



BUILDING SERVICES

DOCUMENT TITLE

PLACES OF PUBLIC ENTERTAINMENT (POPE) POLICY

ISSUE	DATE	CHANGE	APPROVED	REVIEW
A	3/7/2012	Initial Issue	23-7-2012	23-7-2015
B	24/2/2014	Review & Update	24/2/2014	February 2017

**Produced by
Building Services for
Mitchell Shire Council**



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1 Introduction

- 1.1 The aim of this Policy is to provide guidance to Council’s Building staff when administering, considering and deciding applications for Occupancy Permits and siting consent involving “Places of Public Entertainment” or “Prescribed Temporary Structures”, including:
- Requirements for Occupancy Permits
 - Requirements for siting consent for “Prescribed Temporary Structures”
 - Internal referral processes and consultation
 - Legislative and Council requirements
 - Public safety, amenity and health
 - Risk and emergency management
 - Sanitary facilities, access and egress
 - Approval requirements and conditions
- 1.2 The benefit of this policy is that applications for Occupancy Permits and siting consent for Places of Public Entertainment (POPE) and Prescribed Temporary Structures will be assessed in a consistent, equitable and efficient manner to the overall benefit and safety of Council and Mitchell Shire’s community.
- 1.3 This policy is consistent with the Mitchell Shire Council Plan 2009 – 2013, including the Vision, Mission, Values and Key Result Areas of Governance, Arts and Culture, Development and Sport and Recreation.

2 Definitions

- 2.1 Meanings:

“**Act**” means the ***Building Act 1993***

“**affected resident**” means:

any person occupying a dwelling located within 150 metres of the proposed event, or any other person deemed by the Municipal Building Surveyor to be an affected resident.

“**allotment**” means:

land that can be disposed of separately under section 8A of the ***Sale of Land Act 1962*** without being subdivided;

“building” means:

a structure, temporary building, temporary structure and any part of a building or structure.

“Event” means:

a circus, festival, fair/fete, sporting event, exhibition or entertainment function, occasion or gathering as determined by the Municipal Building Surveyor and applicable to an application.

“municipal building surveyor” (MBS) means:

the Municipal Building Surveyor for Mitchell Shire Council appointed in accordance with and for the purpose of the ***Building Act 1993***;

“place of public entertainment” means:

- a) 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
- b) a prescribed place or place in a prescribed class of places—
 - (i) which is enclosed or substantially enclosed; or
 - (ii) 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 temporary structure” means:

a temporary structure in a prescribed class of temporary structures.

“public entertainment” means:

an entertainment or meeting to which admission may ordinarily be gained by members of the public;

“Regulations” means:

the ***Building Regulations 2006*** or as amended from time to time

“temporary structure” means:

- a) a booth, tent, marquee or other temporary enclosure, whether or not a part of the booth, tent, marquee or enclosure is permanent; or

- b) a seating structure whether enclosed or not, including a mobile seating structure.

2.2 In the Act the definitions of “*place of public entertainment*” includes references to “*prescribed places or buildings*”, “*prescribed classes of places*” and other criteria and definitions (including *public entertainment* and *conduct*). By combining these definitions, the prescribed matters in the *Building Regulations* 2006 and other criteria in the Act, the following identify a POPE:

- Class 9b building having an area greater than 500m²;
- tents, marquees or booth with a floor area of greater than 100m²;
- seating stands for more than 20 persons;
- stages or platforms (including sky borders wings etc) exceeding 150m² in floor area;
- prefabricated buildings exceeding 100m² other than ones directly placed on the ground;
- **structures** which are used or intended to be used for the purpose of providing public entertainment; or
- Places having an area greater than 500m²:
 - which are enclosed or substantially enclosed; or
 - to which admission can be gained by payment of money or the giving of other consideration and which are used or intended to be used for the purpose of providing public entertainment.

