



Director's Determination – Temporary Occupancy Permit

I, Dale Edward Webster, in my capacity as Director of Building Control, and acting pursuant to section 20(1)(d) of the *Building Act 2016*, hereby make the following Determination.

Determination title	Temporary Occupancy Permit
Description	This Determination specifies requirements for: <ul style="list-style-type: none">• The granting of a Temporary Occupancy Permit• Circumstances when a Permit is to be refused• Technical standards applicable to the construction or erection of temporary structures• The use and maintenance of temporary structures
Version	Version 1.0
Application	For the purposes of section 20(3)(e) of the Act, this Determination applies from the date of its approval until its revocation.
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Andrew Timothy Goldsworthy

Director of Building Control

Consumer, Building and Occupational Services
Department of Justice

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Document Development History

Version	Application Date	Sections amended
1.0	2 November 2018	Original release

Part 1.0 – Temporary Occupancy Determination

1.0.1 Introductory (Explanatory)

The *Building Act 2016* provides that persons may apply for a Temporary Occupancy Permit for the erection of temporary structures or for the use of buildings for a temporary use. This Determination specifies requirements for:

- The granting of a Temporary Occupancy Permit
- Consideration of applications, including when they are to be refused
- Technical construction standards for temporary structures
- The use and maintenance of temporary structures

1.0.2 Application of Determination (Mandatory)

Applies to an application for a Temporary Occupancy Permit under the *Building Act 2016* for the:

- Erection and use of temporary structures, or
- Temporary occupation of existing buildings.

The provisions of the Determination are mandatory.

Interpretation

Except as provided below, the terms used in this Determination are the same as those defined in the *Building Act 2016* and the *Building Regulations 2016*:

“Place of Assembly” is as defined in s.3 of the *Public Health Act 1997*

Explanatory note

“place of assembly” includes:

- any place or area used for the entertainment of members of the public, and
- any place or area used for the assembly of members of the public for social and recreational purposes, and
- any school or other place or area used for community or public purposes.

1.1.0 Technical Standards applicable to temporary structures (Mandatory)

1.1.1. Standards for temporary structures erected and/or used as a Place of Assembly

Explanatory note

If a temporary structure (as defined by the *Building Act 2016*) is erected and/or used as a Place of Assembly (as defined by the Public Health Act) then compliance with Tas Part H123 of Volume One of the National Construction Code is mandatory for that structure.

A temporary structure can fall within the definition of Place of Assembly from the Public Health Act regardless of whether a Place of Assembly Licence is required or not for any event associated with their use.

Where specified, Tas Part H123 includes compliance with the referenced ABCB Temporary Structures Standard.

1.1.2. Standards for temporary structures that are not erected and/or used as a Place of Assembly

Tents, marquees and other similar structures must comply with the following standards:

1. AS/NZS 1170.0: *Structural design actions—General principles*
2. AS/NZS 1170.1: *Structural design actions— Permanent, imposed and other actions*
3. AS/NZS 1170.2: *Structural design actions— Wind actions*

All electrical installations in a temporary structure must be installed in accordance with AS/NZS 3000 *Electrical installations (known as the Australian/New Zealand Wiring Rules)*.

The installation of a stove, heater or similar appliance in a temporary structure must as far as practicable comply with the following standards:

1. AS 1691: *Domestic oil-fired appliances – Installation*
2. AS/NZS 2918: *Domestic solid-fuel burning appliances – Installation*
3. AS 2658: *LP gas portable mobile appliances*

1.2.0 Temporary occupancy permit required when temporary structure used as accommodation for commercial gain

A temporary structure (such as a tent, prefabricated building or 'glamping' structure) requires a temporary occupancy permit if:

1. the structure is to be used as accommodation
2. the accommodation is offered to members of the public in exchange for a fee or other consideration
3. the structure is not otherwise required to have an occupancy permit
4. the accommodation is prefabricated or set up by the owner or one of their representatives for use by the customer, and
5. the accommodation remains set up to be used by different customers over time, or is set up on the same site or in the same area repeatedly for use by different customers.

This requirement applies:

- regardless of the location of the temporary structure (e.g whether it is in a caravan park, camp ground, private property, Crown Land or other area); and
- regardless of whether the temporary structure would otherwise be exempt from requiring a temporary occupancy permit under the *Building Regulations 2016*.

Explanatory note

The other situations where a temporary occupancy permit is required are set out in the *Building Act 2016* and *Building Regulations 2016*. They are explained further in the Director's Guideline on Temporary Occupancy Permits.

1.3.0 Matters to be considered when issuing a Temporary Occupancy Permit

The matters a building surveyor is to take into account when considering an application under section 232 are as follows:

1. The intended temporary occupancy use
2. The suitability of construction for that use
3. The condition of the building or temporary structure including any defects or extent of dilapidation
4. The conduct of applicable Essential Building Services maintenance
5. The requirements of the National Construction Code (Tasmania Appendix)
6. The requirements of the ABCB Temporary Structures Standard
7. For an existing building, any current occupancy permit issued by a building surveyor
8. The distance of the building or temporary structure from any adjoining fire source feature;
9. Any required provision for, or access to, a waste water management system is in place or will be provided
10. Any plumbing approval required is likely to be granted
11. Access to a temporary water supply in place or will be provided
12. The suitability of the electrical installation in and around the building or temporary structure
13. Whether a report is required from a reporting authority
14. Whether, to be satisfied of one or more of the above matters, it is necessary to obtain a report from a reporting authority even if one is not required, and
15. The contents of any report obtained from a reporting authority.

