

1993—No. 262

LOCAL GOVERNMENT ACT 1993—REGULATION

(Local Government (Approvals) Regulation 1993)

NEW SOUTH WALES



[Published in Gazette No. 73 of 1 July, 1993]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

GARRY WEST, M.P.,
Minister for Local Government and for Co-operatives

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Local Government (Approvals) Regulation 1993

Commencement

2. This Regulation commences on 1 July 1993.

Objects

3. The objects of this Regulation are:

- (a) to give effect to and to supplement the uniform approvals system established by the Act; and
- (b) to allow certain activities (which would otherwise require approval) to be done without approval; and
- (c) to specify the matters to accompany certain types of applications for approval; and

- (d) to specify various matters for consideration and criteria to be taken into account by councils when considering certain types of applications for approval; and
- (e) to specify certain types of applications for approval which may only be approved by a council with the concurrence of some other person or body or after consultation with that person or body; and
- (f) to specify that certain approvals are subject to specified conditions; and
- (g) to provide for systems of accreditation and building classification; and
- (h) to prescribe the manner in which public notice is required to be given by a council of the preparation of a draft local approvals policy.

Definitions

4. (1) In this Regulation:

building includes a proposed building;

Building Code of Australia means the document entitled “Building Code of Australia” published by the Australian Uniform Building Regulations Co-ordinating Council, and incorporating the New South Wales variations set out in the relevant appendix to that Code, as in force on 1 July 1993;

essential service, in relation to a building, means:

- (a) any of the following items of equipment or forms of construction that are installed in the building:
 - access panels
 - automatic sprinkler systems
 - emergency lifts
 - emergency lighting
 - emergency warning and intercommunication systems
 - exit signs
 - external wall-wetting sprinklers
 - fire and smoke alarms
 - fire dampers
 - fire doors
 - fire hydrants
 - fire mains and water supply services
 - fire shutters

- fire windows
- hose reels
- lightweight construction
- mechanical ventilation systems
- portable fire extinguishers
- pressurising systems
- required exit doors (automatic)
- self-closing fire hoppers
- smoke and heat vents
- smoke control systems
- smoke dampers
- smoke doors
- solid-core doors
- stand-by power systems; and

(b) other items of equipment or forms of construction that are required or permitted by the council to be installed in the building pursuant to clause 22;

owner of a building includes a person who, if a proposed building were completed, would be its owner;

purpose of a building includes the purpose for which a proposed building is to be used on completion;

registrable moveable dwelling means a moveable dwelling that is, or is capable of being, registered under the Traffic Act 1909 and includes a caravan;

the Act means the Local Government Act 1993;

trade waste means liquid trade or factory wastes or chemical or other impurities from any business, trade or manufacturing premises other than domestic sewage, stormwater or unpolluted water.

(2) Expressions used in this Regulation which are defined in the Act have the meanings set out in the Act.

(3) Expressions used in this Regulation which are defined in the Building Code of Australia (but not defined in this Regulation) have the meanings set out in the Code.

(4) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

(5) In this Regulation, a reference to an Australian Standard is a reference to a Standard published by Standards Australia.

Notes in the text

5. Notes in the text of this Regulation are explanatory notes and do not form part of this Regulation. They are provided to assist understanding.

To what areas and councils does this Regulation apply?

6. (1) This Regulation applies to those parts of the State that are constituted as areas for the purposes of the Act.

(2) This Regulation applies to county councils in the same way as it applies to councils.

Note. Matters not dealt with by this Regulation may be dealt with by a local approvals policy under the Act. The requirements of the regulations may be varied or not complied with, if the council approves, in the circumstances specified in section 82 of the Act.

**PART 2—APPROVALS RELATING TO BUILDINGS,
TEMPORARY STRUCTURES OR MOVEABLE DWELLINGS****Division 1—Applications****Matters to accompany applications for building approvals**

7. (1) An application for approval to erect a building must be accompanied by the following:

- (a) 2 copies of the plans and specifications of the building;
- (b) 2 copies of a plan and specification of any fences already erected or to be erected on the allotment or on the boundaries of the allotment.

(2) The plans for the building must be drawn to a suitable scale and consist of a general plan and a block plan.

(3) The general plan of the building is:

- (a) to show a plan of each floor section; and
- (b) to show a plan of each elevation of the building; and
- (c) to show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of adjacent ground; and
- (d) to indicate the height, design, construction and provision for fire safety and fire resistance (if any).

(4) If:

- (a) the plans and specifications relate to a proposal to carry out any alteration or rebuilding of an existing building; or

- (b) it is proposed to modify plans and specifications which have been submitted to the council,

both copies of the general plan are to be coloured or otherwise marked to the satisfaction of the council so as to distinguish adequately the proposed alteration, rebuilding or modification.

(5) The specification of the building is:

- (a) to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply; and
- (b) to state whether the materials will be new or second-hand and give particulars of any second-hand materials to be used.

Note. **Erection** of a building includes any structural work and any alteration, addition or rebuilding.

Council may dispense with requirement for plans and specifications

8. Despite clause 7, the council may dispense with the requirement to submit:

- (a) a plan and specification of the fences; or
- (b) plans and specifications to make minor alterations in an existing building; or
- (c) plans and specifications for the erection of a building to be used exclusively for the purpose of a green-house, conservatory, summer-house, private boat-house, fuel shed, tool-house, cycle shed, aviary, milking bail, hay shed, stable, fowl-house, pigsty, barn, verandah or similar building.

Notice of application to erect a building

9. (1) For the purposes of section 114 (8) of the Act, a notice of an application for approval to erect a building must contain:

- (a) a description (including the address) of the land to which the application relates; and
- (b) a description of the building; and
- (c) the name of the applicant and of the council; and
- (d) a statement to the effect that the application and the documents accompanying the application and in the custody of the council may be inspected free of charge at any time during the ordinary office hours of the council; and
- (e) a statement to the effect that any person may, during that specified period, make a submission in writing to the council in relation to the application.

(2) For the purposes of an application to install a moveable dwelling on land (other than a manufactured home estate or caravan park or camping ground), section 114 of the Act and subclause (I) apply to the moveable dwelling in the same way as those provisions apply to any other building.

Division 2—Fees

Application fees

10. The fee payable for an application to erect a building is the fee calculated according to the scale set out in the Table to this clause, or \$5, whichever is the greater amount.

TABLE

COST (That is, the contract price or if there is no contract, the cost of the proposed building as determined by the council)	FEE (Expressed as percentage of cost)
Not exceeding \$5,000	0.5%
(Exceeding \$5,000 but not exceeding \$100,000	0.5% for the first \$5,000, plus 0.3% of the amount in excess of \$5,000
Exceeding \$100,000 but not exceeding \$250,000	0.5% for the first \$5,000, plus 0.3% of the next \$95,000, plus 0.2% of the amount in excess of \$100,000
Exceeding \$250,000	0.5% for the first \$5,000, plus 0.3% of the next \$95,000, plus 0.2% of the next \$150,000, plus 0.1% of the amount in excess of \$250,000

Division 3—Determination of applications**Matters for consideration by council in determining whether to approve building applications**

12. (1) In determining an application for approval to erect a building the council must take the following matters into consideration:

- (a) drainage, ventilation, lighting and healthiness of the building;
- (b) design, materials, stability, building line and height;
- (c) size, height and lighting of rooms;
- (d) height of floor levels in relation to level of road;
- (e) size, height and materials of party walls between buildings;
- (f) the proportion of the site to be covered by the building and the provision of open spaces and light areas;
- (g) the position of the building or any outbuilding or office in relation to other buildings or to the boundaries of the site;
- (h) the provision of storage for water for domestic purposes;
- (i) means of access generally and particularly the means of access for the purposes of the removal of human waste and other waste;
- (j) whether a public place may be obstructed or rendered inconvenient if the approval is given;
- (k) height, materials, stability, design and position of fences (if any) to be erected on or on the boundaries of the allotment on which the building is to be erected;
- (l) whether the site is subject to flooding or tidal inundation;
- (m) whether the site is or probably will be subject to subsidence or slip;
- (n) whether the erection of the building adversely affects the drainage of adjoining sites;
- (o) whether the use of the building is likely to cause offensive noise within the meaning of the Noise Control Act 1975;
- (p) the likely effect of the building on other land and buildings;
- (q) if the land is not or will not be connected to a public sewerage system, whether the site is suitable for the satisfactory disposal of effluent from, and an adequate water supply is or can be made available for, a septic tank, or if not, a septic closet or, if not, another means of disposing of human waste.

(2) In addition to the matters in subclause (1), the council must take the following matters into consideration if consent under the Environmental Planning and Assessment Act 1979 is not required in respect of the erection of the building:

- (a) if the building is designed or intended to be used for purposes determined by the Minister for the purposes of this paragraph, whether adequate accommodation is provided for the loading or unloading of vehicles;
- (b) whether any fuel burning equipment or industrial plant is to be provided in the building and, if so, whether proper provision is to be made to prevent the emission at the points specified in or determined in accordance with the Clean Air Regulations 1964, of air impurities exceeding the standards or concentration of rates prescribed under the Clean Air Act 1961;
- (c) whether the use of the building is likely to cause pollution of any waters, within the meaning of the Clean Waters Act 1970;
- (d) whether any trees on the site should be preserved;
- (e) any development standards within the meaning of the Environmental Planning and Assessment Act 1979 applicable to the erection or use of the building.

(3) Nothing in subclause (2) operates so as to authorise the council to consider the use or proposed use of any apparatus, equipment or works in relation to which approval is required under section 19 of the Clean Waters Act 1970.

(4) Subclause (2) (b) does not apply to scheduled premises

(5) In this clause, air impurities, fuel burning equipment, industrial plant and scheduled premises have the same meanings as in the Clean Air Act 1961.

Matters to be taken into consideration by council in determining whether to approve demolition applications

13. In determining an application for approval to demolish a building the council must take into consideration the provisions of Australian Standard AS 2601–1991: The demolition of structures, as in force at 1 July 1993.

Matters to be taken into consideration by council in determining whether to approve the installation of a moveable dwelling or associated structure

14. (1) In determining an application for approval to install a moveable dwelling or associated structure on land the council must take the following matters into consideration.

- (a) whether any consent required under the Environmental Planning and Assessment Act 1979 for the use of the land for the purpose has been given;
- (b) whether the use of the land for the purpose contravenes provisions of that Act or of any environmental planning instrument, in so far as the Act or instrument applies to the land.

(2) In determining an application for approval to install a moveable dwelling or associated structure on land (other than a manufactured home estate or caravan park or camping ground) the council must take into consideration the matters set out in clause 12 (1). However, any such matter for consideration is subject to any applicable provision of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 or the Local Government (Manufactured Home Estates) Transitional Regulation 1993.

Matters to be taken into consideration by council in determining whether to approve the installation of certain moveable dwellings

15. (1) In determining an application for approval to install a moveable dwelling on flood-liaible land the council must take into consideration the principles contained in the Floodplain Development Manual.