Unless:

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

Example

A place used for a public market conducted by a Rotary club would not be a place of the class of places prescribed under paragraph (b) if the number of persons in the place at any one time did not exceed 5000.

A **community-based organisation** means a body, whether or not a corporate body, that—

- is not established primarily for the purposes of profit or gain; and
- does not distribute any part of any profit or gain made in the conduct of its activities to any member of the organisation; and
- operates in a community wholly for—

- a philanthropic or benevolent purpose, including the promotion of art, culture, science, religion, education or charity; or
- any sporting or recreational purpose, including the benefiting of any sporting or recreational club or association.

2.3 POPE's can be grouped into three categories:

POPE Buildings:

(Class 9b buildings having an area greater than 500m²)

POPE Structures:

(tents, marquees, seating stands, stages or platforms and prefabricated buildings as defined)

POPE Places:

(places greater than 500m² which are 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).

3 Policy Statement

- 3.1 A person who intends to hold a “Public Entertainment” or erect a “Prescribed Temporary Structure” must apply in writing in the form prescribed in the Building Regulations and/or by Council.
- 3.2 Where an applicant is not the owner of the subject land, an application must include the land owner's written consent to the application. An application must be accompanied by the following information:
- The reason/s for holding the event.
 - The names, addresses and emergency telephone contact details of people assigned to respond in the event of incidents or emergencies.
 - The date, duration and hours of operation of the event.
 - Written consent and or comments on the proposal from any affected residents.
 - A current copy of the Certificate of Title for the subject allotment and Plan of Subdivision or Title Allotment Plan, or other documents necessary to satisfactorily establish the ownership, extent and delineation of the land on which the event is proposed.
 - Two sets of site plans of the proposal of minimum scale 1:500 depicting:

- The boundaries and boundary dimensions of the relevant land;
 - Roads adjoining the relevant land;
 - The location of any dwellings, accommodation buildings or other buildings which may be affected by the holding of the event;
 - The location and siting of proposed the “Public Entertainment” and “Prescribed Temporary Structures”;
 - The dimensions of “Prescribed Temporary Structures”;
 - The location and dimension of entries, exits and paths of travel to exits;
 - The location and dimension of entries, exits and paths of travel to exits for people with disabilities;
 - The location and dimensions of car-parking areas, including car numbers, access and egress;
 - The location, gender use and number of sanitary facilities (both existing and additional) for use by the public, patrons, and event staff, including people with disabilities;
 - The location of residential, healthcare and educational buildings on adjoining and nearby properties within 150 metres of the land;
 - Any other buildings, structures or facilities on the allotment.
- Additional documentation in support of the application, including but not limited to -
 - Emergency Risk Management Plan;
 - The location and operation of fire safety elements, equipment and systems, including a mains pressure water supply for extinguishment of fire;
 - The establishment and operation of evacuation procedures;
 - The number, appointment and qualifications of first aid and safety officers;
 - The safety of barriers and exits;
 - The control and use of naked flame in theatrical productions;
 - The exclusion of the public from unsafe areas;
 - The keeping, testing and storage of flammable material or explosive items and equipment in a safe manner, to the extent that this is not required by other legislation;
 - The ignition of fireworks and the discharge of pistols or other shooting devices in a safe and responsible manner, to the extent that this is not required by other legislation;
 - Access to a supply of potable water adequate for the event.

3.3 Council’s Municipal Building Surveyor will administer and assess all applications according to the Act, the Regulations, this Policy and any other policies relevant to activities associated with “Places of Public

Entertainment” and “Prescribed Temporary Structures”, including the document “A Good Neighbour Code of Practice for a Circus or Carnival”.