Explanatory note

In considering a document or matter, a building surveyor may rely on any manufacturer's documents submitted in support of the document or matter. For example, this could include flammability tests on the fabric used to manufacture a tent.

1.4.0 Report required from reporting authority as part of application

Report from Chief Officer

A report is required from the Chief Officer of the Tasmanian Fire Service as part of an application for a temporary occupancy permit if:

1. the application relates to a building where building work is occurring and not yet completed, but part of the building is intended to be occupied in the meantime, and a report from the Chief Officer was required as part of the approval process for the building work under the *Building Act 2016*, or

2. the application relates to an existing building which is to be temporarily used for another purpose other than that which it was designed and constructed for, and the new use is for a Place of Assembly.

The Chief Officer's report is to include a statement:

1. as to the operation suitability of the fire safety requirements installed in the part of the building which is intended to be temporarily occupied
2. whether or not there is an evacuation plan in place for the part of the building to be temporarily occupied, and
3. any other matter the Chief Officer considers relevant to the temporary occupancy of the building or the health and safety of its occupants, such as whether the fire safety features in the building are sufficient for its temporary occupation.

Report from Environmental Health Officer

A report is required from an environmental health officer as part of an application for a temporary occupancy permit if:

1. the application relates to a building where building work is occurring and not yet completed, but part of the building is intended to be occupied in the meantime, and a report from the Environmental Health Officer was required as part of the approval process for the building work under the *Building Act 2016*, or
2. the application relates to an existing building which is to be temporarily used as a food premises which is also a Place of Assembly.

The Environmental Health Officer's report is to include a statement:

1. as to whether or not the part of the building is suitable for temporary occupation as food premises, and
2. any other matter the environmental health officer considers relevant to the temporary occupancy of the building or the health and safety of its occupants.

Process for obtaining reports

If a required report is needed as part of an application for a temporary occupancy permit, the applicant for the temporary occupancy permit is to:

1. make a written request for the report to the relevant reporting authority, and
2. attach to the written request a copy of the application for the temporary occupancy permit.

A reporting authority is to provide a report to the relevant building surveyor within 14 days after receiving a request.

If a building surveyor grants an application for a temporary occupancy permit in respect of which a report is required above, the building surveyor is to provide a copy of the temporary occupancy permit to each reporting authority for the application within 2 days.

1.5.0 Circumstances in which an application for a Temporary Occupancy Permit is to be refused

1.5.1 Applications where a building or temporary structure is subject to non-compliance action

An application for a TOP for a building or temporary structure subject to non-compliance action is to be refused under section 231 as being not suitable for temporary occupation.

“non-compliance action” means:

An Emergency Order, a Building Order or a Plumbing Order under Part 18 of the *Building Act 2016* or an order of a court under section 251 relating to non-compliance of a building or temporary structure, that is in force and has not been:

- complied with by the owner or a person in charge; or
- amended; or
- revoked

at the time an application for a temporary occupancy permit is made.

“non-compliance” means that a building or temporary structure:

- is unfit for use or occupation; or
- is a danger to users of the building or temporary structure, users of adjoining land or to members of the public.

1.5.2 Applications for a Temporary Occupancy Permit of an existing building when an occupancy permit for a similar use or occupation would not be granted

An application for a TOP for a temporary use of a building, where an occupancy permit under s.229:

1. would not be issued, or is not likely to be issued, for a similar use or occupation as that proposed in the TOP application, or
2. has already been refused for a similar use or occupation as that proposed in the TOP application

is to be refused under section 231 as being not suitable for temporary occupation.

“would not be issued, or is not likely to be issued” means:

1. the building would not be issued with an occupancy permit for a use or occupation, unless building work or other work was required to be performed for it to be made suitable for the proposed similar temporary use or occupation, or
2. The risks to occupants arising from the condition of the building or the nature of the proposed temporary use or occupation cannot be adequately managed by means other than by performing building work or other work, and it is therefore unfit for that use or occupation.

1.6.0 Specified period for notification to Permit Authority

For the purposes of s.232(5) of the Act the period specified for a building surveyor to notify the permit authority of the granting of the temporary occupancy permit and to provide a copy is no more than seven business days after granting the permit.

Appendix

Technical documents referenced in this Determination

National Construction Code (NCC) 2016 Volume One, Tasmania Appendix, Tas Part H123, Temporary Structures

Published by the Australian Building Codes Board 2016

Tas Appendix provides mandatory requirements for the construction, manufacture, erection and use of temporary structures that are used as a Place of Assembly.

Performance requirements are set out in P1- P15

The NCC is available online to subscribers at www.abcb.gov.au

ABCB Temporary Structures Standard

Published by the Australian Building Codes Board 2015

This Standard provides technical design criteria requirements for temporary structures, covering structural safety (particularly determining appropriate wind actions), fire safety (including fire resistance of materials; fire safety services and equipment, and egress) access, sanitary facilities and certain ancillary provisions.