(2) In this clause:

Floodplain Development Manual means the manual of that name published by the New South Wales Government and as in force from time to time, a copy of which is deposited in the Sydney office of the Department;

flood-liaible land means land that has been determined by the council to be flood-liaible land, for the purposes of this clause, having regard to the principles contained in the Floodplain Development Manual.

Matters to be taken into consideration by council in determining whether to approve the installation of a temporary structure on land

16. In determining an application for approval to install a temporary structure on land the council must take into consideration whether the 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 the safety of persons proposed to be accommodated in the building, in the event of fire, particularly in relation to egress; and

- (c) will contain reasonable provision for the prevention or suppression of fire and the prevention of the spread of fire

Matters to be taken into consideration by council in determining whether to approve the use or occupation of an uncompleted building

17. In determining an application for approval to use or occupy a building before it has been completed in accordance with plans and specifications approved by the council the council must take into consideration the health and safety of the occupants of the building.

Matters to be taken into consideration by council in determining whether to approve the use of a building or temporary structure as a place of public entertainment

18. In determining an application for approval to use a building or temporary structure as a place of public entertainment the council must take the following matters into consideration:

- (a) whether any consent required under the Environmental Planning and Assessment Act 1979 for the use of the building or structure for the purpose has been given;
- (b) whether the use of the building or structure for the purpose contravenes provisions of that Act or of any environmental planning instrument within the meaning of that Act, in so far as the Act or instrument applies to the land.

Standards to be met for approval

19. The council must not approve an application for an approval referred to in Part A of the Table to section 68 of the Act unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

Fire safety to be considered

20. The council must not approve an application involving structural alterations to a building unless it is satisfied as to the following matters:

- (a) the alterations will not unduly reduce the existing level of fire protection afforded to persons accommodated in or resorting to the building;
- (b) the alterations will not unduly reduce the existing level of resistance to fire of the building structure;

- (c) the alterations will not unduly reduce the existing safeguards against spread of fire to adjoining buildings.

Referral of certain applications to the New South Wales Fire Brigades

21. (1) If an application for approval to erect a building is made in respect of the erection of a building proposed to exceed, or which exceeds, 25 m in height, a copy of the application (together with copies of the accompanying plans and specifications of the building) must be forwarded by the council, within 7 days after the application is made, to the Director-General of New South Wales Fire Brigades.

(2) The Director-General of New South Wales Fire Brigades must furnish to the council a report dealing with such of the matters relating to the provisions of the Building Code of Australia as are referred to in the Table to this clause and as are relevant to the design and construction of the building.

(3) The report is to indicate whether, in the opinion of the Director-General of New South Wales Fire Brigades, the matters referred to in the Table to this clause comply with the relevant provisions of the Building Code of Australia or are satisfactory to the Director-General.

(4) The council is not to approve an application to which this clause applies unless it has received the report and it has taken the report into consideration.

(5) Subclause (4) does not prevent the council from approving an application to which this clause applies, even though it has not yet received the report, if at least 35 days have passed since the application was lodged.

TABLE

Clause E1.2 (a)—The proposed design and installation of the fire mains and water supply services.

Clause E1.2 (e)—The proposed design and installation of the booster assembly and connections.

Clause E1.2 (f)—The proposed connection in the hydrant rising main for a portable relay boost pump.

Clause E1.3—The proposed fire hydrants are readily accessible and are suitable for use with the fire hoses and appliances of the New South Wales Fire Brigades.

Clause E1.5—The proposed design and installation of the sprinkler system.

Clause E1.6—The proposed type of portable fire extinguisher, its location and installation.

Clause E1.8—The proposed design and location of the fire control centre.

Clause NSW Variation E1.101—The proposed gas-type or foam-type fire extinguisher system is of a type approved by the New South Wales Fire Brigades.

Clause E2.4 and E2.6—The proposed air-handling system or smoke control system will not affect the fire performance of the building.

Clause E3.4—The proposed installation of the emergency lift.

Clause E4.9—The proposed installation of the emergency warning and intercommunication system.

Clause 3.1 and 3.4 of Specification 33.8—The proposed air-handling system or smoke control system will not affect the fire performance of the building.

Clause 3.3 (d) of Specification G3.8—The design and proposed location of the manual start switch for the smoke control system.

Clause 3.7 of Specification G3.8—The proposed design and location of the smoke and heat vents.

Schedule of essential services

22. For the purpose of ensuring the safety of persons in a building (other than a class 1a or class 10 building) in the event of fire, the council must, when giving its approval to the erection of the building or to change the use of the building, attach to the approval a schedule specifying:

- (a) the essential services that, pursuant to this Regulation or the Act or any condition of the approval, are permitted or required to be installed in the building; and
- (b) for those essential services for which this Regulation or the Building Code of Australia does not specify minimum standards of design, installation or maintenance—the minimum standard to which those services must be designed, installed and maintained.

Approval of change of use of building

23. (1) The council must not approve an application to change the use of a building to a use that is not consistent with the current classification of the building unless the council, having regard to the circumstances of the case, is of the opinion that the building, with such alterations as it may require:

- (a) will be structurally sound and capable of withstanding the loadings likely to arise from the new use;

- (b) will contain reasonable provision for the safety of persons proposed to be accommodated in the building, in the event of fire, particularly in relation to egress;
 - (c) will contain reasonable provision for the prevention or suppression of fire and the prevention of the spread of fire.
- (2) On approving a change of use the council must:
- (a) revoke any certificate of classification already in existence for the building; and
 - (b) prepare a certificate of classification, in accordance with clause 46, in respect of the new use; and
 - (c) issue the original of that certificate to the person proposing the change of use.

Effect of approval

24. (1) The council is to determine a building application in accordance with the provisions of this Regulation as in force on the date on which the application was made and, in relation to the application, must disregard any amendments made to this Regulation or the Building Code of Australia after that date.

(2) A person who constructs a building in accordance with a building approval is not guilty of an offence against the Act in respect of anything done or omitted by the person in the construction of the building merely because of any amendment made to this Regulation or the Building Code of Australia after the date on which the approval was given.

Division 4—Conditions of approval

Note. **Building** includes a part of a building.

Compliance with standards

25. (1) It is a condition of an approval referred to in Part A of the Table to section 68 of the Act that the activity approved, and any building or work associated or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

(2) However, the use of a building may be changed from that of one class to that of another class without the building being made to comply with the Act and the provisions applicable to the new class (Part E1 of the Building Code of Australia excepted) if the council, having regard to the circumstances of the case, is of the opinion that the building, with such alterations as it may require, satisfies clause 22.

Compliance with classification provisions

26. It is a condition of an approval to erect a building or to change the use of a building that the applicable provisions of Division 6 are complied with.

Certification of essential services

27. (1) It is a condition of an approval to erect a building (other than a class 1a or class 10 building), or an approval to change the use of a building to a use that is not consistent with the current classification of the building, that the owner of the building must cause the council to be given a certificate in relation to each essential service installed in the building.

(2) It is a further condition of any such approval that the owner cause the council to be given such a certificate at least once in each period of 12 months after the first certificate is required to be given.

(3) The certificate is to state as to each essential service installed in the building:

- (a) that the service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such an inspection and test; and
- (b) that the service was or was not (as at the date on which it was inspected and tested) found to have been designed and installed, and to be capable of operating, to a standard not less than that required by or under this Regulation or by the council.

Long service levy

28. It is a condition of an approval to erect a building that the approval is not to operate unless:

- (a) the council is satisfied that the amount of the long service levy payable under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect of the erection of the building has been duly paid or, if the levy is to be paid by instalments pursuant to section 43 of that Act, the first instalment of that long service levy has been duly paid; and
- (b) the council has endorsed on a copy of the plans and specifications submitted to it with the application a notation that the council is so satisfied.

Notification of licensees and owner-builders

29. (1) It is a condition of an approval to erect a building that involves the doing of residential building work (within the meaning of the Building Services Corporation Act 1989) that, before the work is commenced, the council must be informed in writing of

- (a) the name and contractor licence number of the licensee who has contracted to do or intends to do the work; or
- (b) the name and permit number of the owner-builder who intends to do the work.

(2) It is a further condition of any such approval that the council is immediately informed in writing of sufficient particulars for it to update accurately the record it is required to keep under this section if:

- (a) a contract is entered into for the work to be done by a different licensee; or
- (b) arrangements for the doing of the work are otherwise changed.

Consideration of certain reports from New South Wales Fire Brigades

30. It is a condition of an approval to erect a building (other than a building proposed to exceed, or which exceeds, 25 m in height) in which any item referred to in the provisions of the Building Code of Australia listed in the Table to this clause is to be installed, that the item must not be installed until the council has received a report from the Director-General of New South Wales Fire Brigades indicating that the item complies with the relevant provisions of that Code or is satisfactory to the Director-General.

TABLE

- Clause E1.2 (a)—The proposed design and installation of the fire mains and water supply services.
- Clause E1.2 (e)—The proposed design and installation of the booster assembly and connections.
- Clause E1.3—The proposed fire hydrants are readily accessible and are suitable for use with the fire hoses and appliances of the New South Wales Fire Brigades.
- Clause NSW Variation E1. 101—The proposed gas-type or foam-type fire extinguisher system is of a type approved by the New South Wales Fire Brigades.

Structural drawings

31. It is a condition of an approval to erect a building which is given before approved structural engineer's drawings or other engineering details prepared by a structural engineer are submitted to the council that:

- (a) work on the footings must not be commenced until full engineering details relating to them have been submitted to and approved by the council; and
- (b) no stage of the building work other than footings is to be commenced until full engineering details relating to that stage of the building work and such other stages as may be specified by the council have been submitted to and approved by the council.

Excavations and backfilling

32. It is a condition of an approval to erect a building that:

- (a) all excavations and backfilling are executed safely and in accordance with appropriate professional standards; and
- (b) all excavations are properly guarded and protected to prevent them from being dangerous to life or property.

Retaining walls

33. It is a condition of an approval to erect a building that, if the soil conditions require it:

- (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and
- (b) adequate provision must be made for drainage.

Support for neighbouring buildings

34. (1) It is a condition of an approval to erect a building that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with this clause.

(2) The person must at the person's own expense:

- (a) preserve and protect the building from damage; and
- (b) if necessary, underpin and support the building in an approved manner.

(3) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

(4) In this clause, allotment of land includes a public road and any other public place.

Temporary buildings

35. (1) It is a condition of an approval to erect a temporary building that:

- (a) the building is to be demolished or removed within the period from the date of approval specified by the council, being a period not exceeding 5 years; and
- (b) the building must not be used for residential purposes, for the storage of or handling of inflammable materials or, after the end of the period referred to in paragraph (a), for any purpose.

(2) The council may grant an approval to erect a temporary building subject to such other conditions as to location, construction or provision of conveniences for sanitation as it thinks fit.

Temporary closets

36. (1) It is a condition of an approval to erect a building that the builder provides temporary closet accommodation that complies with this clause.

(2) One closet is to be provided for every 20 persons or part of 20 persons engaged in the building work. Additional closets are to be provided if required by the council.