- 3.4 Fees determined by Council in accordance with Council’s Fee Schedule under the *Local Government Act 1989*. The Municipal Building Surveyor may reduce or waive fees in the case applications by “not for profit” community based organisations.
- 3.5 Applications will be referred for comment to Council departments responsible for: Local Laws; Traffic Engineering; Statutory Planning; Environmental Health; Community & Recreation Services; and Waste Services.
- 3.6 Where an Occupancy Permit and/or Siting Consent for a “Place of Public Entertainment” or “Prescribed Temporary Structure” has been granted by the Municipal Building Surveyor (in accordance with the provisions of Part 5 of the Act), the following conditions will apply:
 - Erection of “Prescribed Temporary Structures” shall be carried out by registered building practitioners.
 - Activities associated with the structure shall be carried out in accordance with the principles and objectives of the “Good Neighbour Code of Practice for a Circus or Carnival’.
 - Motor Vehicle traffic and parking management must be conducted in a manner complying with Council requirements ensuring that no detriment is caused to the safety or amenity of the public or vehicular traffic.
 - Supply and consumption of alcohol, where applicable, shall be conducted in a responsible manner and in accordance with all relevant legislative requirements.
 - Waste management practices shall be conducted in accordance with Council requirements and any relevant legislation.
 - Activities associated with a “Place of Public Entertainment” or “Prescribed Temporary Structure” shall be conducted in accordance with the relevant provisions of the *Public Health and Wellbeing Act 2008* and the *Food Act 1984*.
 - Activities associated with a “Place of Public Entertainment” or “Prescribed Temporary Structure” shall comply with all relevant provisions of the *Local Government Act 1989*, *Planning and Environment Act 1989* and Mitchell Shire Council Local Laws.
 - The event operator is to ensure that a Public Liability insurance policy for not less than \$10,000,000 is in place for the event.
 - Any condition prescribed or listed in an Occupancy Permit issued by the Building Commission must be complied with.

- 3.7 The Municipal Building Surveyor may modify the above conditions or decline an application, for one or more of the following reasons:
- Substantive objections to the proposal from affected residents.
 - Detriment, or potential detriment, to the environment, public infrastructure, public safety, or the amenity of the precinct in which the event is proposed.
 - Proposal inconsistent with any other Council policy.
 - Proposal inconsistent with the *Mitchell Planning Scheme*.
 - Approval would create an undesirable precedent.
 - Approval would not be in the overall interests of Council or the Mitchell shire community.
 - Structure(s) do not comply with the provisions or the Act, the Building Regulations, the Building Code of Australia and/or relevant Australian Standards.
- 3.8 Where Council declines an application, the applicant will be advised of rights of appeal to the Building Appeals Board, and that the period within which an appeal can be lodged is 30 business days from that decision.

4 Policy Implementation and Review

- 4.1 This policy will be accessible to the community on Council's website, at Customer Service Centres and on request from the Building Department.
- 4.2 This policy will be communicated to internal Council departments outlined within 3.5 and to external stakeholders via those departments.
- 4.3 This policy will be maintained and implemented by Council's Municipal Building Surveyor and the Building Department.
- 4.4 The policy will be reviewed every three years, or whenever the Building Act or the Building Regulations are amended. This will include an analysis of cost, customer feedback and issues arising from use of the Policy.