Compliance with this Standard in Tasmania is mandatory for the provisions that are referenced by Tas Part H123.

The normative parts of the Standard are accompanied by informative material to assist in its application and to provide guidance on matters, which are outside the scope of the Standard and the types of temporary structures.

www.abcb.gov.au/Resources/Publications/Education-Training/Temporary-Structures

Part 2.0 - Temporary Occupancy Guidelines (Advisory information not part of the Temporary Occupancy Determination)

Introduction

This Guideline is aimed at explaining the process to obtain a Temporary Occupancy Permit under the *Building Act 2016* and the *Building Regulations 2016*. The staff of Consumer, Building and Occupational Services (Department of Justice) often receive enquiries about Temporary Occupancy Permits from building surveyors, event organisers, tent manufacturers and owners of premises. The detailed information in the Guideline will assist in filling the information needs of professionals and the public.

It will be of use to:

- owners of premises or organisers of events to explain the permit process and also to give background information including the relationship with any other types of required licences.
- building surveyors who will consider applications for granting Temporary Occupancy Permits.

What is a Temporary Occupancy Permit (TOP)?

- A TOP is a permit issued under the *Building Act 2016* allowing the use of a building or temporary structure(s) for a particular short term activity.
- That activity might include the holding of a public or a private event.
- “Temporary” means lasting, existing, serving, or effective for a time only; not permanent; a temporary need.’ (Macquarie Dictionary).
- “Occupy” means to take up space, or to take possession of a place, or to be resident or established in a place (Macquarie Dictionary).

Application

A TOP is required where a person intends to:

1. Temporarily use an *existing building* which is not the normal use permitted for that building. An example is holding a market in a warehouse. The normal use of the warehouse is goods storage; the temporary use is a public market.; or
2. Operate an event or function where *temporary structures* may be erected such as booths, tents, marquees, seating or stages.

The objective of regulating the *temporary use of an existing building* is to protect the safety and health of the occupants using that building, for example:

- Safety – escape of the occupants if there is a fire or an emergency
- Health – access to sanitary facilities for occupants/ patrons.

The objective of regulating *temporary structures* is to safeguard the public, who assemble for public events in temporary structures and other persons who use temporary structures, from illness and injury.

When is a TOP required?

Sections 228 of the *Building Act 2016* provides that a person **must not** occupy a *temporary structure* unless:

1. a temporary occupancy permit is in force in respect of that temporary structure; or
2. the Building Regulations provide that a temporary occupancy permit is not required for that temporary structure.

Section 229 of the *Building Act 2016* provides that a person must not occupy an existing building in respect of which an occupancy permit has been issued, if a use of occupation is not stated in that occupancy permit, unless:

1. a temporary occupancy permit is in force in respect of that building; or
2. the Building Regulations provide that a temporary occupancy permit is not required for that building.

The *Building Act 2016* defines a building as including: "a structure, or part of a structure".

Common situations when a TOP may be required:

- Outdoor concerts, rallies, festivals, or similar public events where there are temporary stages, tiered seating etc. are erected;
- Indoor entertainment or events in an existing building e.g. a bush dance held in a shearing shed; the Taste of Tasmania Festival held in a wharf shed;
- Markets (either indoor or outdoor);
- Fairs, shows, carnivals and rodeos;
- Sporting events where there are temporary structures erected e.g. Targa Tasmania, rowing carnivals, school sports days;
- Use of a building as a temporary dwelling, when it was not erected as a dwelling.

Do public events such as rowing regatta require a TOP?

Yes where any temporary structures are to be erected in association with that event or in association with a mass gathering of persons where a Place of Assembly Licence is required.

Do private events such as a wedding in a garden require a TOP?

Yes for example where any temporary structures are to be erected on premises associated with that event.

What types of temporary structures may need a TOP?

The *Building Regulations 2016* in regulation 4 provide that a 'temporary structure' includes any:

1. residential accommodation premises that are erected for a temporary use
2. demountable classrooms or other buildings that are erected for a temporary use
3. prefabricated buildings that are erected for a temporary use
4. a mobile structure or enclosure
5. a temporary bridge that is assembled and not constructed on site
6. a temporary stage or temporary platform
7. a temporary mast, or aerial or post, if more than 6 metres high
8. a temporary tower
9. a temporary seating structure, including a mobile seating structure
10. a marquee, whether or not part of the marquee is permanent.

This is not an exhaustive list of the types of temporary structures.

Scope of coverage of a Permit

There is nothing that prevents one Temporary Occupancy Permit from being issued for all buildings or temporary structures on a site or premises where an event is planned to be held.

Duration of a Permit

A TOP may also be issued for a fixed period of time such as one or two years e.g. for a weekly Sunday market, and the TOP renewable on condition that the operator provide certification that their event management plan is up to date.

The maximum duration of any TOP granted under the *Building Act 2016* is three years.

Application of a Permit to structures erected at different sites

A permit may apply to a structure that is to be erected or re-erected at different locations.