(3) Each closet is:

- (a) to be at least 1 050 mm wide, 1 350 mm long and 2 100 mm high, in its internal measurements; and
- (b) to have a hinged door capable of being fastened both on the inside and on the outside; and
- (c) to have walls and a roof that are constructed of a weather proof material and so as to ensure privacy; and
- (d) to have a floor that is made of concrete, bricks or cement or such other materials as the council may approve; and
- (e) to be provided with a suitable receptacle for and an adequate supply of deodorising or fly-repellent material which is either blue oil, kerosene, phenol or other suitable deodorising substance approved by the council; and
- (f) to comply with any standards applicable to its construction and established by or under the Act.

(4) The temporary closet accommodation is to be the first provision made in the erection of the building.

(5) In this clause:

closet means any enclosed or partly-enclosed place used in connection with the reception of human waste.

Protection of public places

37. (1) It is a condition of an approval to erect or demolish a building that this clause is complied with, if a public place or pedestrian or vehicular traffic may be obstructed or rendered inconvenient because of the carrying out of the activity.

(2) It is a condition of an approval to enclose a public place in connection with the erection or demolition of a building that this clause is complied with.

(3) A hoarding or fence must be erected between the building or site of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work, falling on to the public place is also to be erected.

(4) The work is to be kept lit during the time between sunset and sunrise if the work may be a source of danger to persons using the public place.

(5) A hoarding, fence or awning is to be removed when it is no longer required for the purpose for which it was provided.

Places of public entertainment and temporary structures

38. It is a condition of an approval to use or permit the use of a building or temporary structure as a place of public entertainment that the provisions of Schedule 2 are complied with.

Notice to allow inspection

39. The council may, as a condition of an approval to erect a building, require that 48 hours' notice be given before the covering of any works specified by the council in order that the works may be inspected.

Approvals to alter buildings

40. The council may, as a condition of an approval to make alterations to an existing building, require that the existing building be brought into conformity with the Act and this Regulation as though it were a new building if:

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

Division 5—Concurrences

Concurrences generally

41. A person whose concurrence is required by this Division to be sought to a proposed activity may give concurrence or refuse concurrence or give concurrence subject to conditions.

Concurrences required for moveable dwelling approvals

42. A council must not approve an application to install a moveable dwelling or associated structure on the land set out below, except with the concurrence of the specified Minister:

- (a) Crown land, or land in a reserve within the meaning of Part 5 of the Crown Lands Act 1989—the Minister administering the Crown Lands Act 1989;
- (b) land reserved or dedicated by the provisions of an Act to a public purpose, or in respect of which the provisions of an Act provide that the land must be used for a purpose referred to in the Act—the Minister administering the provisions of the Act concerned.

Division 6—Classification of buildings

Classification of buildings

43. Buildings are to be classified in accordance with the Building Code of Australia.

Council discretion in relation to certain provisions of Building Code of Australia

44. (1) If there is any doubt or dispute about the classification of a building, the building is to be classified in whichever of the classes mentioned in Clause A3.2 of the Building Code of Australia as the council considers appropriate, and the decision of the council is taken to be an approval for the purposes of any appeal under the Act.

(2) In applying Clause C1.2 (a) (ii) of the Building Code of Australia, if there is any doubt or dispute about the natural ground level (because of prior excavation or other cause) the level is to be assessed to the satisfaction of the council.

(3) If a building is to be built over a public road, railway, bus terminal or similar public facility:

- (a) the council is to determine the fire-resistance level (FRL), as defined in the Building Code of Australia, of each structural member in, immediately above or immediately alongside the public facility having regard to the particular circumstances and the fire resisting construction of buildings; and
- (b) if a structural member is susceptible to damage, the council may determine the materials to be used for the construction of that member.

(4) If the council has been furnished with a report issued by the Director-General of New South Wales Fire Brigades to the effect that, in the opinion of the Director-General, a particular building should be exempted from any one or more of the requirements of Part E.1 of the Building Code of Australia, the council may, subject to any conditions that the Director-General might recommend, exempt the building from those requirements.

Occupation prohibited pending issue of certificate of classification

45. (1) A building or part of a building must not be occupied until a certificate of classification has been issued in respect of the building or part.

(2) This clause does not apply to a class 1 or class 10 building or to a building for which approval to erect the building is not required.

Certificate of classification

46. (1) If, after the commencement of this Regulation, approval is given to erect a building, the council must on completion of the building, or if it approves the occupation of an uncompleted building, prepare a certificate of classification, in duplicate, in Form 1.

(2) On application made by or on behalf of the owner of a building, being a building erected pursuant to an approval given on or before 1 July 1974, the council must prepare a certificate of classification, in duplicate, in Form 1.

(3) The original of the certificate is to be issued to the person on whose behalf the building was erected.

(4) The duplicate is to be retained in the council's office and be open to inspection free of charge by any person during the ordinary office hours of the council.

(5) This clause does not apply to a class 1 or class 10 building.

Particulars to be shown on certificate of classification

47. A certificate of classification must show:

- (a) the class or classes for which the building has been designed, constructed or adapted to be used, and approved; and
- (b) if the building has parts differently classified, the classification or group of classifications of each part.

Certificates for a building occupied in stages

48. If a certificate of classification has been issued for part of an uncompleted building and the council approves 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 clause 46, covering all parts of the building for which approval to occupy has been given by the council.

Reports of Director-General of New South Wales Fire Brigades

49. (1) The council must, before issuing a certificate of classification in respect of a building that exceeds 25 m in height, request the Director-General of New South Wales Fire Brigades to furnish it with a report in respect of the building.

(2) The Director-General of New South Wales Fire Brigades must furnish to the council within 7 days after receiving a request from the council, a report indicating, in respect of each of the matters the subject of any previous report under clause 20, whether the construction of the building complies with council's approval for its erection.

(3) The council must not issue a certificate of classification in respect of a building to which this clause applies unless it has taken into consideration any report furnished to it by the Director-General of New South Wales Fire Brigades in respect of the building within the period of 7 days.

(4) This clause does not apply in relation to the issue of a certificate of classification under clause 46 (2).

Statements of classification

50. (1) On application made by or on behalf of any person, the council must, for the purpose specified in the application, prepare a statement of classification, in duplicate, in Form 2.

(2) The original of the statement must be issued to the person by whom the application was made.

(3) The duplicate must be retained in the council's office and be open to inspection free of charge by any person during the ordinary office hours of the council.

Particulars to be shown on statement of classification

51. A statement of classification must show which classes the council considers appropriate with respect to buildings that are designed, constructed or adapted for use for the purpose specified in the statement.

Division 7—Performance standards

Adoption of Building Code of Australia

52. (1) All matters relating to the construction, maintenance, management and use of a building are to be governed by the provisions of this Regulation and by the provisions of the Building Code of Australia.

(2) In the event of an inconsistency between the provisions of the Building Code of Australia and the provisions of this Regulation, the provisions of this Regulation apply.

(3) This clause does not limit the operation of any other law governing the construction, maintenance, management or use of a building.

(4) For the purposes of section 70 (6) of the Act, the provisions set out in this Division, including the provisions of the Building Code of Australia are technical provisions of the State's building laws.

Allotment of land

53. (1) A class 1 building must not be erected on an allotment of land having an area of less than 230 m² for each dwelling contained in that or any other building on the allotment.

(2) The council may by resolution fix in respect of different parts of the area the minimum size of an allotment of land on which a class 1 building may be erected but may not fix a minimum size of less than 230 m² for each dwelling contained in that or any other building on the allotment.

(3) However, the minimum size of an allotment on which a class 1 building may be erected may be less than the minimum size prescribed or fixed by this clause, in the following circumstances:

- (a) If an applicant, in subdividing land provides common garden or playground spaces adjoining and within the subdivision, the area of any such space may be taken into account and credited proportionately to the allotments abutting on that space or on any road surrounding that space, and the actual area of each allotment may be reduced accordingly below the prescribed minimum. It may not be reduced to less than one-half of the minimum. The right granted by this paragraph extends also to any subsequent purchaser of any such allotment.
 - (b) In the case of an application for approval of the erection of a building on a parcel of land of less than the minimum size prescribed or fixed by this clause, in existence as a separate parcel on 27 February 1942, the council must grant the application if the proposed building is suitable for approval apart from the question of the area of the allotment.
 - (c) In the case of an application for approval to build on a parcel of land of less than the minimum size prescribed or fixed by this clause, the council must grant the application if the proposed building is to replace an existing class 1 building and is suitable for approval apart from the question of the area of the allotment.
- (4) In this clause, a reference to a class 1 building includes a reference to a class 2 building that comprises 2 dwellings only.

Site occupancy for dwellings

54. (1) A class 1 building, together with any class 10 buildings appurtenant to it, to be erected on an allotment must not occupy more than two-thirds of the allotment, and the minimum unoccupied area must not be less than 45 m² for each dwelling contained in that or any other building on the allotment.

(2) Despite subclause (1), the council may approve the erection of a class 1 building occupying more than two-thirds of an allotment, or with a minimum of unoccupied area of less than 45 m² for each dwelling contained in that or any other building on the allotment, to replace an existing class 1 building which occupies more than two-thirds of the allotment.

(3) Despite subclause (1), the council may approve the erection of a laundry, bathroom, shower room or closet as an addition to a class 1 building which was erected before 1 January 1922 if the class 1 building, together with any class 10 buildings appurtenant to it, would occupy more than two-thirds of the allotment or the unoccupied area would be less than 45 m² for each dwelling contained in that or any other building on the allotment.

(4) In this clause, a reference to a class 1 building includes a reference to a class 2 building that comprises 2 dwellings only.

Site occupancy for dwelling combined with other buildings

55. (1) Despite clause 54, the council may permit a combined class 4 and class 6 building to occupy not more than four-fifths of the allotment if:

- (a) the unbuilt on area is not less than 45 m²; and
- (b) the allotment is considered by the council to be within an established shopping locality.

(2) If a combined class 4 and class 6 building is:

- (a) to be erected in a sewerred district; and
- (b) the class 4 part of the building is to be erected wholly above the ground floor,

the open space required by subclause (1) (a) may be provided in the form of a flat roof over the class 6 part of the building if the roof is adapted for the common use of tenants.

(3) If a class 1 building is erected on the same allotment as a class 5, 6, 7, 8 or 9 building, the roof of the class 5, 6, 7, 8 or 9 building may be taken into account as yard space for the class 1 building if the roof is a flat roof and adapted for the use of the occupants of the class 1 building.

Garages at low level to be excluded from calculations

56. For the purposes of clauses 54 and 55, a garage erected at a low level, the roof of which serves as portion of the garden, yard or court is not to be included as a building in calculating the proportion of the area of the allotment that may be occupied by a building.

Walls of class 1 buildings

57. (1) For the purposes of this clause:

- (a) a window in a recess in a wall is taken to be a window in the wall; and

- (b) the external wall of any garage, laundry, workshop or the like which is attached to a class 1 building is taken to be an external wall of that building; and
- (c) any gable having a surface area exceeding 10 m² is taken to be a wall.