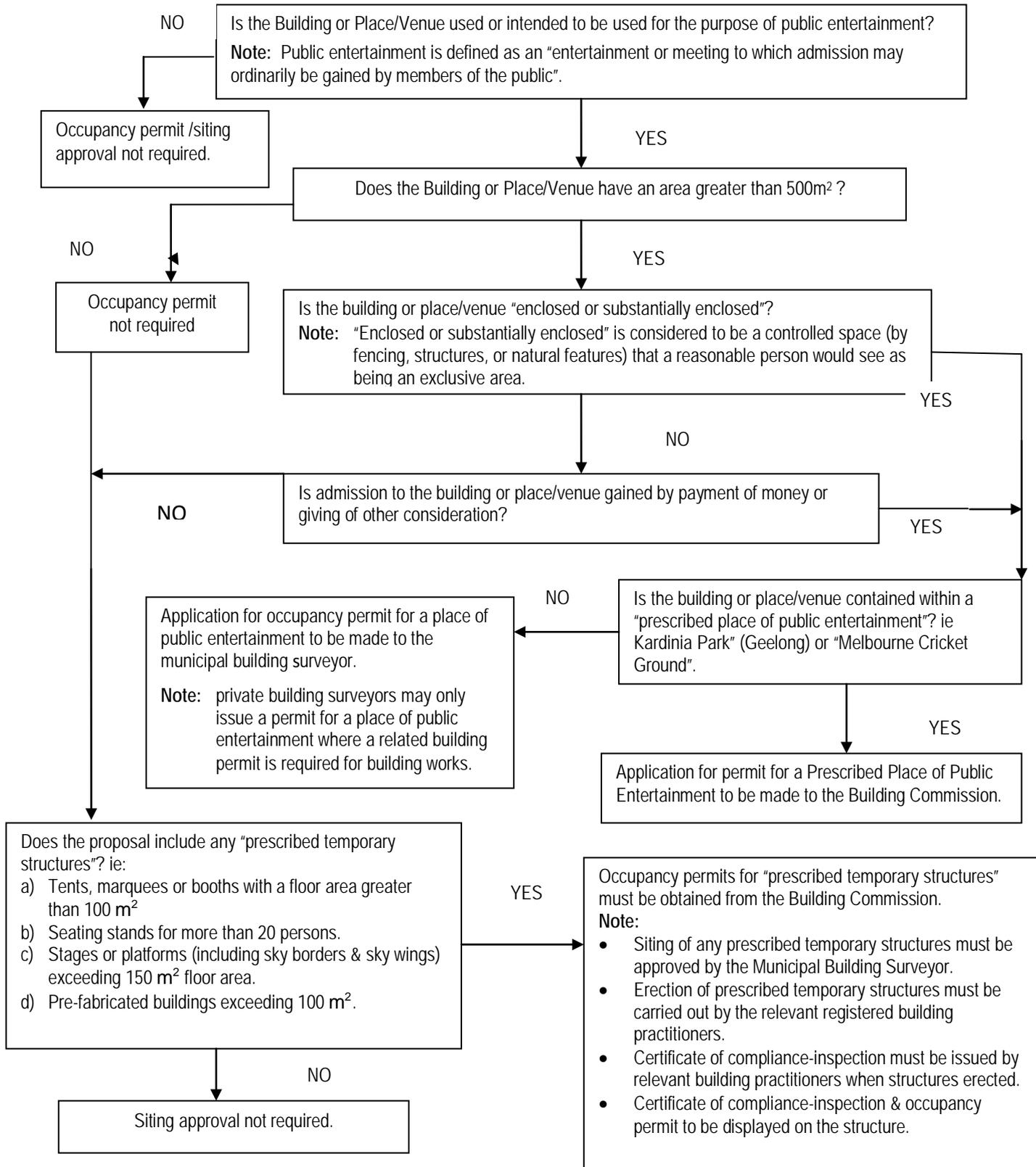
5 Reference Documents

- Building Act 1993
- Building Regulations 2006
- Building Code of Australia
(all as amended from time to time)