Do inflatable jumping castles, rides or similar 'amusement structures' need a TOP?

No. They are not defined as temporary structures. Amusement structures are equipment operated for hire or reward, which provides entertainment or amusement through movement of the equipment or part of the equipment or when passengers travel on, around or along the equipment. Amusement rides and devices are designed to provide an 'exhilarating experience' or 'thrill' to the public. The Work Health and Safety legislation provides that an accountable person must ensure for any amusement structure, the structure is erected, operated, inspected and maintained in accordance with:

- an approved code of practice (refer to Australian Standard AS3533 Amusement rides and devices Part Two - Operation and Maintenance);
- any instructions from the designer or manufacturer or a competent person;
- log books are made available on the request of an inspector or registered plant inspector.

See the section below on the **Code of Practice for Risk Management of Agricultural Shows and Carnivals**.

Do caravans need a TOP?

No. If a caravan can be registered as a *vehicle* by Roads and Transport (Dept. of State Growth) it is not appropriate for Temporary Occupancy Permit (TOP). But if caravan occupants construct annexes such as tents, carports, pergolas, and decks and there is an intention to occupy them while living in a caravan park, they will require either:

- a TOP if the annex is a 'temporary structure'; or
- if it is a structure that is not a 'temporary structure', then it is building work that may need approval to be constructed.

Caravan annexes (a habitable structure with a rigid frame and covering such as a carport, shed, deck, veranda, porch sunroom or covered BBQ area may be erected as Low Risk Work by an owner or competent person and are exempt from a building permit.

- Some other small structures (non-habitable outbuildings) such as shade sails or sheds can be constructed as Low Risk Work by an owner or competent person and are exempt from a building permit.

Permit Exemptions

What types of temporary structures are exempt from a TOP?

Some types of smaller temporary structures have been exempted from the requirement that the owner obtain a TOP. These exemptions are found in regulation 70 of the *Building Regulations 2016*. It provides that a temporary occupancy permit is not required for tents if *all the following criteria* can be met:

1. a tent erected in a caravan park, or camping or similar area.
2. a tent, booth or gazebo with a floor space of less than 75 square metres if:
 - a. it is the only temporary structure on the site on which it is erected and
 - b. it does not have an ignitable fuel source and
 - c. it is not erected within 10 metres of an ignitable fuel source and
 - d. it will not be used for more than 48 hours and
 - e. it does not need a plumbing permit and
 - f. it does not need an off-site disposal system and
 - g. it does not need electrical wiring and
 - h. it is erected at least two metres from any other structure (booth, tent, gazebo, mobile food van).

Regulation 70 also provides that the following groups of temporary structures, erected for no more than 10 days at one time, do not require a TOP:

1. A booth, tent or gazebo with a maximum area of 20 square metres, 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 2m 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 80 square metres and
 - b. the group is located at least 2m from any other booth, tent, building, structure or mobile food premises.
3. A booth, tent or gazebo with a maximum area of 10 square metres, 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 2m from any other booth, tent, building, structure or mobile food premises.
4. Smaller tents, stalls and gazebos are predominately used for the shelter of the stallholders and their wares. The public do usually enter these structures or else they are often partially open sided, and therefore they do not pose problems for egress in an emergency.
5. In a market there is often a need to arrange groups of stalls in rows without separation and this has been accommodated by allowing an aggregate of a group of 80 square metres.
6. A booth or tent may contain an ignitable fuel source but is then limited to an area of 10 square metres and separated from any other structure by a minimum of 2m.
7. The level of risk management with attendant assessments and inspections remains with the event organisers rather than with local government.
8. Regulation 70 exempts a single tent of 75 square metres, where there are no other temporary structures on site and other conditions are satisfied. This caters for a different situation from a fair or a market.

How is the 'area of a group' of exempt temporary structures calculated?

Regulation 70(2)(d) refers to 'the area of the group'. This means the combined floor area of all the temporary structures to be erected as part of that group, or the total 'footprint' of all those structures. The 'area of the group' should not be interpreted as including any separation distances/spacing between the walls or sides of those temporary structures – see regulation 70(2)(d). Spacing or separation distances between the temporary structures will result in a lower risk to the public; therefore they should not be counted. However the spacing provided between the temporary structures must be also kept clear of any obstructions or flammable materials such as cardboard boxes as these could accelerate the spread of a fire.

Do temporary transportable buildings need a TOP?

Pre-fabricated structures moved to a site where they are affixed to the ground are building work and not defined as temporary structures. Therefore they will need the appropriate type of building approval for their placement/ erection (either as Low Risk, Notifiable Work or as Building Permit Work)

Builder's site sheds

Temporary builder's site sheds during construction work are exempt from the requirement for a TOP. Scaffolding and cranes on work sites are also exempt.

Other exemptions

- Mobile food vans
- Portable toilets
- Mobile accommodation at a caravan park or camping area
- Prefabricated buildings erected for a temporary use and less than 50m² floor area

Applications for and assessments of Temporary Occupancy Permits

Who is responsible for issuing a TOP?

Section 230 of the *Building Act 2016* (Application for temporary occupancy permit) provides that an owner, or an agent of the owner, of an existing building or temporary structure may apply to building surveyor for a temporary occupancy permit to occupy the building or temporary structure.

