which the allotment is located; and
- (g) plans and specifications of all work associated with the building work that is required to comply with the requirements of local authority by-laws in force in the area in which the allotment is located; and
- (h) any other information that the appropriate building officer may reasonably require.

(2) In addition to the matters referred to in subsection (1), a list of the required fire safety installations and a list of the required special fire services mentioned in appendix 6 must be lodged with each application that relates to a building classified in the range Class 2 to Class 9 (both inclusive) and, where the local authority so requests, there must also be lodged a certificate from a registered professional engineer, or from some other person or body approved by the local authority for the purpose, stating that the design of the special fire services is in accordance with these by-laws.

(3) In the case of a proposed alteration to an existing building or other existing structure, the drawings must clearly indicate the location of the proposed alterations in relation to that building or other structure.

(4) In the case of building work that relates to the demolition or removal of a building or other structure, the following information and documents must be lodged with each application except where it is otherwise agreed by the appropriate building officer—

- (a) an outline and a description of the building or other structure to be demolished or removed;
- (b) a plan of the allotment showing the location of the building or other structure in relation to the boundaries of the allotment, any other buildings or structures on the allotment, and any roads, including any footpaths or crossings, bounding the allotment;
- (c) where only a part of the building or other structure is to be demolished or removed—computations or other information showing that the remainder of the building or other structure will comply with the provisions of these by-laws either as it remains after the proposed demolition or removal takes place or after other work (of a specified kind) is carried out.

(5) The local authority may determine the number of copies of the information referred to in this by-law that are to be submitted with each application for approval to carry out building work.

Local authority to inform the Commissioner of Fire Service

2.5. When a local authority receives an application for approval to the carrying out of building work which is required by these by-laws to be provided with special fire services mentioned in appendix 6, the local authority must advise the Commissioner of Fire Service that the building work will contain special fire services and forward to it, within 7 days of receiving the application, 2 copies of—

- (a) the drawings referred to in by-law 2.4(1)(a)(i); and
- (b) the plan referred to in by-law 2.4(1)(c); and
- (c) specifications describing the materials to be used in the construction of the special fire services; and
- (d) a list of the special fire services required by these by-laws to be installed in a building of the class to which the application relates together with the certificate (if any) referred to in by-law 2.4(2); and
- (e) such other details as the Commissioner of Fire Service may from time to time require to enable it to properly assess the special fire services mentioned in appendix 7.

Assessment of special fire services by the Commissioner of Fire Service

2.6.(1) Within a period of 16 days after receiving the information referred to in by-law 2.5, the Commissioner of Fire Service must cause the special fire services mentioned in appendix 7 to be assessed and advise the local authority in writing that the special fire services either—

- (a) comply with the requirements of these by-laws; or
- (b) do not comply with these by-laws and the reasons for non-compliance.

(1A) The local authority must accept the Commissioner of Fire Service's advice and act upon it unless, within 10 days of receiving that advice, it notifies the Commissioner of Fire Service in writing that it disagrees with that advice.

(1B) The notification must specify the reasons for that disagreement.

Prior consideration by the Commissioner of Fire Service

(2) A person may provide details of the special fire services proposed to be installed in a building to the Commissioner of Fire Service before application for approval to carry out building work is made to the local authority.

Building application for integrated building work

2.7.(1) Where an application to the carrying out of building work—

- (a) indicates that the building to which the application relates is part of integrated building work; and
- (b) is not accompanied by plans and specifications and other relevant details of all of the proposed buildings;

the applicant must, within a period of 2 years after the date of approval of the application or within such longer period (if any) as is allowed by the local authority, submit to the local authority a further application for approval to the carrying out of building work in relation to each of the other buildings connected with the integrated building work.

(2) An approval to the carrying out of building work given by a local authority in respect of any 1 or more buildings the construction of which forms part of any integrated building work has no application to any other

building the construction of which may form part of that integrated building work.

Responsible design

2.8.(1) Where an application for approval to the carrying out of building work relates to—

- (a) the construction of a building having a floor area greater than 400 m² or an addition to a building where the floor area is increased by more than 400 m²; or
- (b) the construction of a building or the alteration of a building where a reinforced concrete or steel frame or construction (including a steel roof truss) is to be built or altered; or
- (c) the erection of a building exceeding 2 storeys in height; or
- (d) the addition of a structure, or part of a structure, to a building containing 2 or more storeys, or the addition of more than 1 storey to a building containing only 1 storey; or
- (e) the alteration of a building exceeding 2 storeys in height in such a manner as to interfere with any structural load bearing member or part, or to alter the stresses transmitted by such member or part;

the drawings, specifications and other required documents must be prepared by an architect or registered professional engineer and must bear that person's name in a manner that indicates acknowledgement of authorship.

(2) The local authority may exempt the applicant from complying with subsection (1) where the following conditions are met in a manner satisfactory to the local authority—

- (a) the function and plan of the building are of a conventional nature and based on commonly accepted and easily identified principles well established by tradition; and
- (b) the building or other structure requires for its design no skills other than a sound knowledge of standard building construction and accepted building trade practices; and
- (c) examples of buildings or other structures for which this exemption is sought have been commonly known in the area over a substantial period of time; and

- (d) the person responsible for preparing the drawings, specifications and other required documents acknowledges the authorship of the documents.

Structural drawings: approval subject to conditions

2.9.(1) Where in respect of an application for approval to the carrying out of building work the submission of a structural engineer's drawings or other engineering details prepared by a structural engineer is required, the drawings or details may be omitted at the time of lodging the application.

(2) If the application is approved by the local authority, the approval must be subject to the conditions—

- (a) that work on the footings must not commence until those drawings and details relating to the footings have been submitted to and approved by the local authority; and
- (b) that any other stage of the building work must not commence until those drawings and details relating to that stage and any other stage as may be specified by the local authority have been submitted to and approved by the local authority.

Architectural and engineering companies or firms

2.10.(1) Any plan, specification, certificate or other document that is required under any provision of these by-laws to be prepared or given by an architect, a mechanical engineer, a registered professional engineer or a structural engineer must bear the name and signature of the architect or engineer responsible for its preparation and, where it is prepared on behalf of a corporation or firm, may also bear the name of that corporation or firm.

(2) The signature must not be in the form of a stamp or be a copy of an original signature.

Optional acceptability of engineering design certificates

2.11. Where an application for approval to the carrying out of building work includes documentation relating to the engineering design of a building or other structure or its components, the appropriate building officer may accept the engineering design documentation without further

checking provided that—

- (a) the design is prepared by a registered professional engineer, or by some other person or body approved by the local authority for the purpose; and
- (b) if—
 - (i) the building work is, in the appropriate building officer's opinion, of a minor nature—the documentation is accompanied by a certificate from a registered professional engineer, or from some other person or body approved by the local authority for the purpose, specifying that the design complies with these by-laws; or
 - (ii) the building work is, in the appropriate building officer's opinion, not of a minor nature—the documentation is accompanied by—
 - (A) a certificate from a registered professional engineer, or some other person or body approved by the local authority for the purpose, specifying that the design complies with these by-laws; and
 - (B) a certificate from another registered professional engineer specifying that the part of the design that is critical to the structural sufficiency of the building or other structure complies with these by-laws.

Retention of drawings and documents

2.12.(1) Where approval to the carrying out of building work is granted—

- (a) in relation to a building classified in the range Class 2 to Class 9 (both inclusive), 1 set of the drawings and specifications as approved and all documents lodged with the application, or a copy of them, must be retained by the local authority until the building is demolished or removed;
- (b) in relation to a Class 1 or Class 10 building or to a special structure, 1 set of the drawings and specifications as approved and all documents lodged with the application, or a copy of them,

must be retained by the local authority for at least 10 years or until the building or structure is demolished or removed;

- (c) 2 sets of the drawings and specifications, with evidence of approval stamped or endorsed on them, must be returned to the applicant who must ensure that 1 legible set is available for inspection on the allotment while the building work is in progress.

(2) The set or copy of the drawings and specifications relating to a building or other structure retained by a local authority under subsection (1)—

- (a) must be open to inspection—
 - (i) by the owner of the building or other structure; and
 - (ii) by any person authorised in writing by the owner; and
 - (iii) by any person authorised by the Commissioner of Fire Service; and
- (b) may, with the consent of the local authority, be inspected by any other person;

during the normal office hours of the local authority.

Changes to approved plans

Minor changes

2.13.(1) The construction of a building or other structure (except in relation to any fire safety installation) may differ in a minor degree from the drawings, specifications and other documents approved by the local authority in relation to the construction where the local authority consents in writing to that difference.

- (1A) The local authority must not so consent unless satisfied that—
 - (a) the final construction will meet the requirements of these by-laws; and
 - (b) there is no significant change to the concept of the building or other structure from that for which approval was given by the local authority.
- (2) Where the local authority consents to a minor alteration or

modification to the approved drawings, specifications or other documents in accordance with subclause (1) and that alteration or modification may affect the fire safety installations in, or the safety in the event of a fire of persons using, the building or other structure, the local authority must advise the Commissioner of Fire Service of the alteration or modification within 7 days of that consent being given.

Major changes

(3) The owner of the building or other structure concerned or the owner's agent may at any time submit an application for approval of an alteration or modification of any drawings, specifications or other documents previously submitted to the local authority in respect of an application for its approval to the carrying out of building work.

(4) The application first referred to in subsection (3) must be taken to be an application for approval to the carrying out of building work and the provisions of the Act and these by-laws apply accordingly.

(5) Where the local authority approves any modifications or alterations to any drawings, specifications or other documents previously submitted to the local authority, the applicant for the approval of that modification or alteration must lodge with the local authority such number of copies as the local authority determines of the drawings, specifications or other documents showing the modifications or alterations.

Submission of Survey Certificates

General

2.14.(1) The local authority may, in respect of an application for approval to the carrying out of building work, require the submission of an identification survey in the cases, and subject to the conditions, set out in this by-law.

Prior to determining application

(2) The local authority may, prior to determining the application, require the submission of an identification survey setting out the boundaries of the allotment and the location of any proposed or existing buildings or other structures on the allotment.

When giving approval to building application

(3) When giving approval to the carrying out of building work, the local authority may impose a condition that an identification survey must be submitted to the local authority setting out the boundaries of the allotment, and the actual situation of the building or other structure on the allotment.

(4) The survey must be provided at the earliest stage at which the actual location of the building or other structure on the allotment can be established or at such later time as the local authority in any particular case allows.

Information to be supplied by the Crown

2.15. The prescribed information to be supplied to a local authority in respect of building work under section 4(4) of the Act is—

- (a) in a situation to which paragraph (b) does not apply—
 - (i) a 1:100 scale drawing of the building or structure showing floor plans and elevations; and
 - (ii) a site plan of a scale that will enable the local authority to effect the provision of water supply, sewerage and storm-water drainage for the allotment on which the building work is to be carried out;
- (b) in a situation where the prescribed Minister considers that the supply of the information referred to in paragraph (a)(i) would not be in the public interest—the site plan as referred to in paragraph (a)(ii) only.

Variation of workplace areas

2.16.(1) If a local authority considers that an application for approval to the carrying out of building work may not comply with these by-laws in so far as they relate to the provision of employee workplace areas, it must consult with the Division of Workplace Health and Safety of the department of the Government in which the *Workplace Health and Safety Act 1989* is being administered as to the adequacy of the workplace areas to be provided and for that purpose must, within 14 days of receiving the application, provide to the Division all information necessary for a determination to be made as to the adequacy of the workplace areas to be provided, including—

- (a) the name and address of the applicant; and
- (b) drawings showing the plan at each floor level, elevations, sections and dimensions of the building or other structure; and
- (c) the use intended to be made of the building or other structure; and
- (d) the number of employees likely to be employed and, if necessary to the determination, the location of each employee workstation in the building or other structure.

(2) Within a period of 21 days after receiving that information, the Division of Workplace Health and Safety must assess the provision made for workplace areas and advise the local authority in writing that that provision is either—

- (a) adequate for the purpose and usage stated in the application; or
- (b) inadequate for the purpose and usage stated in the application and specify workplace areas that it considers adequate for the stated purpose and usage.

Application for preliminary decision

2.17. The form of an application for the decision of a local authority under section 30C(1) of the Act is that contained in appendix 4.

PART 3—COMMENCEMENT AND COMPLETION

Period for commencement

3.1. Subject to by-law 3.3, every approval to the carrying out of building work must be granted subject to the condition that the building work be commenced within 12 months of the date of approval, except that for building work relating only to the demolition of a building or other structure or the removal, or reconstruction after removal, of a building or other structure, the period is 2 months.

Period for completion

3.2. Subject to by-law 3.3, where a local authority has approved the carrying out of building work, that building work must be completed in—

- (a) where the building work relates only to the demolition of a building or other structure or the removal, or reconstruction after removal, of a building or other structure—6 months; and
- (b) in a case to which paragraph (a) does not apply—such period (if any) being not less than 18 months, as the local authority, after considering the extent of the proposed building work, stipulates in the approval; and
- (c) in a case to which paragraph (a) does not apply and where a period is not stipulated in the approval under paragraph (b)—
 - (i) where the building work is in relation to a Class 1 or Class 10 building—18 months;
 - (ii) where the building work relates to a building of some other class—3 years.

Integrated building work

3.3.(1) An approval to the carrying out of integrated building work lapses if—

- (a) the building work in relation to the construction of the first building—
 - (i) is not commenced within 5 years after the date on which the approval was given; or
 - (ii) is not substantially completed within 3 years after the date on which the building work commenced; or
- (b) the building work in relation to the construction of any subsequent buildings—
 - (i) is not commenced within 5 years after the date on which the certificate of classification is issued by the local authority, in accordance with by-law 6.4, for the building last constructed; or
 - (ii) is not substantially completed within 3 years after the date on

which the building work commenced.

(2) Where integrated building work has not commenced within a period of 2 years from the date on which the approval for the building work was given by the local authority, a person must not carry out the work until the local authority has advised whether or not it has any additional requirements as a result (and if any, has advised those requirements) of any amendments of these by-laws that have come into force after the date on which the approval was granted.

(3) Where a local authority imposes additional requirements in accordance with subsection (2) the building work must be carried out in accordance with the additional requirements.