(2) A wall of a class 1 building must be not less than 900 mm from the boundary line (in the case of a building containing 1 or 2 storeys) or 1500 mm (in the case of a building containing more than 2 storeys) unless:

- (a) the boundary line is also the boundary of any public place; or
- (b) 2 or more dwellings (such as are commonly known as semi-detached or terrace buildings) are attached to each other, erected on 2 or more parcels of land and separated from each other by common walls or party walls; or
- (c) the wall or part of the wall does not contain windows and the council:
 - (i) is satisfied, in the case of a single class 1 building, that compliance would be impracticable because of the levels or width of the allotment or other exceptional conditions of the site; and
 - (ii) permits, by resolution in the individual case, the erection of a wall or part of a wall at a lesser distance from the boundary line of the allotment; or
- (d) the wall or part of the wall does not contain windows and the council permits, by resolution in the individual case, the extension of an existing wall or part of a wall at a lesser distance from the boundary line; or
- (e) an existing wall is to be veneered or refaced.

(3) In the case of a proposal to alter any class 1 building which was erected before 1 August 1962, the provisions of subclause (2) do not prevent the council from granting approval to the construction of windows in a wall if, in the opinion of the council, the windows are necessary to make the building a more healthy building.

(4) Unless a class 1 building is subject to one of the exceptions set out in subclause (2), guttering, eaves, hoods and similar structures or attachments erected between the external plane of the face of an external wall and any boundary line must be not less than the following distance from the boundary line:

- (a) 675 mm, in the case of a building containing 1 or 2 storeys;
- (b) 1 125 mm, in the case of a building containing more than 2 storeys.

(5) If an existing external wall of a class 1 building is veneered or refaced, guttering, eaves, hoods and similar structures or attachments erected between the external plane of the face of the external wall and any boundary line must be not less than 500 mm from that boundary line.

(6) Despite subclause (4):

- (a) a cornice or eave may return along a wall for a maximum distance of 1800 mm if the cornice or eave at any part is not less than 450mm from the boundary line; and
- (b) an open carport, open porch, awning, pergola or similar structure may extend to the boundary line of the allotment if the council is satisfied that it will not materially affect the amenity of any adjoining site.

(7) In this clause, a reference to a class I building includes a reference to a class 2 building that comprises 2 dwellings only.

Class 3 buildings

58. (1) This clause applies to every class 3 building unless the land on which the building is to be erected is zoned for business, commercial or industrial purposes under any environmental planning instrument in force under the Environmental Planning and Assessment Act 1979.

(2) A class 3 building must not occupy more than the following proportion of the allotment on which the building stands:

- (a) in the case of a building containing 1 storey—50%;
- (b) in the case of a building containing 2 storeys—40%;
- (c) in the case of a building containing more than 2 storeys—35%.

(3) The total floor plan area must not exceed one and one-half times the total area of the site.

(4) The minimum distance of the external walls of the first and second storeys from the side boundaries of the allotment on which the building stands must be 2 290 mm. The minimum distance of the external walls of any particular storey (other than the first and second) from the side boundaries of the allotment are to be ascertained by adding to 2 290 mm a distance of 450 mm in respect of each storey additional to the second, up to and including that particular storey.

(5) In this clause:

total area of the site means:

- (a) if an allotment on which the building stands has a frontage to one road only—the actual area of the allotment plus an additional area equivalent to the area of a rectangular parcel

of land having one side equal in length to the frontage of the allotment to the road and the other side equal to 10 m or to one-half the width of the road whichever is the lesser; or

- (b) if the allotment on which the building stands has a frontage to more than one road—the actual area of the allotment plus an additional area in respect of each such frontage, the additional area to be added in respect of any particular frontage to a road being an area equivalent to the area of a rectangular parcel of land having one side equal in length to the length of that frontage and the other side equal to 10 m or to one-half the width of that road whichever is the less,

and if a road to which an allotment has a frontage is of variable width, the width of the road for the purposes of this definition is the width of the road at the middle point of that frontage.

total floor plan area means the sum of the floor plan areas of the various storeys and the floor plan area of any storey means the area contained within the extreme external boundaries of the storey as shown on the floor plan.

floor plan means a horizontal-section drawing showing the thickness of walls and partitions, arrangement of passages, rooms and openings at any storey.

storey means any floor containing a habitable room or a room used as a shop or office, and the relevant definition in the Building Code of Australia does not apply.

Class 2 and 3 buildings

59. (1) No guttering, eaves, hoods or similar structures or attachments that form part of or are attached to a class 2 or class 3 building (being structures or attachments that, in the opinion of the council, are likely to obstruct access to light or air) may extend towards the side boundaries of the allotment more than one quarter of the minimum distance required by clause 57.

(2) If the minimum distance permissible between the external walls of a class 2 building and the side boundaries of the allotment on which it is situated is fixed by an environmental planning instrument in force under the Environmental Planning and Assessment Act 1979, the reference in subclause (1) to the minimum distance required by clause 56 is to be read instead as a reference to the minimum distance so fixed.

(3) Despite subclause (1), the council may permit the erection of an awning or open porch in front of or adjoining an entrance to a doorway in an external wall facing or adjoining the side boundary

(4) In this clause, a reference to a class 2 building does not include a reference to a building that comprises 2 dwellings only.

Appurtenant buildings

60. (1) A building containing only 1 storey may be erected on the same allotment as, and as an appurtenant to, a class 2 or class 3 building only if the area occupied by the appurtenant building does not exceed 10% of the required unbuilt on area of the allotment.

(2) A garage erected at a low level, the roof of which serves as a portion of the garden, yard or court, is not to be included as a building in calculating the proportion of the area of the allotment that may be occupied by a building.

(3) If a class 2 or class 3 building encroaches on the required unbuilt on area of an allotment, the maximum area that may be occupied by an appurtenant building on the allotment under subclause (1) is reduced by the area of the encroachment.

(4) In this clause, the required unbuilt on area of an allotment means the minimum area of the allotment that may not be occupied by a class 2 or class 3 building because of an environmental planning instrument or clause 57.

Access to rear

61. (1) If, in an unsewered district, a human waste storage facility is situated at the rear of any building and there is no public and convenient access to the rear of the site, the building must be so designed as to leave outside the building a way of access at least 900 mm wide from a public road to the facility.

(2) If, in any district, there is no public and convenient access to the rear of the site of a class 1 building for the removal of garbage and refuse, the building must be so designed as to leave outside the building a way of access at least 900mm wide from a public road to the rear of the class 1 building.

(3) The access referred to in subclauses (1) and (2) may be provided by a common right-of-way 900 mm wide to serve 2 adjoining buildings.

(4) Access by way of a covered passage running through a building, other than a passage in the nature of an internal wall, is taken to be outside the building for the purposes of this clause.

(5) The council may waive the requirements of subclause (2) in relation to a building in a sewered district if it is satisfied that there is adequate public and convenient access to some part of the site of the building for the removal of garbage and refuse.

(6) In this clause, a reference to a class 1 building includes a reference to a class 2 building that comprises 2 dwellings only.

Use of temporary buildings

62. (1) This clause applies to temporary buildings and no other clause of this Regulation (other than clause 35) extends to temporary buildings.

(2) It is a condition of an approval to erect a temporary building that the building must be demolished within such period not exceeding 5 years from the date of its approval as the council may determine.

(3) It is a condition of an approval to erect a temporary building that it must not be used for:

- (a) residential purposes; or
- (b) the storage or handling of inflammable materials; or
- (c) any purpose after the end of the period determined by the council under subclause (2).

(4) The council may, in approving an application to erect a temporary building, impose conditions as to location, construction or provision of conveniences for sanitation or otherwise as it thinks fit.

(5) In this clause **temporary building** does not include:

- (a) any building designed for use for residential purposes; or
- (b) any building erected by way of alteration, addition or extension to an existing building; or
- (c) any building more than 1 storey in height.

External walls—standards

63. If more than half the area of an external wall is rebuilt (whether because it has fallen or must be taken down for any reason) the whole wall is to be brought into conformity with standards applicable as if the wall were part of a new building.

Disposal of domestic waste from flats—standards

64. (1) A class 2 building must have, within each flat or conveniently accessible from each flat:

- (a) means satisfactory to the council for the destruction of domestic waste; or
- (b) means satisfactory to the council for conveying domestic waste to a common receptacle; or
- (c) a separate and suitable receptacle for holding domestic waste until it is removed.

(2) If receptacles are provided under subclause (1) (a) or (b), there must be provided:

- (a) space in the open air or in some closed-off closet or space so that waste is free from offence; and
- (b) means satisfactory to the council so that the receptacles may be removed without having to be conveyed through the main or front entrance of the building.

Demolition—standards

65. The demolition of a building is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601–1991: The demolition of structures, as in force at 1 July 1993.

Moveable dwellings—standards

66. A moveable dwelling must comply with the applicable provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 and the Local Government (Manufactured Home Estates) Transitional Regulation 1993.

Division 8—Building certificates

Form of building certificate

67. A building certificate is to be in Form 3

Fees for building certificates

68. (1) For the purposes of section 169 (2) of the Act, the approved fee to accompany an application for a building certificate in relation to the building is:

1993—No. 262

- (a) in the case of a class 1 building (together with any class 10 buildings on the site) or a class 10 building—\$50 for each dwelling contained in the building or in any other building on the allotment; or
- (b) in the case of any other class of building—as follows:

<i>Floor area of building or part</i>	<i>Fee</i>
Not exceeding 200 square metres	\$50
Exceeding 200 square metres but not exceeding 2 000 square metres	\$50, plus an additional 10 cents per square metre for each square metre over 200.
Exceeding 2 000 square metres	\$230, plus an additional 1.5 cents per square metre for each square metre over 2 000

- (c) in any case where the application relates to a part of a building and that part consists of an external wall only or does not otherwise have a floor area—\$50.

(2) If it is reasonably necessary to carry out more than one inspection of the building before issuing a building certificate, the council may require the payment of an additional fee (not exceeding \$25) for the issue of the certificate. However, the council may not charge an additional fee for any initial inspection.

(3) In this clause, a reference to a class 1 building includes a reference to a class 2 building that comprises 2 dwellings only.

Division 9—Accreditation

Form of application

69. An application for the accreditation of a component, process or design must:

- (a) be in writing; and
- (b) include a description of the component, process or design to which the application relates; and

- (c) be accompanied by a copy of a certificate of accreditation issued by the Building Accreditation Authority of Victoria, if it is so accredited, or if it is not, documentary evidence of any test procedures, results, performances or appraisals relevant to the proposed accreditation that have been obtained from a recognised appraisal body.

