

# State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007

[2007-498]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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New South Wales

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# State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007



New South Wales

## Part 1 Preliminary

### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

### 2 Commencement

This Policy commences on 26 October 2007.

### 3 Aims of Policy

The aims of this Policy are as follows:

- (a) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures or places of public entertainment,
- (b) to encourage the protection of the environment at the location, and in the vicinity, of places of public entertainment or temporary structures by (among other things) managing noise, parking and traffic impacts and ensuring heritage protection,
- (c) to specify the circumstances in which the erection and use of temporary structures are complying development or exempt development,
- (d) to promote opportunities for buildings (including temporary structures) to be used as places of public entertainment by specifying the circumstances in which that use is complying development or exempt development,
- (e) to promote the creation of jobs in the public entertainment industry,
- (f) to increase access for members of the public to public entertainment.

#### 4 Land to which Policy applies

This Policy applies to the State.

#### 5 Interpretation

(1) A word or expression used in this Policy has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Policy.

(2) In this Policy:

**building** has the same meaning as in the Act.

**community event** means a function or event open to the public or a section of the public that is a fete, fair or market or the like.

**Crime Prevention Guidelines** means the guidelines, issued by the Department of Urban Affairs and Planning in April 2001, entitled *Crime prevention and the assessment of development applications: Guidelines under section 79C of the Environmental Planning and Assessment Act 1979* (ISBN 0 7347 0184 5).

**licensed premises** means licensed premises under the *Liquor Act 1982* or premises to which a certificate of registration applies under the *Registered Clubs Act 1976*.

**place of public entertainment** has the same meaning as in the Act.

**private function** means any function or event that is not a community event.

**public entertainment** has the same meaning as in the Act.

**temporary structure** has the same meaning as in the Act.

**the Act** means the *Environmental Planning and Assessment Act 1979*.

(3) A reference in this Policy to land within a zone designated “business”, “industrial”, “heavy industrial”, “mixed use”, “open space”, “residential” or “special purpose” is a reference to:

(a) land that is designated, under an environmental planning instrument, as being in that zone, or

(b) having regard to the purposes of the zone or locality concerned, land having the substantial character of a zone so designated.

#### 6 Notes

Notes in this Policy are provided for guidance and do not form part of this Policy.

## **7 Consent authority**

The consent authority for development that may be carried out with consent under this Policy is:

- (a) except as provided by paragraph (b), the council of the area in which the development is proposed to be carried out, or
- (b) any public authority that under another environmental planning instrument has the function of determining development applications for that kind of development on the land on which it is proposed to be carried out.

## **8 Relationship with other environmental planning instruments**

Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

## **9 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development**

*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* is amended as set out in Schedule 1.

## **10 Savings and transitional provisions**

- (1) Any development application lodged before the commencement of this Policy, but not finally determined before that commencement, is to be determined as if this Policy had been exhibited under section 66 of the Act but had not been made.
- (2) This Policy does not apply in respect of a prescribed activity that, immediately before the commencement of this Policy:
  - (a) was permitted to be carried out without development consent, and
  - (b) was the subject of an approval in force under Chapter 7 of the *Local Government Act 1993*, and
  - (c) had not been commenced to be carried out pursuant to that approval.
- (3) Without limiting subclause (2), this Policy does not apply in respect of a prescribed activity that:
  - (a) immediately before the commencement of this Policy, was permitted to be carried out without development consent, and
  - (b) is the subject of an application determined, pursuant to clause 39 of Schedule 6 to the Act, by the granting of approval under Chapter 7 of the *Local Government Act 1993*.

(4) Subclauses (2) and (3) cease to have effect on 26 April 2008.

(5) In this clause:

**prescribed activity** means:

- (a) the erection of a temporary structure on land, or
- (b) the use of a building as a place of public entertainment.

## Part 2 Erection of temporary structures

### 11 Permissibility of erection of temporary structures

- (1) Development comprising the erection of a temporary structure may be carried out only with development consent, except as otherwise provided by this Policy.
- (2) Subclause (1) does not apply to development comprising the erection of a temporary structure that is exempt development or complying development, or is prohibited, under another environmental planning instrument.
- (3) For the purposes of subclause (2), the existing provisions of an environmental planning instrument are taken to prohibit development comprising the erection of a temporary structure only if, in doing so, temporary structures or a relevant class of temporary structures are expressly referred to.