(4) Where the amendments of these by-laws referred to in subsection (2) relate to the structural adequacy or fire safety of the buildings to be constructed, the local authority must exercise its power under that subsection to require the building work to comply with the by-laws as so amended unless it is satisfied that—

- (a) the public interest would not be adversely affected by failure to do so; and
- (b) to do so would cause undue hardship to the person in whose favour the building approval vests for the time being.

Extension of period

3.4.(1) The period within which any building work is required to be commenced or completed by these by-laws may, in any particular case, be extended from time to time by the local authority by 1 or more periods upon request by the applicant made prior to the expiration of that period or, as the case may be, extended period.

(2) A local authority may extend a period under subsection (1) even though the period has expired.

PART 4—FEES

Prescribed fees

4.1.(1) A local authority may from time to time, by resolution, fix a fee that must be paid to the local authority at the time of making an application for—

- (a) approval to the carrying out of building work or a preliminary decision in relation to the carrying out of building work; or
- (b) any inspection of the building work on behalf of the local authority; or
- (c) any other service provided in accordance with the Act or these by-laws, by or on behalf of the local authority.

(2) Regulations made under the *Fire Services Act 1990* may fix fees for the assessment and inspection of special fire services, that must be paid to—

- (a) in a case to which paragraph (b) does not apply—the local authority at the time of making an application for approval to the carrying out of building work; or
- (b) where the Commissioner of Fire Service is requested to assess the special fire services before the application referred to in paragraph (a) is made—the Commissioner of Fire Service.

(3) The fee received by a local authority on behalf of the Commissioner of Fire Service must be forwarded by that local authority to the Commissioner of Fire Service within 30 days of receipt of the fee.

PART 5—DUTIES AND INSPECTIONS

Notice to inspect

5.1.(1) When giving approval to the carrying out of building work, the local authority—

- (a) must impose a condition that notice be given to the local authority

and the Commissioner of Fire Service before any of the following works or stages of construction are complete so that they can be inspected and, in a case to which subparagraph (ii) applies, tested—

- (i) installation of special fire services mentioned in appendix 8 before installation is completed;
 - (ii) special fire services after installation and before interior surface finishes are applied;
- (b) may impose a condition that notice be given to the local authority before any of the following works or stages of construction are complete so that they can be inspected—
- (i) foundations and excavations before footings are laid;
 - (ii) reinforcement before concrete is placed;
 - (iii) frames before cladding is fixed;
 - (iv) any other work at any stage or stages of construction as the local authority may require.

(2) The time by which notice must be given under subsection (1) must—

- (a) be specified in the approval; and
- (b) be not more than 48 hours before the completion of the works or stage of construction concerned.

(3) Where the local authority has, under subsection (1), imposed a condition that notice must be given before a particular work or stage of construction is complete, it may, subject to its granting prior approval therefor, accept a certificate of inspection by an approved person to the effect that—

- (a) the particular stage of the building work is in accordance with the approved plans and specifications; and
- (b) in respect of footings and slabs, the building work is structurally adequate;

which certificate of inspection must be provided to the local authority within 7 days of the date of the inspection of the relevant work or stage of construction.

(4) For the purpose of subsection (3) an approved person is—

- (a) a registered professional engineer; or
- (b) an architect; or
- (c) some other person considered by the local authority to be competent to issue a certificate of inspection;

who for the purposes of the particular work or stage of construction is approved by the local authority to issue the certificate of inspection.

(5) An approval given by a local authority for the purpose of subsection (3) must be separately given in respect of each work or stage of construction to which it relates and may not relate to more than 1 approval to the carrying out of building work.

Fire Authority to inspect special fire services

5.2.(1) A local authority must not—

- (a) issue a certificate of classification in respect of a building or part of a building under by-law 6.4; or
- (b) approve of the change of use of a building under by-law 7.2(1)(a);

if the building or part contains any special fire services mentioned in appendix 6 unless the local authority has advised the Commissioner of Fire Service that the special fire services are ready for inspection and the Commissioner of Fire Service has either—

- (c) within 10 days of the receipt of that advice, informed the local authority in writing that it does not propose to cause the special fire services to be inspected; or
- (d) within 17 days of the receipt of that advice, caused the special fire services mentioned in appendix 8 to be inspected and advised the local authority either that they—
 - (i) comply with the requirements of these by-laws; or
 - (ii) do not comply with the requirements of these by-laws and the reasons for that non-compliance.

(2) The local authority must accept the Commissioner of Fire Service's advice given under subsection (1)(d) and act upon it unless, within 10 days of receiving that advice, it notifies the Commissioner of Fire Service in writing that it disagrees with that advice.

(2A) The notification must specify the reasons for that disagreement.

(3) Where the local authority disagrees with the advice of the Commissioner of Fire Service given under subsection (1)(d) and has so advised it under subsection (2), the local authority must not issue a certificate of classification under by-law 6.4 in respect of the building or part concerned until—

- (a) in a case to which paragraph (b) does not apply—the time within which the Commissioner of Fire Service may institute an objection under the Act in respect of that disagreement has expired; or
- (b) where the Commissioner of Fire Service has instituted such an objection—until the objection is determined or withdrawn.

Appointment of principal building surveyor etc

5.3.(1) For the purposes of these by-laws, each local authority—

- (a) must appoint a principal building surveyor; and
- (b) may appoint 1 or more deputy principal building surveyors; and
- (c) must appoint at least 1 building surveyor or restricted building surveyor; and
- (d) may appoint one or more cadet building surveyors;

on a full-time, part-time or consultancy basis as the need arises to carry out the duties as prescribed in by-law 5.7, of a principal building surveyor, deputy principal building surveyor, building surveyor, restricted building surveyor or cadet building surveyor, as the case may be.

(2) A local authority must not appoint a person to an office referred to in subsection (1) unless the person possesses the qualifications referred to in by-law 5.8 that are appropriate to that office.

(3) Despite subsection (2), a local authority may, with the approval of the Building Advisory Committee, appoint a person to an office referred to in subsection (1) where that person does not hold the qualifications prescribed in by-law 5.8 that are appropriate to that office.

(3A) The appointment must be for a period not exceeding 3 years and be subject to any terms and conditions as are approved by the Building

Advisory Committee from time to time.

(3B) Before the Building Advisory Committee approves the appointment of a person under subsection (3) it must be satisfied that the person has qualifications, experience and knowledge of a standard such as will enable the person to satisfactorily perform and exercise the duties, functions, authorities, powers and discretions of the office concerned.

(4) Upon appointment of a person to an office referred to in subclause (1), the local authority must—

(a) advise the Building Advisory Committee in writing—

(i) of the full name of that person; and

(ii) the office to which the person has been appointed; and

(b) supply the Building Advisory Committee with a copy of the documents (if any) evidencing that person's qualifications, including those qualifications that relate to experience.

(5) The secretary of the Building Advisory Committee must maintain a register of the names of persons appointed to an office under subsection (1).

(6) A person who immediately before the commencement of this by-law held the appointment of building surveyor, unrestricted building inspector or restricted building inspector in relation to a local authority under the Standard Building By-laws as in force from time to time before that commencement holds, by virtue of this subsection and without any further appointment, the appointment of principal building surveyor, building surveyor or restricted building surveyor respectively in relation to that local authority.

Vacation of office

5.4. A person appointed to an office in accordance with by-law 5.3(2) vacates that office immediately on that person ceasing to be qualified under by-law 5.8 for appointment to the office.

Appropriate building officers to be paid by local authority

5.5. Every person appointed under by-law 5.3 must be under the direction of the local authority and be paid by the local authority.

Appropriate building officers with private interests not to act

5.6. If a person appointed to an office under by-law 5.3 has any private interest (whether direct or indirect) in the performance of any building work, that person must inform the local authority of that interest and the local authority must appoint some other suitable person to act in that office in respect of that building work.

Duties of appropriate building officers

5.7.(1) The principal building surveyor and the deputy principal building surveyor may—

- (a) advise the local authority on the administration of the Act and these by-laws; and
- (b) perform or exercise all the duties, functions, authorities, powers and discretions prescribed by these by-laws to be performed or exercised by the appropriate building officer.

(2) A building surveyor may—

- (a) perform or exercise all the duties, functions, authorities, powers and discretions of the principal building surveyor in relation to—
 - (i) Class 1 and 10 buildings; and
 - (ii) Class 2 buildings where the rise in storeys is not greater than 3 storeys; and
 - (iii) Classes 7 and 8 buildings where the rise in storeys is 1 storey only and the floor area of the building does not exceed 2 000 m²; and
 - (iv) Classes 3, 4, 5, 6 and 9 buildings where the rise in storeys is not greater than 2 storeys and the floor area of any storey does not exceed 500 m²; and
- (b) perform or exercise any other duties, functions, authorities, powers and discretions of the principal building surveyor at the direction of the principal building surveyor and when under the supervision and control of the principal building surveyor or the deputy principal building surveyor.

(3) A restricted building surveyor may perform or exercise all the duties,

functions, authorities, powers and discretions of the principal building surveyor in relation to—

- (a) Class 1 and 10 buildings; and
- (b) buildings classified in the range Class 2 to Class 9 (both inclusive) having a rise of not more than 2 storeys and in which the total floor area does not exceed 400 m²;

except in relation to those components of buildings (other than pre-fabricated engineered components such as timber roof trusses or the like) for which structural calculations are required.

(4) A cadet building surveyor may assist in the performance and exercise of those duties, functions, authorities, powers and discretions of a restricted building surveyor where the cadet does so under the supervision of the principal building surveyor, the deputy principal building surveyor, a building surveyor or a restricted building surveyor.

Qualifications of principal building surveyor etc.

5.8.(1) A principal building surveyor and deputy principal building surveyor must either—

- (a) have satisfied the entrance requirements of—
 - (i) the Institution of Engineers, Australia for admission as a corporate member; or
 - (ii) the Royal Australian Institute of Architects for admission as an associate; or
 - (iii) the Architects Registration Board of Queensland; or
- (b) hold the degree of—
 - (i) Bachelor of Applied Science (Construction Management); or
 - (ii) Bachelor of Applied Science (Building Surveying);
 from a university or other tertiary institution in Queensland; or
- (c) have completed a course of study which, in the opinion of the Building Advisory Committee, is at least equivalent to a qualification referred to in paragraph (a) or (b);

and must also have—

- (d) a working knowledge of—
 - (i) the Act and these by-laws; and
 - (ii) the fire engineering practices referred to in sections C, D, E and G of the Building Code of Australia; and
- (e) at least 12 months experience related to building control with a local authority or with an office associated with building control which experience, in the opinion of the local authority, is satisfactory.

(2) A building surveyor must have—

- (a) completed—
 - (i) the Associate Diploma of Applied Science (Building) conducted by the Department of Employment, Vocational Education, Training and Industrial Relations, Division of TAFE; or
 - (ii) the Associate Diploma in Building Inspection conducted by the University College of Central Queensland; or
 - (iii) the Bachelor of Applied Science (Construction Management) conducted by the Queensland University of Technology; or
 - (iv) a course of study which, in the opinion of the Building Advisory Committee, is at least equivalent to a qualification referred to in subparagraph (i), (ii) or (iii); and
- (b) at least 12 months experience associated with building control which, in the opinion of the local authority, is satisfactory; and
- (c) at least 3 years on site experience in the building industry; (the period specified in paragraph (b) may run concurrently with the period specified in this paragraph).

(3) A restricted building surveyor must—

- (a)—
 - (i) have completed—
 - (A) a course of study, approved by the Building Advisory Committee for restricted building surveyors conducted by either—

- the Department of Employment, Vocational Education, Training and Industrial Relations, Division of TAFE; or
 - the Queensland University of Technology; or
 - the University College of Central Queensland; or
- (B) a course of study which, in the opinion of the Building Advisory Committee, is at least equivalent to a course referred to in sub-subparagraph (A); and
- (ii) at least 12 months experience associated with building control which, in the opinion of the local authority, is satisfactory; and
- (iii) at least 3 years on site experience in the building industry; (the period specified in subparagraph (ii) may run concurrently with the period specified in this subparagraph); or
- (b) be—
- (i) registered under the *Builders' Registration and Home-owners' Protection Act 1979* as either a registered house builder or a registered general builder; and
- (ii) currently undertaking a course of study specified in subsection (1) or (2) or paragraph (a) of this subsection.

(4) A local authority may appoint a person as a cadet building surveyor if that person is currently undertaking any of the courses of study specified in subsection (1), (2) or (3).

(5) For the purposes of this by-law the expression “**building control**” means—

- (a) work associated with the administration of the Act and these by-laws; or
- (b) work which would make a person familiar with the duties, functions, authorities, powers and discretions of a principal building surveyor, deputy principal building surveyor, building surveyor or, as the case may be, restricted building surveyor.

PART 6—CERTIFICATE OF CLASSIFICATION

Interpretation

6.1. For the purposes of this Part, a building is substantially completed when—

- (a) all wet areas are waterproof as required by these by-laws; and
- (b) reticulated water is connected to and, in accordance with the plans and specifications approved by the local authority, provided throughout the building; and
- (c) all sanitary installations are installed as required by these by-laws and to the satisfaction of the local authority and are operational; and
- (d) all fire safety installations are installed and operational as required by these by-laws; and
- (e) all health and safety matters relating to the building comply with these by-laws; and
- (f) the electrical power supply is connected to the building to the extent necessary for the building to be used having regard to the classification sought; and
- (g) the building is weatherproof as required by these by-laws; and
- (h) the building is structurally adequate as required by these by-laws; and
- (i) all means of egress comply with these by-laws.

Classification as special structure

6.2. A building or other structure that cannot be classified in accordance with Part A3 of the Building Code of Australia must be classified as a special structure.

Doubtful classifications

6.3. Subject to Part 5 of the Act, where there is any doubt or dispute as to

the classification of a building or any part of a building, the classification of the building or part is that which the appropriate building officer considers appropriate, being a class mentioned in Part A3 of the Building Code of Australia or a special structure.

Certificate of classification

Preparation

6.4.(1) Where approval is given to the carrying out of any building work, the local authority must—

- (a) on the substantial completion of the building concerned; or
- (b) on consenting in writing to the occupation of part of the building concerned before the entire building is substantially completed;

prepare, in respect of that building or part, a certificate of classification in duplicate, in or to the effect of the form set out in appendix 1 of these by-laws.

