

**Bill introduced on motion by Mr Brad Hazzard, read a first time and printed.**

**Second Reading**

**Mr BRAD HAZZARD** (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [4.03 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Environmental Planning and Assessment Amendment Bill 2012. Members are well aware that the Government is working on new planning legislation. This bill is an interim but essential measure to address two significant areas of the former Labor Government's past policy neglect: housing supply and building certification, including the accreditation of certifiers. The Government needs to act now and not wait for the new planning legislation. Nevertheless the proposals in this bill are consistent with the policy direction set out in the green paper. After reaching record lows under the former Labor Government, housing production continues to perform below target notwithstanding that there has been an increase of 20 per cent over the previous year as a direct result of the reforms made by the Liberal-Nationals Coalition Government. These reforms will remove more unnecessary impediments and serve to assist in boosting housing supply.

I turn now to the important provisions of the bill. Local environmental plans and State environmental planning policies zone land. They contain the principal development standards relating to issues like height and floor space ratio. They also contain broad aims and objectives that seek to guide in general terms how development is to be carried out. Councils have always been able to provide additional guidance—I stress "guidance"—through development control plans. The problem this bill addresses is twofold. First, development control plans have gone from guiding development to being given the same weight, and sometimes seemingly more weight, than the relevant local environmental plans. This follows court decisions that have determined greater weight will be given to plans that are consistently—that is, repeatedly—applied. As a result, councils have become increasingly unwilling to depart from the guidance provided in the development control plan when assessing applications.

Secondly, the controls in development control plans have grown and become ever more complex and prescriptive. This makes it harder for projects to comply with the controls. Taken together, these changes have led to greater complexity, greater prescription and greater inflexibility. The bill will redress the imbalance and ensure that consent authorities will be able to continue assessing development against their existing development control plans, but they must adopt a more flexible performance-based approach. The bill makes it clear that development control plans are guidelines, and have less status than local

environmental plans and State environmental planning policies in the assessment process. The bill also makes it clear that development control plans implement planning instruments rather than the other way around.

The bill provides that where a development application does not comply with a standard, the consent authority must apply the development control plan flexibly and allow alternative solutions to address those aspects of the development. Under the new provisions the consent authority may consider the provisions of the development control plans only in connection with the assessment of the particular application and is not to have regard to how the provisions in the development control plans have been applied previously or might be applied in the future. These changes are also not an opportunity for councils to delay the preparation of their standard instrument local environmental plans or to seek, at this stage, to include unnecessary development controls in those plans. Further work will be done in this area. Now is not the time to require councils to redraft their development control plans. The Government plans to have more comprehensive reform in this area in its forthcoming white paper.

Bushfire risk is often reduced very quickly as an urban release area develops, but the bushfire maps are not amended until sometime later, which triggers the need for unnecessary assessment and approvals. The bill will enable streamlined assessment and approvals in urban release areas by allowing the Rural Fire Service to update the bushfire prone land maps. Bushfire planning will also be able to be addressed strategically by enabling an assessment of bushfire risk to be undertaken at the subdivision stage, which will remove the need to reassess bushfire issues for subsequent development applications, and any subsequent approval for the site will consider any conditions imposed at the subdivision stage.

The bill amends the provisions in the Threatened Species Conservation Act relating to biodiversity certification in Sydney's growth centres. Under the biodiversity certification provisions that apply elsewhere in the State an approving authority is not required to consider the likely impact of the proposal on biodiversity values within the biodiversity certified land and avoids duplicating the strategic assessment already done. These provisions do not apply currently to biodiversity certified land in the north-west and south-west growth centres. The bill will ensure that biodiversity certification provisions apply consistently to the growth centres. The bill also clarifies that biodiversity certification will apply to certified land in the growth centres irrespective of which environmental planning instruments apply.

The bill also includes some amendments to the existing uncommenced paper subdivision provisions in the Environmental Planning and Assessment Act. The paper subdivision provisions will provide a way to overcome barriers of fragmented ownership and lack of infrastructure, and will enable land owners to work together with an appropriate authority to fund the provision of infrastructure and unlock the potential of the land. The bill includes a minor amendment to facilitate the move towards a more code-based assessment. The amendment will ensure that development contributions and levies can be imposed regardless of whether approval is given by a development consent or a complying development certificate.

I now turn to the second area of policy reform—building certification. The bill contains measures developed after wide consultation to provide greater consumer protection, improve private certification and more effectively deal with complaints. The bill implements the following reforms. It provides additional protection for consumers by mandating written contracts for certification work. It introduces provisions that allow the Building Professionals Board to require an accredited certifier to undertake an examination and to allow the board to vary existing conditions, impose new conditions or suspend or cancel accreditation in response to that test. It introduces new provisions to expressly require the Building Professionals Board and the Administrative Decisions Tribunal to consider previous disciplinary actions when imposing penalties for unsatisfactory professional conduct or professional misconduct.

The bill also provides for greater powers for councils to better recover the costs of issuing orders under the Environmental Planning and Assessment Act. Part of the challenge facing building certification is how to ensure that suitably qualified professionals design, install and certify critical elements of building work, particularly in more complex buildings. Compliance certificates can be relied upon by certifying authorities when issuing other certificates such as construction certificates and occupation certificates. The bill will enable compliance certificates to be issued by a person or a class of person prescribed by the regulations, such as architects and land surveyors who have been involved in the design of the building. The bill will also amend the Building Professionals Act to enable prescribed persons to certify both the design and installation of building systems.

This will reduce building costs, recognising the highly specialist nature of the work being certified and ensuring that designers and installers take appropriate responsibility for the work they perform. The bill is only part of the reforms to certification and accreditation. I expect that the white paper will bring forward additional measures in this area. Making planning content available online goes hand in hand with the Government's aim of increasing the levels of transparency and fostering greater public confidence in the planning system. The State cannot overrule Federal copyright legislation but the bill expands the regulation-making power for a statutory copyright indemnity for all types of information published by councils during all planning processes and encourages councils to make all relevant documents publicly available to the community. The proposals in this bill move to address two pressing policy problems. Those problems were identified by the housing task force, which is a Cabinet sub-committee, and the Building Professionals Board. For those reasons I commend the bill to the House.

**Debate adjourned on motion by Mr Ron Hoenig and set down as an order of the day for a later hour.**