(4) In this clause:

**existing provisions of an environmental planning instrument** means provisions of the environmental planning instrument:

- (a) as in force immediately before 26 October 2007, or
- (b) as amended on or after 26 October 2007, but before 26 October 2008, by some other environmental planning instrument that, immediately before 26 October 2007, was the subject of:
  - (i) a decision under section 54 of the Act, or
  - (ii) a direction under section 55 of the Act to make such a decision, or
- (c) as inserted in the environmental planning instrument on or after 26 October 2007, but before 26 October 2008, by some other environmental planning instrument that, immediately before 26 October 2007, was the subject of:
  - (i) a decision under section 54 of the Act, or
  - (ii) a direction under section 55 of the Act to make such a decision.

## 12 Matters for consideration

Before granting consent to the erection of a temporary structure, the consent authority must consider the following matters:

- (a) whether the number of persons who may use the structure at any one time should be limited,
- (b) any adverse impact on persons in the vicinity of any noise likely to be caused by the proposed erection or use of the structure and any proposed measures for limiting the impact,
- (c) whether the hours during which the structure is used should be limited,
- (d) any parking or traffic impacts likely to be caused by the erection of the structure or its proposed use,
- (e) the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines,
- (f) whether the proposed location of the structure is satisfactory in terms of the following:
  - (i) the proposed distance of the structure from public roads and property boundaries,
  - (ii) the location of underground or overhead utilities,
  - (iii) vehicular and pedestrian access,
- (g) whether it is necessary to provide toilets and washbasins in association with the use of the structure,
- (h) whether the structure is proposed to be erected on land that comprises, or on which there is:
  - (i) an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the [Heritage Act 1977](#), or
  - (ii) a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument, or
  - (iii) land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument,
- (i) the duration for which the structure should be permitted to remain on the land concerned,
- (j) whether any conditions should be imposed on the granting of consent in relation to the dismantling or removal of the structure in view of any safety issues.



## **Part 3 Use of buildings as places of public entertainment**

### **13 Permissibility of use of buildings as places of public entertainment**

- (1) The use of a building as a place of public entertainment may be carried out only with development consent, except as otherwise provided by this Policy.
- (2) Subclause (1) does not apply to the use of a building as a place of public entertainment that is exempt development or complying development, or is prohibited, under another environmental planning instrument.

### **14 Matters for consideration**

Before granting consent to development comprising the use of a building as a place of public entertainment, the consent authority must consider the following matters:

- (a) the maximum number of persons who should be permitted to be in the part of the building used as a place of public entertainment at any one time while entertainment is being provided and how that number should be monitored,
- (b) the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines,
- (c) any adverse impact on persons in the vicinity of any noise likely to be emitted as a result of the use of the building as a place of public entertainment and any proposed measures for limiting the impact,
- (d) whether the hours during which the building is used as a place of public entertainment should be limited,
- (e) any parking or traffic impacts likely to be caused as a result of the use of the building as a place of public entertainment,
- (f) whether the use is proposed to be carried out on land that comprises, or on which there is:
  - (i) an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the [Heritage Act 1977](#), or
  - (ii) a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument, or
  - (iii) land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument.

## Part 4 Exempt and complying development

### 15 Exempt development

**Note—**

Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the [Threatened Species Conservation Act 1995](#) or the [Fisheries Management Act 1994](#)), and
  - (c) cannot be carried out in a wilderness area (identified under the [Wilderness Act 1987](#)).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in a heading to a clause in Schedule 2 that meets the requirements for the development set out in that clause and that complies with the requirements of this Part is exempt development.

**Note—**

Specifying a type of development as exempt development does not authorise the contravention of any condition of development consent applying to the land on which the exempt development is carried out, nor does it remove the need for any approval that may be required under other legislation.