Division 10—Exemptions

Activities for which approval is not required

70. The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

- (a) **Installation of moveable dwellings for short periods.** The installation of a moveable dwelling on land, if the dwelling is installed for 2 days or less.
- (b) **Installation of registrable moveable dwellings for owners.** The installation of a registrable moveable dwelling, if it is kept by its owner on land occupied by that owner in connection with that owner's dwelling-house, is used for habitation only by the owner or by members of the owner's household and maintained in a condition adequate for registration under the Traffic Act 1909.
- (c) **Installation of registrable moveable dwellings for certain employees.** The installation of a registrable moveable dwelling, if it is kept on pastoral or agricultural land, is used for habitation only at certain seasons by persons employed in pastoral or farming operations on the land and is maintained in a condition adequate for registration under the Traffic Act 1909.
- (d) **Installation of moveable dwellings on certain land.** The installation of a moveable dwelling, if it is installed on land dedicated or reserved under the Forestry Act 1916 as a State forest, a timber reserve or a flora reserve.
- (e) **Installation of moveable dwellings in approved caravan parks, camping grounds or manufactured home estates.** The installation of a moveable dwelling in an approved caravan park, camping ground or manufactured home estate, if the moveable dwelling is designed, constructed and installed in accordance with the applicable requirements of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 and the Local Government (Manufactured Home Estates) Transitional Regulation 1993.

PART 3—APPROVALS RELATING TO MANAGEMENT OF WASTE**Division 1—Applications****Matters to accompany applications related to private drains or sewers**

71. (1) An application for approval to discharge trade waste into a sewer under the control of the council or which connects with such a sewer must be accompanied by the following:

- (a) plans and specifications of the work to be done;
- (b) plans and specifications of the apparatus to be used;
- (c) details of the nature and quantity of the waste and the rates of discharge of the effluent.

(2) An application for approval to discharge pan contents or septic tank effluent from premises to a sewer under the control of the council or which connects with such a sewer must be accompanied by details of the following matters:

- (a) the nature of the waste proposed to be discharged;
- (b) the quantity of waste proposed to be discharged;
- (c) the proposed rate of discharge of waste;
- (d) the proposed frequency of discharge of waste.

Matters to accompany applications related to installation of certain closets

72. An application for an approval to install a chemical closet, humus closet or combustion closet must be accompanied by the following:

- (a) an illustration or sketch and description of the type, number and arrangement of the closet;
- (b) a statement of the capacity of the closet, the way it is proposed to dispose of the contents and the number of persons it is proposed to serve.

Matters to accompany applications related to installation of septic tanks or closets

73. An application for an approval to install a septic tank or septic closet must be accompanied by the following:

- (a) a block plan, to scale, of the premises and of the adjoining premises or public places on which the proposed position of the septic tank or septic closet and all sewers and drains and fittings connected with it is accurately shown;

- (b) a statement of the way in which it is proposed to dispose of the effluent waters from the septic tank or septic closet;
- (c) a statement of the number of persons residing, or probable number of persons about to reside, on the premises;
- (d) a statement of the kind of waste which it is proposed to treat in the septic tank or septic closet.

Division 2—Determination of approvals

Matters to be taken into consideration by council in determining applications for approval to place a building waste storage container on a road

74. In determining an application for approval to place on a road a building waste storage container the council is to take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by the Roads and Traffic Authority.

Approval of waste devices

75. The council must not approve an application for approval to install, construct or alter a waste treatment device unless the council is satisfied that the device is approved by the Director-General of the Department of Health.

Standards to be met for approval

76. The council must not approve an application for an approval to install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such facility unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation, the Local Government (Water, Sewerage and Drainage) Regulation 1993 or by or under the Act.

Division 3—Conditions of approval

Compliance with standards

77. It is a condition of an approval referred to in Part C of the Table to section 68 of the Act that the activity, and any building or work associated or carried out in connection with the activity, complies with

any applicable standards established by this Regulation, the Local Government (Water, Sewerage and Drainage) Regulation 1993 or by or under the Act.

Waste treatment devices

78. (1) It is a condition of an approval to install, construct or alter a mechanical device that treats waste by compaction, shredding or other means that this clause is complied with.

(2) An occupier of premises on which waste is deposited must comply with any directions given by the council from time to time as to the use of the device.

(3) The waste treatment device and any part of the premises on which it is situated used in connection with the device must be maintained in a sanitary condition.

Discharge of trade waste

79. The council may, as a condition of an approval to dispose of trade waste into a sewer of the council:

- (a) require that the volume of waste discharged be measured and determined by meter or some other means approved by the council; or
- (b) determine the maximum aggregate daily quantity of effluent that may pass from any trade premises into a sewer, the maximum permissible rate of discharge, the size and capacity of the drain for conveying the effluent to the sewer and the hours during which the discharge is permitted.

Position of closets

80. The council may, as a condition of an approval to install, construct or alter a human waste storage facility require the alteration of its proposed position, having regard to its effect on the amenity of the locality.

Division 4—Performance standards

Definitions

81. In this Division:

cesspit means any pit, whether constructed or not, under or connected with any closet but does not include any fixed receptacle used in connection with a septic closet or which is a septic tank;

chemical closet means a closet in or in connection with which there is a fixed receptacle of watertight material, containing a chemical which effectively disintegrates and continuously maintains in a sterile condition the human waste and paper deposited in it;

closet means any enclosed or partly-enclosed place which is used in connection with the reception of human waste;

combustion closet means a closet in or in connection with which there is or is to be installed an appliance in which all human waste, paper and other materials deposited in it are or are to be incinerated, and includes that appliance and all apparatus, parts, pipes, trays and flues used or intended to be used in connection with the appliance;

humus closet means a closet in or in connection with which there is installed an appliance in which all human waste, paper and other materials deposited are decomposed into humus by the action of bacteria. mould, humidification or similar process, and includes all pipes, apparatus, vents, trays and chutes used in connection with the appliance;

pan means any moveable receptacle in a closet used for the reception of human waste;

septic closet means a closet under which is constructed a fixed receptacle of watertight material for the bacterial treatment of human faeces only, such receptacle being filled with liquid to the invert of a square junction outlet pipe from which the effluent is discharged into an absorption drain;

septic tank means a fixed receptacle of watertight material used in connection with the bacterial treatment of sewage but does not include:

- (a) a fixed receptacle used in connection with a septic closet; or
- (b) any apparatus, equipment or works of the nature referred to in section 19 (1) (a) (iii) of the Clean Waters Act 1970;

sullage system means any trench, pit, tank or other structure which:

- (a) is used for the purpose of disposing of or collecting sullage from any premises on which any part of the sewerage service is connected to a septic tank; and
- (b) does not communicate, and is not intended to communicate, directly or indirectly with the sewer of the authority for the area in which the premises are situated,

and includes any pipe, house drain, fitting or fixture used for the purpose of conveying sullage from the trench, pit, tank or other structure.

Closets to be properly constructed

82. A building erected, or used for the first time, for the purpose of a chemical closet or a septic closet, must be constructed or reconstructed in accordance with this Division.

Walls

83. (1) The walls must be of weatherproof material and at least 2100 mm high measured internally from the upper surface of the floor to the springing of the roof.

(2) At least 2 of the walls must be external walls

(3) One of the external walls must have a window capable of being opened directly to the outer air, of dimensions not less than 600mm by 300 mm (exclusive of the frame) or other equivalent means of lighting and ventilation approved by the council.

(4) In addition to the window, adequate means of constant ventilation must be provided by:

- (a)** at least one air-brick or grating, which must afford at least $15 \times 103 \text{ mm}^2$ of free opening, and must be built into or fixed over an opening in one of the external walls; or
- (b)** an air-shaft or some other contrivance which affords a free opening to the external air of not less than $35 \times 103 \text{ mm}^2$.

(5) However, in the case of a range of closets, if the partitions between the closets do not commence at the floor and go up to the roof, adequate arrangements for lighting and ventilation must be made as may be approved by the council.

Floors

84. The floor must be of concrete, bricks and cement, or other materials impervious to water as may be approved by the council. It must be not less than 100 mm in thickness and in every part not less than 150mm above the ground adjoining the building. It must have a fall or inclination towards the door of at least 1:50.

Roof

85. The roof must be of weatherproof material, and, if the building is part of another building, be separate from the roof of the main building of which it forms part.

Other matters

86. (1) Each closet provided must be at least 1050mm wide and 1350mm long in internal measurement and have a door capable of being fastened on the inside. It must not, if the building is part of another building, open into any room or passage of the main building of which it forms part.

(2) However, in the case of a range of closets provided for children in a school, kindergarten or similar place, it is not necessary for each closet to be any wider than 675 mm, for the door to be constructed with a fastening on the inside or for a door to be provided for closets intended for infants.

(3) In a building intended for a range of closets, the partitions between the closets may be of wood, and may commence not less than 300 mm from the floor and terminate at a height of not less than 1750 mm. The doors of the closets may be similarly constructed.

(4) However, in the case of a range of closets provided for children in a school, kindergarten or similar place, the partitions and doors need not be higher than 1500 mm.

(5) Closets must not be constructed in a range for the use of both sexes in common but ranges of closets for the separate use of each sex may adjoin if the ranges are completely separated by a dividing wall constructed in accordance with subclause (6).

(6) If 2 or more closets or ranges of closets provided for different sexes or in respect of adjacent buildings adjoin, there must be between every 2 adjoining closets or ranges of closets a sufficient dividing wall at least 100 mm in thickness, extending from the floor to the roof, so as to effect a complete separation.

Position of closet or cesspit

87. A closet must not be constructed and any cesspit must not be allowed to remain on any premises, except in a position that allows all human waste to be removed without being carried through any dwelling-house, public building or any building in which any person may be or may be intended to be employed in any manufacture, trade or business.

Closets and cesspits—method of discharge

88. (1) A closet or cesspit must not have connected with it or attached to it any pipes or other appliances by means of which the contents can be discharged into any adjoining land or water.

(2) This clause does not apply to closets connected with septic tanks or with any sewerage system or to chemical closets or septic closets.

Construction of cesspits

89. (1) Cesspits must be constructed so that they are deep, dark and fly-proof.

(2) The pit must extend under the floor of the closet at least 225 mm beyond the front riser of the seat.

(3) A bank of earth must be made and constantly maintained around the closet to prevent the access of surface waters to the cesspit.

Construction of removeable closet structures

90. (1) Closet structures erected over cesspits must be built in accordance with the provisions of clauses 83–86.

(2) In cases where the closet structure is to be removed at intervals and placed over a newly-constructed cesspit, the floors may be constructed of T. and G. hardwood boards, tightly jointed and securely nailed to hardwood joists laid on hardwood ground plates on which the structure is supported.

(3) A hole 500mm square must be made in the floor of the closet not less than 250mm from the rear and side walls, and a cabinet built of T. and G. boards nailed to the inner side of a 75 mm × 50 mm frame, or other suitable material, must be securely fitted over the hole in the floor.

(4) The cabinet must be fitted with a seat not more than 400 mm above the floor. In the seat there must be a suitable opening furnished with a hinged lid which is kept closed when the closet is not in use.

Ventilation of cabinet—cesspits

91. (1) The cabinet must be ventilated by means of a 75 mm galvanised iron vent-pipe fitted to the back of the seat, carried above the roof and fitted with an exhaust cowl.

(2) The cabinet and closet structure must be so constructed as to prevent the access of flies to the cesspit.

