

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1912.

A BILL

[MR. GRIFFITH ;— , 1912.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title and commencement.

1. This Act may be cited as the "Sydney Building Act, Short title. 1912." It shall come into operation on a day to be proclaimed by the Governor, not more than six months after its passing.

2. This Act shall apply within the city of Sydney only. So Application of Act. far as it relates to the erection or alteration of any building it shall bind the Crown

3. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY—*ss.*

PART II.—REGULATION OF BUILDING—*ss.*

PART III.—BY-LAWS—*ss.*

PART IV.—APPEALS—*ss.*

PART V.—SUPPLEMENTAL—*ss.*

Repeal.

4. The City of Sydney Improvement Act is repealed.

Repeal.

Definitions.

5. In this Act, unless inconsistent with the context or subject matter—

Definitions.

“Builder” means the person who is employed to build or to execute work on a building, or where no person is so employed, the owner of the building.

“Building” means any erection or building whatsoever (including those of the Crown) and any part thereof.

“By-law” means by-law made under this Act.

“Height,” in relation to a building means the measurement taken from the level of the footway (if any) immediately in front of the face of the building or (where there is no such footway) from the level of the ground before excavation to the level of the top of the parapet, or where there is no parapet, to the level of the top of the external wall or (in the case of gabled buildings) to the base of the gable.

“Owner” includes every person in the receipt or entitled to the receipt of the rents and profits of any land or building, whether on his own account or as agent or trustee for any other person, and in the case of buildings of the Crown the Government Architect or person acting as such for the time being.

“Party wall” means wall used or built in order to be used as a separation of any building from any other building, with a view to such buildings being occupied by different persons.

“Party fence wall” means boundary wall or fence parting the ground belonging to different owners or occupied by different persons.

“Prescribed” means prescribed by by-law.

“Sky

“Sky sign” means any word, letter, model, sign, device, or representation in the nature of an advertisement, announcement, or direction, supported on or attached to any post, pole, standard, framework, or other support, wholly or in part upon, over, or above any building, structure, or street such sky sign or any part thereof being visible against the sky from any point in any public way, or from the waters of Port Jackson, and includes all and every part of any such post, pole, standard, framework, or other support.

The expression “sky sign” also includes any tank rested on or supported above any building, such tank or the supports thereof being employed wholly or in part for the purpose of any advertisement or announcement, and any balloon, parachute, or similar device employed wholly or in part for the purposes of any advertisement or announcement upon, over, or above any building or structure of any kind, or on or over any public way, but shall not be deemed to include any flagstaff, pole, vane, or weathercock, unless adapted or used wholly or in part for the purposes of any advertisement or announcement.

“The city” means the city of Sydney.

“The council” means the Municipal Council of Sydney.

“The surveyor” means the surveyor appointed or deemed to have been appointed under this Act.

“The town clerk” means the town clerk of the city of Sydney.

The surveyor.

6. (1) The present city building surveyor shall be the first Appointment of surveyor. surveyor, and shall be deemed to have been appointed by the council in pursuance of powers conferred by this Act. Subject to the above provision the council shall appoint the surveyor, and shall within one month after the death or removal of the surveyor appoint a competent person to be his successor.

(2) If the surveyor dies or is suspended or removed, Surveyor's deputy. or is prevented by absence or illness or any other circumstance from attending to the duties of his office, the Lord Mayor shall forthwith appoint some other competent person as deputy until a new surveyor is duly appointed, or for so long a time as such surveyor is so suspended or prevented from attending to his duties as the case may be, and thereupon such deputy shall have the powers and perform the duties of the surveyor.

PART II.

REGULATION OF BUILDING.

Residential areas.

7. The Governor, on the application of the council, may from time to time by proclamation in the Gazette declare any portion of the city to be a residential area, and alter or revoke any such proclamation. Residential areas.

The council may by by-law prohibit the erection in any such area of any building designed for use for the purpose of any specified trades, industries, or manufactures, and may prohibit the use in any such area of any buildings for any such purpose: Provided that such prohibition shall not apply to buildings so used at the respective times of such declaration and prohibition.

Height of buildings.

8. (1) A building which is not exclusively used for purposes of public worship, and is not a chimney-stack or sewer ventilator, shall not be erected or increased to a greater height than one hundred feet, exclusive of any ornamental tower or turret, or any other architectural decoration: Limit of 100 feet in height.

Provided that this section shall not apply to—

- (a) the erection or increase in height of any building in pursuance of plans which have been approved by the city building surveyor on or before the day of , one thousand nine hundred and twelve, or to the rebuilding of any such building; or
- (b) the rebuilding to the same height as at present of a building existing at the commencement of this Act.

(2) Subject to the provisions of the last preceding subsection, the council may by by-law regulate the height of buildings. Council's power to regulate height.

Dwelling houses.

9. (1) No person shall build any dwelling-house fronting a public way, whether such way be in actual use or not, unless such way is of the width of twenty feet at the least. Building to narrow ways.

(2) No person shall build any dwelling-house fronting a way other than a public way unless such way is of the width of twenty feet at the least.