(1A) If the building or part contains fire safety installations, the certificate must be prepared in triplicate.

(1B) Subsection (1) must not be construed as requiring a local authority to prepare a certificate of classification in relation to a building before the certificate is requested in writing by or on behalf of the owner of the building.

Issue

(2) Subject to by-law 5.2, the original of the certificate must be issued to the owner of the building.

Inspection of certificates

(3) A copy of the certificate must be retained by the local authority and be open to inspection, free of charge, by any person during the normal office hours of the local authority.

Interim certificate

(4) Subject to by-law 5.2, where, because of the remoteness of the location of the building it is not practicable for a local authority to have it inspected by an appropriate building officer within a reasonable time, it may prepare and issue an interim certificate of classification in respect of that

building or part.

(4A) An interim certificate of classification remains in force until—

- (a) it is revoked by the local authority on the ground that the basis on which it was prepared and issued was false; or
- (b) a certificate of classification under subsection (1) is issued in respect of the building; or
- (c) the expiration of a period of 6 months from its issue;

whichever event occurs first.

Form

(5) A certificate of classification must—

- (a) show the classification of the building having regard to the purpose for which it is—
 - (i) designed; or
 - (ii) constructed; or
 - (iii) adapted to be used; and
- (b) where any part of the building is classified differently to any other part, identify the part to which each classification relates.

Application

(6) This by-law applies to every building except a single detached Class 1 building and a Class 10 building.

No occupation until certificate is issued

6.5. A person must not use or occupy any part of a building for which a certificate of classification is required to be prepared unless the certificate has been issued and remains in force.

Use of a building for habitable purposes

6.6. Unless otherwise approved of by the local authority, a person must not use a building or part of a building for habitable purposes unless it is a Class 1, 2, 3 or 4 building.

Certificates for a building occupied in stages

6.7. Where a certificate of classification has been issued for part of an uncompleted building to which by-law 6.4 applies and the local authority consents to the occupation of a further part of the building, it must—

- (a) revoke that certificate; and
- (b) issue a further certificate of classification in accordance with by-law 6.4, covering all parts of the building for which consent to occupy has been given by the local authority.

Certificate of classification for certain buildings constructed prior to 1 April 1976 where certificate not previously issued**Preparation**

6.8.(1) Where written application for the issue of a certificate of classification is made by or on behalf of the owner of a building to which this by-law applies, the local authority must, in respect of that building, prepare a certificate of classification in duplicate, in or to the effect of the form set out in appendix 1 of these by-laws.

Issue

(2) The original of the certificate must be issued to the owner of the building.

Inspection of certificates

(3) A copy of the certificate must be retained by the local authority and be open to inspection, free of charge, by any person during the normal office hours of the local authority.

Application

(4) This by-law applies to every building (except a single detached Class 1 building and a Class 10 building) constructed prior to 1 April 1976.

Statement of classification**Preparation**

6.9.(1) Where a written application for the issue of a statement of classification is made by a prescribed person in respect of—

- (a) a building the use of which is proposed to be changed; or
- (b) a building proposed to be constructed;

the local authority must upon payment of the fee for the time being fixed by the local authority by resolution, prepare a statement of classification in duplicate in or to the effect of Appendix 2 of these by-laws.

Issue

(2) The original of the statement of classification must be issued to the person making the application.

Inspection of certificates

(3) A copy of the statement must be retained by the local authority and be open to inspection, free of charge, by any person during the normal office hours of the local authority.

Form

(4) A statement of classification must show—

- (a) the classification of the building having regard to the purpose for which it is proposed to be used; and
- (b) where any part of the building is classified differently to any other part, identify the part to which each classification relates.

(5) In subsection (1)—

“**prescribed person**” means—

- (a) where the application is in respect of an existing building—the owner of that building or a person acting on the owner’s behalf;
- (b) where the application is in respect of a proposed building—the person who, if the proposed building were then completed, would be its owner or a person acting on that person’s behalf.

Local authority to advise the Commissioner of Fire Service in certain cases

6.10. When a local authority has issued a certificate of classification for a building that is required by these by-laws to be provided with fire safety installations, the local authority must, within 10 days after issuing the certificate, provide the Commissioner of Fire Service with—

- (a) a copy of the certificate; and
- (b) a list of all fire safety installations installed in the building together with drawings showing the location of those installations.

PART 7—CHANGE OF USE

Interpretation

7.1. For the purposes of these by-laws the use of a building is changed if the purpose for which the building is designed, constructed or adapted to be used is changed such that the change would alter the classification of the building under these by-laws.

Change of use

7.2.(1) The use of a building must not be changed unless—

- (a)—
 - (i) the building complies with the requirements of these by-laws applicable to its new classification; and
 - (ii) the owner of the building has obtained the approval of the local authority to that change of use; or
- (b) the change of use involved has been approved by resolution of the local authority under by-law 7.5.

(2) An application for approval of a local authority to a change of use must be in or to the effect of the form set out in appendix 3 of these by-laws.

Buildings constructed on or after 1 April 1976

7.3. A building constructed on or after 1 April 1976 must not be used for a purpose that does not conform with the classification of the building specified in the certificate of classification last issued in respect of that building.

New certificate

7.4. If it approves a change of use of a building the local authority must—

- (a) revoke any existing certificate of classification for the building; and
- (b) prepare and issue a certificate of classification in accordance with by-law 6.4 having regard to the new use.

Concessional approval for certain existing buildings

7.5.(1) The use of a building or part of a building, in existence before the commencement of this by-law, may be changed without the entire building, or part, being made to comply with the provisions of these by-laws applicable to its new classification (Parts E1 and E4 of the Building Code of Australia excepted) if the local authority, after consideration of a report by the appropriate building officer and having regard to the circumstances of the case, resolves that in its opinion the building, or part—

- (a) will be structurally sound and capable of withstanding the loadings likely to arise from the new use; and
- (b) will contain reasonable provision for—
 - (i) the safety of persons to be accommodated in the building or part in the event of fire including means of egress; and
 - (ii) the prevention of fire; and
 - (iii) the suppression of fire; and
 - (iv) the prevention of the spread of fire.

(2) Before the appropriate building officer submits a report to the local authority for the purpose of this by-law in respect of a building or part that contains any special fire services mentioned in appendix 6, the appropriate building officer must obtain from the Commissioner of Fire Service a report as to the suitability of those fire services.

(3) An approval under this by-law may be made subject to such conditions (being conditions which relate to any of the matters referred to in Part E1 or E4 of the Building Code of Australia or in subsection (1)(a) or (b)) as the local authority considers necessary.

PART 8—FLOATING BUILDINGS—SPECIAL REQUIREMENTS

Interpretation

8.1. In this Part—

“**floating building**” means a permanently moored floating building constructed on a flotation system and not intended for, or usable in, navigation;

“**metacentre**”, in relation to a floating building, means the intersection of the verticals through the centre of buoyancy of the floating building when in equilibrium and when tilted;

“**metacentric height**”, in relation to a floating building, means the distance between the centre of gravity and the metacentre.

Application of this Part

8.2. The provisions of this Part are in addition to and not in substitution for other provisions of these by-laws which have application to floating buildings.

Access

8.3.(1) A floating building must have—

- (a) where more than 1 exit is required under these by-laws—at least 1 permanent access for each required exit; or
- (b) in any other case—at least 1 permanent access;

by way of a gangway, bridge or the like, which is not less than 900 mm in width measured clear of all obstructions and which gives access to—

- (c) the shore; or
- (d) a pontoon, float or wharf or the like which is not less than 1.5 m in width measured clear of handrails and which gives permanent access to the shore.

(2) Despite the provisions of subsection (1), the local authority may

require a greater width than that prescribed in subsection (1) if in its opinion, having regard to the number of persons likely to be accommodated in the floating building, it is necessary in the interests of safety to do so.

Flotation system

8.4. A floating building must be provided with a flotation system which—

- (a) extends—
 - (i) over the total plan area of the superstructure disregarding projections such as roof overhangs, bay windows, enclosed decks and other architectural features; and
 - (ii) to within 2 m of such projections; and
- (b) is a solid structure of reinforced concrete; and
- (c) is a fully enclosed cellular construction with voids provided for buoyancy filled with expanded polystyrene or similar durable foam material; and
- (d) is watertight; and
- (e) is provided with a timber buffer or the like to protect it from minor accidental impact; and
- (f) is designed—
 - (i) to maintain positive stability with a minimum measurement of not less than 250 mm from the waterline to the top edge of the flotation system under the most adverse combination of loads to which the floating building is likely to be subject including dead loads, live loads and wind loads calculated in accordance with these by-laws and loads resulting from—
 - (A) water turbulence; or
 - (B) flooding of the waterway; or
 - (C) tidal action; or
 - (D) water flooding associated with fire fighting or accidental cause; or
 - (E) accidental impact; and

- (ii) to maintain a minimum freeboard, being the measurement from the waterline to the top edge of the flotation system at the point where it has the least dimension under the action of dead and live loads only, of not less than 400 mm; and
- (iii) so that the metacentre is always above the centre of gravity when the floating building is tilted and so that the metacentric height is not less than 300 mm; and
- (g) is provided with buoyancy tanks or other devices to enable a reasonably horizontal floor level to be provided when subject to various combinations of asymmetrical dead and live loads both before and after occupation; and
- (h) is permanently restrained under the most adverse combination of loads to which it is likely to be subjected, by at least 4 mooring piles that allow it to freely float with the rise and fall of the water resulting from tides, flood, storm surge, wave action or other cause, but limit lateral movement relative to the mooring pile to 20 mm.

Mooring piles

8.5. Mooring piles must be designed to adequately and safely resist all lateral loads resulting from the most adverse combination of loads which are likely to act on the flotation system and superstructure of the floating building and any vessel attached to the floating building or mooring piles.

Materials

General

8.6.(1) All material used for decking, cladding, waterproofing, or structural purposes in a floating building or any mooring, gangway, bridge, pontoon, float, wharf or the like providing support or access to a floating building must be suitable for marine use.

Fastenings

(2) All nails, bolts, brackets and other fastenings used for structural purposes must—

- (a) when easily visible and accessible for maintenance purposes, be

hot dip galvanised steel or other material of equivalent durability; and

- (b) when not easily visible and accessible for maintenance purposes, be marine grade bronze, copper, stainless steel or other material of equivalent durability; and
- (c) if of metal and used in combination with other metals—be designed to minimise the effect of electrolytic action.

Location

8.7. A floating building must be located so that the minimum distance between the outermost projection of the floating building to any other building or the location of any proposed building is 3 m plus 1 mm for every 3 mm in height in excess of 4.5 m.

Safety equipment

8.8. A floating building must—

- (a) be provided with at least 1 marine type life ring; and
- (b) unless otherwise approved by the local authority after consultation with the Commissioner of Fire Service, be located so that no point on the floor of the floating building is either—
 - (i) beyond the reach of a fully extended hose reel that is connected to the water supply and situated in or in the vicinity of the floating building; or
 - (ii) more than 90 m from a hydrant.

Minimum water depth

8.9. The water depth under a floating building must be at least 1.0 m at all times.

Balustrades and handrails

8.10.(1) Unless otherwise approved by the local authority, the perimeter of every part of a floating building not wholly enclosed by walls must be

provided with a balustrade that complies with the following standards—

- (a) a continuous handrail or guardrail or the like must be fixed at a vertical height of not less than 1 000 mm above the floor surface and in the space between the handrail, guardrail or the like and the floor surface there must be no openings, or windows or panels which can be opened, which are either wider than 125 mm when measured horizontally, or if wider than 125 mm when measured horizontally, wider than 125 mm when measured vertically;
- (b) all members located more than 150 mm and up to and including 760 mm above the floor surface must be vertical or otherwise designed to eliminate any toe hold;
- (c) if access through the balustrade is required, a gate specifically designed to restrict access by young children and approved by the local authority must be provided.

(2) The perimeter of all gangways, pontoons, wharfs, stairways, ramps and the like which provide access to a floating building must be provided with a balustrade that complies with the following standard—

a continuous handrail must be fixed at a vertical height of not less than 865 mm above the nosings of the treads and the floor surface of the access bridge or landing, and in the space between the handrail and stair treads or floor there must be no openings, or windows or panels which can be opened, which are either wider than 300 mm when measured horizontally or if wider than 300 mm when measured horizontally, wider than 420 mm when measured vertically.

Non-slip surfaces

8.11. All external floor surfaces of a floating building and the floor surfaces of all gangways, pontoons, wharfs, stairways, ramps and the like which provide access to a floating building must have an approved non-slip finish.

Car parking, recreation and landscaping facilities

8.12. In respect of a floating building, car parking, recreation and landscaping facilities must be provided as required by the local authority.

PART 9—SITING REQUIREMENTS

Application of this Part

Generally

9.1.(1) This Part applies to—

- (a) single detached Class 1 buildings; and
- (b) Class 10a buildings and other structures located on the same allotment as a single detached Class 1 building.

Local authority resolution

(2) A local authority may, by resolution, require—

- (a) Class 1 buildings other than those specified in subsection (1)(a);
and
- (b) Class 2, 3 and 4 buildings; and
- (c) Class 10 buildings and other structures located on the same allotment as a building specified in paragraph (a) or (b);

to comply with any or all of the provisions of this Part.

Clearance from a reserve, lake, canal, river, waterway, or the high water mark of any foreshore or the like

9.2.(1) Despite section 11 of the Act and by-law 9.1, a local authority may, by by-law, prohibit the construction of all or any classes of buildings or other structures within a distance, specified in the by-law, of any reserves, lakes, canals, rivers, other waterways or the like situated wholly or partly within its area or of any foreshore abutting upon its area.

Saving

(2) Any building clearance from any reserve, lake, canal, river, other waterway or the like or from any foreshore fixed by by-law in force immediately before these by-laws came into force, continues to apply until amended or repealed in accordance with a by-law made under this Part.

Boundary clearances**Road boundary clearance**

9.3.(1) The minimum road boundary clearance must be 6 m.

