

# Temporary Buildings

## Background

When internal and external stakeholders wish to hold an event, it is often frustrating for the applicant to know whether they are required to apply for a building permit and occupancy permit for the proposed buildings/structures for the event, or when they are exempt from requiring a building permit or occupancy permit.

As a result, the City reviewed the requirements for temporary buildings and has provided the following information outlining when a building permit and occupancy permit is required for a temporary structure or building, and when a temporary building or structure is exempt from requiring a building permit or occupancy permit.

## Introduction

The following information is based on a review of the requirement for building permits and occupancy permits for temporary buildings.

The two main things to consider when applying or enforcing any legislation is

- 1) The risk to the safety of the occupant and user; and
- 2) The risk to the Permit Authority (City of Kwinana)

## Legislation

The current legislation covering building permits and occupancy permit requirements is the Building Act 2011 and Building regulations 2012.

### Building Act 2011

The following clause has been taken directly from the Building Act 2011 Part 5 Division 2 *Circumstances in which building, demolition or occupancy permits not required particular buildings, incidental structures.*

#### 69. Temporary buildings

- 1) A permit is not required for a building or an incidental structure that is to remain erected for no longer than one month.
- 2) However, the permit requirement provisions apply to a building or incidental structure of a kind mentioned in subsection (1) —
  - a) that members of the public normally use; or
  - b) to which members of the public are permitted access

Based on Clause 69 above, where the building or incidental structure is proposed to remain for a period less than a month and members of the public don't normally use and they don't

provide access to the public, the proposed buildings or incidental structures would be exempt from requiring a building permit and occupancy permit.

However, in most cases when internal and external stakeholders wish to hold an event for the public, paragraph 2 of clause 69 above would imply that any buildings or incidental structures providing access to the public at the proposed event would not be exempt from requiring a building permit or occupancy permit where required.

## **Building Regulations 2012**

Part 6 – Circumstances in which building, demolition or occupancy permits not required  
Clause 41 paragraph (3) states the following:

(3) A building permit is not required for building work of a kind described in the Table in Schedule 4 clause 2.

The following, has been directly extracted from the Table in schedule 4 Clause 2 Item 1.

**Table**

<b>Item</b>	<b>Description of building work for which building permit is not required</b>
1.	Construction, erection, assembly or placement of a freestanding Class 10a building that — (a) has a floor area not exceeding 10 m <sup>2</sup> ; and (b) is no more than 2.4 m in height; and (c) is not located in wind region C or D as defined in AS 1170.2.

The above would imply that any proposed Class 10a building that meets the above criteria would be exempt from requiring a building permit or an occupancy permit in accordance with Part 6 Clause 43 paragraph (a) of the Building Regulations 2012.

In accordance with Building Act 2011 Part 5 Division 1 Clause 66 paragraph (1) where it states, the regulations (in this case the Building Regulations 2012) may provide that a building permit is not required for building work of a kind specified by the regulations. This provides the Building Regulations 2012 the power to allow certain buildings to be exempt from requiring a building permit.

This being the case, any building that meets the criteria outlined within the table above, would be exempt from requiring a permit, even if they did provide access to the public.

However, any building that doesn't meet the criteria outlined within the Table would not be exempt from requiring a building permit or an occupancy permit where required.

## **Department of Mining Industry Regulation & Safety (DMIRS)**

DMIRS whom currently oversee the implementation of the Building Legislation within Western Australia, regularly send out industry bulletins to the building industry professionals

and stakeholders with the purpose of assisting in clarifying certain regulations and requirements outlined within the current building legislation. One of these bulletins released by DMIRS was for temporary structures, which provided mainly building surveyors and permit authorities e.g. Local governments information on how the Building Act is applied to temporary structures.

The bulletin in question is known as Industry Bulletin 135. Within the content of the bulletin it provides information regarding structures with fabric walls and roofs such as tents, marquis and the like. The bulletin states the following.

**What about temporary structures with fabric walls and roof, such as tents?**

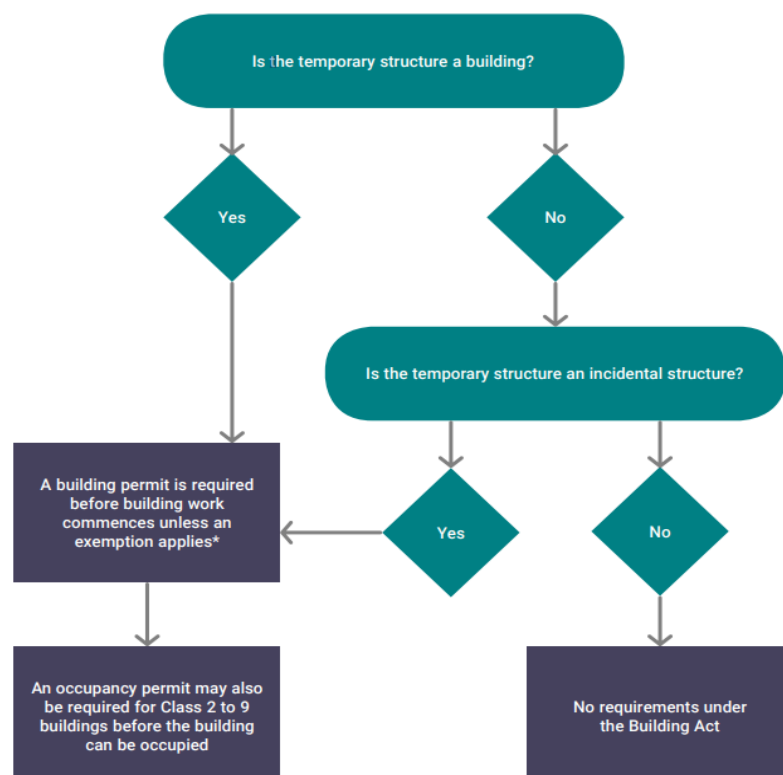
This type of structures may include marquees or simple tent structures used for tourist accommodation.

