



Managing Public Health Risks at  
Events in Western Australia  
Department of Health Discussion  
Paper  
**WALGA Submission**

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The Western Australian Local Government Association (WALGA) is the united voice of Local Government in Western Australia. The Association is an independent, membership-based organisation representing and supporting the work and interests of Local Governments in Western Australia.

It provides an essential voice for its members who are 138 Local Governments, 1,215 Elected Members and approximately 22,000 Local Government employees as well as over 2.2 million constituents of Local Governments in Western Australia. The Association also provides professional advice and offers services that provide financial benefits to the Local Governments and the communities they serve.

WALGA is appreciative of the extensive consultation with Local Government that the Department of Health (DOH) has undertaken in the regulations review, which has included the formation of an Events Working Group, development of the *Managing public health risks in events in Western Australia* Discussion Paper (the Discussion Paper) based on feedback from the Working Group, and the lengthy consultation period on the Discussion Paper. This has resulted in a greater number Local Governments having the potential to comment on development of the regulation.

## 1.0 Background

Local Government is an enforcement agency under the *Public Health Act 2016* (the Public Health Act), with Local Government Environmental Health Officers (EHOs) playing a key role in administering the Public Health Act and Regulations. Local Governments also want to support and encourage events as they encourage community cohesion, increase tourism, support local economies and create vibrant communities. To ensure broad representation of Local Government responses to the Discussion Paper, and within this submission, WALGA promoted the Discussion Paper consultation through our communication channels to Local Governments, as well as via direct emails and phone calls to various Local Governments and Local Government networks of officers working in environmental health officers, events, marketing and community development.

WALGA received seven responses from Local Governments, four were formal submission from individual Local Governments, two were general comments from Local Governments and another was a formal submission from the Metropolitan Environmental Health Officers Group (MEHMG), which is supported by the majority of MEHMG members. Additionally, WALGA officers responsible for the areas of Governance, Planning, Emergency Management and Community policy have provided comment to the submission. Officers from the Department of Local Government, Sports and Culture have also provided comments. A list of engagement avenues and responses received is included in Appendix 1.

The submission is set out with responses to questions posed by the Discussion Paper, including the overall options for future management of events and responses to the six proposals.

## 2.0 Future management options

WALGA does not support the proposed Option A to repeal the current regulations without replacement. All responses indicate that there is a need to manage public health and safety at events and that Local Government is well positioned to do this.

WALGA does not support proposed Option B to retain the status quo. All responses indicate that there is a range of different issues to address between events and public buildings, so the existing requirements in the Public Building Regulations do not adequately translate.

**WALGA strongly supports proposed Option C: Provide new regulations under the *Public Health Act 2016* with an updated guideline. All responses identified this as the preferred approach.**

The Local Government sector have identified OPTION C is the preferred option because of the following issues:

1. Recognise that there is a need to have scalability when assessing events; which is representative of the diversity of Local Governments in Western Australia
2. Need to support and encourage events as they encourage community cohesion, increase tourism, support local economies and create vibrant communities
3. Ensure that there is not a significant or unreasonable burden on Local Government to deliver these services or additional costs as a result of administering activities according to compliance
4. Important to decrease the red tape that event organisers and community members need to go through and improve consistency of what is expected of them (noting the difference across Local Government areas)
5. It is important that community members have a reasonable expectation that they will be safe if they attend an event run in their community.

As well as the benefits outlined in the submission below, two additional financial advantages to Local Governments are:

- **Infringement penalties:** Currently there is no power for infringement for non-compliance and this would be a significantly more useful tool than the only existing option of pursuing prosecution in court, which is expensive, complex and rarely used.
- **Late fee penalties:** Local Governments are requesting the additional powers to charge a fee for providing late or inadequate information. This would provide incentive for applicants to ensure that all essential information is supplied, as well as providing additional funds to the Local Government to allocate additional resources to this if required.

Key issues for consideration with Option C:

- There needs to be a series of comprehensive resources developed by the DOH in partnership with Local Government. This should include a guideline for Local Governments as the regulator and another for event planners. This will also need to include information that will support event planners of low-risk community based events through the risk management process

- DOH will need to be adequately resourced to provide training and resources to ensure that all Local Government EHO's are skilled and able to appropriately and consistently implement regulations
- Provide balance to the need for Local Governments to have adequate time to assess applications, whilst allowing for the very dynamic and often 'last minute' nature of events
- When considering a Risk Management Plan (RMP) for each event application, there needs to be assurances that there is no liability on the Local Government or Local Government Authorising Officer for any claims of damage due to alleged non-compliance with a RMP or claims that a RMP was inadequate
- There needs to be clear guidance for Local Governments as regulators and event organisers on regulations, supporting documentation and roles and responsibilities of all stakeholders.