Concession for open garage

(2) An open garage may be erected within 6 m of the road boundary, provided—

- (a) the total width of its supports located within the 6 m clearance limit does not exceed 10% of the perimeter of that portion of the open garage that is located within 6 m of the road boundary; and
- (b) the local authority is satisfied that it is necessary or expedient to erect the open garage in that location.

Side and rear boundary clearances—general

(3) Where the maximum height of the outermost projection above the natural ground surface is—

- (a) 4.5 m or less, the minimum side and rear boundary clearances must be 1.5 m; or
- (b) greater than 4.5 m but not exceeding 7.5 m, the minimum side and rear boundary clearances must be 2 m; or
- (c) greater than 7.5 m, the minimum side and rear boundary clearances must be 2 m plus 0.5 m for every 3 m or part of 3 m by which that height exceeds 7.5 m.

Stepped design

(4) Where a building is erected so that its height is stepped, the side and rear boundary clearances, measured to the outermost projections of each step of the building must comply with subsection (3) as if each step of the building were a separate building.

Concession for narrow allotments

(5) Where an allotment is rectangular or near rectangular in shape and has a frontage to a road of 15.5 m or less, the minimum side and rear boundary clearances must be—

- (a) in accordance with the following table*—
or
- (b) in accordance with subsection (3)(c) for a building or other structure more than 7.5 m high.

Concession for Class 10a buildings

(6) A Class 10a building may be constructed within the prescribed side and rear boundary clearances provided—

- (a) the appropriate building officer is satisfied that adequate precautions have been taken to avoid the discharge of rainwater onto any adjoining allotment; and
- (b) except for an open garage, the Class 10a building is at least 1 m from any Class 1 building on the same allotment; and
- (c) the Class 10a building has a height of not more than 4.5 m and a mean height of not more than 3.5 m, both measured above the natural ground surface; and
- (d) the total length of all elevations of all buildings facing and within the prescribed boundary clearance to any 1 boundary does not exceed 9 m; and
- (e) the Class 10a building is at least 1.5 m from every required window of any habitable room in an existing building on an adjoining allotment.

Boundary clearances—particular allotments**Application**

9.4.(1) A local authority may, by resolution, apply the provisions of this by-law to any part of its area identified in the resolution and where it does

* Relocated with other graphics to immediately before Endnotes.

so, to the extent that the provisions of this by-law are in conflict with by-law 9.3, these provisions apply in that part in the place of by-law 9.3.

(1A) The local authority must keep a map which identifies those parts of its area to which this by-law applies and a register of all resolutions to which this by-law applies, both of which are to be open to inspection free of charge by any person during the normal office hours of the local authority.

Road boundary clearance

(2) Subject to subsection (4), the minimum road boundary clearance is 3 m, provided that—

- (a) the building or that part of the building within 6 m of the road boundary has a maximum height of not more than 4.5 m and a maximum mean height of not more than 3.5 m; and
- (b) no building or other structure is located on a 6 m x 6 m area of the allotment (as shown in figure 9.4(2)(b)*) which adjoins a road alignment and another allotment—
 - (i) on which there is a Class 1 building which was constructed before 19 December 1987; or
 - (ii) in respect of which there is a current approval to construct a Class 1 building that was issued before 19 December 1987.

Side and rear boundary clearances—general

(3) Subject to subsection (4), the minimum side and rear boundary clearances must be—

- (a) at least 900 mm where a paved pedestrian accessway 750 mm or more wide is installed for the full length of that part of the building or other structure that is within 1.5 m of the boundary; or
- (b) within a range of 25 mm to 75 mm, in which case the external enclosing walls within that range must be constructed of maintenance free materials of uniform colour.

(3A) That part of the building or other structure which is within 1.5 m of a side or the rear boundary must—

- (a) have a mean height of not more than 3.5 m above the level of the

* Relocated with other graphics to immediately before Endnotes.

natural ground surface; and

- (b) have a maximum height of not more than 4.5 m above the level of the natural ground surface; and
- (c) provide, to the satisfaction of the appropriate building officer, for the discharge of rainwater.

(3B) The total length of all elevations of the parts of all buildings facing and within 1.5 m of a side or the rear boundary must not exceed 9 m.

(3C) This subclause—

- (a) does not apply in respect of a side or the rear boundary of an allotment which adjoins another allotment on which there is a building constructed before 19 December 1987 or in respect of which there is a current building approval for the construction of a Class 1 building issued before 19 December 1987; and
- (b) does not apply in respect of each of 2 side boundaries which are opposite or near opposite each other on the same allotment but applies in respect of 1 such boundary only.

Special areas to be provided on the allotment

(4) The provisions of subclauses (2) and (3) do not apply unless—

- (a) an outdoor area (which may be landscaped) is provided on the allotment adjacent to the road boundary having a minimum depth of 6 m measured at right angles to the road boundary for at least one-third of the width of the road frontage of the allotment: (A driveway of maximum width of 2.4 m that provides vehicular access to the car parking spaces required by paragraph (b) may be constructed over this area); and
- (b) in addition to the outdoor area referred to in paragraph (a), sufficient area for 2 car parking spaces is provided on the allotment with each space—
 - (i) having vehicular access to a road; and
 - (ii) being not less than 2.7 m wide by not less than 5.5 m long; and
 - (iii) being located—
 - (A) not less than 3 m from any road boundary; and

(B)so that at least 1 car parking space, if roofed or enclosed at any time, would not infringe the provisions of this Part.

Concession for fences, screens and ornamental or horticultural structures

9.5. Except as provided in by-law 9.8, there may be constructed within the prescribed boundary clearances—

- (a) a screen or fence of not more than 2 m in height above the level of the natural ground surface; and
- (b) a structure which is not part of a building and which is not more than 1 m above the level of the natural ground surface; and
- (c) a pergola or other structure, provided that it is—
 - (i) not enclosed or roofed; and
 - (ii) not higher than 2.4 m above the level of the natural ground surface measured at the boundary; and
 - (iii) in the opinion of the local authority, primarily ornamental or for horticultural purposes; and
 - (iv) not located within the minimum road boundary clearances prescribed in this Part.

Allotment coverage

9.6.(1) The maximum area covered by all buildings and roofed structures including garages and outbuildings must not exceed 50% of the total area of the allotment.

(2) Measurements must be taken—

- (a) for enclosed spaces, to the outside face of external walls; and
- (b) for unenclosed spaces, along a line 600 mm in from the external perimeter of the roof.

* Relocated with other graphics to immediately before Endnotes.

Basic minimum floor area of a Class 1 building

9.7. Despite section 11 of the Act, a local authority may, by by-law, require a single detached Class 1 building to have a minimum floor area of not less than 60 m² where it considers the circumstances warrant it.

Special requirements for corner allotments

9.8.(1) Fences, screens, ornamental structures and the like on an allotment must not, without the approval of the local authority, be higher than 1 m above the level of the natural ground surface in any corner of that allotment that is bounded by 2 road boundaries and a 6 m x 6 m 3 equal chord truncation, as shown in figure 9.8(1)*.

(2) A building or other structure on a corner allotment must be constructed in accordance with the distances prescribed in by-law 9.3 or 9.4, as the case may be, but where the average depth of the allotment measured at right angles to any alignment is not greater than 24 m, the distances may be reduced for 1 road frontage nominated by the local authority in accordance with the scale shown in figure 9.8(2)A*.

(2A) Provided in any case that a building or other structure higher than 2 m above the level of the natural ground surface must not be erected in the corner of the allotment bounded by 2 road boundaries and a 12 m x 12 m truncation, as shown in figure 9.8(2)B*.

Concession for siting requirements

9.9. A local authority may in respect of a particular allotment modify the requirements of this Part in so far as they apply to that allotment if the applicant for approval to the carrying out of building work on that allotment satisfies the local authority that—

- (a) because of the levels, depth, shape or conditions of the allotment or adjoining allotments; or
- (b) because of the nature of the proposed building or other structure or adjoining buildings; or

* Relocated with other graphics to immediately before Endnotes.

- (c) because the allotment is a corner allotment; or
- (d) because the allotment has 2 road frontages; or
- (e) because of any other reason the local authority may consider relevant;

the proposed building or other structure will not do any of the following—

- (f) unduly obstruct the natural light and ventilation of adjoining allotments;
- (g) unduly interfere with the privacy of adjoining allotments;
- (h) unduly restrict the areas suitable for landscaping;
- (i) unduly obstruct the outlook from adjoining allotments;
- (j) unduly overcrowd the allotment;
- (k) unduly restrict off street car parking;
- (l) unduly obstruct access for normal building maintenance.

PART 10—TEMPORARY AND SPECIAL STRUCTURES

Temporary buildings or other structures

10.1.(1) A local authority may approve an application for approval to the carrying out of building work in connection with the construction of a temporary building or other structure even though the building work will not comply in every respect with the other provisions of these by-laws if, after consideration of a report by the appropriate building officer and having regard to the circumstances of the case, the local authority resolves that in its opinion the building or other structure—

- (a) will be structurally sound and capable of withstanding the loadings likely to arise from its use; and
- (b) will contain reasonable provision for—
 - (i) the safety of persons to be accommodated in the building or

other structure in the event of fire including means of egress;
and

- (ii) the prevention of fire; and
- (iii) the suppression of fire; and
- (iv) the prevention of the spread of fire; and
- (v) the health and amenity of persons to be accommodated in the building or other structure.

(2) Before the appropriate building officer submits a report to the local authority for the purpose of this by-law in respect of a building or other structure that contains any special fire services mentioned in appendix 6, the appropriate building officer must obtain from the Commissioner of Fire Service a report as to the suitability of those fire services.

(3) If a local authority approves an application under subsection (1)—

- (a) it must limit the time during which the building or other structure is allowed to remain in place; and
- (b) it may subject its approval to such conditions as to the removal or demolition of the building or other structure or otherwise as it thinks fit.

(4) By-laws 2.5 and 2.6 do not apply in respect of an application to which this by-law applies.

Special structures

Owner to seek approval

10.2.(1) The owner of any land upon which it is proposed to construct a special structure must apply to the local authority for approval in accordance with the provisions of Part 2 of these by-laws.

Local authority must approve if satisfied

(2) The local authority, if satisfied that the special structure—

- (a) complies with these by-laws; and
- (b) will contain reasonable provision for—
 - (i) the safety of persons using the structure in the event of fire

including means of egress; and

- (ii) the prevention of fire; and
- (iii) the suppression of fire; and
- (iv) the prevention of the spread of fire; and
- (v) the health and amenity of persons using the structure;

must approve the construction of the special structure.

Exemption by local authority

(3) The local authority may, by resolution, exempt from the application of any of these by-laws any special structure or class of special structure.

Additional provisions for certain buildings

10.3.(1) Where a local authority approves the carrying out of building work in relation to a prescribed building it may, by resolution, subject its approval to such conditions directed to restricting or combating the spread of fire within or from the building as it considers appropriate.

(2) A local authority must not act under subsection (1) unless it has first consulted with the Commissioner of Fire Service as to the appropriateness of those conditions.

(3) In this by-law—

“prescribed building” means a Class 5, 6, 7 or 8 building—

- (a) which has a total floor area in excess of 36 000 m²; or
- (b) in respect of which the local authority is of the opinion that special provision should be made to restrict or combat the spread of fire within or from the building by reason of the purpose or purposes for which the building is being or is to be used.

(4) The provisions of this by-law apply in addition to any other provisions of these by-laws.

PART 11—SPECIAL PROVISIONS

Earthworks and retaining walls

11.1. Wherever building work is being carried out and the soil conditions, ground levels, excavation or filling so require—

- (a) retaining walls or other suitable methods for preventing the movement of the soil must be provided; and
- (b) such provision must be made for the drainage of the building or allotment concerned;

as may be necessary to protect land, buildings and other structures in the neighbourhood.

Land liable to flooding

11.2.(1) A local authority may, by resolution, declare an allotment as being liable to flooding (including by tidal surge) and determine the height which the floor levels of habitable rooms to be constructed on that allotment must be above the level of the natural ground surface of the allotment.

(2) A local authority must maintain a register of resolutions under subsection (1) and make it available for inspection by any person free of charge during the normal office hours of the local authority.

Drainage of building or allotment

11.3. Where a building or allotment is to be drained provision must be made to protect land, buildings and other structures in the neighbourhood.

Swimming pool fencing—prescribed standards of fencing

11.4.(1) Subject to subsections (2), (3), (4), (6), (7), (8) and (9), for the purposes of section 49H(4)(b)(i) and (ii) of the *Local Government Act 1936*, the prescribed standards for the design, construction and performance of swimming pool fencing are the standards set out in AS1926—1986, *Fences and Gates for Private Swimming Pools*, as in force on 4 August 1986.

(2) Despite clause 2.3 of AS1926—1986, the minimum effective perpendicular height of fencing constructed before 1 February 1991 is—

- (a) if the fencing is 900 mm or higher and was lawfully constructed under a local authority by-law relating to the fencing of the swimming pool—900 mm; or
- (b) if the fencing is 900 mm or higher and no local authority by-law relating to the fencing of the swimming pool subsisted on the day the fencing was constructed—900 mm; or
- (c) in any other case—1 200 mm.

(3) The requirements of—

- (a) clause 2.6 of AS1926—1986 that apply to the location of horizontal members of fencing; and
- (b) clauses 2.7 and 2.9 of AS1926—1986;

do not apply to fencing mentioned in subclause (2)(a) or (b) if the fencing is constructed in a way that is likely to inhibit young children from climbing over, or passing under or through it.

(4) Despite clause 2.3 of AS1926—1986, the height of fencing is taken to be effective if a quadrant of radius 900 mm, located within the perpendicular height of the fencing as shown in figure 11.4*, provides a clear span of at least 900 mm to—

- (a) finished ground level; and
- (b) any substantially horizontal surface with a depth of more than 10 mm; and
- (c) any projections from, or indentations into, the outside surface of the fencing, or any combination of projections and indentations, that form a substantially horizontal surface with a depth of more than 10 mm; and
- (d) if perforated materials or mesh are used in the construction of the fencing—any openings that are more than 12 mm.

(5) To allay any doubt, fencing that is constructed after the commencement of this subsection must have an effective perpendicular

* Relocated with other graphics to immediately before Endnotes.

height of at least 1.2 m at any point along its length, on the outside of the fencing.