How do I obtain a TOP?

To make an *application* for a TOP an owner or their agent must use Approved Form No. 5 – available from CBOS website. This form, accompanied by any required certificates or other documents, is submitted to the building surveyor engaged by the owner.

If approved, a *Temporary Occupancy Permit* is given by the building surveyor to the applicant on Approved Form 26 (for building surveyor use only).

How much does a TOP cost?

Private building surveyors who issue a permit charge market rates for their services.

Are there penalties for not obtaining a permit?

Yes. The *Building Act 2016* provides penalties for breaches. Failure to obtain a TOP may result in a fine. Infringement notices may be issued for breaches of that Act.

What information or documents is required with a TOP application?

The building surveyor can specify the documents and information required, if any, to accompany an application for a Temporary Occupancy Permit.

- A building surveyor, may require or rely upon any documents they consider are necessary for performing their assessment for suitability for occupation.
- A building surveyor only has to consider 'is the building suitable for occupation' and may grant an application for a Temporary Occupancy Permit 'subject to any reasonable and relevant conditions'.

A report from a reporting authority may need to accompany the application if required under clause 1.3.0 of the Director's Determination.

Assessment by the Building Surveyor

The Director's Determination outlines what matters a building surveyor is to take into account, including certain documents, when considering an application for a temporary occupancy permit for a building or temporary structure.

In considering a document or matter, a building surveyor may rely on any manufacturer's documents submitted in support of the document or matter. For example this could include flammability tests on the fabric used to manufacture a tent.

Determination of the Occupancy Limit (number of persons)

The occupancy limit (the maximum number of persons) permitted in a building or a temporary structure is determined by the building surveyor as a condition of the permit

A person in charge of a building, or temporary structure, for which a temporary occupancy permit has been issued must therefore ensure that the number of persons at any particular time occupying the building or temporary structure is not more than the occupancy limit stated on the temporary occupancy permit.

What performance standards does a temporary structure need to meet?

Detailed information on the legal standards that a temporary structure needs to comply with is found in the National Construction Code (NCC), Volume One, Tasmania Appendix (TAS PART H123). It covers requirements such as:

- access and exits
- barriers where a person could fall 1m or more
- lighting and ventilation
- materials used (to prevent spread of flame)
- fire equipment
- sanitary facilities for personal hygiene
- ventilation
- electrical equipment
- heating and cooking appliances
- seating

Note that the provisions of TAS PART H123 as a mandatory legal standard *only apply* to temporary structures that are also to be used by the public as a Place of Assembly, as defined in the *Public Health Act 1997*.

The provisions of TAS PART H123 can also be used a guide for temporary structures erected for other events that do not need a Place of Assembly Licence.

Temporary Structures – NCC Tasmanian Appendix

Tas H123 PI (Performance requirement):

A Temporary Structure must, to the degree necessary, be capable of sustaining at an acceptable level of safety and serviceability the most adverse combination of loads and other actions to which it may reasonably be expected to be subjected.

This means that a tent, marquee, gazebo, stage, seating or similar temporary structure must be designed to be structurally sound and must resist the actions to which it may reasonably be subjected, taking into account:

- the wind speed for the site
- the soil conditions which determine the holding capacity of the pegs or similar restraints and
- conditions at the time it is likely to be erected in any one location.

The owner/ erector will have to do a site-specific risk assessment for the particular site and for the time the temporary structure shall be erected. The magnitude of wind forces is affected by the following factors:

- basic wind speed (wind speed zones for the particular locality and the forecast weather for the day)
- direction (e.g. is the site exposed to prevailing westerly/ southerly winds or susceptible to gusts from another direction)

- terrain (is the site open and exposed to wind or does it have houses and buildings that provide some shelter) and
- height of the building or temporary structure (gazebo for example would have a low height).

Note the other applicable Performance Requirements (P2 – P15) of H123.

Tas Appendix H123.0 – Deemed-to-Satisfy provisions

This NCC clause specifically applies only to a temporary structure as defined in the *Building Act 2016* and it is being used as a Place of Assembly. However the principles it covers are of wider application as a guide to the use of all temporary structures, for whatever purpose).

Disability access to temporary structures and the application of the Disability Discrimination Act to events

Under the *Commonwealth's Disability Discrimination Act 1992 (DDA)*, event organisers have a legal responsibility to prevent discrimination against people with disabilities. The DDA defines disability very broadly and includes, for example:

- people who are blind or vision impaired
- people who are deaf or hearing impaired
- people with intellectual and learning disabilities
- people with mobility and manual dexterity difficulties
- people with psychiatric disabilities
- people who have a brain injury
- people who have epilepsy, and
- people who have a disease-causing organism such as the HIV virus.

When considering the accessibility of your event, it is also important to consider social and cultural factors. There are many population groups that find it difficult to access community events of all kinds, in particular people on low incomes, indigenous Tasmanians, carers, newly arrived migrants and refugees.