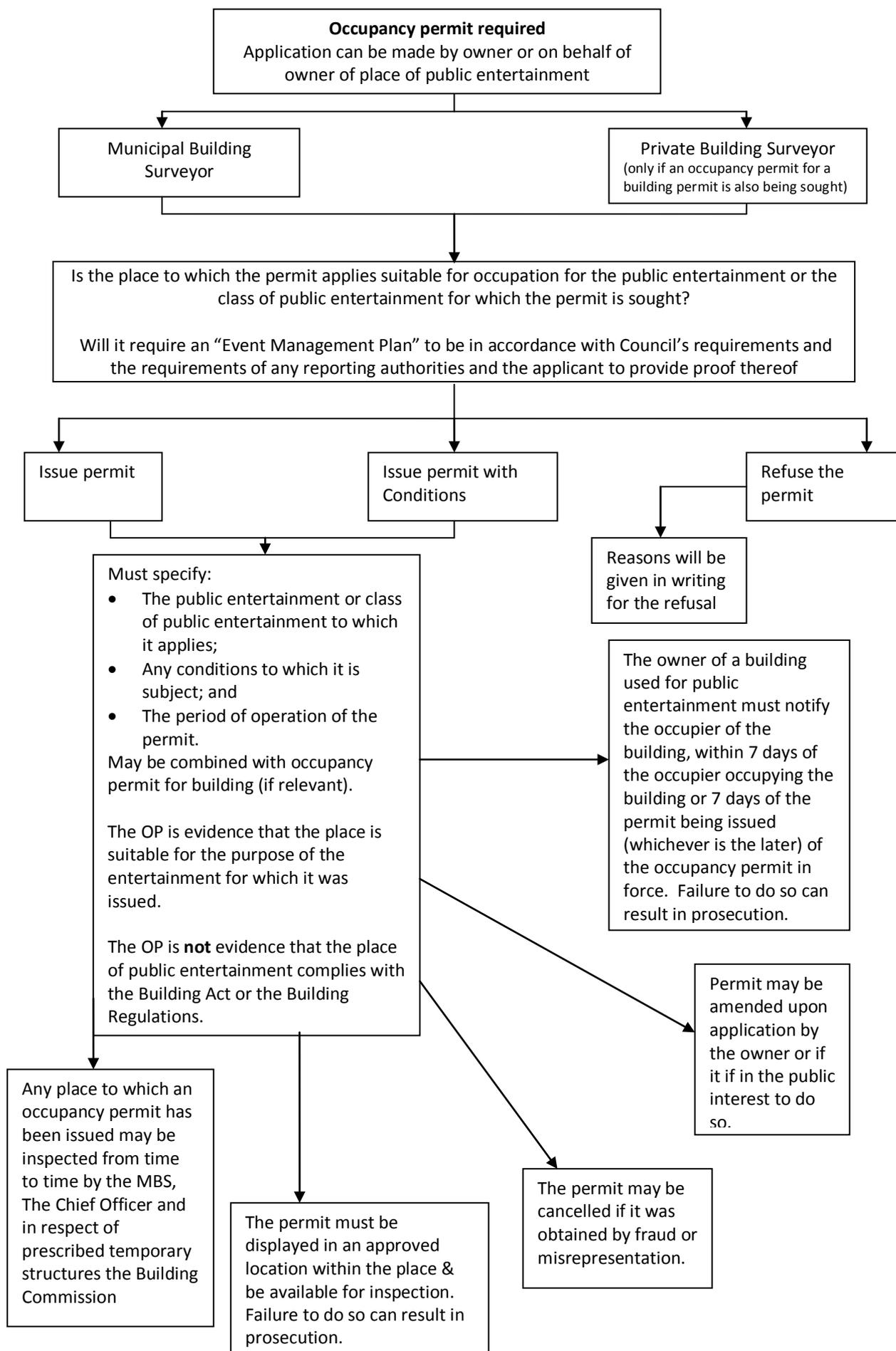
6 Appendices

- A** How to determine if an Occupancy Permit or Siting Approval is required
- B** If an Occupancy Permit is required
- C** Recommended Enforcement Procedure for Places of Public Entertainment for which a Division 2 occupancy permit has not been issued
- D** Recommended Administration Procedure for Places of Public Entertainment (Building)