Cesspit not to pollute water

92. A cesspit must not be constructed or maintained where it can possibly pollute any water used or likely to be used for drinking, domestic or dairy purposes or where the level of the ground water is above the level of the bottom of the cesspit.

Further specifications of cesspit

93. (1) If it is considered necessary by the Director-General of the Department of Health or the council, a cesspit must be constructed with a lining of impervious material so as to be watertight.

(2) The side walls of the cesspit must be carried up at least 150 mm above the level of the surrounding ground, the rear wall must extend at least 450mm beyond the back wall of the closet structure and the opening so caused is to be provided with a solid cover fitted so as to provide facilities for emptying the cesspit and to prevent the access of animals, mosquitoes and flies to the cesspit.

Maximum height of human waste—cesspits

94. (1) A cesspit must not continue in use when the human waste in it reaches to within 450 mm of the natural surface of the adjoining ground.

(2) If the cesspit is not emptied, the contents must be covered with not less than 50 kg of lime, followed by clean earth, to a height of 300 mm above the surface of the adjoining ground.

Mechanical waste treatment devices

95. (1) A bag used for the retention of waste in a mechanical device that treats waste by compaction, shredding or other means must be of a kind approved by the council.

(2) Treated waste kept on premises after treatment other than wholly within the device is to be deposited in a receptacle of a kind approved by the council.

Division 5—Concurrences**Concurrences generally**

96. A person whose concurrence is required by this Division to be sought to a proposed activity may give concurrence or refuse concurrence or give concurrence subject to conditions.

Concurrence required for discharge of trade waste into sewer

97. A council must not approve an application to discharge trade waste (whether treated or not), or any pan contents or septic tank effluent, into a sewer of the council except with the concurrence of the Principal Engineer, Sewerage Operations, Public Works Department.

Division 6—Exemptions**Activities for which approval is not required**

98. The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

- (a) **Transport waste.** The transporting of waste over or under a public place for fee or reward, if the activity is liable to be licensed under the Waste Disposal Act 1970.
- (b) **Place waste in a public place.** The placing of waste in a public place, if it is done in accordance with arrangements instituted by the council.
- (c) **Dispose of effluent into sewer.** The disposal of septic tank effluent into a sewer of the council, if the premises are within a Common Effluent Drainage District declared by the council.

PART 4—APPROVALS RELATING TO COMMUNITY LAND**Activity for which approval is not required**

99. The following activity may be carried out without the prior approval of the council subject to such conditions as are specified:

Use of loudspeaker or amplifying device on community land. The setting up, operation or use of a loudspeaker or sound amplifying device on community land, if it is in accordance with a notice on that land permitting the activity.

PART 5—APPROVALS RELATING TO PUBLIC ROADS**Division 1—Determination of applications****Matters for consideration by council in determining whether to approve applications relating to public roads**

100. In determining an application for an approval under Part E of the Table to section 68 of the Act the council must take into account any relevant standards and policies of public authorities applying to the use of the road.

Standards to be met for approval

101. The council must not approve an application for an approval to extend a balcony, awning, sunblind, canopy, sun louvre or similar structure or an essential service pipe beyond a road alignment unless the

council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

Division 2—Conditions of approvals

Compliance with standards

102. It is a condition of an approval referred to in Part E of the Table to section 68 of the Act that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

Division 3—Performance standards

Projections for protection from sun or for decoration

103. Projections designed or intended as protection from the sun and projections of a decorative nature such as cornices, eaves, sills, mullions and architraves may project beyond the alignment of a road if the road is not less than 12.2 m wide and the projections:

- (a) extend not more than 450 mm beyond the road alignment; and
- (b) are at least 3 m above the pathway level of the road over which they project; and
- (c) are constructed of masonry, reinforced concrete or other approved fire-resisting material.

Sunblind canopies, sun louvres and the like

104. (1) Sunblind canopies, sun louvres and the like may project beyond the alignment of a road if the road is not less than 12.2 m wide and the projections:

- (a) in their fully open position, extend not more than 450 mm beyond the road alignment; and
- (b) are at least 3 m above the pathway level of the road over which they project; and
- (c) are constructed of approved non-combustible material throughout.

(2) However, the council may approve a projection extending beyond the alignment of a road less than 12.2 m wide in the case of a shop erected before 28 July 1961 if the shop complies with subclause (1).

Footings under roads

105. Footings may project beyond the road alignments to the extent of not more than:

- (a) 450 mm if the projecting parts are not less than 1 350 mm below pathway level at the road alignment; and
- (b) 750 mm if the projecting parts are not less than 3 m below pathway level at the road alignment,

but in no case must the projections extend under the carriageway of the road.

Traps on sewerage service pipes

106. (1) Except as provided by subclauses (2) and (3), traps on sewerage service pipes must not be installed in a road.

(2) Boundary traps may be installed in a road with the approval of council.

(3) Reflux valves may be installed in the pathway beneath existing pavement lights.

Pipes and services

107. (1) Pipes and services must not project beyond the road alignment, except as provided by this clause.

(2) Rainwater heads may project not more than 450 mm and rainwater downpipes may project not more than 150 mm above a height of 2 700 mm above the pathway level.

(3) In the case of an existing building, the council may approve the projection of essential service pipes.

Bay windows and balconies

108. Bay windows or balconies may project not more than 450 mm beyond the road alignment if the road is not less than 12.2 m in width and the projections:

- (a) are limited in extent to not more than 50 per cent of any road frontage of the building at any level; and
- (b) are not at any part within 1 350 mm of the adjoining property at the road alignment; and
- (c) are not at any part within 3.6 m of the road below.

Flagpoles

109. Flagpoles may project beyond the road alignment if:

- (a) the poles of flags suspended from them are at least 3.6 m above the pathway level of the road; and
- (b) they do not project over the carriageway of the road; and
- (c) no interference with public services is caused.

Construction of projections

110. Projections beyond the road alignment are to be constructed so that they may be removed at any time after their erection without causing the building of which they are part to be structurally unsafe and without causing a reduction in the required fire-resistance rating of any structural member of the building.

Awnings or verandahs over roads

111. The council may require that any or all awnings or verandahs proposed to be erected over a road be of the cantilever type.

Cantilever awnings

112. (1) The width of a cantilever awning that extends beyond a road alignment, from the alignment of the road to the outside edge of the fascia plate, is to be at least 600 mm less than the width of the footway over which it is to be erected. However, the decorative treatment on the fascia plate of any such awning may project for a distance not exceeding 77 mm.

(2) The width of a cantilever awning that extends beyond a road alignment must not exceed 3 660 mm.

PART 6—APPROVALS RELATING TO OTHER ACTIVITIES**Division 1—Public car parks****Matters to accompany applications relating to the operation of a public car park**

113. An application to operate a public car park must be accompanied by the following:

- (a) 3 copies of a plan that sufficiently identifies the land concerned and the streets to which the land has frontage and, if the car park comprises the whole or part of a building, describes the building, its location on the site and any other purpose for which it is to be used;
- (b) details of the number of vehicles proposed to be accommodated in the car park and the manner in which this is to be done;
- (c) details of the means or proposed means of entry to or exit from the car park and as to the method of movement within the car park;
- (d) details of the off-street parking facilities available for the temporary accommodation of vehicles awaiting access to the car park;
- (e) details of ventilation to be provided if it is a building;
- (f) details of any petrol or oil or any motor service facilities to be provided in the car park;
- (g) details of the proposed hours of operation of the car park and as to the method or proposed method of receiving the fee or charge and the location or proposed location of any facility for receiving the fee or charge.

Matters to be taken into consideration by council in determining whether to approve the operation of a public car park

114. In determining an application for approval to operate a public car park the council is to take the following matters into consideration:

- (a) the Roads and Traffic Authority's views about the application;
- (b) the effect of the car park on the movement of vehicular traffic and pedestrian traffic;
- (c) whether the number of vehicles proposed to be accommodated is appropriate having regard to the size of the car park and the need to provide off-street parking facilities within the car park for the temporary accommodation of vehicles;
- (d) whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory;
- (e) whether there will be adequate provision for pedestrian safety and access for people with disabilities;
- (f) whether the internal design of parking facilities and system of traffic management are satisfactory;
- (g) whether, in the case of a car park which is a building, adequate ventilation is provided or to be provided.

Standards to be met for approval

115. The council must not approve an application for an approval to operate a public car park unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

Compliance with standards

116. It is a condition of an approval to operate a public car park that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

Number of vehicles

117. The council may, as a condition of an approval to operate a public car park, specify the maximum number of vehicles that may be parked at any one time.

Use of driveways etc.—standards

118. (1) Vehicles must not enter and leave a public car park through the one driveway. Vehicles must not enter or leave a public car park except through the entrance or exit openings provided.

(2) Entrances, exits and driveways are to be provided and arranged, maintained and operated so as to facilitate the orderly entrance and exit of vehicles.

(3) Exits must not be blocked by gates and other obstacles while the car park is open to the public.

Surfaces—standards

119. All traffic ramps, parking spaces, entrance and exit driveways and holding areas are to be surfaced with material approved by the council.

Fencing—standard

120. Land used as a car park must be fenced to a height determined by the council and with materials approved by the council.

Lighting—standard

121. A car park is, while open to the public, to be lit to the satisfaction of the council.

Vehicles—standard

122. A vehicle is not to be permitted to park in a public car park unless any petrol tank on the vehicle is fitted with a turn cap or seal which is kept closed except when opened for the purpose of refuelling.

Fire extinguishers—standard

123. A car park must be provided with a sufficient number of fire extinguishers. The fire extinguishers must be emptied and recharged every 6 months.

Speed limit

124. Notices must be displayed in a car park directing that vehicles are to be driven at a speed not greater than 8 kilometres per hour.

Obstruction of roads

125. A public road must not be used for the purpose of holding or marshalling vehicles in connection with a car park.

Concurrences generally

126. A person whose concurrence is required by this Division to be sought to a proposed activity may give concurrence or refuse concurrence or give concurrence subject to conditions.

Concurrence required for operation of public car park

127. A council must not approve an application for approval to operate a public car park except with the concurrence of the Roads and Traffic Authority.

Activity for which approval is not required

128. The following activity may be carried out without the prior approval of the council subject to such conditions as are specified:

Public car park. The operation of a public car park, if approval for its erection or operation has already been given by the council in connection with another approval and the car park complies with any applicable conditions of that approval.

Division 2—Caravan parks and camping grounds

Standards to be met for approval

129. The council must not approve an application for an approval to operate a caravan park or camping ground unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 or by or under the Act.

Compliance with standards

130. (1) It is a condition of an approval to operate a caravan park or camping ground that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 or by or under the Act.

(2) This section does not apply to an approval to operate a caravan park or camping ground for a limited period for a special event or in other special circumstances (for example, a motor racing event).

Use of caravan parks or camping grounds

131. (1) It is a condition of an approval to operate a caravan park or camping ground that the land is not used for any commercial purpose other than a caravan park or camping ground or an associated purpose.

(2) It is a condition of an approval to operate a caravan park or camping ground that the land is not used for the manufacture, construction or reconstruction of moveable dwellings.