(6) A thing on adjoining land is to be disregarded in determining compliance of fencing of an existing swimming pool with AS1926—1986.

(7) Despite clause 2.8 of AS1926—1986, an electronically operated gate may be used in fencing if the gate—

- (a) can only be opened by deliberately triggering a switch or sensor that is located out of the reach of young children; and
- (b) is capable of being manually closed if there is a power failure; and
- (c) closes automatically immediately after use; and
- (d) complies with the construction specifications of AS1926—1986.

(8) If a local authority gives an approval in respect of a non-complying gate under subsection (9)—

- (a) clause 2.8 of AS1926—1986 does not apply to the gate to the extent to which the approval is given; and
- (b) to that extent the prescribed standards for the gate are the standards approved by the local authority.

(9) A local authority may approve of a non-complying gate in fencing, subject to the following conditions—

- (a) it is permanently key locked in the closed position and the key is removed from the lock and placed out of the reach of young children; or
- (b) it is permanently fixed in the closed position; or
- (c) it is fixed in a way that is no less effective than paragraph (a);

and the gate is opened only if access through the gate is the only physically possible means of—

- (i) moving an object, materials or a vehicle into or out of the fenced area in which the swimming pool is located; or
- (ii) gaining access to that area in an emergency; and
- (d) the gate is permanently locked or permanently fixed in a closed position immediately after achieving the purpose for which the gate was opened.

(10) A local authority must not give an approval under subsection (9) if the non-complying gate is the only gate that provides access to the swimming pool.

(11) In subsections (8), (9) and (10)—

“non-complying gate” means a gate that is not self-closing and self-latching.

Swimming pool fencing—prescribed standards of openings

11.5.(1) Subject to subsections (2) and (13), for the purposes of section 49H of the *Local Government Act 1936*, the prescribed standards for openings providing access from a building to a swimming pool are the standards set out in clause 9.2.2 of AS2818—1986, Guide to Swimming Pool Safety, as in force on 5 September 1986.

(2) If a local authority gives an approval in respect of an opening under subsection (4), (6), (7), (9) or (12)—

- (a) clause 9.2.2 of AS2818—1986 does not apply to the opening to the extent to which the approval is given; and
- (b) to that extent the prescribed standards for the opening are the standards approved by the local authority.

(3) To allay any doubt, a local authority may give more than one approval in respect of an opening.

(4) A local authority may approve of a security door—

- (a) that has footholds wider than 10 mm in the area from the release for the latching mechanism down to 100 mm above the floor—if a metal fly screen mesh is securely fixed to that area on the inside of the door; or
- (b) that has a release for an internal latching mechanism less than 1500 mm above the floor—if a release for an additional latching mechanism is located at 1 500 mm or more above the floor.

(5) In subsection (4)—

* Relocated with other graphics to immediately before Endnotes.

“security door” means a door intended to be resistant to entry by a young child and which incorporates a large area of grille or mesh material to allow the passage of light and air.

(6) A local authority may approve of a door opening outward from a building if it is satisfied that it is impractical or inappropriate for the door to open inwards to the building.

(7) A local authority may approve of double doors if it is satisfied that—

- (a) it is impractical or inappropriate for both the doors to be self-closing and self-latching; and
- (b) a young child is unlikely to gain access to the swimming pool through the doors.

(8) An approval under subsection (7) must be subject to the following conditions—

- (a) 1 of the doors—
 - (i) is permanently key locked in the closed position and the key is removed from the lock and placed out of the reach of young children; or
 - (ii) is permanently fixed in the closed position; or
 - (iii) is fixed in a way that is no less effective than subparagraph (i); and
- (b) the other door is self-closing and self-latching in compliance with clause 9.2.2 of AS2818—1986; and
- (c) the conditions prescribed by subsection (11).

(9) A local authority may approve of a door that is not self-closing and self-latching, subject to the following conditions—

- (a) the door is permanently key locked in the closed position and the key is removed from the lock and placed out of the reach of young children; or
- (b) it is permanently fixed in the closed position; or
- (c) it is fixed in a way that is no less effective than paragraph (a);

and the conditions prescribed by subsection (11)

(10) A local authority must not give an approval under subsection (9)—

- (a) if the door is the only door that provides access from the building to the swimming pool; and
- (b) unless it is satisfied that a young child is unlikely to gain access to the swimming pool through the door.

(11) The conditions mentioned in subsections (8)(c) and (9) are—

- (a) that the door may be opened but only if access through the door is the only physically feasible means of—
 - (i) moving an object, materials or a vehicle into or out of the fenced area in which the swimming pool is located; or
 - (ii) gaining access to that area in an emergency; and
- (b) that the door is permanently locked or permanently fixed in a closed position immediately after achieving the purpose for which the door was opened.

(12) A local authority may approve the location of a window in the wall of an existing building at such a height that the distance from the floor to the lowest opening panel is not less than 900 mm if—

- (a) there are no footholds wider than 10 mm (other than skirting boards) on the inside of the wall below the lowest opening panel; and
- (b) a fly screen is securely fixed to the opening.

(13) Despite clause 9.2.2 of AS2818—1986, the prescribed standard for an opening lawfully constructed under a local authority by-law—

- (a) subsisting before 1 February 1991; and
- (b) relating to inhibiting access by young children from a building to a swimming pool;

is the standard prescribed under the by-law.

Swimming pool fencing—prescribed standards for above-ground pools

11.6.(1) For the purposes of section 49H(5) of the *Local Government Act 1936*, the prescribed standards for the walls of an above-ground swimming pool or associated structure adjacent to an above-ground swimming pool

around which fencing is not required to be constructed are set out in subsection (2).

- (2) The walls of the swimming pool or associated structure must—
- (a) if the swimming pool is an existing swimming pool and—
 - (i) under a local authority by-law subsisting on the day the swimming pool was lawfully constructed or installed, the owner of the swimming pool was not required to construct fencing around the walls of the swimming pool or adjacent structure; or
 - (ii) no such local authority by-law subsisted on the day the swimming pool was constructed or installed;
be at least 900 mm high and form a barrier to access to the swimming pool not inferior to the standards prescribed under by-law 11.4 in respect of swimming pool fencing of that height; or
 - (b) in any other case—be at least 1 200 mm high and form a barrier to access to the swimming pool not inferior to the standards prescribed under by-law 11.4 in respect of swimming pool fencing of that height.

PART 12—STATE ACCREDITATION

Purpose

12.1. The purpose of this Part is to provide for the establishment and maintenance of a system of state accreditation of building products that are suitable for use in building work.

Interpretation

12.2. In this Part—

“building product” means any building material or method of construction or design used in building work.

Application

12.3. This Part applies to a building product that is new or innovative, but does not apply to a building product—

- (a) in respect of which there is a current Certificate of Accreditation, or a Standards Mark Certificate issued by Standards Australia; or
- (b) that is manufactured, fabricated or constructed in accordance with the requirements of an Australian Standard that is referenced in the Building Code of Australia; or
- (c) that is a product to which none of the other Parts of these by-laws apply.

Effect of State accreditation

12.4. A building product accredited under this Part is suitable for use in building work if used in accordance with the conditions (if any) to which the accreditation is subject.

Director to accredit

12.5.(1) A person may apply to the Director to have a building product accredited under this Part.

(2) The Director must accredit the building product unless satisfied that the building product is not suitable to be used in building work.

(3) The application must be—

- (a) in accordance with the form from time to time approved by the Director; and
- (b) be accompanied by—
 - (i) an appraisal of the product from an authority that is recognised by the Director as competent to make the appraisal; and
 - (ii) a test report from a Registered Testing Authority within the meaning of the Building Code of Australia; and
- (c) accompanied by a fee of \$200.00.

(4) Where the accreditation sought for a building product relates only to

its structural adequacy, the Director may dispense with the need for an application to be accompanied by the information referred to in subsection (3)(b) if it is accompanied by a certificate from a registered professional engineer stating that the product is structurally adequate and suitable for use in building work.

(5) The Director may request the applicant to supply such additional information as the Director considers necessary to enable a proper assessment of the suitability or otherwise of the building product.

Conditions

12.6. The accreditation of a building product may be made subject to conditions that are relevant to the use of the product.

Register

12.7.(1) The Director must cause to be maintained a register of building products accredited under this Part and the conditions (if any) to which the accreditation is subject and is to assign to each product an accreditation number.

(2) The register is to be called the Queensland Accreditation Register.

Cancellation or alteration of accreditation

12.8.(1) If it comes to the knowledge of the Director that a substantial alteration has occurred in respect of a building product accredited under this Part or that the product is no longer marketed, the Director may cancel or alter the accreditation as to the Director appears appropriate.

(2) If the Director is satisfied that a building product accredited under this Part is not suitable for the use in respect of which it is accredited the Director may cancel its accreditation.

(3) The Director must not cancel or alter the accreditation of a building product unless the applicant for accreditation or a manufacturer of the product has been given an opportunity to make representations to the Director in relation to the matter.

(4) In subsection (1)—

“substantial alteration” means—

- (a) any alteration to the manufacturer’s specifications or literature relating to the building product; or
- (b) any alteration to the product such that it may no longer be suitable for the use in respect of which it is accredited.

Director to issue certificate

12.9. Where the Director accredits a building product under this Part, the applicant for accreditation must be issued with a Certificate of Accreditation that relates to the product.

Records

12.10. All documentation considered by the Director when deciding to accredit a building product under this Part is to be retained by the Director while the accreditation continues.

Register open to inspection

12.11. The Queensland Accreditation Register is to be open to inspection by any person free of charge during normal office hours.

PART 13—BUILDING PRODUCTS REGISTRATION

Purpose

13.1. The purpose of this Part is to provide for the establishment and maintenance of a register of building products that are suitable for use in single detached Class 1 and 10 buildings.

Duration

13.2. This Part continues in force until 31 December 1994 and then expires.

Interpretation

13.3. In this Part—

“**building product**” means any building material or method of construction or design used in building work.

Application

13.4. This Part does not apply to a building product—

- (a) in respect of which there is a current Certificate of Accreditation, or a current Standards Mark Certificate issued by Standards Australia; or
- (b) that is not in common use in the building industry in Queensland at the commencement of this by-law; or
- (c) that is a generic material, including brick, masonry, concrete or steel, that is manufactured, fabricated or constructed in accordance with the requirements of an Australian Standard that is referenced in the Building Code of Australia; or
- (d) that is a product to which none of the other Parts of these by-laws apply.

Effect of registration

13.5. A building product registered under this Part is suitable for use in single detached Class 1 and 10 buildings if used in accordance with the conditions (if any) to which the registration is subject.

Director to register

13.6.(1) A person may apply to the Director to have a building product registered under this Part.

(2) The Director must register the product unless the Director is satisfied that the product is not suitable to be used in single detached Class 1 and 10 buildings.

(3) The application must be—

- (a) in accordance with the form from time to time approved by the

Director; and

(b) be lodged with the secretary to the Building Advisory Committee.

(4) The Director may request the applicant to supply such additional information as the Director considers necessary to enable a proper assessment of the suitability or otherwise of the building product.

Conditions

13.7. The registration of a building product may be made subject to conditions that are relevant to the use of the product.

Register

13.8.(1) The Director must cause to be maintained a register of building products registered under this Part and the conditions (if any) to which the registration is subject and is to assign to each product a registration number.

(2) The register is to be called the Building Products Register.

Cancellation or alteration of registration

13.9.(1) If it comes to the knowledge of the Director that a substantial alteration has occurred in respect of a building product registered under this Part, the Director may cancel or alter the registration as to the Director appears appropriate.

(2) If the Director is satisfied that a building product registered under this Part is not suitable for the use in respect of which it is registered, the Director may cancel its registration.

(3) The Director must not cancel or alter the registration of a building product unless the applicant for registration or the manufacturer of the product has been given an opportunity to make representations to the Director in relation to the matter.

(4) In subsection (1)—

“substantial alteration” means—

(a) any alteration to the manufacturer’s specifications or literature relating to the building product; and

- (b) any alteration to the product such that it may no longer be suitable for the use in respect of which it is registered.

Director to issue certificate

13.10. Where the Director registers a building product under this Part, the applicant for registration must be issued with a certificate of registration that relates to the product.

Records

13.11. All documentation considered by the Director when deciding to register a building product under this Part is to be retained by the Director while the registration continues.

Register open to inspection

13.12. The Building Products Register is to be open to inspection by any person free of charge during normal office hours.

PART 14—DESIGN CRITERIA FOR CONFORMING BUILDINGS

Definitions

14.1. In this Part—

“**conforming buildings**” are Class 1 or Class 10 buildings that comply with figure 14.1* or the following limitations—

- (a) plan configuration must be rectangular, square, ‘L’ shaped, or a simple combination of those shapes;
- (b) the height to the underside of the eaves from the surrounding ground level must not exceed 6 m;

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- (c) the highest part of the roof must not exceed 8.5 m above the surrounding ground level;
- (d) the storey height at external walls must not exceed 2.7 m;
- (e) all heights exclude chimneys and parapet walls;
- (f) the length measured from external wall to external wall must not exceed 5 times the width;
- (g) the width (including verandahs but excluding eaves) measured from external wall to external wall in the direction perpendicular to the length must not exceed 16 m;
- (h) the roof pitch must not exceed 35°.

Design and acceptance of conforming buildings

14.2. This Part sets design procedures to be followed in the detailing of resistance to wind loads, and footing design of conforming buildings.

Suitability of materials, components and methods of construction for conforming buildings

14.3. Materials, components and methods of construction for conforming buildings that comply with this Part meet the level of performance required by these by-laws.

Design of conforming buildings by means other than this Part

14.4. Acceptance of materials, components and methods of construction for conforming buildings may also be determined by reference to other parts of these by-laws.

Requirements for conforming buildings—foundations and footings

14.5.(1) For conforming buildings designed using this Part, foundation materials must be classified in accordance with AS2870.1—1988, Residential Slabs and Footing Code.

* Relocated with other graphics to immediately before Endnotes.

(2) Footing design classification must be determined from table 14.5(a)*.