Disability access provisions of H123.4 of the Tasmanian Appendix NCC 2016

Requirements of H123.4 are:

1. access for people with disabilities must be provided to and within a temporary structure by means of a continuous path of travel
2. parts of the temporary structure required to be accessible must comply with the Australian Standard AS1428.1 (2009)
3. access for people with disabilities must be provided to:
 - a. Any public sanitary facilities;
 - b. All areas normally used by the public, but excluding the areas only used by people working in the temporary structure; and
 - c. If fixed seating is provided in a temporary structure, wheelchair spaces are to be provided in accordance with these ratios:
4. less than 100 seats – one wheelchair space;
5. 100 – 200 seats – two wheelchair spaces;
6. over 200 seats – one additional wheelchair space for each additional 200 seats or part thereof.

This Part of the Tasmania Appendix only applies to:

1. *temporary structures* as defined in the *Building Act 2016*; and
2. they are *used by the public* as a Place of Assembly as described by the *Public Health Act 1997*.

What else can event organisers do for accessibility?

To accommodate the needs of everyone in the community it is important to ensure that your venue is accessible and that all who would like to attend your event are able to do so. Participation in the planning of events by people representing population groups that suffer exclusion can be a very effective way of ensuring that your event is more inclusive. When thinking about the accessibility of your event it is important to consider a range of things such as: disabled access, the availability of culturally relevant food choices, the affordability of the event, access to child care, information in languages other than English etcetera. Staff at an event should be trained in cultural awareness and anti-discrimination legislation.

Granting a Temporary Occupancy Permit

The building surveyor granting a TOP must notify the permit authority in writing and provide a copy within seven business days of it being granted.

Display of a Temporary Occupancy Permit

The *Building Regulations 2016* (regulation 71) provides that on being issued with a TOP the owner (or their agent) of the building or temporary structure must display the temporary occupancy permit in a prominent place in the building or temporary structure. It is an offence not to do so.

If my application for a TOP is refused, can I appeal?

Yes, an applicant for a TOP can make an application to the Resource Management and Planning Appeals Tribunal ([RMPAT](#)):

- The refusal or failure of the building surveyor to grant the application; or
- Any condition of a TOP.

The building surveyor must give the applicant notice in writing within 21 days of the refusal to grant a TOP and the reasons for the refusal.

Erection of Temporary Structures

Is a licensed builder the only person who can erect a temporary structure?

No. In Tasmania licensing of persons who perform building services work is governed by the *Occupational Licensing Act 2005*. It provides for persons who design, construct or assess building services work to hold a licence.

Currently under the current Licensing Determination for Building Services Providers there is no provision for a licence for the erector of temporary structures, or the designers of such structures. Therefore it is not work that needs to be performed by a licensed person.

However any person responsible for erecting a temporary structure needs to ensure that they have the skills and competencies to perform this type of work and ensure that they comply with all requirements of the *Work Health and Safety Act 2012* for a safe working environment. A 'competent person' is someone who has acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enabling that person to perform the task required correctly.

Depending on the type of temporary structure, persons erecting them may need to demonstrate that they have knowledge and skills in the following areas:

- Occupational health and safety
 - hazard identification and risk assessment of the site and of the work to be undertaken
 - erection and dismantling of temporary structures is performed so as to minimise risks
 - instructions of the designer or manufacturer are followed
 - use of elevated work platforms and ladders
 - gas and electrical installations are installed so as to minimise risk

- wind loadings e.g. complies with Australian Standard AS/NZS 1170 part 2
- terrain categories
- ground anchor systems
- ground types/ density and reactions in wet and dry conditions
 - soil compaction
- rigging techniques
 - knots and ropes
 - tensing devices
- scaffolding
 - types
 - components
- fork lift
 - operations
 - licence
- stage floors
 - construction
 - loadings

Other requirements for erecting structures or holding events

Following manufacturer's directions

Product manufacturers may provide useful guidance to users and the erector of the structure on weights and tie downs for use with their products. Here is an example:

“Do I need to use weight bags or weights with my ‘Instant Gazebo’?”

Yes you do. The gazebo is designed to give you quick and easy sun and rain protection but you need to be aware that weather conditions can change quickly. Even on a wind free day without warning the weather can change and a sudden gust of wind can blow your folding gazebo away.

You should always use weight bags or heavy duty metal weights with ropes and pegs with your gazebo. Keep it weighted at all times. Weight bags provide approximately 14kg of weight per bag. There are 4 x weight bags in each set. Heavy duty metal weights weigh 15kg and are easier to transport and store. Solid Steel weight sets – each weight 15kg. Unfilled weight bags — hold 12 -14 kg of sand.”

Ensure a risk monitoring strategy is in place:

Consideration should be given to the following factors to ensure that temporary structures such as tents and marquees are used safely, in accordance with the ABCB Temporary Structures Standard:

1. Suitable monitoring systems, e.g. action plans should be in place to continuously assess the wind conditions at each site and procedures implemented to take early preventative action if necessary.
2. Site managers should be informed of the design wind load of the temporary structure and give instructions to evacuate should the design wind load be in danger of being exceeded. A wind monitoring plan, incorporating when specific measures are required, should be developed and provided to those purchasing or hiring the structure or using the structure.