In situations in which a structure of this type is proposed, the permit authority may determine on a case-by-case basis whether these structures, either temporary or permanent, are buildings.

Where these structures are not buildings the building approval requirements of the Building Act do not apply to them. If the characteristics of a proposed structure persuade the permit authority to form the view that the specific structure will be a building, then it will apply the Building Act processes.

The information taken from the bulletin outlined above provides the City with the option of exempting certain structures from being defined as buildings, which would exempt these buildings from requiring building permits and occupancy permits where required.

The bulletin also provides a flow chart as illustrated below.



## Environmental Health

The Cities Environmental Health team along with the Community Services team are generally the overseers of any events proposed to be held within the Cities precinct.

The health team based on the level of risk may carry out inspections of the proposed temporary structures and buildings to be utilised at the event. To ensure compliance with the Health (Public Buildings) Regulations 1992 and Food Act 2008 and any other relevant legislation applicable.

This lowers the risk to the City where certain buildings may be exempt from requiring a building permit, but they may be open for an inspection to ensure compliance has been met for other related legislation or requirements within the City.

Currently, the City requires all event organisers to demonstrate compliance with the Department of Health's Guidelines for concerts, events and organised gatherings. The guidelines provide guidance on the type of approval required for temporary structures including marquees, tents and spectator stands at events.

- For structures greater than 55m<sup>2</sup>, manufacturer structural design certification with a structural engineer is required.
- Event organisers are given access to the guideline which contains a checklist for Temporary Structures/Marquees.
- Spectator standards are approved under Section 176 of the Health (Miscellaneous Provisions) Act 1911.
- All medium and high-risk events with or without temporary structures are required to be approved under Section 178 of the Health (Miscellaneous Provisions) Act 1911 and demonstrate compliance with Health (Public Buildings) Regulations 1992

In the Department of Health's Managing Public Health Risks at Events in WA Discussion Paper which forms part of the Events Regulation review, the Building Commission has advised that if the buildings are subject to Health provision and these processes are adequate, that issuing a building permit is unnecessary duplication. An updated model has been suggested in the discussion paper pending adoption of new Events Regulations. In the meantime, it is suggested that a similar proposal to be adopted by the City of Kwinana if a building permit is no longer required for temporary structures. The model has been included in the recommendations.

## New Requirements

The following requirements are to be considered for temporary buildings and structures.

### Building:

1. All structures that meet the criteria outlined within the Table below will be exempt from requiring a building permit or occupancy permit even if the public has access to the building/structure.

**Table**

<b>Item</b>	<b>Description of building work for which building permit is not required</b>
1.	Construction, erection, assembly or placement of a freestanding Class 10a building that — a. has a floor area not exceeding 10 m <sup>2</sup> ; and b. is no more than 2.4 m in height; and c. is not located in wind region C or D as defined in AS 1170.2.

2. Buildings and structures that have walls and roofs constructed of fabric and proposed to remain for a period less than one month regardless of size will not require a building permit. However, this will be assessed on a case-by-case scenario.
3. All buildings/structures that don't meet the criteria outlined within the table above and are made of material other than fabric and provide access to the general public, will require a building permit and pending on the building classification an occupancy permit may be required as well.
4. Buildings and structures that are proposed to remain for a period less than one month and don't provide use or access to the general public, be exempted from requiring a building permit or occupancy permit where required.
5. All Stages that provide an elevated platform above ground level and greater than 10m<sup>2</sup> in area require a building permit and structural certification due to perceived risk from falls, collapse etc.
6. A document be prepared and readily available on our website, reception etc. to provide information outlining the regulatory requirements for temporary buildings and structures.

**Health:**

- All medium and high-risk events with or without temporary structures are continued to be approved under Section 178 of the Health (Miscellaneous Provisions) Act 1911 and demonstrate compliance with Health (Public Buildings) Regulations 1992. Further condition in stallholder's permit or event approval.
- New model (where no building permit is required):
  - Structures up to 9m<sup>2</sup>: No sign off required. Provide guidelines would outline best practice management, including wind and weighting considerations.
  - Structures between 9m<sup>2</sup> and 55m<sup>2</sup>: The installer is required to sign off that the structure are suitable for intended use and that the use would not adversely affect the safety and health of occupant's users.
  - Structures over 55m<sup>2</sup>: Manufacturer structural design certification with a structural engineer sign off is required. Multiple structures at a large event could be listed on a single sign off by a structural engineer.
  - Stages, seating and steps – assessment to be completed in accordance with the Health (Public Buildings) Regulations 1992
- Health guidelines and checklists will be included in the online events application. Building requirements will also be incorporated.

## **Summary**

In summary, the City has simplified the process for applicants wishing to apply for an event approval by providing a document, that clearly defines when a building permit or occupancy permit is required for structures/buildings and when they may be exempt.