(3) Any person acting in contravention of the provisions of this section shall be liable to a penalty not exceeding *ten* pounds nor less than *forty* shillings for each day of the continuance of such offence after notice from the surveyor. *Connections*

Connections under or over public ways.

10. No person shall, without the consent of the council, construct or cause to be constructed under or over any public way, anything whatsoever to connect buildings or premises on opposite sides of such way, and no person shall without the consent of the council, excavate or cause an excavation to be made under any public way in the city. Constructions on, under, or over public ways.

Any person offending against this section shall be liable to a penalty not exceeding *one hundred* pounds, and a further penalty of *two* pounds for every day during which any such thing shall be or remain constructed or partly constructed, or during which such excavation shall remain not perfectly filled in and restored, as the case may be.

This section shall not apply to any works which are expressly authorised by any Act.

Applications, plans, and specifications.

11. (1) No building shall be erected or altered without the certificate of the surveyor. Certificate of surveyor.

(2) Application for such certificate shall be made by the builder to the surveyor in the prescribed manner, and shall be accompanied by two copies of such plans and specifications as may be prescribed. With such application the applicant shall pay the prescribed fee. Applications.

(3) One copy of such plans and specifications shall become the property of the council, but shall not be used for any purpose other than giving effect to the provisions of this Act, or of any Act relating to local government or public health. Plans—specifications.

(4) Any plans and specifications may within seven days of receipt by the surveyor be returned by him if they are not clear and easily legible, or if they do not contain sufficient information, and in such case the application shall be deemed to have been made on the day when plans and specifications free from the aforesaid defects are lodged with the surveyor. Illegible or incomplete plans or specifications.

12. (1) The surveyor shall consider each application and the plans and specifications accompanying it, and shall not grant his certificate unless he is satisfied that a building erected in accordance with such application and such plans and specifications, or any modifications thereof which he approves, would be in accordance with the provisions of this Act and the by-laws thereunder.

(2) If such application is not granted, and if notice of refusal is not given within forty days from the date of the making of the application, the applicant may recover from the council a penalty not exceeding *one* pound for each day such notice is delayed beyond such period of forty days. Applicants not to be delayed.

13.

13. If before or during the construction of any building it is desired to make any addition to the building as shown in any plans, or to vary, add to, or omit any particulars shown or mentioned in any plans or specifications in respect of which the surveyor has granted his certificate in any of the following respects—

- (a) the thickness or the material composing any foundations, or walls, or any structure sustaining the weight of any wall ;
- (b) any fire-proof construction, or any means of escape from fire ;
- (c) any other particular materially affecting the stability of the building which may be prescribed by the by-laws ;

application for that purpose, giving the particulars prescribed, shall be made to the surveyor, who may grant or refuse the application as in the case of an application for a certificate. He may require any such addition or variation when approved by him to be shown and mentioned on the plans and specifications and in the copies thereof in the hands of the council.

Penalties.

14. (1) If any person does or causes to be done any work in connection with the erection or alteration of a building, without the certificate of the surveyor under this Act, he shall be liable to a penalty not exceeding pounds and a further penalty of pounds for each day during which such work is done after notice from the surveyor.

(2) If any person, in the course of the erection or alteration of any building as to which a certificate has been granted by the surveyor under this Act—

- (a) makes any addition to building as shown in the plans on which the certificate was granted ; or
- (b) varies, adds to, or omits any particulars shown or mentioned in the plans or specifications in respect of which the certificate was granted, in any of the following respects—
 - (i) the thickness or the material composing any foundations, or walls, or any structure sustaining the weight of any wall ;
 - (ii) any fire-proof construction, or any means of escape from fire ;
 - (iii) any other particular materially affecting the stability of the building which may be prescribed by the by-laws ;

without the approval in writing of the surveyor, he shall be liable to a penalty not exceeding pounds.

(3) In case of a conviction for an offence against this section, the court may, in addition to imposing a penalty, authorise
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or direct any person to take down and remove any building or any part thereof which, in the opinion of the court, has been erected in contravention of the provisions of this Act or the by-laws.

Powers of the surveyor.

15. All buildings in course of construction shall be under the supervision of the surveyor.

The surveyor may enter any land and inspect any building in course of construction and any building within fourteen days after its completion.

The surveyor shall survey all buildings under his supervision, and cause the provisions of this Act and the by-laws to be duly observed.

Theatres and Public Halls Act.

16. Nothing in this Part, except the power of inspection, shall apply to the construction of a theatre or public hall, to which the provisions of the Theatres and Public Halls Act, 1908, apply, or to any addition or alteration to the same, if application has been duly made under the said Act for the approval of the Minister to such construction, alteration, or addition. Theatres and halls exempted.

PART III.

BY-LAWS.

17. (1) Subject to the express provisions of this Act, the council may make by-laws for or relating to the following matters and subjects:—

- (a) The regulation and control of the erection or alteration of buildings, and particularly, and without derogating from the foregoing general power, in relation to the following:—
 - (i) Drainage, ventilation, and public health.
 - (ii) Materials, stability, and building line.
 - (iii) Size, height, and lighting of rooms.
 - (iv) Fire prevention and fire escapes.
 - (v) The proportion of the area of the site to be covered by any building.
 - (vi) The position of the building or any out-building or office in relation to other buildings or to the boundaries of the allotment of land on which it is or is to be built.
 - (vii) The payment of fees in respect of buildings to be erected or altered, and prescribing the amount thereof.