- (3) To be exempt development, the development:
- (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be designated development, and
  - (d) must not be carried out on land that comprises, or on which there is, a heritage item that is listed on the State Heritage Register under the [Heritage Act 1977](#) or that is subject to an interim heritage order under the [Heritage Act 1977](#), and
  - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 18 of the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#)), and
  - (f) must not restrict any car parking required pursuant to the conditions of any development consent or any vehicular or pedestrian access to or from the site of

the development, and

- (g) must not obstruct any drainage on the site of the development or of adjacent land.
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development only if:
  - (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (5) Development that involves erecting a temporary structure is exempt development only if the structure is on a surface that is sufficiently firm and level to sustain the structure while in use.
- (6) Development that involves the use of land (including a building) as a place of public entertainment is not exempt development if the use of the land for that purpose involves:
  - (a) the discharge of ammunition from a firearm, or
  - (b) the use of any material or thing giving off a level of heat or toxicity that poses a threat of harm to patrons or members of the audience, or
  - (c) the use of fireworks unless the use of the fireworks is in accordance with a licence granted under the *Explosives Act 2003*, or
  - (d) the use of a sharp implement in a manner that poses a threat of harm to patrons or members of the audience, or
  - (e) the screening of a nitrate film, or
  - (f) an event of the kind commonly referred to as a dance party or rave party or a circus.
- (7) In this clause:

**fireworks** does not include fireworks that are permitted to be used without a licence under the *Explosives Act 2003*.

## 16 Complying development

### Note—

Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
  - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
  - (c) the development is designated development, or
  - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is identified as such an item in an environmental planning instrument, subject to an interim heritage order under the *Heritage Act 1977* or listed on the State Heritage Register), or
  - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*)), or
  - (f) if the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in a heading to a clause in Schedule 3 that is carried out in compliance with:
- (a) the applicable development standards listed in that Schedule, and
  - (b) the requirements of this Part,
- is complying development.

**Notes—**

- 1** Section 76A (6) of the Act provides that certain development, such as designated development, or development requiring the concurrence of another body, or development on land comprising, or on which there is, a heritage item, cannot be complying development.
- 2** Specifying a type of development as complying development does not authorise the contravention of any condition of development consent applying to the land on which the complying development is carried out, nor does it remove the need for any approval that may be required under other legislation.

- (3) To be complying development, the development:
- (a) must be permissible, with consent, in the zone in which it is carried out, and
  - (b) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (c) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (d) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 18 of the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*), and
  - (e) must not restrict any car parking required pursuant to the conditions of any

development consent or any vehicular or pedestrian access to or from the site of the development, and

(f) must not obstruct any drainage on the site of the development or on adjacent land.

(4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is not complying development unless:

(a) the building has a current fire safety certificate or fire safety statement, or

(b) no fire safety measures are currently implemented, required or proposed for the building.

(5) Development that involves the use of land (including a building) as a place of public entertainment is not complying development if the use of the land for that purpose involves an event of the kind commonly referred to as a dance party or rave party or a circus.

#### **17 Conditions of complying development certificates**

A complying development certificate for development identified as complying development by this Policy is subject to any applicable conditions set out in Schedule 4.

### **Schedule 1 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development**

(Clause 9)

#### **[1] Clause 15 When filming is exempt development**

Insert “(for example, tents or marquees)” after “temporary structures” in clause 15 (2) (g).

#### **[2] Clause 15A**

Insert after clause 15:

#### **15A When erection of tents or marquees for purposes of filming is exempt development**

For the erection on land of a tent or marquee used for the sole purpose of filming to be exempt development:

(a) the filming at the location must be exempt development under this Policy or exempt development under another environmental planning instrument, and

- (b) the total floor area of all tents or marquees erected at the location at the same time must not be more than 200 square metres, and
- (c) the tent or marquee must be located at least 3 metres from any boundary of the location concerned adjoining a public road and at least 1 metre from any other boundary of the location, and
- (d) the tent or marquee must have at least the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (i) 1 exit if the floor area of the tent or marquee is not more than 25 square metres,
  - (ii) 2 exits in any other case, and
- (e) the width of each exit referred to in paragraph (d) must be at least:
  - (i) 800 millimetres if the floor area of the tent or marquee is less than 150 square metres, or
  - (ii) 1 metre in any other case, and
- (f) the height of the walls of the tent or marquee must not be more than:
  - (i) in the case of a tent or marquee erected on private land—4 metres, and
  - (ii) in any other case—5 metres, and
- (g) the height of the tent or marquee, as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee, must not be more than 6 metres, and
- (h) the tent or marquee must resist loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and
- (i) the tent or marquee must not remain at the location more than 2 days after the completion of filming at the location.

