



These advisory notes are issued as and when is necessary to assist in the interpretation of Tasmanian building legislation and to keep the Industry informed of developments occurring with the Building Code of Australia and its reference documents.

Building Act 2000 – Places of Assembly Licensing

Purpose

The purpose of this advice is to clarify the provisions in the *Building Act 2000* and *Building Regulations 2004* as they relate to Places of Assembly licensing under the *Public Health Act 1997*.

Places of Assembly licensing under *Public Health Act 1997*

Under the *Public Health Act 1997* and *Guidelines for Health and Safety in Public Places 2000* certain buildings which are used for entertainment and assembly of members of the public are required to obtain a place of assembly licence. Regulation of these buildings is required as they may pose significant risks to public health and safety.

The Act and Guidelines should be read closely however as a general rule a licence is required for halls, theatres and other buildings if at anytime they are primarily being used for a “public event”. Public event is broadly defined in the Guidelines to include any performance, exhibition, spectacle, circus, festival, food festival, pageant, regatta, sports event, dance, publicly advertised lecture or similar entertainment for the public.

The Guidelines provide greater detail about which buildings require a licence. The Guidelines are available at

<http://www.dhhs.tas.gov.au/agency/pro/publichealthlegislation/publichealthact.php>

The Act and Guidelines set out the health and safety matters that a council is to consider when determining an application for a place of assembly licence including:-

- (a) the maintenance of peace and good order;
- (b) the prevention of noise, smell, pollution or other nuisances;
- (c) the effect of traffic on highways;
- (d) whether the place of assembly is capable of being operated, used or managed in accordance with any relevant guidelines;
- (e) the protection of public health.

An important consideration will often be the issue of overcrowding in places of assembly especially in emergency situations where occupants may panic and rush toward exits in large numbers and increase risks of serious injury and death. It is strongly recommended that councils carefully consider the number of persons who can safely use places of assembly buildings when assessing applications. Occupancy permits previously issued under the *Building Regulations 1994* and new occupancy permits to be issued under the *Building Regulations 2004* may assist Councils in assessing places of assembly licence applications as they may reveal existing controls on risks and hazards.