Maintenance

132. The council may, as a condition of an approval to operate a caravan park or camping ground, require that maintenance and repair of existing facilities and buildings be carried out.

Division 3—Manufactured home estates

Approvals

133. In addition to any matters it must contain, an approval to operate a manufactured home estate must specify, by reference to a plan, the number, size and location of the residential sites allowed by the approval.

Standards to be met for approval

134. The council must not approve an application for an approval to operate a manufactured home estate unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by the Local Government (Manufactured Home Estates) Transitional Regulation 1993 or by or under the Act.

Compliance with standards

135. It is a condition of an approval to operate a manufactured home estate that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by the Local Government (Manufactured Home Estates) Transitional Regulation 1993 or by or under the Act.

Use of manufactured home estates

136. (1) It is a condition of an approval to operate a manufactured home estate that the land is not used for any commercial purpose other than a manufactured home estate or an associated purpose.

(2) It is a condition of an approval to operate a manufactured home estate that the land is not used for the manufacture, construction or reconstruction of moveable dwellings.

(3) Nothing in this clause prevents a manufactured home on a manufactured home estate from being used for exhibition purposes.

Division 4—Domestic oil or solid fuel heating appliances**Standards to be met for approval**

137. The council must not approve an application for an approval to install a domestic oil or solid fuel heating appliance (other than a portable appliance) unless the council is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

Compliance with standards

138. It is a condition of an approval to install a domestic oil or solid fuel heating appliance (other than a portable appliance) that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

Adoption of Building Code of Australia

139. All matters relating to the installation of a domestic oil or solid fuel heating appliance, other than a portable appliance, are to be governed by the applicable provisions of the Building Code of Australia.

Activity for which approval is not required

140. The following activity may be carried out without the prior approval of the council subject to such conditions as are specified:

Installation of a domestic oil or solid fuel heating appliance. The installation of a domestic oil or solid fuel heating appliance (other than a portable appliance), if details of the appliance are included in plans and specifications for the relevant building approved by the council.

Division 5—Amusement devices**Definitions**

141. In this Division:

amusement device has the same meaning as it has in the Construction Safety Act 1912.

Standards to be met for approval

142. The council must not approve an application for an approval to install or operate an amusement device unless the council is satisfied:

- (a) that the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason; and
- (b) that the device is registered under the Construction Safety Regulations 1950; and
- (c) that the device is to be or has been erected in accordance with all conditions relating to its erection set out in the current certificate of registration issued for the device under the Construction Safety Regulations 1950.

Compliance with standards

143. It is a condition of an approval to install or operate an amusement device, that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with the following standards:

- (a) the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason;
- (b) the device is registered under the Construction Safety Regulations 1950;
- (c) the device is erected in accordance with all conditions relating to its erection set out in the current certificate of registration issued for the device under the Construction Safety Regulations 1950.

Insurance

144. It is a condition of an approval to install or operate an amusement device that there must be in force a contract of insurance or indemnity which indemnifies to an unlimited extent (or up to an amount of not less than \$5,000,000 in respect of each accident) each person who would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability.

Division 6—Undertaker’s business

Use of approved mortuary

145. It is a condition of an approval to operate an undertaker’s business that the operator has access to, and uses, an approved mortuary for the purposes of the business.

Division 7—Mortuary

Compliance with standards

146. It is a condition of an approval to operate a mortuary that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established for mortuaries by the Local Government (Orders) Regulation 1993.

PART 7—MISCELLANEOUS

Public notice of draft local approvals policies

147. The public notice required to be given by the council under section 160 (1) of the Act must:

- (a) be published in at least one local newspaper circulating at least once weekly in the area; and
- (b) be so published on at least 2 separate occasions, the first occasion being not more than 7 days before the commencement of the public exhibition of the draft local policy and the second occasion being at least 7 days but not more than 14 days before the conclusion of the period during which submissions may be made to the council in relation to the policy.

Matters to be submitted to council

148. If this Regulation requires evidence or a document to be submitted to council, any copy of the evidence or document is to be a complete and unabridged copy of the original.

Levies

149. (1) A levy is payable on the grant of an approval to operate a caravan park, camping ground or manufactured home estate and annually afterwards.

(2) The amount (in dollars) of the levy is an amount equal to 2.7 times the total number of residential sites in the park, ground or estate to which the application for approval, or approval, relates.

(3) The levy payment must be sent to the Director-General:

- (a) by the council, on initial grant of an approval; or
- (b) by the operator, on 30 June in each year following the year in which the approval was granted.

Fire exits

150. For the purposes of sections 654 and 655 of the Act, the prescribed notice is the notice in Form 4.

Inspections by Director-General of New South Wales Fire Brigades

151. For the purposes of section 202 (b) of the Act, the prescribed provisions are sections 655, 656 and 657 of the Act.

SCHEDULE 1—FORMS

(CII. 3 (4), 45, 49, 66, 150)

Form 1

CERTIFICATE OF CLASSIFICATION

Local Government Act 1993

Certificate No.:

Application reference:

Area:

Date of certificate:

Building No. or Name:Street:

*District/Town/Village: Postcode:

*Lot/Portion.....Section: *D.P./S.P.:

Volume: Folio:

County: Parish:

Site area:

Owner's Name:

Owner's Address:

.....

Applicant's Name:

Applicant's Address:

*I certify that the whole of the building described above is a Class building

*I certify that the several parts of the building described above are classified as follows:

Part	Class
.....
.....
.....
.....

General Manager

1993—No. 262

**CONDITIONS OF APPROVAL

.....
.....

**Delete whichever does not apply.*

***Applicable only to Class 3 boarding-houses and Class 9b places of public entertainment.*

Form 2

STATEMENT OF CLASSIFICATION

Local Government Act 1993

Statement No.:

Application reference:

Area:

Date of statement:

Applicant's Name:

Applicant's Address:

I certify that a building designed, constructed or adapted for use for the purpose of:

.....
.....
.....

would be a class building.

General Manager

Form 3

BUILDING CERTIFICATE

Local Government Act 1993

The Council

certifies that, in relation to the building or part identified below, the Council:

- (a) by virtue of anything existing or occurring before the date of inspection stated in this certificate: or

1993—No. 262

- (b) within 7 years after that date by virtue of the deterioration of the building or part solely by fair wear and tear,

must not:

- (c) make order No. 1, 3, 5 (g) or 26 in the Table to section 124 of the Local Government Act 1993 in relation to the repair or demolition of the building or part; or
- (d) take proceedings for an order or injunction requiring the demolition, alteration, addition or rebuilding of or to the building or part; or
- (e) take proceedings in relation to any encroachment by the building or part onto land vested in or under the control of the Council.*

Identification of building

Location

Street

Side of street

House No., Unit No., or name

Nearest cross street

Particulars

Classification fo **building**

Whole/part

Description of part (if applicable)

.....

Owner

Date of inspection of building or part

Description of land

Lot or Portion No

Section

Deposited Plan, Strata Plan, or Estate

Lease No. and type of holding (if Crown land)

.....

District, town or village

County Parish

Schedule

The following written information was used by the Council in deciding to issue this certificate:

.....
.....
.....
.....
.....
.....
.....
.....

Dated this day of 19

(General Manager)

Fee \$

Receipt No.

Applicant's name and address:

.....
.....
.....

* NOTES:

1. An order made or proceedings taken in contravention of this Certificate is of no effect.
2. The issue of a building certificate does not prevent orders from being made against any person in relation to fire safety or proceedings being taken against any person under section 626 or 627 of the Local Government Act 1993.

Form 4

NOTICE

OFFENCES RELATING TO FIRE EXITS

Local Government Act 1993

By virtue of section 655 of the Local Government Act 1993, it is an offence:

- (a) to place anything in this exit which may impede the free passage of persons: or
- (b) to interfere with, or cause obstruction or impediment to, the normal operation of the doors providing access to this exit; or

(c) to remove, damage or otherwise interfere with this notice
PENALTY \$10,000

* NOTE: The words "OFFENCES RELATING TO FIRE EXITS" and "PENALTY: \$10,000" should be in letters and figures of a height of 8 mm or more. The remaining words in the notice should be in letters and figures of a height of 2.5 mm or more.

SCHEDULE 2—MANAGEMENT AND USE OF PLACES OF PUBLIC ENTERTAINMENT

(CI. 38)

Fire safety officers

1. (1) If a place of public entertainment has a grid or means of flying scenery over the stage and an approved capacity of more than 2 000 persons or, if the council so directs, there must be on duty, at all times while the place of public entertainment is open to the public for a stage performance, such number of competent fire safety officers as the council may determine in respect of the place of public entertainment.

(2) A fire safety officer:

- (a) must wear a distinctive uniform identifying that person as such; and
- (b) must ensure that fire fighting equipment is in the correct location and is in an operative condition; and
- (c) must report to the owner of the premises, or occupier, any fire hazard or situation which the fire safety officer considers may be prejudicial to public safety.

(3) Whenever the public is in attendance at the premises, a fire safety officer is not to be required to carry out duties other than those referred to in subclause (2).

Stage hands

2. (1) There must be at least one suitably trained person in attendance in the stage area at all times during a stage performance for the purpose of operating, whenever necessary, the proscenium safety curtain, drencher system and smoke exhaust system.

(2) Except where a fire safety officer is on duty in accordance with the requirements of clause 1 (1), the person referred to in subclause (1) must, in addition to the requirements of that subclause, perform the duties specified in clause 1 (2) (b) and (c).

Projection suites

3. (1) There must be at least one suitably trained person in attendance in the projection suite at all times while a film is being exhibited.

(2) No member of the public is permitted to enter or remain in the projection suite at any such time.

Smoking and drinking

4. (1) Persons must not smoke or consume liquor in the auditorium, projection suite, stage area or wings or in a plant room, store room or property room.

(2) Subclause (1) does not apply to smoking if the place of public entertainment is being used for the purposes of a public meeting or for the purposes of

(a) a public entertainment being conducted at a place where meals or liquor are being served; or

(b) a public entertainment that consists of public dancing,

and if the occupier of the place of public entertainment consents to persons smoking.

(3) Subclause (1) does not apply to smoking by persons who are doing so as a necessary part of a performance being conducted on stage or in an auditorium.

(4) Subclause (1) does not apply to the consumption of liquor:

(a) at licensed premises within the meaning of the Liquor Act 1982; or

(b) at premises in respect of which there is in force a permit that has been issued by a police officer of or above the rank of sergeant and that permits the consumption of liquor at those premises.

Naked flames

5. (1) A person must not:

(a) expose flame; or

(b) carry, or have in his or her possession, an explosive, flammable liquid or gas, in a place of public entertainment.

(2) Subclause (1) does not apply to:

(a) the striking of matches or the use of cigarette lighters in connection with smoking where smoking is permitted in accordance with clause 4; or

(b) the exposure of flame in connection with the preparation and serving of meals in approved areas: or

(c) the exposure of flame in connection with the use of a heater: or

(d) the carrying of flammable liquid or gas in a cigarette lighter.