## Schedule 2 Exempt development

(Clause 15)

### 1 Erection and use of tent or marquee for private function

The erection and use of a tent or marquee for a wedding, private party or other private function that does not involve the provision of public entertainment, but only if:

- (a) the tent or marquee is erected on land used for residential accommodation, land in a business, mixed use or special purpose zone, Crown land (within the meaning of the [Crown Lands Act 1989](#)) or land vested in or under the control of the council of the area in which the function is to be held, and

**Note—**

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land.

Under section 68 of the [Local Government Act 1993](#), certain activities carried out on community land require approval from the local council.

- (b) the floor area of the tent or marquee is not more than 100 square metres, and
- (c) the total floor area of all tents or marquees erected on the land at the same time is not more than:
  - (i) in the case of a tent or marquee erected on land used for residential accommodation—200 square metres, and
  - (ii) in any other case—300 square metres, and
- (d) the tent or marquee complies with the following setbacks:
  - (i) in the case of a tent or marquee erected on land used for residential accommodation—the tent or marquee is located behind any building setback fixed by an environmental planning instrument or provided for in a development control plan and at least 1 metre from any boundary of the land, and
  - (ii) in any other case—the tent or marquee is located at least 3 metres from any boundary of the land concerned, and
- (e) the height of the walls of the tent or marquee is not more than:
  - (i) in the case of a tent or marquee erected on land used for residential accommodation—4 metres, and
  - (ii) in any other case—5 metres, and
- (f) the height of the tent or marquee, as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee, is not more than 6

metres, and

- (g) the tent or marquee has at least the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (i) 1 exit if the tent or marquee has a floor area of not more than 25 square metres,
  - (ii) 2 exits in any other case, and
- (h) the width of each exit referred to in paragraph (g) is at least:
  - (i) 800 millimetres if the floor area of the tent or marquee is less than 150 square metres, or
  - (ii) 1 metre in any other case, and
- (i) the tent or marquee is erected at ground level, and
- (j) the tent or marquee resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and
- (k) the tent or marquee does not contain tiered seating, and
- (l) no tree growing on the land or on adjoining land is damaged as a result of the erection or use of the tent or marquee, and
- (m) the tent or marquee does not remain on the land more than 2 days after the function, and
- (n) in the case of a tent or marquee erected on land used for residential accommodation or land in a business, mixed use or special purpose zone:
  - (i) the tent or marquee is erected on the land for no more than 7 days, and
  - (ii) the number of days for which the tent or marquee is erected on the land, together with the total number of days for which tents or marquees have previously been erected for private functions on the land in the calendar year in which the private function is proposed to take place, does not exceed 30 days, and
- (o) in the case of a tent or marquee erected on Crown land (within the meaning of the [Crown Lands Act 1989](#)) or land vested in or under the control of the council:



- (i) the function is covered by public liability insurance of an amount of at least \$10 million, and
- (ii) arrangements are in place for the collection of any waste or recyclable materials likely to be generated as a result of the function.

## 2 Erection and use of stage or platform for private function

The erection and use of a stage or platform for a wedding, private party or other private function that does not involve the provision of public entertainment, but only if:

- (a) the stage or platform is erected on land used for residential accommodation, land in a business, mixed use or special purpose zone, Crown land (within the meaning of the [Crown Lands Act 1989](#)) or land vested in or under the control of the council of the area in which the function is to be held, and

### Note—

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land.

Under section 68 of the [Local Government Act 1993](#), certain activities carried out on community land require approval from the local council.

- (b) the floor area of the stage or platform is not more than 50 square metres, and
- (c) the stage or platform complies with the following setbacks:
  - (i) in the case of a stage or platform erected on land used for residential accommodation—the stage or platform is located behind any building setback fixed by an environmental planning instrument or provided for in a development control plan and at least 1 metre from any boundary of the land, and
  - (ii) in any other case—the stage or platform is located at least 3 metres from any boundary of the land concerned, and
- (d) the stage or platform is erected at ground level, and
- (e) the height of the stage or platform, as measured from ground level to the floor of the stage or platform, is not more than 1 metre, and
- (f) the stage or platform resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and

