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DIRECTOR'S DETERMINATION EXEMPTIONS FROM TEMPORARY OCCUPANCY PERMIT

Purpose

This News Update is to inform owners and regulators of temporary structures of the Director of Building Control's Determination with regards to Temporary Occupancy Permit exemptions.

Background

Regulation 38 of the Building Regulations 2004 provides for the Director of Building Control to make a determination exempting certain temporary structures from requiring a Temporary Occupancy Permit.

The Determination follows together with advisory information.

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Building Act 2000

Director's Determination

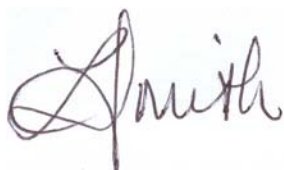
Exemptions from Temporary Occupancy Permit

Under Regulation 38 of the *Building Regulations 2004*, I determine that the following temporary structures, which are erected for not more than 10 days at one time, do not require a Temporary Occupancy Permit:

1. A booth, tent or gazebo with a maximum area of 20m², which-
 - (a) is open on at least one side when occupied; **and**
 - (b) does not contain an ignitable fuel source; **and**
 - (c) is at least 1.8 m from a mobile food premises.

2. A booth, tent or gazebo as described in clause 1, which is part of a group of such temporary structures, provided that –
 - (a) the area of the group does not exceed 80m²; **and**
 - (b) the group is located at least 1.8m from any other booth, tent, building, structure or mobile food premises.

3. A booth, tent or gazebo with a maximum area of 10m², which -
 - (a) contains an ignitable fuel source; **and**
 - (b) which is open on at least one side when occupied; **and**
 - (c) is located at least 1.8m from any other booth, tent, building, structure or mobile food premises.



L Mark Smith
DIRECTOR OF BUILDING CONTROL

20 December 2006

ADVISORY INFORMATION

DIRECTOR OF BUILDING CONTROL'S DETERMINATION – TEMPORARY OCCUPANCY PERMITS - 20 DECEMBER 2006

Under the *Building Act 2000* a general manager of a council is responsible for issuing Temporary Occupancy Permits (TOP). A general manager may issue a TOP if satisfied that the building or temporary structure is suitable for occupation. In 2006 the Director initiated an amendment to Regulation 38 of the *Building Regulations 2004* which provided for additional exemptions from the requirement for a TOP to be determined by the Director, for tents, other temporary structures or buildings, that are of a type or for a purpose or that meet other criteria.

It is proposed to introduce the Determination in stages, concentrating first on the smaller examples of temporary structures, which will ease the administrative burden where it is most needed. The temporary structures to be initially exempted are tents, booths and gazebos with a maximum area of 20m² and which satisfy certain other criteria such as separation distances from other structures.

- **Clause 1** of the Determination states that booths, tents and gazebos up to a maximum area of 20m² do not require a TOP. The reference to mobile food premises and the required separation distance of 1.8m is to protect temporary structures from the risk associated with fire occurring in a food van due to accidental gas or oil ignition.
- It is likely that in a market situation, a number of smaller stalls and gazebos may form a group, and **Clause 2** of the Determination recognises that safety is enhanced if group size is limited and that groups of temporary structures are separated by a defined distance from other temporary structures or groups.
- It is likely that at some events, a temporary structure may be used to house the making and serving of hot food, **Clause 3** of the Determination recognises the need to separate a structure containing an ignitable fuel source from adjacent structures, to minimise the risk of spread of flame in the event of a gas malfunction or flashover in hot fat. The smaller size limit on this structure is to ensure that it only houses the food preparation process and that passers-by do not occupy the space as well.

Regardless of the requirement or otherwise for a TOP, stall owners, stallholders and event managers need to be aware that the provisions of the Building Code of Australia still apply to temporary structures and that they have a duty to ensure compliance.

L. Mark Smith
DIRECTOR OF BUILDING CONTROL