3. Types of monitoring strategies could include placing an anemometer on the structure to monitor site wind speeds. The purpose of monitoring the site wind speed is due to the structures generally being designed to take account of a safe working wind speed and an ultimate wind speed the structure can withstand. Once winds reach certain levels, specific measures may need to be implemented.
4. Site managers should be alert to early warning of approaching adverse weather conditions. This monitoring strategy may include monitoring of weather forecasts from the Australian Bureau of Meteorology.
5. Another matter which requires monitoring is guy ropes used for anchoring the structure which, in strong winds, may loosen and may need regular tightening. Other supporting members may also need to be checked for movement.

Other requirements for holding events

Yes. Whether or not temporary structures need a TOP, stall owners, stall holders, erectors of structures and event managers must ensure that they comply with other requirements including the following:

- The performance requirements of the NCC; see the section above *What performance standards does a Temporary Structure need to meet?*
- Work health and safety legislation, as the site where the temporary structure is erected and used by the public is a workplace. See information on the [Worksafe Tasmania](#) website.
- Some councils also have By-Laws that regulate activities and conduct during a market or event
- If your event is serving food and liquor then you will need a food licence from the local council. There is a publication of the Department of Health and Human Services called *Local Government Guidelines for Temporary Food Stalls* available on council websites. The Guidelines specify the minimum requirements for the construction and operation of a food stall and other useful information of stallholders.
- If your event is serving liquor, a liquor licence from the [Liquor and Gaming Branch](#) of the Department of Treasury may be required.

Place of Assembly Licences

A Place of Assembly Licence is a licence under the *Public Health Act 1997* for a mass gathering where the public congregates for special events.

What type of place/ activity requires a Place of Assembly licence?

Any 'mass outdoor public event' requires a Place of Assembly licence:

- 'mass' means 1000 people or more, present for two hours or more.
- 'public event' includes, but is not limited to, any performance, exhibition, circus, festival, food festival, pageant, regatta, sports event, dance or publicly advertised lecture.

Who needs a Place of Assembly Licence?

Any person who wishes to:

- operate, use or manage a place as a Place of Assembly; or
- conduct any entertainment at a Place of Assembly; or
- lease or offer for lease a place as a Place of Assembly

needs to apply for a Place of Assembly Licence. This licence will be issued for the duration of the public event at the nominated location.

Where can I obtain the appropriate application form?

The application form to apply for a Place of Assembly Licence is available from councils.

What information should I provide in support of a licence application?

You should provide the following information:

- Maximum number of persons attending at any given time
- Number of male and female toilets
- Evacuation Plan acceptable to Tasmania Fire Service
- Event Site Plan
- Event Program (if available)
- Smoke Free Management Plan (approved by Department of Health and Human Services, see below for further information)
- Copies of Temporary Occupancy Permits for any temporary structures such as stages, tents, marquees, tiered seating etc.

What is the cost of a Licence?

Applications for Place of Assembly licences incur a fee payable to the council.

How does a Place of Assembly Licence relate to a TOP?

For the assessment of applications for erection of a temporary structure temporarily used as a place of assembly, councils can rely on a Temporary Occupancy Permit issued under the *Building Act 2016*. A council has to take into account any certificates or other documents submitted to obtain a TOP when considering a Place of Assembly Licence application. It is therefore important that all matters relevant to obtaining a TOP are attended to before an application for a Place of Assembly Licence is made. This will save time and duplication.

Outdoor temporary events that do not use tents or temporary structures may only require a Place of Assembly Licence for that specific event from the local council.

What if there are food and drink stalls?

All food and alcohol outlets must be registered with the Council. This is done through an online application form known as a [Temporary Food Business Registration](#).

Is overcrowding an offence?

Yes, the licensee can be subject to an on the spot fine or court action. An authorised officer can also cancel the event and evacuate the place in the interests of public health should numbers exceed allowable occupancy limits.

What happens if I operate without a Licence?

You can be liable for an infringement notice or prosecution.

What about Smoke Free Public Events?

To assist you in managing your public smoke free event the Department of Health and Human Services (DHHS) provides a range of resources including signage and smoke free event management plan templates. Visit their website for more information www.dhhs.tas.gov.au.

Under the *Public Health Act 1997*, the Director of Public Health has the authority to designate classes of public events as smoke-free. A list of these events can also be found on the DHHS website www.dhhs.tas.gov.au.

Any further queries?

Please contact the Council's Environmental Health Department.

Other useful information

Code of Practice for Risk Management of Agricultural Shows and Carnivals

A *Code of Practice for Risk Management of Agricultural Shows and Carnivals* has been published by Workplace Standards Tasmania to provide practical guidance to minimise the risks of injury or damage to persons or property from hazards existing at agricultural shows and carnivals.

Risks of injury to employees, members of the public and other persons in attendance at agricultural shows or carnivals should be eliminated or, where that is not possible, reduced so far as is reasonably practicable in accordance with the duty of care principles which are discussed in this Code of Practice.