- (g) a notice indicating the actual distributed and concentrated load for which the stage or platform has been designed is conspicuously displayed on the stage or platform, and
- (h) no tree growing on the land or on adjoining land is damaged as a result of the erection or use of the stage or platform, and
- (i) the stage or platform does not remain on the land more than 2 days after the function, and
- (j) in the case of a stage or platform erected on land used for residential accommodation or land in a business, mixed use or special purpose zone:
  - (i) the stage or platform is erected on the land for no more than 7 days, and
  - (ii) the number of days for which the stage or platform is erected on the land, together with the total number of days for which stages or platforms have previously been erected for private functions on the land in the calendar year in which the private function is proposed to take place, does not exceed 30 days, and
- (k) in the case of a stage or platform erected on Crown land (within the meaning of the [Crown Lands Act 1989](#)) or land vested in or under the control of the council:
  - (i) the function is covered by public liability insurance of an amount of at least \$10 million, and
  - (ii) arrangements are in place for the collection of any waste or recyclable materials likely to be generated as a result of the function.

### **3 Erection and use of tent, marquee or booth for community event**

**Note—**

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land.

Under section 68 of the [Local Government Act 1993](#), certain activities carried out on community land require approval from the local council.

The erection and use of a tent, marquee or booth on land for a community event (being a community event that does not require development consent), but only if:

- (a) the tent, marquee or booth is erected on:
  - (i) land in a business, industrial (other than heavy industrial), mixed use, open space or special purpose zone, or
  - (ii) land that is unzoned, and
- (b) the event is covered by public liability insurance of an amount of at least \$10 million, and

- (c) the event takes place only within the following times:
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
  - (ii) 7.30 am to midnight on Friday or Saturday,
  - (iii) 8.00 am to 8.00 pm on Sunday, and
- (d) the floor area of the tent, marquee or booth is not more than 100 square metres, and
- (e) the total floor area of all tents, marquees or booths erected on the land at the same time is not more than 300 square metres, and
- (f) the tent, marquee or booth is located at least 3 metres from any boundary of the land, and
- (g) in the case of a tent or marquee—the height of the walls of the tent or marquee is not more than 5 metres, and
- (h) the height of the tent, marquee or booth, as measured from the surface on which the tent, marquee or booth is erected to the highest point of the tent, marquee or booth, is not more than 6 metres, and
- (i) the tent, marquee or booth has at least the following number of exits arranged so as to afford a ready means of egress from all parts of the tent, marquee or booth to open space or a road:
  - (i) in the case of a tent or marquee having a floor area of more than 25 square metres—2 exits,
  - (ii) in any other case—1 exit, and
- (j) the width of each exit referred to in paragraph (i) is at least:
  - (i) 800 millimetres if the floor area of the tent, marquee or booth is less than 150 square metres, or
  - (ii) 1 metre in any other case, and
- (k) the tent, marquee or booth is erected at ground level, and
- (l) the tent, marquee or booth resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and

- (m) in the case of a tent or marquee—the tent or marquee does not contain tiered seating, and
- (n) no tree growing on the land or on adjoining land is damaged as a result of the erection or use of the tent, marquee or booth, and
- (o) arrangements are in place for the collection of any waste or recyclable materials likely to be generated as a result of the event, and
- (p) the tent, marquee or booth is erected on the land for no more than 7 days, and
- (q) the tent, marquee or booth does not remain on the land more than 2 days after the event, and
- (r) in the case of a tent or marquee used as a place of public entertainment—the requirements set out in clause 4 are complied with.

#### **4 Use of single tent or marquee as place of public entertainment as part of community event**

**Note—**

These requirements are additional to the requirements set out in clause 3 that would apply to the erection and use of the tent or marquee.

The use of a single tent or marquee as a place of public entertainment as part of a community event (being a community event that does not require development consent), but only if:

- (a) the tent or marquee is not erected on the same land as residential accommodation, and
- (b) no other tent or marquee that is erected on the land concerned is used as a place of public entertainment, and
- (c) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) does not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB at the boundary of the lot on which any residential accommodation is located, and
- (d) the number of people who are in the tent or marquee at any one time while entertainment is being provided does not exceed the number of square metres of the floor area of the tent or marquee, and
- (e) the tent or marquee does not contain tiered seating.

## 5 Erection and use of stage or platform for community event

### Note—

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land.