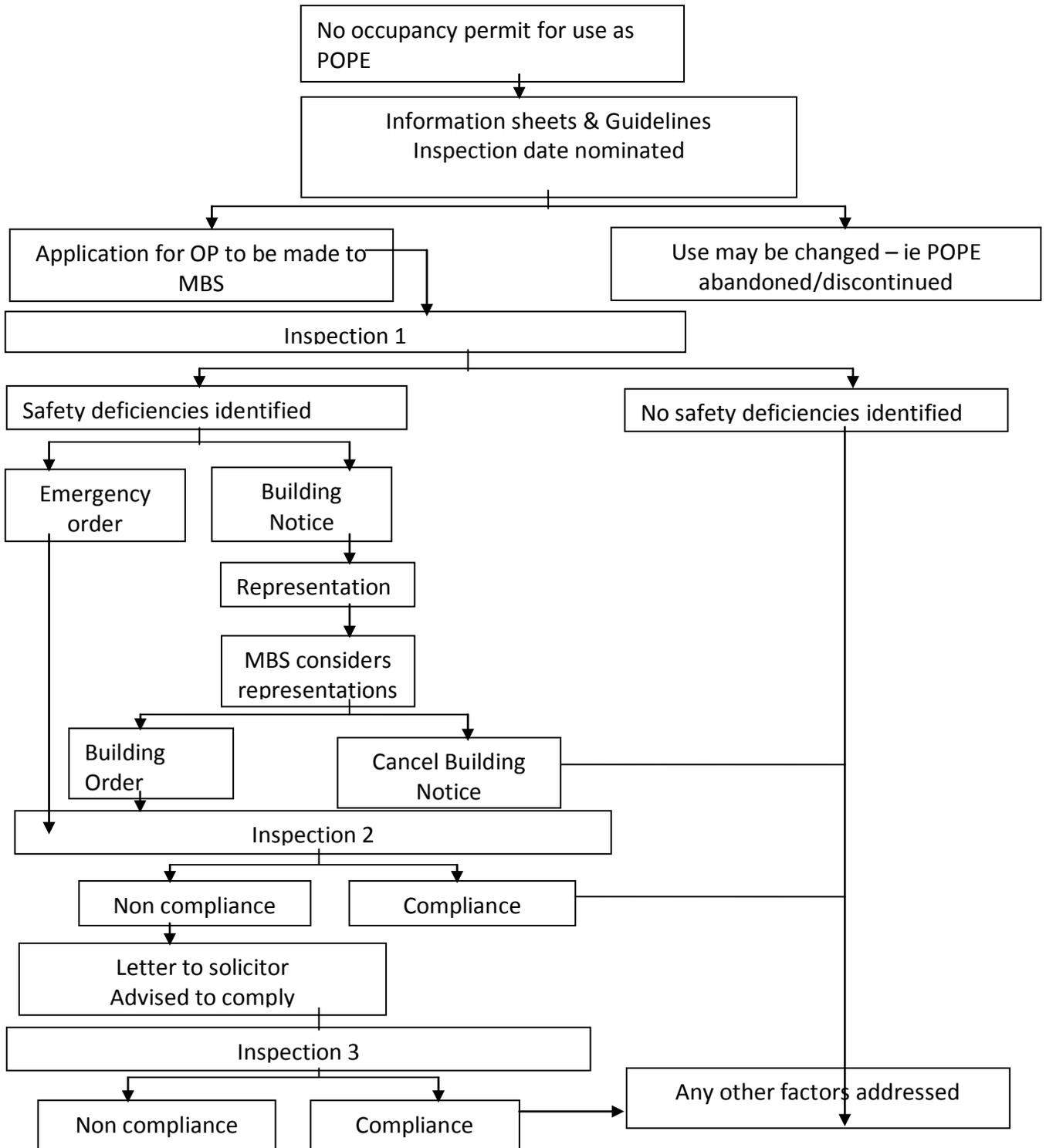
Appendix A How to Determine if an Occupancy Permit or Siting Approval is Required



Appendix B If an Occupancy Permit is required



Appendix C Recommended enforcement procedure for places of public entertainment for which a Division 2 occupancy permit has not been issued



Appendix D Recommended administration procedure for places of public entertainment (Building)

