

Building Permits and other exemptions BP 10 | Places of public entertainment

Audience

The audience/s for this Practice Note include/s:

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Purpose

The purpose of this Practice Note is to provide guidance on requirements for occupancy permits for places of public entertainment and prescribed temporary structures.

The content below provides guidance for:

- Place of public entertainment (POPE)
- Obtaining an occupancy permit for a POPE
- Obtaining an occupancy permit for a prescribed temporary structure

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993, Building Regulations 2018 or the National Construction Code.

- **Act** – Building Act 1993
- **NCC** – National Construction Code 2022
- **POPE** – Place of Public Entertainment
- **PTS** – Prescribed Temporary Structure
- **Public Entertainment** – Entertainment or meeting to which admission may ordinarily be gained by members of the public
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018



Place of Public Entertainment

The Building Act 1993 (Act) only governs public entertainment conducted at a Place of Public Entertainment (POPE). Section 3(1) of the Act defines a POPE as:

- a **prescribed building** or **building in a prescribed class of buildings** which is used or intended to be used for the purpose of providing public entertainment; or
- a **prescribed place** or **place in a prescribed class of places** –
 - which is enclosed or substantially enclosed; or
 - to which admission can be gained by payment of money or the giving of other consideration and which is used or intended to be used for the purpose of providing public entertainment.

Prescribed building or prescribed class of building

The Act and Building Regulations 2018 (Regulations) do not specify a prescribed building, however, regulation 206(1) sets out prescribed classes of building as:

- class 9b buildings with an area greater than 500m²; and
- a prescribed temporary structures (regulation 207).

Class 9b buildings (e.g., sports stadiums, sports club, and halls) generally already have an occupancy permit to permit its use to hold public entertainment. Where the public entertainment exceeds the scope of the existing occupancy permit for Class 9b buildings greater than 500m², an occupancy permit for POPE is required.

Prescribed temporary structures (PTS) used to provide public entertainment require a POPE occupancy permit.

For an Occupancy Permit for a PTS to be required in the first instance, the following criteria must be met:

1. The structure meets the size or occupancy limits prescribed in building regulation 207 which are as follows:
 - (a) tents, marquees or booths with a floor area greater than 100m²;
 - (b) seating stands for more than 20 persons;
 - (c) stages or platforms (including sky borders and stage wings) exceeding 150m² in floor area;
 - (d) prefabricated buildings exceeding 100m² other than ones placed directly on the ground surface.
2. The use or intended use of the structure is as a NCC-Class 9b building (an assembly building used for public entertainment); and
3. The event is a public event (where admission can ordinarily be gained by members of the public); and
4. The structure is not built in, on or does not form part of another building other than a temporary structure or temporary building; and
5. The applicant or operator of the structure has a **direct pecuniary interest in the proceeds or profits** of an entertainment or meeting in a place of public entertainment; or
6. The owner or occupier, **for fee or reward**, will permit the place of public entertainment to be used for the purpose of providing an entertainment or meeting.



Prescribed place or place in a prescribed class of places

Regulation 206(1)(b) prescribes a class of places as a place with an area greater than 500m² unless:

- (i) the place is used for the purposes of conducting an event or activity which is organised and controlled by a community-based organisation; and
- (ii) the number of persons in the place at any one time during the event or activity does not exceed 5000.

Regulation 206(2) clarifies that a community-based organisation means a body that:

- (i) is not established primarily for the purposes of profit or gain; and
- (ii) does not distribute any part of any profit or gain made in the conduct of its activities to any member of the organisation; and
- (iii) operates in a community wholly for-
 - a. a philanthropic or benevolent purpose including promotion of art, culture, science, religion, education, or charity, or
 - b. any sporting or recreational purpose, including the benefitting of any sporting or recreational club or association.

In some instances, community-based organisations host events that require an occupancy permit for POPE. These events are larger scale (e.g., the number of persons in the place at any one time during the event or activity exceeds 5,000 in a place larger than 500m²), where the event is conducted in an enclosed or semi enclosed place and entry to the event is controlled, or to which admission can be gained by payment of an admission fee or other consideration.

Examples of events

These can include football finals and grand finals run by the competition's association, open air concerts, and agricultural shows. A POPE occupancy permit is required for these events irrespective of whether they are conducted by a community-based organisation or a commercial business.

Obtaining an occupancy permit for a POPE

Under section 49 of the Act, a person must not **conduct** public entertainment in a POPE unless an occupancy permit has been issued for the entertainment.

Under section 3 (1) of the Act, **conduct**, in relation to a public entertainment, means to have a direct pecuniary interest in the proceeds or profits of the entertainment.

In addition, section 50 of the Act prohibits an owner or occupier of a POPE from allowing the place to be used to provide public entertainment unless an occupancy permit has been issued for the entertainment.

To obtain an occupancy permit for a POPE, an application needs to be made to the Municipal Building Surveyor of the relevant council.

Obtaining an occupancy permit for a PTS

Under section 52 of the Act, an owner, occupier, lessee, or hirer of a PTS must not permit a PTS to be used to provide public entertainment in contravention of the occupancy permit permitting its use for the entertainment.



To obtain an occupancy permit for a PTS, an application needs to be made to the VBA through the website at <https://www.vba.vic.gov.au/building/prescribed-temporary-structures>.



Furthermore, regulation 207 defines a PTS (if they do not form part of a building other than a temporary structure or temporary building) as a:

- tents, marquees, or booths with a floor area greater than 100m²;
- seating stands for more than 20 persons;
- stages or platforms (including sky borders and stage wings) exceeding 150m² in floor area;
- prefabricated buildings with an area exceeding 100m² and that are not placed directly on the ground surface.



Regulation 208 exempts requirements for a building permit for building work related to prescribed temporary structures.

Related Documentation

- Building Act 1993
- Building Regulations 2018
- National Construction Code 2022

List of Amendments

- Change to reference the new NCC 2022 version.
- Minor amendments for clarification and improve readability.
- Update format and content review

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