Please circulate to

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Adoption of BCA 2005

The 2005 edition of the BCA was adopted in Tasmania on

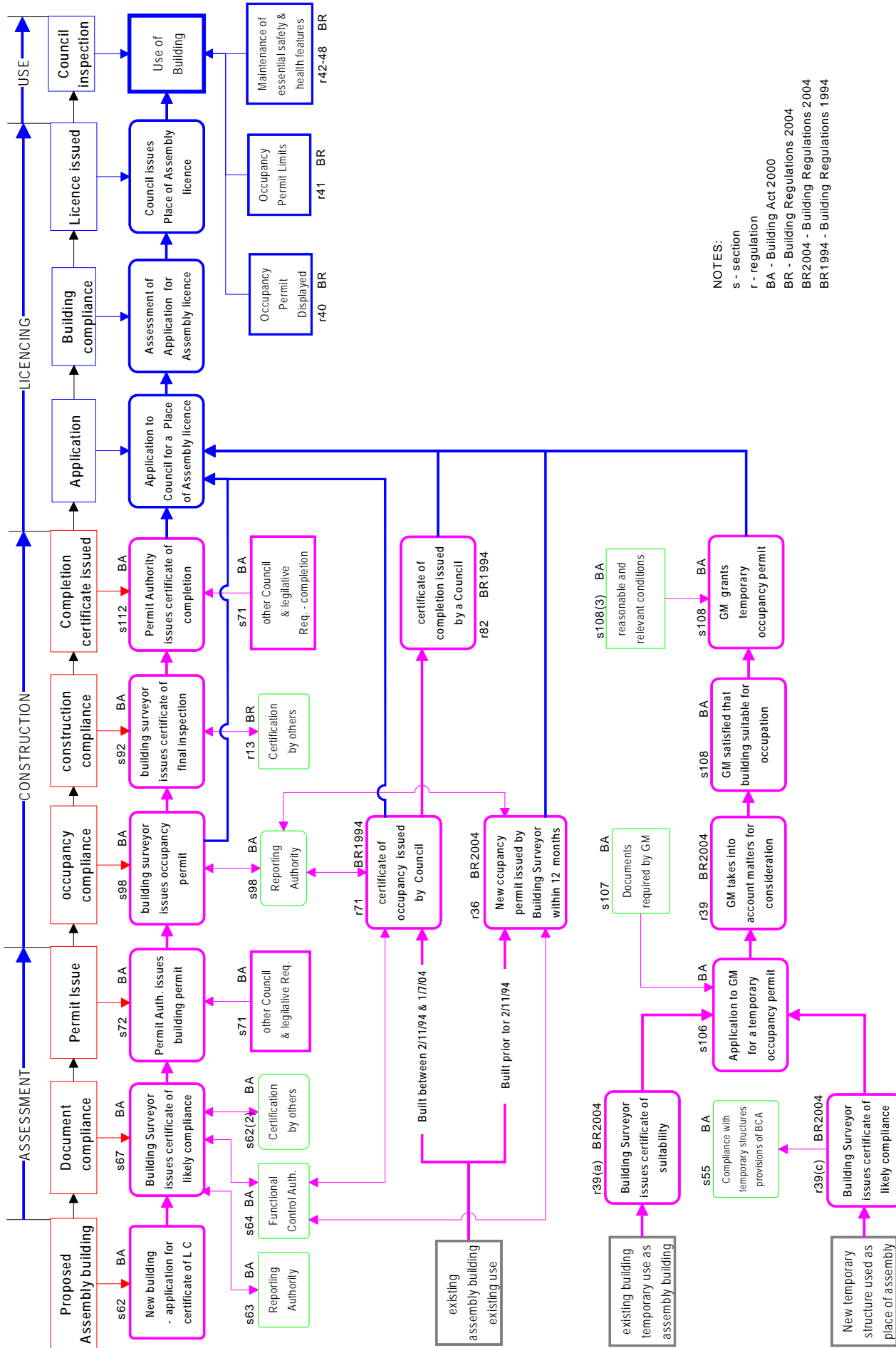
1 May 2005

BCA 2005 includes —

- * updated references to Standards;
- * clarifies when fire sprinklers are required to be installed in buildings;
- * updates the provisions for waterproofing of wet areas;
- * include energy efficiency measures for Class 2 and 3 buildings and Class 4 parts;
- * more closely align the requirements for lifts with those of Occupational Health and Safety legislation;
- * includes minor technical changes.

BCA 2005

Details of the various BCA products available can be obtained from the ABCB website: www.abcb.gov.au or by email : abcb.office@abcb.gov.au



PROCESS FOR REGULATORY COMPLIANCE FOR PLACE OF ASSEMBLY V-6A

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It is an offence to operate a place of assembly building without a licence. The licence must be prominently displayed so as to be visible usually at the main entrance. Application forms for licences are available from relevant councils.

The current places of assembly requirements have been in place since May 2000. They are separate and operate independently to new requirements under the *Building Act 2000* and *Building Regulations 2004*.

Place of Assembly and the *Building Act 2000* and *Building Regulations 2004*

A number of provisions are included in the *Building Act 2000* and *Building Regulations 2004* which provide councils with the tools to assess applications for place of assembly licences for new and existing buildings and temporary structures and to enforce the requirements under the *Public Health Act 1997* and the *Building Act 2000*. The provisions (tools) for assessment include; Occupancy Permits, Temporary Occupancy Permits, Certificates of Completion (Building Work), and Certificate of Completion (Plumbing Work). The provisions for enforcement include; the display of Occupancy Permits, occupancy limits, the maintenance of essential safety and health features and measures and the display of Annual Maintenance Statements.

Assessment

New place of assembly building

For the assessment of an application for a new place of assembly building, councils may have regard to the following documents that are issued under the *Building Act 2000* and *Building Regulations 2004* -

- Occupancy Permit issued by a Building Surveyor;
- Certificate of Completion (Building Work) issued by a building Permit Authority; and
- Certificate of Completion (Plumbing Work) issued by a plumbing Permit Authority.

Existing place of assembly building

For the assessment or renewal of applications for an existing place of assembly building, the *Building Regulations 2004* provide two options for providing an Occupancy Permit depending on when the building was built.

For buildings built after 2nd November 1994 but before the *Building Act 2000* came into force on 1st July 2004, existing Certificates of Occupancy issued under the previous *Building Regulations 1994*, that the building is suitable for occupancy continue in force.

For existing place of assembly buildings built prior to 2nd November 1994 (where there was no Occupancy Permit or Certificate of Occupancy requirement under legislation in force at the time), the *Building Regulations 2004* (r36) now requires an Occupancy Permit to be obtained for these buildings. Thus all places of assembly buildings will in future have an Occupancy Permit or Certificate of Occupancy which councils can rely on in the assessment or renewal of a place of assembly license.

Owners of buildings used as places of assembly built prior to 2nd November 1994 will need to obtain this Occupancy Permit. Owners of these buildings will need to obtain this Permit prior to 1 July 2006. An Occupancy Permit can be obtained from a Building Surveyor working in a Council or one working in private practice.

Temporary structures and existing buildings temporarily used as a places of assembly

For the assessment of applications for a temporary structure or for an existing building to be temporarily used as a place of assembly, councils can rely on a Temporary Occupancy Permit issued under the *Building Act 2000* and *Building Regulations 2004*.

The General Manager (GM) of a Council issues the Temporary Occupancy Permit. A GM can specify the documents and information required, if any, to accompany an application for a Temporary Occupancy Permit.

If the application is for an existing building to be temporarily used as a place of assembly and a Certificate of Suitability for Temporary Occupation is provided by a Building Surveyor in accordance with the *Building Regulations 2004* and is one of the documents required by a GM, or is voluntarily provided by an applicant, a GM has to take it into account when considering the application.