(3) For single leaf masonry walls mentioned in table 14.5(a)*—

- (a) articulated masonry is taken to be a building that has reinforced or articulated single-leaf masonry external walls and framed or articulated masonry internal walls; and
- (b) non-articulated masonry is taken to be a building that has—
 - (i) reinforced or articulated single-leaf masonry external walls and non-articulated masonry internal walls; or
 - (ii) single-leaf masonry external walls that are not reinforced or articulated.

(4) In subclause (3)—

“Articulated internal walls” means internal walls with full-height door openings.

(5) Footing systems comply with this Part if they are designed according to engineering principles to be equivalent in performance to the details shown (in respect to structural strength and stiffness, bearing, uplift or bracing loads) in tables 14.5(b), 14.5(c), 14.5(d) and 14.5(e)* and figure 14.5(f)*.

(6) Footing designs for footing classifications—

- (a) F4 and F5 must incorporate details to effectively isolate subfloor drainage and pipework from footing and slab movement; or
- (b) F6 or F7 must be designed by a registered professional engineer.

(7) Footings to loadbearing columns designed to resist the direct vertical downward loads, illustrated as Force V in figure 14.5(f)*, must have the minimum bearing areas required by table 14.5(c)*.

(8) Columns designed to resist uplift forces illustrated as Force U, and the horizontal bracing forces illustrated as Force H, in figure 14.5(f)* must comply with table 14.5(d)* or table 14.5(e)*.

(9) Steel columns mentioned in table 14.5(d)* that are over 900 mm above the ground must not be used for bracing columns unless specified by

* Relocated with other graphics to immediately before Endnotes.

a registered professional engineer or incorporated in a bracing set.

(10) Steel or sawn timber columns may be used in bracing sets that have allowable bracing forces (F) (up to a maximum value of 13kN) calculated using the following formula—

$$F = U \times \frac{D}{H} \text{ (kN)}$$

and the values for the formula shown in figure 14.5(f)*.

Requirements for conforming buildings—design for wind loads

14.6.(1) For the purpose of this Part there are wind classifications W33N, W41N, W50N, W60N, W70N, W41C, W50C, W60C and W70C, determined under table 14.6(a)*.

(2) To determine the wind classification of a site, the site must be assessed in terms of—

- (a) the region of the site; and
- (b) the terrain category classification; and
- (c) the shielding classification; and
- (d) the topographic classification.

(3) For the purposes of this Part, Queensland is divided into 3 distinct regions—

- (a) region A—the interior region bordering region B, considered as normal; and
- (b) region B—a 50 km wide strip abutting region C, and extending out to the coastline below latitude 25° S, and including the islands of the Torres Strait located to the east of longitude 142° E and north of latitude 11° S; and
- (c) region C—a 50 km wide coastal strip as far south as latitude 25° S;

as indicated on Figure 14.6(b)*.

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(4) For the purposes of this Part, the terrain category classification (TC1, TC2, TC2.5 or TC3) for a building site is the measure of the lowest effective surface roughness (least TC number) to the passage of high winds from any direction within a distance of 500 m of the proposed building.

(5) The terrain category classification must be based on the likely terrain over the following 5 years.

(6) Lengthy cleared areas (for roads, parks or canals) up to 500 m wide are not considered to derate the terrain category classification in urban areas, but may affect shielding, and may be disregarded if they are not within 500 m of a terrain category boundary or each other.

(7) For the purposes of this Part there are Terrain Categories TC3, TC2.5, TC2 and TC1 determined as follows—

- (a) **TC3** (Terrain Category 3)—terrain with numerous closely spaced obstructions having domestic houses 3 m—8.5 m high, in which—
 - (i) the minimum density of obstructions is the equivalent of 10 house sized obstructions per hectare; and
 - (ii) substantial, well established trees are considered as obstructions (except in region C where a maximum of TC2.5 applies for well established trees giving the equivalent of 10 house sized obstructions per hectare); and
- (b) **TC2.5** (Terrain Category 2.5)—a category that is intermediate between TC2 and TC3 and may represent the terrain in developing outer urban areas—terrain with few trees, isolated obstructions or long grass (600 mm high); and
- (c) **TC2** (Terrain Category 2)—open terrain including sea coast areas, airfields, grasslands with few well scattered obstructions (isolated trees 1.5 m—10 m high) and uncut grass; and
- (d) **TC1** (Terrain Category 1)—a category that is rare and exists only for isolated buildings in flat, treeless, poorly grassed plains at least 10 km wide, but may be more applicable in

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serviceability design—exposed open terrain with few or no obstructions.

(8) For the purposes of this Part, the shielding classification of a building must be based on the likely shielding over the following 5 years, and must be assessed having regard to the following descriptions—

- (a) full shielding (**FS**)—at least 2 rows of houses or similar sized permanent obstructions surround the building being considered (In regions A and B, heavily treed areas can provide full shielding, and in region C, heavily treed areas upwind can only be considered to give a maximum of partial shielding);
- (b) full shielding is appropriate for typical suburban development, equal to or greater than 10 house sized obstruction per hectare;
- (c) the effects of roads or open areas with a distance measured in any direction of less than 100 m are to be ignored, but the first 2 rows of houses abutting permanent open areas with the least dimension greater than 100 m—such as parklands, large expanses of water and airfields—are to be considered to have either partial shielding or no shielding;
- (d) partial shielding (**PS**)—intermediate situations of at least 2.5 houses, trees, or sheds for each hectare—such as acreage type suburban development or wooded parkland (partial shielding can also be considered for heavily treed areas in region C);
- (e) no shielding (**NS**)—less than 2.5 house sized obstructions for each hectare upwind, for example the first 2 rows of houses or single houses abutting open water, airfields and open parklands.

(9) Shielding classification must take account of local effects on wind speed where a building is influenced by upwind obstructions of a similar size to the building in close proximity.

(10) For the purposes of this Part, the topographic classification (T1, T2, T3, T4 or T5) of a building site is determined by the effect wind has on the proposed building because of its location on a hill, ridge or escarpment, and the average slope of that hill, ridge or escarpment.

(11) The way in which the topographic classification is to be determined under subsection (12) or (13) is suitable for mapping wind classification zones of an area and for assessing the wind classification of an individual

site.

(12) The topographic classification T1 applies to hills, ridges or escarpments if—

- (a) the average slope is less than 1 in 10; or
- (b) the height of the hill, ridge or escarpment is less than—
 - (i) 25 m and the average slope is less than or equal to 1:7.5; or
 - (ii) 20 m and the average slope is more than 1:7.5 but less than or equal to 1:5; or
 - (ii) 15 m and the average slope is more than 1:5 but less than or equal to 1:3.

(13) The topographic classification in any other case is to be derived from figure 14.6(c)* and table 14.6(c)*, in which—

- (a) an escarpment is a hill or ridge with 1 slope less than 1 in 20 and another slope greater than 1 in 10; and
- (b) the position of the site on a hill, ridge or escarpment is as indicated in figure 14.6(c)*; and
- (c) the average slope is the slope measured by averaging the steepest slope and the least slope measured through the top of the hill, ridge or escarpment over the top half of the hill, ridge or escarpment (the average slope will not always occur at the actual proposed building site, and must be appraised by considering the adjacent topography); and
- (d) the near top zone extends for an equal distance 'd' either side of the crest of an escarpment as shown in figure 14.6(c)*; and
- (e) the distance 'd' is the average horizontal distance measured from the crest of the escarpment to the near top zone; and
- (f) the over top zone of an escarpment is considered to extend a distance of 5 times the height of the hill 'h' past the crest of the escarpment; and
- (g) the bottom of the hill, ridge or escarpment is that area at the base

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of the hill, ridge or escarpment where the average slope is less than 1 in 20, for example, a creek, river, valley or flat area.

(14) Racking forces for wind classification W33N on whole buildings (including roofs), single or 2 storey buildings (gable or hip roof), with conventional ceilings (continuous, horizontal or raked) are given in tables 14.6(f) to 14.6(k)*.

(15) The racking forces for other wind classifications are calculated by multiplying the loads in tables 14.6(f) to 14.6(k)* by the factors given in table 14.6(d)*.

(16) Racking forces must be resisted by bracing walls or systems that are reasonably evenly spaced over the length of the building, including at or near the ends of the building.

(17) For a single storey building or the upper storey of a 2 storey building, the maximum spacing of bracing walls is obtained by multiplying the spacing in table 14.6(l)* by the appropriate factor shown in table 14.6(e)* but must not exceed 9 m.

(18) For the lower storey of a 2 storey building, the spacing of bracing walls must not exceed 9 m.

(19) Suitable structural bracing must constitute at least 50% of the required bracing strength for 2 storey buildings, and at least 40% for single storey buildings.

(20) The required remaining bracing wall requirements can be obtained by nominal bracing walls.

(21) Wall frames lined with sheet materials including plywood, plasterboard, fibre cement sheeting, hardboard and the like, with sheeting fixed in accordance with the manufacturers general specification and with the frames nominally fixed to the floor and the roof or ceiling framing may be assumed to have the following design strengths—

- (a) sheeted 1 side only—0.3 kN/m; or
- (b) sheeted 2 sides—0.5 kN/m.

(22) Internal masonry walls at least 90 mm thick, and nominally fixed to the ceiling or roof may be assumed to have a design bracing strength of

* Relocated with other graphics to immediately before Endnotes.

0.5 kN/m.

(23) Overturning must be considered for—

- (a) all W50N and W50C buildings where the overall height divided by the width exceeds 1.33; and
- (b) all W60N, W70N, W60C and W70C buildings.

(24) Uplift wind forces at the top of walls of buildings are obtained by multiplying the area supported by a particular element or member by the net permissible design uplift pressures of table 14.6(m)*.

(25) Design uplift wind forces must be resisted by suitable fasteners or tie down systems that provide an effective load path to the foundation level.

(26) The permissible uplift pressures in table 14.6(m)* are based on the following—

$$\text{uplift} = 0.6V^2C_{p,n} \times 10^{-3} - 0.75G$$

where $G = 0.9$ kPa for a tile roof

and $G = .4$ kPa for a sheet roof.

(27) The following internal and external pressure coefficients are used in this Part—

- (a) regions A and B
 - (i) internal pressure coefficients—
strength and serviceability— $C_{pi} = 0.2$ or -0.3 ;
 - (ii) net pressure coefficients—
strength—see table 14.6(n)*.
- (b) region C
 - (i) internal pressure coefficients—
strength— $C_{pi} = 0.7$ or -0.65 ;
serviceability— $C_{pi} = 0.2$ or -0.3 ;
 - (ii) net pressure coefficients—

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strength—see table 14.6(o)*.

APPENDICES 1–4*

APPENDIX 5

Fire safety installations

Structural features

- access panels through fire-rated construction
- penetrations through fire-rated construction
- fire dampers
- fire shutters and fire doors
- fire windows
- fire curtains
- structural fire protection
- systems required to have a fire-resistance level
- fire control centres

Fire protection systems

- sprinklers (including wall-wetting sprinklers)
- special automatic fire suppression systems (including foam, deluge and gas flooding systems)
- fire detection and alarm systems
- stairwell pressurisation systems
- air-handling systems

smoke and heat venting systems

smoke exhaust systems

Fire fighting equipment

fire mains

fire hydrants (including hydrant boosters)

fire hose reels

fire extinguishers (portable)

Occupant safety features

emergency warning and intercommunication systems

exit door hardware

emergency lighting

exit signs

emergency lifts

emergency power supply

fire doors

solid core doors

smoke proof doors

Other features

vehicular access for large isolated buildings

services provided under conditions imposed under by-law 10.3

services required under clause E1.10 of the Building Code of Australia

Special fire services

fire mains

fire hydrants

sprinklers (including wall-wetting sprinklers)

special automatic fire suppression systems (including foam, deluge and gas flooding systems)

fire detection and alarm systems

fire control centres

stairwell pressurisation systems

air-handling systems used for smoke control

smoke and heat venting systems

smoke exhaust systems

emergency warning and intercommunication systems

emergency lifts

vehicular access for large isolated buildings

services provided under conditions imposed under by-law 10.3

services required under clause E1.10 of the Building Code of Australia

APPENDIX 7**SPECIAL FIRE SERVICES REQUIRED TO BE
ASSESSED BY THE COMMISSIONER OF FIRE
SERVICE****1. Large isolated buildings**

Suitability of site provisions for access by Fire Service vehicles.

2. Fire fighting equipment

- (a) Provisions for connection of Fire Service portable relay booster pump.
- (b) Location and suitability of booster connections and enclosures.
- (c) Location of fixed pump-set controls and status indication.
- (d) Location and suitability of internal and roof hydrants and external hydrants including fire separation from adjacent buildings.
- (e) Provisions for hard standing for fire appliances.
- (f) Provision of additional hydrant services as mentioned in AS2419.

3. Sprinklers

- (a) The location of valve room, pump-sets, water alarm and booster point.
- (b) Location of pump-set controls and status indications.
- (c) Provision of direct Fire Service alarm and location of directional signs.
- (d) Provision of suitable fire-protection for special hazards as mentioned in AS 2118.

4. Wall-wetting sprinklers

- (a) Location of isolating valves.
- (b) Provision of suitable signs.

5. Special automatic fire suppression systems

- (a) Location of control valves.
- (b) Provision of access for Fire Service vehicles.
- (c) Suitability of extinguishment media.
- (d) Provision of interface with other systems and direct Fire Service alarm.

6. Fire detection and alarm systems

- (a) Location of main fire indicator panel, sub-indicator panels, mimic panels, local alarm bells and directional signs.
- (b) Suitability of weather protection, accessibility and lighting of equipment.
- (c) Provision of direct Fire Service alarm.
- (d) Suitability of nominated types of detection in all areas, and the location of manual call points.

7. Fire control centres

- (a) Location and size of control centre.
- (b) Suitability of contents of control centre.

8. Provisions for special hazards

Suitability of special fire services for the protection of special hazards as mentioned in clause E1.10 of the Building Code of Australia.

9. Smoke and control systems

- (a) Suitability of operational controls and indicators.
- (b) Automatic detector operation of stairwell pressurisation systems, smoke-and-heat vents and smoke exhaust systems.

10. Emergency lifts

Provision of Fire Officer's controls in lifts.

11. Emergency warning and intercommunication systems

- (a) Provision of suitable auxiliary warning devices, where AS 2220 systems are not specified.
- (b) Suitability of interface of warning system with detection and alarm systems.