(viii)

- (viii) Inspection of and entry upon any land or buildings.
 - (ix) The erection and repair of awnings over footways.
 - (x) Projections over the building line of the street or the land of the adjoining owner.
 - (xi) Party walls and party fence walls, and the rebuilding of existing party walls.
 - (xii) The subdivision of buildings into classes for the purpose of such by-laws.
 - (xiii) Authorising the surveyor to order the pulling down, opening, or cutting into any work for the purpose of facilitating inspection where the surveyor has reason to believe or suspect that anything has been done in contravention of this Act, or of the by-laws.
 - (b) The regulation and control of the division or subdivision of land for the purpose of sale or building.
 - (c) The securing or the demolition of ruinous or dangerous buildings or walls.
 - (d) Preventing the use or occupation of any building erected or altered not in accordance with this Act, or the by-laws hereunder.
 - (e) Preventing the occupation of any dwelling house wholly or in part unfit for human habitation.
 - (f) Defining the respective rights of owners of adjoining buildings or lands in relation to party walls, party fence walls, jambs, flues or recesses in walls or chimneys on the line of junction, and providing for the recovery by an owner from an adjoining owner of a fair proportion of the cost of the erection or alteration of the same.
 - (g) Preventing the making of openings in external walls of a building abutting on the lands of other owners without the consent of such owners.
 - (h) Prescribing the forms and mode of service of notices, and other documents under this Act or the by-laws to be made hereunder.
 - (i) Requiring and regulating the enclosure of unenclosed land by suitable walls or fences.
 - (j) Regulating the stacking or storing of timber, firewood, casks, or barrels.
 - (k) Compelling the construction and providing for the repair of means of fire escape on existing buildings more than three storeys in height and occupied and used as residential flats, or as an hotel, lodging house, factory, mill, warehouse, workshop, shop, hospital, asylum, or benevolent institution.
 - (l) For the licensing, regulation, and control of sky signs now or hereafter erected, and signs or advertisements now or hereafter painted on or affixed to any portion of a building.
- (m)

- (m) Providing for the alteration and repair of skylights and roof lights on existing buildings.
- (n) Requiring and regulating the closing of fire shutters.
- (o) The appointment, powers, and duties of the surveyor.
- (p) Generally for carrying out the provisions of this Act and for enforcing and securing the observance thereof.

(2) The council may, by any by-laws made under this Act, ^{Penalties.} fix the maximum penalty for any offence against any of such by-laws not exceeding *fifty* pounds, and in the case of a continuing offence not exceeding *five* pounds for every day during which such offence continues.

(3) Where any such by-laws relate to the licensing of ^{Fees.} any person or thing, they may provide for the payment of fees for such licensing, and prescribe the amount of such fees.

18. The provisions of subsections two, three, and four of ^{Application of provisions of Sydney Corporation Act, 1902.} section two hundred and one of the Sydney Corporation Act, 1902, as to by-laws made under the authority of that Act shall, except as to the amount of the penalty, apply to by-laws made under the authority of this Act.

PART IV.

APPEALS.

19. (1) Where by or under this Act the surveyor is authorised ^{Appeals to Quarter Sessions.} to give a certificate or to approve of the erection or alteration of a building or of the doing of anything, and refuses so to give or approve, or so gives or approves subject to conditions, any person aggrieved by such refusal or by the terms of such conditions may appeal against any such decision to the Sydney Court of Quarter Sessions.

(2) Such court may make such order with respect to the ^{Powers of court.} matter the subject of the appeal and to the costs of the appeal as having regard to the public interest and the circumstances of the case it may think just.

(3) All orders of such court shall have the force and ^{Enforcement of orders of court.} effect of orders and decrees of the Supreme Court of New South Wales in its equitable jurisdiction. On the filing in the Equity office of the Supreme Court of either an office copy of any such order or a certificate of the clerk of the peace as to the making of any such order, further proceedings to enforce such order may be taken in the equity jurisdiction of the Supreme Court in the same way as may be done in the case of orders and decrees made in such last-mentioned jurisdiction.

PART V.

SUPPLEMENTAL.

Enforcement of orders.

20. Where in pursuance of this Act or any by-law the surveyor lawfully orders or directs any person to perform any work or do any act or thing, and such person fails to perform such work or do such act or thing as and when so ordered or directed, the council may cause such work to be performed or such act or thing to be done, and may in any court of competent jurisdiction recover from the said person the expenses so incurred as a debt due to the council.

Cf. s. 207, L. G. Act, 1906.
Enforcement of orders of council.

Proceeding for penalties.

21. (1) Any person guilty of an offence against this Act shall be liable, where no other penalty is provided, to a penalty not exceeding *fifty* pounds.

Penalties.

(2) Proceedings in respect of the recovery of any penalties under this Act or the by-laws may be taken by the surveyor.

(3) The amount of any penalties recovered in such proceedings shall be paid to the city fund.