If the application is for temporary structure to be used as a place of assembly and a Certificate of Likely Compliance (with the Temporary Structure Provisions of Tasmania's Appendix to the BCA) is provided by a Building Surveyor in accordance with the *Building Regulations 2004* and is one of the documents required by a GM, or is voluntarily provided by an applicant, a GM has to take it into account when considering the application.

A GM does not have to require a Certificate of Suitability for Temporary Occupation or Certificate of Likely Compliance, but may require or rely upon other documents. A GM 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".

Compliance

Once a council has gone through the assessment process and issued the Place of Assembly License, the *Building Act 2000* and the *Building Regulations 2004* provides further tools that can be used to ensure that the place of assembly is appropriately used and managed. These tools include the requirement to –

- Display an Occupancy Permit or Temporary Occupancy Permit
- Compliance with occupancy limits
- Maintenance of the essential safety and health features
- Display of an Annual Maintenance Statement

Display of Occupancy Permits

The owner of a building or temporary structure in accordance with *Building Regulations 2004* must display an Occupancy Permit in a prominent place in the main public entry to the building or in the case of an Temporary Occupancy Permit in a prominent place in the building or temporary structure.

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Occupancy Limits

The number of persons entitled to use a building is determined in accordance with the *Building Regulations 2004* and a person in charge of a building or temporary structure must ensure that at any one time the number of persons occupying the building are not more than this number. The number of persons is included on the Occupancy Permit and Temporary Occupancy Permit.

Maintenance of essential safety and health features and measures

Owners are required to ensure that the prescribed (in the *Building Regulations 2004*) essential safety and health features and prescribed essential safety and health measures of their buildings are maintained. *The Building Regulations 2004* include provisions for determining the appropriate essential safety and health features and measures.

Display of Annual Maintenance Statements

The owner of a building, in accordance with the *Building Regulations 2004*, must display a current Annual Maintenance Statement adjacent to the Occupancy Permit

and is to keep all records of maintenance undertaken for the last 10 years.

Penalties

The *Building Act 2000* and the *Building Regulations 2004* include penalties for the non-display of Occupancy Permits, Temporary Occupancy Permits and the Annual Maintenance Statement. The legislation also includes penalties for breaching the occupancy limits and for not undertaking the required maintenance. The legislation also provides for infringement notices to be issued for all these breaches of the legislation.

Summary

The diagram on page 2 summarises the process for regulatory compliance for Places of Assembly and their relationship with the *Building Act 2000* and *Building Regulations 2004*.

For further information

For the legislation refer to the State Government Law Website at <http://www.thelaw.tas.gov.au>

For details on the legislation refer to Building Standards and Regulation Website below.

Classification of Bars and Nightclubs under Building Legislation

In accordance with the *Building Act 2000* the nature and purpose of a building is to be determined -

- (a) from its design; or
- (b) if it is suitable for different purposes or uses, according to its most natural purpose or use as inferred from its design, its situation and the declared intentions of the owner when an application is made. (Ref. S3(2))

Similarly the classification of a building or part of a building in accordance with the BCA, is determined from the purpose for which -

- (a) it is designed;
- (b) Constructed; or
- (c) Adapted to be used. (Ref. A3.1)

By classification, in accordance with the BCA, a **bar** used for the sale of retail goods (drinks) direct to the public is a Class 6 building. (Ref. A3.2) The principal purpose is to sell drinks to individuals who come into the bar and consume the drinks on the premises. It is no different to a coffee shop or restaurant. It is also a common practice for bars and for coffee shops and restaurants to provide elec-

tronic or live music for the entertainment of their customers while they are drinking and eating. The customer pays no cover charge or entrance fee for the entertainment. It should be noted however, that the principal purpose of a bar is for customer drinking and not entertainment.

A nightclub on the other hand by classification in accordance with the BCA, is an assembly building where the public assemble for entertainment purposes and is a Class 9b building. (Ref. A1.1 & A3.2) The principal purpose of the public using a nightclub is to be entertained or be involved in entertainment for which they normally pay a cover charge or entrance fee. The entertainment involves larger numbers of people than a bar and the BCA provisions specifically provide for the appropriate risks with these numbers using the building. The area per person required for a bar (other than the standing area) is more than a dance floor therefore more persons can be accommodated on a dance floor than the same area in a bar.

In any determination, the declared intentions of the owner when making an application should be considered.

Further Information

Further information about the *Building Act 2000*, the *Building Regulations 2004*, the *Plumbing Regulations 2004* and the *Building Code of Australia (BCA)* can be obtained from: www.wst.tas.gov.au/building or from **Building Standards and Regulation**, 30 Gordons Hill Road, Rosny Park, 7018 or P O Box 56, Rosny Park 7018 or Phone: Helpline 1300 366 322 Fax: (03) 6233 8338 Email: wstinfo@dier.tas.gov.au

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