

PLUMBING AND DRAINAGE BILL 2011

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Bill introduced on motion by Mr Anthony Roberts.

Agreement in Principle

Mr ANTHONY ROBERTS (Lane Cove—Minister for Fair Trading) [10.01 a.m.]: I move:
That this bill be now agreed to in principle.

I am pleased to introduce the Plumbing and Drainage Bill 2011. Members may recall that a similar bill was introduced in this place at the end of last year by those on the other side of the House. Whilst Labor's bill was no doubt well intentioned and had merit, it was introduced in some haste without adequate industry consultation. Upon becoming Minister for Fair Trading one of my first priorities was to ensure that these reforms were re-examined and that further consultation took place with industry. As a result, this bill is an improvement on what was introduced last year by Labor.

The intent of the bill is to simplify what is currently a complex and fragmented system that is confusing and costly for industry. At present more than 100 separate bodies are responsible for regulating on-site plumbing and drainage work in New South Wales and each of these regulators requires compliance with its own local standards. The bill will establish a new regulatory framework with a single regulator and a single set of nationally consistent technical standards. It will provide a better regulatory system to the 17,500 plumbers working in New South Wales through the following key reforms. Firstly, responsibility for regulation of on-site plumbing and drainage work will be transferred from water utilities and local councils to NSW Fair Trading. Secondly, compliance with prescribed standards for plumbing and drainage works as set out in the Plumbing Code of Australia will be required. Thirdly, a risk-based inspection regime will be introduced across the State allowing the regulator to target compliance efforts at plumbing activities that pose the greatest risk to consumers and public health and safety.

A considerable amount of stakeholder consultation has been undertaken during the development of this bill. This consultation began in 2008 when the Better Regulation Office called for public submissions as part of its review of the plumbing regulatory framework. Sixteen submissions were received in this process, including submissions from water utilities, TAFE New South Wales, the Local Government and Shires Associations of New South Wales and the Master Plumbers Association of New South Wales. The final report of the Better Regulation Office released in 2009 called for the establishment of a single agency to take on the functions of standard setting, on-site regulation and licensing for plumbing and drainage work in New South Wales. The report also recommended the adoption of the Plumbing Code of Australia as the single technical standard in New South Wales.

Following further consultation with key stakeholders on how to best implement the recommendations, the Keneally Labor Government introduced a bill to this place in late 2010. As I stated earlier, this bill was introduced in a bit of a rush at the end of the year and stakeholders did not receive adequate time to provide input into the bill. This year I have undertaken further extensive consultation as part of developing a new and revised bill. Key stakeholders were given four weeks to consider the draft bill and provide comment. Stakeholders were also offered the opportunity of meeting with NSW Fair Trading to discuss

aspects of the bill in further detail. Additionally, a number of stakeholders met with my office to discuss matters relating to the bill. Many stakeholder suggestions have been reflected in reviewing and revising the bill.

I believe that key stakeholders have been provided with ample opportunities to have their say about the bill. I am also confident that the views and concerns expressed by all stakeholders have been carefully considered in the process of finalising the bill. However, I understand that, unfortunately, the Master Plumbers Association of New South Wales is not entirely happy with the bill. Governments often find themselves faced with the prospect of making reforms that do not please everyone. As we are all aware, these situations arise for a number of reasons: perhaps there has not been adequate consultation, perhaps the reforms proposed are wrongheaded, or perhaps the reforms are being rushed through. Let it be clearly understood that this is not the case in this instance.

The bill does not propose flawed policy; it proposes commonsense changes that will not result in major changes for plumbers on the ground. Rather, it will result in a less complex, more straightforward system of regulation of plumbing and drainage work in New South Wales. Instead of a proliferation of regulators, there will be just one. Instead of a convoluted technical standard that is applied inconsistently across the State, there will be one national standard that has the same effect in Bourke as it does in Burwood. It proposes no change to the current licensing framework for plumbers and other tradespeople. I ask the Master Plumbers Association of New South Wales to rationally see these reforms for what they are and to cease confusing and alarming stakeholders on unrelated issues. This bill merely seeks to implement the recommendations of the Better Regulation Office review of which the Master Plumbers Association claims to be supportive. If the Master Plumbers Association supports the Better Regulation Office review recommendations, it should immediately stop telling its members that this bill will lead to changes in the licensing framework for plumbers, as it simply will not. It is difficult to conceive that any reasonable person could find fault with the reforms proposed in this bill. I am determined not to let one stakeholder's campaign, based on false premises and self-interest, bring this bill down.

I will now outline the elements of each part of the bill. Part 1 establishes the new regulatory regime defining the "plumbing regulator" as the Commissioner of Fair Trading. NSW Fair Trading is part of the Department of Finance and Services and will be responsible for the implementation and administration of the Act. The types of work that are defined as "plumbing and drainage work" are set out, ensuring that work on drinking water and sanitary drainage systems, which has particular risk to public health is regulated, while work that does not pose a high public health risk, such as stormwater drainage, fire suppression systems and roof plumbing, continues to be excluded. Under this framework NSW Fair Trading will be responsible for regulating plumbing work from the point of connection to a water supply—generally the mains, a recycled water device or other water system—through to the discharge point—that is, taps.