- (c) Location of main emergency control panel and warden intercom points.

12. Prescribed buildings

Suitability of special fire services and site requirements for prescribed buildings mentioned in By-law 10.3.

APPENDIX 8

SPECIAL FIRE SERVICES REQUIRED TO BE INSPECTED BY THE COMMISSIONER OF FIRE SERVICE

1. Large isolated buildings

Suitability of site provisions for access by Fire Service vehicles.

2. Fire fighting equipment

- (a) Provisions for connection of Fire Service portable relay booster pump.
- (b) Location and suitability of booster connections and enclosures.
- (c) Operation of fixed pump-set controls and status indication.
- (d) Location and suitability of internal and roof hydrants and external hydrants including fire separation from adjacent buildings.
- (e) Provisions for hard standing for fire appliances.
- (f) Provision of additional hydrant services as mentioned in AS 2419.
- (g) Achievement of specified performance.

3. Sprinklers

- (a) The location of valve room, pump-sets, water alarm and booster point.
- (b) Operation of pump-set controls and status indications.
- (c) Operation of direct Fire Service alarm and location of directional signs.
- (d) Provision of suitable fire-protection for special hazards as mentioned in AS 2118.

4. Wall-wetting sprinklers

- (a) Location of isolating valves.
- (b) Provision of suitable signs.

5. Special automatic fire suppression systems

- (a) Location of control valves.
- (b) Provision of access for Fire Service vehicles.
- (c) Suitability of extinguishment media.
- (d) Provision of interface with other systems and direct Fire Service alarm.
- (e) Achievement of specified performance.

6. Fire detection and alarm systems

- (a) Location and operation of main fire indicator panel, sub-indicator panels, mimic panels, local alarm bells and directional signs.
- (b) Suitability of weather protection, accessibility and lighting of equipment.
- (c) Operation of direct Fire Service alarm.
- (d) Suitability of nominated types of detection in all areas, and the location of manual call points.
- (e) Achievement of specified performance of detection and alarm

systems.

7. Fire control centres

- (a) Location of control centre.
- (b) Suitability of contents, ventilation, signage, lighting and sound levels of control centre.

8. Provisions for special hazards

Suitability of special fire services for the protection of special hazards as mentioned in clause E1.10 of the Building Code of Australia.

9. Smoke control systems

- (a) Suitability of operational controls and indicators.
- (b) Suitability of automatic detector operation of stairwell pressurisation systems, smoke-and-heat vents and smoke exhaust systems.
- (c) Achievement of specified performance of systems.

10. Emergency lifts

Operation of Fire Officer's controls in lifts.

11. Emergency warning and intercommunication systems

- (a) Operation of suitable auxiliary warning devices, where AS 2220 systems are not specified.
- (b) Operation of interface of warning system with detection and alarm systems.
- (c) Location of main emergency control panel and warden intercom points.
- (d) Suitability of warning tone and sound pressure levels under test.

12. Prescribed buildings

Suitability of special fire services and site requirements for prescribed buildings mentioned in By-law 10.3.

**GRAPHICS RELOCATED FROM BODY OF
LEGISLATION**

TABLE FOR BY-LAW 9.3(5)(a)

FIGURE 9.4(2)(B)

FIGURE 9.8(1)

FIGURE 9.8(2)A

FIGURE 9.8(2)B

FIGURE 11.4

FIGURE 14.1

TABLE 14.5(a)

TABLE 14.5(b)

TABLE 14.5(c)

TABLE 14.5(d)

TABLE 14.5(e)

FIGURE 14.5(f)

TABLE 14.6(a)

FIGURE 14.6(b)

TABLE 14.6(c)

FIGURE 14.6(c)

TABLE 14.6(d)

TABLE 14.6(e)

TABLE 14.6(f)

TABLE 14.6(g)

TABLE 14.6(h)

TABLE 14.6(i)

TABLE 14.6(j)

TABLE 14.6(k)

TABLE 14.6(l)

TABLE 14.6(m)

TABLE 14.6(n)

TABLE 14.6(o)

APPENDIX 1

APPENDIX 2

APPENDIX 3

APPENDIX 3 CONTD (PLEASE DON'T USE THIS HEADING)

APPENDIX 4

ENDNOTES**1 Index to Endnotes**

	Page
2 Date to which amendments incorporated	195
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5 Table of corrected minor errors	206
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2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation before 1 June 1992. Future amendments of the *Building Act 1975* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

3 List of legislation**Building Act 1975 No 11**

date of assent 15 May 1975

Parts 5, 6 and 8 and Schedule thereto commenced 1 April 1976 (proc pubd Gaz 6 March 1976 p 886)

remaining provisions commenced 31 May 1975 (proc pubd Gaz 31 May 1975 p 748)

as amended by—

Building Act Amendment Act 1978 No 47

date of assent 12 June 1978

commenced 21 September 1978 (proc pubd Gaz 23 September 1978 p 245)

Builders' Registration and Home-owners' Protection Act 1979 No 69 s 4(2), (3)

date of assent 21 December 1979

commenced 19 May 1980 (proc pubd Gaz 12 April 1980 p 1344)

Building Act Amendment Act 1981 No 53

date of assent 12 June 1981

ss 1, 2 commenced on date of assent

remaining provisions commenced 29 June 1981 (proc pubd Gaz 27 June 1981 p 1710)

Building Act Amendment Act 1984 No 45

date of assent 10 May 1984

ss 1, 2 commenced on date of assent

ss 3, 5(c), 17, 23, 25 and 26 commenced 7 July 1984 (proc pubd Gaz 7 July 1984 p 1608)

remaining provisions commenced 2 June 1984 (proc pubd Gaz 2 June 1984 p 987)

Building Act Amendment Act 1984 (No 2) No 114

date of assent 18 December 1984

ss 1, 2 commenced on date of assent

remaining provisions commenced 2 March 1985 (proc pubd Gaz 23 February 1985 p 942)

Building Act Amendment Act 1987 No 69

date of assent 1 December 1987

ss 1, 2 commenced on date of assent

remaining provisions commenced 28 March 1988 (proc pubd Gaz 26 March 1988 p 1735)

Public Service Management and Employment Act 1988 No 52 s 44 Sch 3

date of assent 12 May 1988

commenced 18 July 1988 (proc pubd Gaz 16 July 1988 p 2876)

Local Government (Planning and Environment) Act 1990 No 61 s 8.8 Sch 1, Sch 2

date of assent 18 September 1990

commenced 15 April 1991 (proc pubd Gaz 6 April 1991 p 2009)

Local Government Act and Other Acts Amendment Act 1990 No 107 Part 4

date of assent 18 December 1990

commenced 1 February 1991 (proc pubd Gaz 19 January 1991 p 144)

Standard Building By-law (Swimming Pool Fencing) Order 1991 SL No 75

pubd Gaz 14 September 1991 pp 128–133

commenced 14 September 1991 (see s 2)

Building Act Amendment Act 1991 No 52

date of assent 10 September 1991

ss 1.1, 1.2 commenced on date of assent

remaining provisions commenced 1 January 1992 (SL No 180 Gaz 21 December 1991 p 2670)

Standard Building By-laws Amendment Order 1991 SL No 181

pubd Gaz 21 December 1991 pp 2089–2129

commenced 1 January 1992 (see s 3)

4 List of annotations

Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
pres	=	present
orig	=	original

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement of Act

s 3 om 1991 No 52 s 2.2

Crown to be bound

s 4 sub 1978 No 47 s 4
amd 1981 No 53 s 4; 1984 No 45 s 4; 1991 No 52 s 2.3

Use of Crown buildings in emergency

s 4A ins 1991 No 52 s 2.4

Interpretation

s 5 amd 1978 No 47 s 5; 1984 No 45 s 5; 1991 No 52 s 2.5

Schedule prescribes Standard Building By-laws

s 6 amd 1984 No 114 s 5

Postponement of operation of schedule

s 7 om (see s 39 RA)

Amendments and modifications may be made at any time

s 10 om (see s 39 RA)

Standard Building By-laws a complete code

s 11 sub 1978 No 47 s 6
amd 1981 No 53 s 5; 1984 No 45 s 6; 1987 No 69 s 4; 1990 No 107 s 4.2

By-laws prescribing requirements as to erection of buildings of Class I and X under Standard Building By-laws

s 11A om 1987 No 69 s 5

By-laws Variation Subcommittee

s 12A om 1991 No 52 s 2.6

Delegate member of By-laws Variation Subcommittee

s 12AA om 1991 No 52 s 2.6

Variation of Standard Building By-laws

s 12B sub 1984 No 45 s 10
amd 1991 No 52 s 2.7

Constitution of building tribunal

s 12BA ins 1991 No 52 s 2.8

Determination of application to vary

s 12C sub 1984 No 45 s 11
amd 1991 No 52 s 2.9

Effect of variation

s 12D ins 1981 No 53 s 6
amd 1984 No 45 s 12; 1991 No 52 s 2.10

Appeal from building tribunal's decision

prov hdg amd 1991 No 52 s 2.11
s 12E ins 1981 No 53 s 6
amd 1984 No 45 s 13; 1991 No 52 s 2.11

Procedure on appeal

s 12F ins 1981 No 53 s 6
amd 1984 No 45 s 14; 1991 No 52 s 2.12

Effect of committee's decision

s 12G ins 1981 No 53 s 6
amd 1991 No 52 s 2.13

Transitional provisions

s 13 amd 1984 No 45 s 15

Provisions to effectuate s. 13

s 14 amd 1991 No 52 s 2.14

PART 2A—PROVISIONS RELATING TO THE HOLDING OF EXPO '88

Pt hdg om 1991 No 52 s 2.15

Interpretation

s 14A om 1991 No 52 s 2.15

Modification of Standard Building By-Laws

s 14B om 1991 No 52 s 2.15

By-laws (Expo '88) Variation Committee

s 14C om 1991 No 52 s 2.15

Remuneration

s 14D om 1991 No 52 s 2.15

Quorum

s 14E om 1991 No 52 s 2.15

Presiding at meetings

s 14F om 1991 No 52 s 2.15

Application of certain sections

s 14G om 1991 No 52 s 2.15

PART 3—REFEREES AND BUILDING TRIBUNALS

Pt hdg amd 1991 No 52 s 2.16

Appointment of referees

s 15 amd 1991 No 52 s 2.17

Qualification of referee

s 16 amd 1979 No 69 s 4(2); 1984 No 45 s 16; 1991 No 52 s 2.18

Remuneration of referee

s 18 amd 1984 No 114 s 9; 1991 No 52 s 2.19

Referee to make declaration

s 19 amd 1991 No 52 s 2.20

Building tribunals

s 19A ins 1991 No 52 s 2.21

Membership of building tribunal

s 19B ins 1991 No 52 s 2.21

Procedure of building tribunal

s 19C ins 1991 No 52 s 2.22

Constitution of building tribunal

s 19D ins 1991 No 52 s 2.22

Referee not to act as member of building tribunal in certain cases

s 19E ins 1991 No 52 s 2.22

Appointment of registrar and other officers

s 20 sub 1991 No 52 s 2.23

PART 3A—BUILDING INDUSTRY COMPLAINTS TRIBUNAL

Pt hdg om 1991 No 52 s 2.24

Building Industry Complaints Tribunal

s 20A om 1991 No 52 s 2.24

Appointment of members of Tribunal

s 20B om 1991 No 52 s 2.24

Term of Appointment of Tribunal member

s 20C om 1991 No 52 s 2.24

Casual vacancies

s 20D om 1991 No 52 s 2.24

Functions of Tribunal

s 20E om 1991 No 52 s 2.24

Proceedings of Tribunal

s 20F om 1991 No 52 s 2.24

Secretary to assist Tribunal

s 20G om 1991 No 52 s 2.24

Membership of committee

s 22 amd 1978 No 47 s 7; 1987 No 69 s 6; 1991 No 52 s 2.25

Appointment of members of committee

s 23 amd 1991 No 52 s 2.26

Casual vacancies

s 25 amd 1991 No 52 s 2.27

Nomination of deputy members

s 26 sub 1991 No 52 s 2.28

Functions of committee

s 27 amd 1991 No 52 s 2.29

Remuneration of memberss 28 sub 1978 No 47 s 8
amd 1984 No 114 s 10**Advisory and technical subcommittees**

s 28A ins 1978 No 47 s 9

Proceedings of committee

s 29 amd 1991 No 52 s 2.30

Appointment of officers to assist committee

s 30 amd 1988 No 52 s 44 Sch 3; 1991 No 52 s 2.31

PART 4A—APPROVAL OF LOCAL AUTHORITIES

Pt hdg ins 1978 No 47 s 10

Approval to be obtaineds 30A ins 1978 No 47 s 10
amd 1984 No 45 s 18; 1991 No 52 s 2.32**Action by local authority in respect of application**

prov hdg amd 1991 No 52 s 2.33

s 30B sub 1981 No 53 s 7

amd 1984 No 45 s 19; 1984 No 114 s 11; 1987 No 69 s 7; 1991 No 52 s 2.33

Local authority to advise applicant where town planning laws are applicable

s 30BA ins 1984 No 114 s 12

Times within which applications for approval to the carrying out of building work to be decideds 30BB ins 1984 No 114 s 12
amd 1991 No 52 s 2.34**When application for approval to the carrying out of building work to be refused**

s 30BC ins 1984 No 114 s 12

No right of objection under section 31

s 30BD ins 1984 No 114 s 12
amd 1991 No 52 s 2.35

Interpretation

s 30BE ins 1984 No 114 s 12

Application of sections 30BA, 30BB and 30BC

s 30BF ins 1984 No 114 s 12

Local authority to consider amenity and aesthetics on applications to erect certain buildings

prov hdg amd 1991 No 52 s 2.36
s 30BG ins 1987 No 69 s 8
amd 1991 No 52 s 2.36

Provision of security in certain cases

s 30BH ins 1991 No 52 s 2.37

Application for preliminary decision

s 30C ins 1981 No 53 s 8
amd 1984 No 45 s 20; 1984 No 114 s 13; 1991 No 52 s 2.38