The *Work Health and Safety Act 2012* enables the Minister responsible for that Act to approve codes of practice that give practical guidance on workplace health and safety issues to employers and employees. Codes of practice may be used as evidence in legal proceedings to show that a person has failed to meet their duty of care. However, failure to follow a code of practice does not necessarily mean that a breach of the Act has occurred. If a person has not adopted the method described in the code, it is open to them to show that they have met their duty of care by alternative methods which are equivalent to or better than those contained in the code of practice.

This Code of Practice is available from [Worksafe Tasmania](#) or call their Helpline on 1300 366 322.

Contacts for further information:

Consumer, Building and Occupational Services (CBOS)

CBOS administers the building legislation in Tasmania including the *Building Act 2016* and the *Building Regulations 2016*.

Link to specific [TOP Information](#)

Website: www.cbos.tas.gov.au

Phone: 1300 65 44 99

Email: cbos.info@justice.tas.gov.au

Events Tasmania

Events Tasmania provides a range of potential funding opportunities for events, through a Grants and Incentive Program, that need to meet specified criteria. Advice to event organisers in planning and developing their event or festival in Tasmania may also be provided.

Email info@eventstasmania.com

Phone (03) 6233 5946 Fax (03) 6233 5800

GPO Box 399 Hobart, Tasmania 7001

Local Government Association of Tasmania (LGAT)

The LGAT website has contacts for Tasmanian councils including links to websites, addresses and contact details for general managers and environmental health professionals.

Website: www.lgat.tas.gov.au

Department of Health and Human Services

Information about Place of Assembly Licensing; and

The safety and quality of food is regulated and monitored by the DHHS Public and Environmental Health Service in conjunction with local councils.

Website: www.dhhs.tas.gov.au

Phone 1300 135 513

Department of Treasury and Finance

Information about liquor licensing requirements for events

Phone: (03) 6233 6119.

Website: <http://www.treasury.tas.gov.au/>

Email: gaming@treasury.tas.gov.au

Food Standards Australia

Food safety practices and general requirements

Website: www.foodstandards.gov.au

Environmental Health Australia

Environmental Health Australia is the peak national organisation in Australia which advocates environmental health issues and represents the professional interests of environmental health practitioners. Their website has information about food safety training courses.

Website: <https://www.eh.org.au/>

Australian Institute of Building Surveyors (AIBS)

AIBS is the peak national organisation in Australia which represents the building surveying profession

Website www.aibs.com.au

An online register of Accredited Building Surveyors can be found on the [CBOS](#) website. Building surveyors can also be found in the Yellow Pages directory.

Public Health Management at Mass Gatherings

The Australian Emergency Manuals Series for Safe and Healthy Crowded Places published by Australian Institute for Disaster Resilience is a useful resource for planning events and for identifying management issues. The series is available at: <https://knowledge.aidr.org.au/>

Further references

Further reading: [Accessible Events: A guide for organisers](#): published by Meetings and Events Australia, and a revised edition was released March 2013

Further Information about TOP

Licensed building surveyors can be found:

- In the Yellow Pages or
- A searchable register of building surveyors can be found on the CBOS website at www.cbos.tas.gov.au
Note that some building surveyors employed by councils may not be able provide assessment services for the public.

About Place of Assembly Licences:

- Contact your council office;
- An application form for the Place of Assembly Licence is available from council offices.

Temporary Occupancy Permit forms

Application for a Temporary Occupancy Permit is Approved Form No. 5, available on request from building surveyors and on the CBOS website.

The Temporary Occupancy Permit is issued on Approved Form No. 26. (building surveyor use only)

Place of Assembly Licence application form

A person may apply to the relevant council for a Place of Assembly Licence. An application is to be –

- a) in an approved form (available from the council) and
- b) lodged with the public office of the council and
- c) accompanied by the applicable council fee.

References to regulatory documents relevant to a TOP

A list of the legislation or other regulatory documents or guidance materials applicable to Temporary Occupancy Permits that are referenced in this Guideline.

All Tasmanian legislation (Acts and Regulations) is available on the [Legislation](http://www.legislation.tas.gov.au) website:
www.legislation.tas.gov.au

Name	Section/ reference/ web address
<i>Building Act 2016</i>	Part 17, Division 2, Sections 228 -234 www.legislation.tas.gov.au
<i>Building Regulations 2016</i>	Regulation 3 (interpretation) 4 (prescribed temporary structures) and Part 6 Division 2, www.legislation.tas.gov.au
<i>Work Health and Safety Act 2012</i>	www.legislation.tas.gov.au
<i>Public Health Act 1997</i>	www.legislation.tas.gov.au
National Construction Code, Tasmania Appendix on Temporary Structures	Tasmania Appendix to Volume One, Tas Part H123 Available online from the ABCB (free to registered users) www.abcb.gov.au
Council By-Laws Directory	http://www.dpac.tas.gov.au/divisions/lgd/council_by-laws
Code of Practice for Risk Management of Agricultural Shows and Carnivals	Worksafe Tasmania publication number COP012. http://www.worksafe.tas.gov.au/ Call Worksafe Tasmania Helpline 1300 366 322
Local Government Guidelines for Temporary Food Stalls (2010)	Department of Health and Human Services www.dhhs.tas.gov.au
Liquor Licensing permits	Department of Treasury and Finance http://www.treasury.tas.gov.au/liquor-and-gaming