NSW Fair Trading will also be responsible for regulating drainage installations from fixtures such as toilets and drains to the point of connection to a sewerage system provided by a water utility, common effluent system or on-site wastewater management system. The new regulatory framework will not create any new regulatory responsibilities for stormwater drainage or on-site wastewater management, which will continue to be managed by local councils and network utility operators.

In addition, part 1 identifies the person responsible for complying with the regulatory requirements as the plumber who does the work, not the person or company that contracts for the work. This means that NSW Fair Trading will be able to link the work to the licence number of the plumber. If an apprentice does the work, the plumber overseeing them will be responsible for making sure that the work is done in accordance with the regulatory requirements.

Part 2 sets out the general requirements of the regulatory regime. This includes replacing the New South Wales Code of Practice for Plumbing and Drainage with the performance-based Plumbing Code of Australia as the technical standard in New South Wales. The Plumbing Code of Australia provides a more flexible outcomes-based approach and allows for new and innovative alternative plumbing solutions. By adopting the code, nationally consistent technical standards will apply across the State. This will also position New South Wales to easily adopt the Council of Australian Governments National Construction Code in late 2012.

It is important to note that, while there are these differences between the Australian and New South Wales codes, both codes are based on the Australian standard for plumbing and drainage. The practical impact on industry of changing the technical standards will be minimal, but it will remove the conflicting local variations that currently exist.

The adoption of the Plumbing Code of Australia will ensure also that New South Wales is ready to align with the national direction for plumbing and drainage regulation under the National Construction Code, which will incorporate both the Building Code of Australia and the Plumbing Code of Australia. Part 2 also sets out the pre-notification, inspection and certification procedures that will apply under the new regulatory regime. These procedures are based on those currently used by major water utilities such as Sydney Water and Hunter Water corporations, but they will be streamlined and made consistent across the State. This part provides a requirement also for the owner or occupier of land to take all reasonable steps to ensure that water and sewerage installations on their property do not threaten public health or safety.

The functions of the plumbing regulator are set out in part 3. These functions include monitoring compliance with the Act, ensuring that plumbing and sanitary drainage installations and systems do not threaten public health or safety, and authorising fittings for use in plumbing and drainage work. Under this part the plumbing regulator may delegate these functions to a local council. As delegates of NSW Fair Trading, local council inspectors will need to interpret and apply the regulatory requirements consistently. To ensure that this occurs, the rollout of the reforms to areas outside the Sydney metropolitan area will be done in close consultation with local councils, water utilities and plumbers. This will allow NSW Fair Trading to capture the local knowledge and on-the-ground experience of local council staff in country areas around the State and allow for the most efficient use of resources. NSW Fair Trading will provide extensive support and guidance for local councils both during and after this transition phase.

Part 4 sets out the powers conferred upon authorised persons, that is, NSW Fair Trading or local council officers, and the purposes for which those powers can be used. These powers relate primarily to entry to property and land for the purposes of inspecting plumbing and drainage works. The bill allows for some inspection activities to be delegated to external contractors, but it does not allow for any enforcement activities such as use of force or investigation of suspected offences to be undertaken by anyone who is not a member of the

government service or an officer or employee of a local council. Part 5 establishes an appeal process through the Land and Environment Court and sets out penalty notice provisions. Under the current regulatory regime there is no forum available for individuals to appeal decisions made by plumbing regulators. This provision provides a new formal review mechanism utilising the existing expertise that the Land and Environment Court has in building code and related matters. These appeals will come under section 38 of the Land and Environment Court Act, which will enable them to be dealt with swiftly and in a less formal way than other matters.

Part 6 includes a regulation-making power that will be used to provide further detail on administrative issues and to set out exemptions to the requirements of the Act where appropriate. It is intended that formal exemptions should apply to minor works such as changing tap washers and to work undertaken on water utility assets by their employees. This part also establishes protocols for disclosure of information by the plumbing regulator, local councils, network utility operators and the Department of Health to each other. The reforms outlined in this bill are significant, and to make sure that industry or consumers are not adversely affected the Act will be monitored and reviewed after two years of operation. The drafting of this bill's regulations will involve a full four weeks of public consultation, so that we ensure that we get the details right.

Industry stakeholders were consulted on these reforms as part of the Better Regulation Office review process last year when the bill was initially drafted and again this year when we reviewed and refined the proposed legislation. The Master Builders Association, the Housing Industry Association and the major water utilities support these reforms. Finally, I place on record my thanks to the shadow Minister, the member for Kogarah, for her constructive and positive attitude to this bill. Following a meeting yesterday with the member for Kogarah, we agreed that, after the legislation had been operating for six months we would convene a roundtable of plumbers to review its progress and effectiveness. This is good public policy and I thank the member for Kogarah for her commitment to work with the Government in a constructive manner. Industry recognises the need for a single regulator and a single technical standard to provide consistency and certainty to consumers and tradespeople. These reforms will bring obvious benefits in reduced costs, less red tape and increased flexibility for plumbers, builders and home owners across the State. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.