Application of Act etc. to offshore building work

prov hdg amd 1984 No 45 s 21
s 30D ins 1981 No 53 s 9
amd 1984 No 45 s 21

PART 5—OBJECTIONS AND APPEALS AGAINST LOCAL AUTHORITIES' DECISIONS

Pt hdg sub 1978 No 47 s 11
amd 1981 No 53 s 10

Objection to decision

prov hdg amd 1987 No 69 s 9
s 31 amd 1978 No 47 s 12; 1981 No 53 s 11; 1984 No 45 s 22; 1987 No 69 s 9;
1991 No 52 s 2.39

Institution of objection

s 32 amd 1978 No 47 s 13; 1984 No 45 s 23; 1987 No 69 s 10; 1991 No 52 s 2.40

Constitution of building tribunal or panel

prov hdg sub 1991 No 52 s 2.41
s 33 amd 1984 No 45 s 24; 1987 No 69 s 11; 1991 No 52 s 2.41

Duty of building tribunal

prov hdg amd 1991 No 52 s 2.42
s 34 amd 1991 No 52 s 2.42

Powers of building tribunal

prov hdg amd 1991 No 52 s 2.43
s 35 amd 1981 No 53 s 12; 1984 No 45 s 25; 1991 No 52 s 2.43

Amendment of notice of objection

s 35A ins 1981 No 53 s 13
amd 1991 No 52 s 2.44

Determination of building tribunal

prov hdg amd 1991 No 52 s 2.45
s 36 amd 1991 No 52 s 2.45

Division 1A—Objections against failure by local authorities to decide applications

Div hdg ins 1984 No 45 s 26

Objection to building tribunal

prov hdg amd 1991 No 52 s 2.46
s 36A ins 1984 No 45 s 26
amd 1991 No 52 s 2.46

Constitution of building tribunal

s 36AA ins 1991 No 52 s 2.47

Procedure on objection

s 36B ins 1984 No 45 s 26
amd 1991 No 52 s 2.48

Reference to building tribunal

s 36C sub 1991 No 52 s 2.49

Powers of building tribunal

prov hdg amd 1991 No 52 s 2.50
s 36D ins 1984 No 45 s 26
amd 1991 No 52 s 2.50

Disability of members of Tribunal

s 36E om 1991 No 52 s 2.51

Division 1B—Objections against decisions by local authorities on amenity and aesthetics

Div hdg ins 1987 No 69 s 12

Constitution of panel

s 36F ins 1987 No 69 s 12
amd 1991 No 52 s 2.52

Duty of panel

s 36G ins 1987 No 69 s 12
amd 1991 No 52 s 2.53

Powers of panel

s 36H ins 1987 No 69 s 12

Decision of panel

s 36I ins 1987 No 69 s 12
amd 1991 No 52 s 2.54

Division 1C—Objection by the Commissioner of Fire Service**Div hdg** ins 1991 No 52 s 2.55**Objection to decision****s 36J** ins 1991 No 52 s 2.55**Institution of objection****s 36K** ins 1991 No 52 s 2.55**Constitution of building tribunal****s 36L** ins 1991 No 52 s 2.55**Duty of building tribunal****s 36M** ins 1991 No 52 s 2.56**Powers of building tribunal****s 36N** ins 1991 No 52 s 2.56**Notice of determination to be given to parties****s 36O** ins 1991 No 52 s 2.56**Division 2—Appeals against building tribunals' determinations****Div hdg** amd 1991 No 52 s 2.57**Appeal to committee against building tribunal's determination****prov hdg** amd 1991 No 52 s 2.58**s 37** sub 1981 No 53 s 14
amd 1991 No 52 s 2.58**Institution of appeal****s 38** amd 1978 No 47 s 15; 1984 No 45 s 27; 1991 No 52 s 2.59**Duty of committee****s 39** amd 1991 No 52 s 2.60**Powers of committee****s 40** amd 1991 No 52 s 2.61**Decision of committee****s 41** amd 1991 No 52 s 2.62**Appeal to Local Government Court****s 42** amd 1981 No 53 s 15; 1984 No 45 s 28; 1987 No 69 s 13; 1991 No 52 s 2.63**Institution of appeal****s 44** sub 1978 No 47 s 16**Division 3A—References to Minister against referee's determination relating to amenity of neighbourhood or aesthetics****Div hdg** om 1981 No 53 s 16**References to Minister against referee's determination relating to amenity of neighbourhood or aesthetics****s 46A** om 1981 No 53 s 16

Institution of reference to Minister

s 46B om 1981 No 53 s 16

Powers of Minister

s 46C om 1981 No 53 s 16

Decisions and determinations reviewed only under Act

s 47 amd 1987 No 69 s 14; 1991 No 52 s 2.64

Building tribunal, panel and committee control own proceeding

prov hdg amd 1987 No 69 s 15; 1991 No 52 s 2.65

s 48 amd 1987 No 69 s 15; 1991 No 52 s 2.65

Representation of parties

s 49 amd 1981 No 53 s 17; 1987 No 69 s 16; 1991 No 52 s 2.66

Notice to cease erection without approval

s 50 amd 1984 No 45 s 29; 1991 No 52 s 2.67

Lawful to perform emergency work

s 51 amd 1984 No 45 s 30; 1991 No 52 s 2.68

Buildings erected unlawfully

prov hdg amd 1991 No 52 s 2.69

s 52 amd 1984 No 45 s 31; 1991 No 52 s 2.69

Approval to be sought where building erected without approval

s 52A ins 1991 No 52 s 2.70

Building etc. dangerous, neglected or unfit for use or occupation

s 53 sub 1991 No 52 s 2.71

Local authority to give owner opportunity to show cause

s 54 amd 1978 No 47 s 18

Register of notices given

s 55 amd 1978 No 47 s 19; 1991 No 52 s 2.72

Building etc. made dangerous by act of nature or other calamity

prov hdg amd 1978 No 47 s 20; 1991 No 52 s 2.73

s 56 amd 1978 No 47 s 20; 1981 No 53 s 18; 1991 No 52 s 2.73

Objection against local authority's notice

s 57 amd 1978 No 47 s 21; 1991 No 52 s 2.74

Effect of building tribunal's determination

prov hdg amd 1991 No 52 s 2.75

s 58 amd 1991 No 52 s 2.75

Erection on impregnated land prohibited

s 61 amd 1984 No 45 s 32; 1991 No 52 s 2.76

Right of entry to remedy offence

s 62 amd 1984 No 45 s 33

Notice given to body corporate taken to be given to proprietors

s 63A ins 1991 No 52 s 2.77

Provisions concerning notices under Acts 64 sub 1978 No 47 s 22
amd 1991 No 52 s 2.78**Power of local authority to delegate**prov hdg amd 1991 No 52 s 2.79
s 64A ins 1978 No 47 s 23
amd 1984 No 45 s 34**Power of Director to delegate**

s 64B sub 1991 No 52 s 2.80

Offences generally and penalty

s 64C ins 1991 No 52 s 2.80

Continuing offences

s 64D ins 1991 No 52 s 2.80

Owner liable for offences under by-laws

s 64E ins 1991 No 52 s 2.80

Application for approval where building work commenced

s 66A ins 1991 No 52 s 2.81

Certain applications not made unless fees paid

s 66B ins 1991 No 52 s 2.81

Regulations

s 67 amd 1978 No 47 s 24; 1984 No 114 s 14

Citation of amended Acts

s 68 om (see s 40 RA)

Amendment of s 33(16A) of Local Government Act

s 69 om (see s 40 RA)

Amendment of s 35 of Local Government Act

s 70 om (see s 40 RA)

Repeal of s.39 of Local Government Act. Fire Zones

prov hdg amd 1981 No 53 s 19

s 71 amd 1981 No 53 s 19

Repeal of s 50(6) of Local Government Act

s 72 om (see s 40 RA)

Amendment of s. 20A of City of Brisbane Town Planning Act

s 73 om 1990 No 61 s 8.8(1) First Sch

Saving of existing appeals

s 74 om 1990 No 61 s 8.8(1) First Sch

Ordinance 801 of City of Brisbane Ordinances inoperative. Fire zones

prov hdg amd 1981 No 53 s 20

s 75 amd 1981 No 53 s 20

STANDARD BUILDING BY-LAWS 1991

Sch sub 1991 No 52 s 2.82

amd SL No 181 1991

5 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS

under section 7(1)(j) of *Reprints Act 1992*

Section	Description
Appendix 7	'in' ins after 'mentioned'

6 Transitional and savings provisions**Part 3 of Act No 52 of 1991 provides—****Principal Act**

3.1. In this Part the *Building Act 1975* as amended and in force from time to time before the commencement of this section is referred to as the Principal Act.

Applications for variation of Standard Building By-laws

3.2.(1) Where at the commencement of this section the By-laws Variation Subcommittee has commenced to consider an application, duly made, for a variation of the Standard Building By-laws, that subcommittee may determine that application and for that purpose the provisions of the Principal Act continue to apply to and in respect of that application and determination and that subcommittee despite the commencement of any provision of Part 2 of this Act.

(2) A decision of the By-laws Variation Subcommittee made under subsection (1) may be appealed to the Building Advisory Committee under section 12E of the Principal Act and for the purpose of any such appeal the provisions of the Principal Act extend and apply accordingly despite the commencement of any provision of Part 2 of this Act.

Objections under s. 31 of Principal Act

3.3.(1) Where at the commencement of this section a referee has, under Division 1 of Part 5 of the Principal Act, entered upon the determination of an objection under that Division, the referee may proceed to determine that objection and for that purpose the provisions of the Principal Act continue to apply despite the commencement of any provision of Part 2 of this Act.

(2) The determination of a referee made under subsection (1) may be appealed to the Building Advisory Committee under section 37 of the Principal Act and for the purpose of any such appeal the provisions of the Principal Act as amended by section 2.61 of this Act extend and apply accordingly despite the commencement of any other provision of Part 2 of this Act.

Objections to Building Industry Complaints Tribunal

3.4.(1) Where at the commencement of this section the Building Industry Complaints Tribunal has—

- (a) commenced to consider a reference made under section 36C of the Principal Act, that tribunal may continue with its consideration of that reference and exercise, in respect thereof, its powers to give notice to a local authority under section 36D of the Principal Act; or
- (b) considered a reference made under section 36C of the Principal Act, that tribunal may exercise or, as the case may be, continue to exercise in respect of that reference its powers to give notice to a local authority under section 36D of the Principal Act;

and for any of those purposes the provisions of the Principal Act continue to apply to and in respect of that reference, the exercise of those powers and that tribunal despite the commencement of any provision of Part 2 of this Act.

Objection under s. 57

3.5(1) Where at the commencement of this section a referee has, under Division 1 of Part 5 of the Principal Act as applied by section 57 of that Act, entered upon the determination of an objection under that section, the referee may proceed to determine that objection and for that purpose the provisions

of the Principal Act as so applied continue to apply despite the commencement of any provision of Part 2 of this Act.

(2) The determination of a referee made under subsection (1) may be appealed to the Building Advisory Committee under section 37 of the Principal Act as applied by section 57 of that Act and for the purpose of any such appeal the provisions of the Principal Act as applied by that section 57 and as amended by section 54 of this Act extend and apply accordingly despite the commencement of any other provision of Part 2 of this Act.

Appeals against Building Advisory Committee's decisions

3.6 A decision of the Building Advisory Committee on an appeal under section 3.2(2), 3.3(2) or 3.5(2) may be appealed under Division 3 of Part 5 of the Principal Act and for the purpose of any such appeal that Division and section 47 of the Principal Act extend and apply accordingly despite the commencement of any provision of Part 2 of this Act.

Continuation of By-laws Variation Subcommittee and Building Industry Complaints Tribunal

3.7(1) For the purposes of this Part the By-laws Variation Subcommittee constituted under section 12A of the Principal Act and the Building Industry Complaints Tribunal established under Part 3A of the Principal Act continue in existence and sections 12A and 12AA and Part 3A of the Principal Act extend and apply according to their tenor notwithstanding the commencement of any provision of Part 2 of this Act until they are dissolved by order in council.

(2) Upon the dissolution of the By-laws Variation Subcommittee or the Building Industry Complaints Tribunal its members go out of office.

Saving of appointments of certain members of Building Advisory Committee

3.8(1) The persons who immediately prior to the commencement of this section were the members of the Building Advisory Committee referred to in section 22(a) and (b) of the Principal Act shall, subject to the *Building Act 1975*, continue in terms of their appointments as the members referred to in section 22(a) of that Act and the one who was chairperson shall continue as

chairperson.

(2) A person who immediately prior to the commencement of this section was the member of the Building Advisory Committee referred to in section 22(c), (d) or (j) of the Principal Act shall, subject to the *Building Act 1975*, continue in terms of that person's appointment as the member referred to in section 22(c), (d) or (j) of that Act.

Reference to referee in Local Government Act

3.9 A reference in section 49H(16)(c) of the *Local Government Act 1936* to a referee is to be construed as including a reference to a building tribunal.

Declaration by referee

3.10 A declaration made by a referee under section 19 of the Principal Act is taken to be sufficient compliance with that section as amended by this Act.

Chairperson of Building Advisory Committee

3.11 The person who immediately before the commencement of this section held the appointment of chairperson of the Building Advisory Committee is, on and from that commencement and in terms of the appointment, the chairperson of the committee.

Resolutions of local authority

3.12 A resolution of a local authority made under the Standard Building By-laws contained in the Schedule to the Principal Act and in force at the commencement of this section is, on and from that commencement, taken to have been made under the Standard Building By-laws substituted by this Act.

Delegations by local authority

3.13 A delegation, under section 64A(1)(a) of the Principal Act, of a function, authority, power, duty or discretion had by a local authority for the purposes of the Standard Building By-laws contained in the Schedule to that

Act that is in force immediately before the commencement of this section is taken, on and from that commencement, to be a delegation of the corresponding function, authority, power, duty or direction had by the local authority under the Standard Building By-laws substituted by this Act.

Certificates of classification

3.14 A certificate of classification issued under the Standard Building By-laws contained in the schedule to the Principal Act and not revoked has effect for the purposes of the Standard Building By-laws substituted by this Act.

Regulations

3.15(1) The Governor in Council may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the commencement of the provision of this Act consequent upon which it is made or a later date.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision referred to in subsection (1) is, if the regulations so provide, to have effect despite any other provision of this Part.