Under section 68 of the [Local Government Act 1993](#), certain activities carried out on community land require approval from the local council.

The erection and use of a stage or platform on land for a community event (being a community event that does not require development consent), but only if:

- (a) the stage or platform is erected on:
  - (i) land in a business, industrial (other than heavy industrial), mixed use, open space or special purpose zone, or
  - (ii) land that is unzoned, and
- (b) the event is covered by public liability insurance of an amount of at least \$10 million, and
- (c) the event takes place only within the following times:
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
  - (ii) 7.30 am to midnight on Friday or Saturday,
  - (iii) 8.00 am to 8.00 pm on Sunday, and
- (d) the floor area of the stage or platform is not more than 50 square metres, and
- (e) the stage or platform is located at least 3 metres from any boundary of the land, and
- (f) the stage or platform is erected at ground level, and
- (g) the height of the stage or platform, as measured from ground level to the floor of the stage or platform, is not more than 1 metre, and
- (h) the stage or platform resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and
- (i) a notice indicating the actual distributed and concentrated load for which the stage or

- platform has been designed is conspicuously displayed on the stage or platform, and
- (j) no tree growing on the land or on adjoining land is damaged as a result of the erection or use of the stage or platform, and
  - (k) arrangements are in place for the collection of any waste or recyclable materials likely to be generated as a result of the event, and
  - (l) the stage or platform is erected on the land for no more than 7 days, and
  - (m) the stage or platform does not remain on the land more than 2 days after the event, and
  - (n) in the case of a stage or platform used for public entertainment as part of the event—the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) does not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB at the boundary of the lot on which any residential accommodation is located.

### Schedule 3 Complying development

(Clause 16)

#### 1 Erection and use of tent, marquee or booth on land for community event on specified land

**Note—**

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development is carried out on the land.

Under section 68 of the [Local Government Act 1993](#), certain activities carried out on community land require approval from the local council.

- (1) The erection and use of a tent, marquee or booth for a community event (being a community event that does not require development consent other than a complying development certificate) on specified land, but only if:
  - (a) the floor area of the tent, marquee or booth is not more than 200 square metres, and
  - (b) the total floor area of all tents, marquees or booths erected on the land at the same time is not more than 400 square metres, and
  - (c) the tent, marquee or booth is located at least 3 metres from any boundary of the land, and

- (d) in the case of a tent or marquee—the height of the walls of the tent or marquee is not more than 5 metres, and
- (e) the height of the tent, marquee or booth, as measured from the surface on which the tent, marquee or booth is erected to the highest point of the tent, marquee or booth, is not more than 6 metres, and
- (f) the tent, marquee or booth has at least the following number of exits arranged so as to afford a ready means of egress from all parts of the tent, marquee or booth to open space or a road:
  - (i) in the case of a tent or marquee having a floor area of more than 25 square metres—2 exits,
  - (ii) in any other case—1 exit, and
- (g) the width of each exit referred to in paragraph (f) is at least:
  - (i) 800 millimetres if the floor area of the tent, marquee or booth is less than 150 square metres, or
  - (ii) 1 metre in any other case, and
- (h) the tent, marquee or booth resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and
- (i) in the case of a tent or marquee used as a place of public entertainment as part of a community event:
  - (i) no more than 1 other tent or marquee is used on the land as a place of public entertainment, and
  - (ii) the total floor area of any tents or marquees used on the land as a place of public entertainment is not more than 200 square metres.

(2) In this clause:

**specified land** means:

- (a) land that is in a business, industrial (other than heavy industrial), mixed use, open space or special purpose zone, or
- (b) land that is unzoned.

## 2 Erection and use of stage or platform for community event on specified land

### Note—

In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development is carried out on the land.

Under section 68 of the *Local Government Act 1993*, certain activities carried out on community land require approval from the local council.

- (1) The erection and use of a stage or a platform (whether or not for public entertainment) for a community event (being a community event that does not require development consent other than a complying development certificate) on specified land, but only if:
- (a) the floor area of the stage or platform is not more than 100 square metres, and
  - (b) the stage or platform is located at least 3 metres from any boundary of the land, and
  - (c) the height of the stage or platform, as measured from ground level to the floor of the stage or platform, is not more than 1 metre, and
  - (d) the stage or platform resists loads determined in accordance with the Australian and New Zealand Standards entitled:
    - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
    - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
    - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.