(3) The council may, subject to such conditions as it may determine, permit the use of:

(a) exposed flame; or

(b) explosives; or

(c) flammable liquid or gas.

by a performer or performers for the purpose of a performance being conducted.

(4) If smoke, gas, other chemical or a similar substance is used for the purpose of a performance, it must be used in such a way as not to:

(a) create a hazard: or

(b) cause alarm or discomfort to the audience.

Dangerous performances

6. (1) Performances that involve danger to the public are not to be promoted or conducted.

(2) In particular, a nitrate film must not be exhibited in a place of public entertainment.

Marking of aisles and cross-overs

7. If it is intended that the audience at a performance be seated on the floor, aisles and cross-overs are to be clearly defined on the floor.

Aisle lights to be energised

8. Aisle lights referred to in NSW Variation H 101.20.3 of the Building Code of Australia must be energised when the public is in attendance and the main auditorium lighting is dimmed or extinguished.

Locks

9. Any key-operated fastening fitted to an exit door or gate used by the public as a main entrance must be arranged so that, whenever the public is in attendance, the tongue or bolt is locked in the retracted position to enable the door or gate to yield to pressure from within.

Rope barriers

10. A rope barrier may be used across or at the side of an aisle, but only if
- (a) it is secured with spring clips which become unfastened when pressure is exerted on the rope; and
 - (b) it has a centre fastening only; and
 - (c) it does not trail on the floor when released.

Proscenium curtains

11. If a proscenium safety curtain is installed:
- (a) there must be no obstruction to the opening or closing of the safety curtain; and
 - (b) the safety curtain must be operable at all times.

Council may require fire-safety information

12. The council may at any time require the owner or occupier of the building to furnish a certificate from the National Building Technology Centre, or other approved testing authority, as to the early Fire hazard or flammability properties of the finish of a wall, ceiling or floor, or of a curtain, blind or cinematograph screen.

Copy of approval

13. A copy of the approval for the place of public entertainment must be conspicuously displayed in the place of public entertainment.

Application of Schedule to temporary structures

14. (1) This Schedule applies to temporary structures in the same way as it applies to places of public entertainment.

(2) This Schedule does not apply to a class 1 or class 10 building.

NOTE**TABLE OF PROVISIONS****PART 1—PRELIMINARY**

1. Citation
2. Commencement
3. Objects
4. Definitions
5. Notes in the text
6. To what areas and councils does this Regulation apply?

PART 2—APPROVALS RELATING TO BUILDINGS, TEMPORARY STRUCTURES OR MOVEABLE DWELLINGS**Division 1—Applications**

7. Matters to accompany applications for building approvals
8. Council may dispense with requirement for plans and specifications
9. Notice of application to erect a building

Division 2—Fees

10. Application fees
11. Reduction of building application fees

Division 3—Determination of applications

12. Matters for consideration by council in determining whether to approve building applications
13. Matters to be taken into consideration by council in determining whether to approve demolition applications
14. Matters to be taken into consideration by council in determining whether to approve the installation of a moveable dwelling or associated structure
15. Matters to be taken into consideration by council in determining whether to approve the installation of certain moveable dwellings
16. Matters to be taken into consideration by council in determining whether to approve the installation of a temporary structure on land

17. Matters to be taken into consideration by council in determining whether to approve the use or occupation of an uncompleted building
18. Matters to be taken into consideration by council in determining whether to approve the use of a building or temporary structure as a place of public entertainment
19. Standards to be met for approval
20. Fire safety to be considered
21. Referral of certain applications to the New South Wales Fire Brigades
22. Schedule of essential services
23. Approval of change of use of building
24. Effect of approval

Division 4—Conditions of approval

25. Compliance with standards
26. Compliance with classification provisions
27. Certification of essential services
28. Long service levy
29. Notification of licensees and owner builders
30. Consideration of certain reports from New South Wales Fire Brigades
31. Structural drawings
32. Excavations and backfilling
33. Retaining walls
34. Support for neighbouring buildings
35. Temporary buildings
36. Temporary closets
37. Protection of public places
38. Places of public entertainment and temporary structures
39. Notice to allow inspection
40. Approvals to alter buildings

Division 5—Concurrences

41. Concurrences generally
42. Concurrences required for moveable dwelling approvals

Division 6—Classification of buildings

43. Classification of buildings
44. Council discretion in relation to certain provisions of Building Code of Australia
45. Occupation prohibited pending issue of Certificate of classification
46. Certificate of classification
47. Particulars to be shown on certificate of classification

- 48. Certificates for a building occupied in stages
- 49. Reports of Director-General of New South Wales Fire Brigades
- 50. Statements of classification
- 51. Particulars to be shown on statement of classification

Division 7—Performance standards

- 52. Adoption of Building Code of Australia
- 53. Allotment of land
- 54. Site occupancy for dwellings
- 55. Site occupancy for dwelling combined with other buildings
- 56. Garages at low level to be excluded from calculations
- 57. Walls of class I buildings
- 58. Class 3 buildings
- 59. Class 2 and 3 buildings
- 60. Appurtenant buildings
- 61. Access to rear
- 62. Use of temporary buildings
- 63. External walls—standards
- 64. Disposal of domestic waste from flats—standards
- 65. Demolition—standards
- 66. Moveable dwellings—standards

Division 8—Building certificates

- 67. Form of building certificate
- 68. Fees for building certificates

Division 9—Accreditation

- 69. Form of application

Division 10—Exemptions

- 70. Activities for which approval is not required

PART 3—APPROVALS RELATING TO MANAGEMENT OF WASTE

Division 1—Applications

- 71. Matters to accompany applications related to private drains or sewers
- 72. Matters to accompany applications related to installation of certain closets
- 73. Matters to accompany applications related to installation of septic tanks or closets

Division 2—Determination of approvals

74. Matters to be taken into consideration by council in determining applications for approval to place a building waste storage container on a road
75. Approval of waste devices
76. Standards to be met for approval

Division —Conditions of approval

77. Compliance with standards
78. Waste treatment devices
79. Discharge of trade waste
80. Position of closets

Division 4—Performance standards

81. Definitions
82. Closets to be properly constructed
83. Walls
84. Floors
85. Roof
86. Other matters
87. Position of closet or cesspit
88. Closets and cesspits—method of discharge
89. Construction of cesspits
90. Construction of removeable closet structures
91. Ventilation of cabinet—cesspits
92. Cesspit not to pollute water
93. Further specifications of cesspit
94. Maximum height of human waste—cesspits
95. Mechanical waste treatment devices

Division 5—Concurrences

96. Concurrences generally
97. Concurrence required for discharge of trade waste into sewer

Division 6—Exemptions

98. Activities for which approval is not required

1993—No. 262

PART 4—APPROVALS RELATING TO COMMUNITY LAND

99. Activity for which approval is not required

PART 5—APPROVALS RELATING TO PUBLIC ROADS

Division 1—Determination of applications

100. Matters for consideration by council in determining whether to approve applications relating to public roads
101. Standards to be met for approval

Division 2—Conditions of approvals

102. Compliance with standards

Division 3—Performance standards

103. Projections for protection from sun or for decoration
104. Sunblind canopies, sun louvres and the like
105. Footings under roads
106. Traps on sewerage service pipes
107. Pipes and services
108. Bay windows and balconies
109. Flagpoles
110. Construction of projections
111. Awnings or verandahs over roads
112. Cantilever awnings

PART 6—APPROVALS RELATING TO OTHER ACTIVITIES

Division 1—Public car parks

113. Matters to accompany applications relating to the operation of a public car park
114. Matters to be taken into consideration by council in determining whether to approve the operation of a public car park
115. Standards to be met for approval
116. Compliance with standards
117. Number of vehicles
118. Use of driveways etc.—standards
119. Surfaces—standards
120. Fencing—standard
121. Lighting—standard
122. Vehicles—standard
123. Fire extinguishers—standard

1993—No. 262

- 124. Speed limit
- 125. Obstruction of roads
- 126. Concurrences generally
- 127. Concurrence required for operation of public car park
- 128. Activity for which approval is not required

Division 2—Caravan parks and camping grounds

- 129. Standards to be met for approval
- 130. Compliance with standards
- 131. Use of caravan parks or camping grounds
- 132. Maintenance

Division 3—Manufactured home estates

- 133. Approvals
- 134. Standards to be met for approval
- 135. Compliance with standards
- 136. Use of manufactured home estates

Division 4—Domestic oil or solid fuel heating appliances

- 137. Standards to be met for approval
- 138. Compliance with standards
- 139. Adoption of Building Code of Australia
- 140. Activity for which approval is not required

Division 5—Amusement devices

- 141. Definitions
- 142. Standards to be met for approval
- 143. Compliance with standards
- 144. Insurance

Division 6—Undertaker's business

- 145. Use of approved mortuary

Division 7—Mortuary

- 146. Compliance with standards

PART 7—MISCELLANEOUS

- 147. Public notice of draft local approvals policies
- 148. Matters to be submitted to council
- 149. Levies

150. Fire exits

151. Inspections by Director-General of New South Wales Fire Brigades

SCHEDULE 1—FORMS

SCHEDULE 2—MANAGEMENT AND USE OF PLACES OF PUBLIC ENTERTAINMENT

EXPLANATORY NOTE

The purpose of this Regulation is to prescribe matters necessary for the purposes of the operation of Chapter 7 in relation to approvals by councils. The Regulation:

- contains preliminary provisions, including its citation, commencement on 1 July 1993, the objects of the Regulation and definitions of expressions used in the Regulation (Part I).
- deals separately with each Part of the matters contained in the Table to section 68 of the Act. These are the activities that cannot be carried out unless the council has approved them. Each Part of the Table is dealt with in a separate Part of the Regulation.
- The Regulation sets out the matters to accompany applications for approvals relating to the matters set out in the Table to section 68 of the Act and provides for other matters that the council is required to do before granting an approval.
- The Regulation sets out circumstances in which, and approvals for which, concurrences must be obtained by the council from other persons and bodies.
- Mandatory conditions of approvals are stipulated as well as other conditions that councils may impose. One condition imposed on activities approved is that they comply with the relevant standards contained in, or adopted by, the Regulation.
- Standards for various activities are established by the Regulation. Buildings are to comply with the Building Code of Australia as well as the standards set out in the Regulation. Moveable dwellings, caravan parks, camping grounds and manufactured home estates are to comply with the applicable provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 and the Local Government (Manufactured Home Estates) Transitional Regulation 1993. Generally, standards for other matters requiring approval are set out in the Regulation.
- The Regulation also permits certain activities which would otherwise require council approval to be carried out without approval in the circumstances specified in the Regulation.
- Other provisions relating to building matters are also contained in the Regulation. Buildings are to be classified in accordance with the Building Code of Australia and provision is made for the issue of certificates of classification. A form of building certificate is prescribed, together with fees for a certificate. A form of application for the accreditation of a component, process or design is prescribed.

- Miscellaneous provisions including requirements relating to the giving of public notice of draft local approvals policies and the making of a levy on operators of caravan parks, camping grounds and manufactured home estates are contained in Part 7.