- (2) In this clause:

**specified land** means:

- (a) land that is in a business, industrial (other than heavy industrial), mixed use, open space or special purpose zone, or
- (b) land that is unzoned.

## 3 Erection of single tent or marquee on licensed premises and its use as place of public entertainment

The erection of a single tent or marquee on licensed premises (not being land in a residential zone) and the use of the tent or marquee as a place of public entertainment, but only if:

- (a) the tent or marquee is located at least 50 metres from any residential



accommodation, and

- (b) the floor area of the tent or marquee is not more than 100 square metres, and
- (c) the tent or marquee is located at least 3 metres from any boundary of the land concerned, and
- (d) the height of the walls of the tent or marquee is not more than 5 metres, and
- (e) the height of the tent or marquee, as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee, is not more than 6 metres, and
- (f) the tent or marquee resists loads determined in accordance with the Australian and New Zealand Standards entitled:
  - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*, and
  - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, and
  - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.

#### **4 Use of existing building comprising licensed premises or public hall as place of public entertainment**

- (1) The use of an existing building comprising licensed premises or a public hall on land that is not in a residential zone as a place of public entertainment, but only if:
  - (a) the floor area of the part of the building used as a place of public entertainment does not exceed 300 square metres, and
  - (b) there are at least 2 exits from the finished floor level of the part of the building used as a place of public entertainment to the ground level external to the building, a road or open space, and
  - (c) the total vertical travel via any stairs or steps at any such exit must not exceed 1.5 metres.
- (2) A reference in this clause to a building does not include a reference to a temporary structure.

### **Schedule 4 Conditions of complying development certificates**

(Clause 17)

#### **1 Erection and use of tent, marquee, booth, stage or platform**

The conditions applying to a complying development certificate for the erection and use of a temporary structure comprising a tent, marquee, booth, stage or platform are as

follows:

- (a) the structure must be erected at ground level,
- (b) trees growing on the land on which the structure is erected or on adjoining land must not be damaged as a result of the erection or use of the structure,
- (c) arrangements must be in place for the collection of any waste or recyclable materials likely to be generated as a result of the use of the structure,
- (d) the structure must be dismantled and removed from the land within 2 days after the conclusion of the event or activity for which it has been erected,
- (e) in the case of a structure used for a community event:
  - (i) the event (excluding any part of the event involving the provision of public entertainment on licensed premises) may take place only within the following times:
    - (A) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
    - (B) 7.30 am to midnight on Friday or Saturday,
    - (C) 8.00 am to 8.00 pm on Sunday, and
  - (ii) the event is covered by public liability insurance of an amount of at least \$10 million, and
  - (iii) the structure may be erected on the land for no more than 14 days,
- (f) in the case of the erection and use of a stage or platform, a notice indicating the actual distributed and concentrated load for which the stage or platform has been designed must be conspicuously displayed on the stage or platform,
- (g) in the case of the erection and use of a tent or marquee on licensed premises (being a tent or marquee that is used as a place of public entertainment and not for a community event):
  - (i) the tent or marquee must be erected in an outdoor area comprising a courtyard, beer garden or the like, and
  - (ii) the tent or marquee may be erected on the premises for no more than 90 days, and
  - (iii) the number of days for which the tent or marquee is erected, together with the total number of days for which tents or marquees have previously been erected on the premises in the calendar year in which the use of the tent or marquee as a place of public entertainment is proposed to take place, must not exceed 90 days.

## **2 Use of tent or marquee as place of public entertainment**

- (1) The conditions applying to a complying development certificate for the use of a tent or marquee as a place of public entertainment are as follows:
  - (a) any applicable conditions set out in clause 1,
  - (b) the number of people who are in the tent or marquee at any one time while entertainment is being provided must not exceed the number of square metres of the floor area of the tent or marquee,
  - (c) a person must be appointed to ensure that paragraph (b) is complied with,
  - (d) a sign must be displayed in a prominent position in the tent or marquee that specifies:
    - (i) the maximum number of persons who are permitted in the tent or marquee at any one time while entertainment is being provided, calculated in accordance with paragraph (b), and
    - (ii) the name, address and telephone number of the council of the area in which the tent or marquee is located,
  - (e) except as provided by paragraph (f), no more than one other tent or marquee that is erected on the land, at the same time, may be used as a place of public entertainment,
  - (f) if the tent or marquee is erected on licensed premises, no other tent or marquee that is erected on the premises, at the same time, may be used as a place of public entertainment,
  - (g) if the tent or marquee is erected on licensed premises, entertainment may take place only within the following times:
    - (i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday,
    - (ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday,
    - (iii) 8.00 am to midnight on New Year's Eve,
    - (iv) in the case of New Year's Day—midnight to 2.00 am in addition to any times provided for in subparagraph (i) or (ii),
  - (h) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment,
  - (i) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined

in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:

- (i) at the boundary of the lot on which any residential accommodation is located, and
- (ii) if the tent or marquee is on the same lot as a building containing any residential accommodation—on the outside wall of the building.

(2) Subclause (1) (i) (i) does not apply in relation to any boundary of the lot on which the tent or marquee is located unless that boundary is shared with another lot on which residential accommodation is located.

### **3 Use of stage or platform for public entertainment**

(1) The conditions applying to a complying development certificate for the use of a temporary structure comprising a stage or platform for the purpose of public entertainment are as follows:

- (a) any applicable conditions set out in clause 1,
- (b) if the stage or platform is erected on licensed premises, entertainment may take place only within the following times:
  - (i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday,
  - (ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday,
  - (iii) 8.00 am to midnight on New Year's Eve,
  - (iv) in the case of New Year's Day—midnight to 2.00 am in addition to any times provided for in subparagraph (i) or (ii),
- (c) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment,
- (d) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:
  - (i) at the boundary of the lot on which any residential accommodation is located, and

(ii) if the stage or platform is on the same lot as a building containing any residential accommodation—on the outside wall of the building.

(2) Subclause (1) (d) (i) does not apply in relation to any boundary of the lot on which the stage or platform is located unless that boundary is shared with another lot on which residential accommodation is located.

#### **4 Use of existing building (other than temporary structure) as place of public entertainment**

(1) The conditions applying to a complying development certificate for the use of an existing building (other than a temporary structure) as a place of public entertainment are as follows:

(a) arrangements must be in place for the collection of any waste or recyclable materials generated as a result of the use of the building as a place of public entertainment,

(b) entertainment may take place only within the following times:

(i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday,

(ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday,

(iii) 8.00 am to midnight on New Year's Eve,

(iv) in the case of New Year's Day—midnight to 2.00 am and as provided for in subparagraph (i) or (ii),

(c) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment,

(d) entertainment must take place, and its audience must be located, in only one part of the existing building, being on the ground floor of the building,

(e) the number of persons occupying any floor area, in the part of the existing building used as a place of public entertainment, that contains seating in rows or that is set aside as standing room or for dancing must not exceed the fewest of the following at any time while entertainment is being provided:

(i) 300 persons, or

(ii) an average of 1 person per 0.66 square metre of that floor area,

(f) the number of persons occupying any floor area (other than the floor area referred to in paragraph (e)) in the part of the existing building used as a place of public entertainment must not exceed 1 person per square metre of that floor area at

any time while entertainment is being provided,

**Note—**

The floor area of the part of the building used as a place of public entertainment must not exceed 300 square metres where the building concerned comprises licensed premises or a public hall. (See clause 4 of Schedule 3.)

- (g) a person must be appointed to ensure that paragraphs (e) and (f) are complied with,
  - (h) a sign must be displayed in a prominent position in the part of the existing building to be used as a place of public entertainment that specifies:
    - (i) the maximum number of persons who are permitted in the building at any one time while entertainment is being provided, calculated in accordance with paragraphs (e) and (f), and
    - (ii) the name, address and telephone number of the council of the area in which the building is located, and
    - (iii) the name and business telephone number of an owner or manager of the part of the building concerned,
  - (i) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:
    - (i) at the boundary of the lot on which any residential accommodation is located, and
    - (ii) if the existing building is on the same lot as (but not in) a building containing any residential accommodation—on the outside wall of the building containing that accommodation, and
    - (iii) if the existing building contains any residential accommodation—within the residential premises concerned.
- (2) Subclause (1) (i) (i) does not apply in relation to any boundary of the lot on which the existing building is located unless that boundary is shared with another lot on which residential accommodation is located.