In alignment with Option C, WALGA supports the MEHMG recommended model hierarchy of legislation. This model is also supported by individual submissions from City of Kwinana and City of Wanneroo. The Regulations, Code of Practice and Guidelines would be owned and managed by DOH and would outline the roles and responsibilities of Local Government as the legislated approver, as well as the roles and responsibilities of the applicant. It is as follows:

#### Regulations

- Provide head of powers for the two-stage application and approval process
- Provide powers for the Authorised Officer to require plans and documents in accordance with the Code of Practice
- Provide powers for approval and refusal of the event application (in full or in part)
- Provide powers to issue infringement penalties for late or inadequate applications or Risk Management Plans (RMPs) or other Management Plans, or failure to comply with the initial approval conditions, the event approval conditions, or the Code of Practice
- Provide powers to close events and issue prohibition notices
- Provide powers to prosecute for advertising an unauthorised event, with substantial penalties
- Provide powers to prosecute for failing to comply with the Code of Practice.

#### Code of Practice (or included as part of the Guidelines if enforceable)

- Include information required with the initial application
- Include the requirements for an electrical/gas safety certificate
- Include reference to relevant Australian Standards
- Include defined risk categories and the risk matrix
- Include reference to other standards such as the Crowded Places guidelines
- Include information about Public Liability Insurance and amount of cover required per risk category of event.

#### Guidelines

Local Governments have been very clear that there is a need for two separate sets of comprehensive guidelines:

1. **Guidelines for event organisers** - will need to provide scalable information for people proposing to hold an event noting that the majority of events are small, low risk and held by people who are unfamiliar with the process around event approvals. In the interest of consistency, the DoH should own and manage the guidelines to ensure that individual Local Governments do not need to develop local versions. Guidelines for event organisers should include numerous templates including basic plans for traffic, parking, waste and be accompanied with easy to interpret one page flow charts and other supporting materials. These will need to be easily accessible for all event organisers.
2. **Guidelines for Authorised Officers (AOs)** - will need to provide comprehensive information and may be similar to the current “Guidelines for concerts events and organised gatherings” published in December 2009 by the DoH. These guidelines should allow for broad definitions and must be able to be updated quickly to allow for new and non-defined types of events to be incorporated as required. This recommended information to be included in the guidelines are referred to throughout the submission as a place that will give clarity on a range of issues.

## 2.1 Proposal One – Registration of events with the Local Government

### **Q9. Do you support the replacement of the certificate of approval process with the certificate of registration process?**

The proposed two-stage application and assessment process is supported by all submissions. This largely reflects current practice, which is seen to be effective for all stakeholders; MEHMG, City of Wanneroo, City of Kwinana, City of Swan and Shire of Augusta-Margaret River.

### **Q10. Do you believe any further information should be provided on the certificate of registration?**

As outlined in the paper, the certificate of registration should contain applicant name, approved maximum capacity, type of event and operating date, time and location, as well as conditions prescribed by the authorised officer. It should also include a site plan and clearly identify the specific approved geographic area.

## 2.2 Proposal Two – Provision for risk management plans

WALGA supports a scalable risk management approach to managing public health risks at events. All submissions support this approach.

One of the main challenges of the current event assessment and approval system is that low risk events are overregulated; therefore, a focus upon scalability to ensure that low risk events are not unnecessarily burdened, while maintaining public safety is welcomed. An overarching system approach is required to provide consistency, as a potential issue is the variability in how this may be applied between different LGs. AOs are generally risk averse, and potentially the more risk averse LGs or AOs within them, may be overly cautious in risk assessments

putting unnecessary constraints on event organisers. This would have a negative economic impacts and stifle innovation.

**Q11. Do you believe that the requirement to provide adequate public liability insurance should be part of the proposed new regulations?**

WALGA supports the requirement to provide adequate public liability insurance in the new regulations. Most Local Government submissions indicated that they would not be comfortable granting approval to events without this. The Shire of Augusta-Margaret River have indicated that they do not consider this as a public health concern.

Under the MEHMG proposed model, the regulations would provide the power to Authorised Officers (AO) to require the provision of valid Public Liability Insurance (PLI) certificates. The Code of Practice should specify the amount of cover required per risk category of event. All Local Governments highlighted that it is critical to ensure that low risk community based events are not negatively affected. In these cases, a Local Government should be able to provide the PLI to support the community at their discretion (as is often currently the case).

**Q12. Do you support the requirement to provide a RMP based on risk rather than capacity?**

WALGA supports a move to a risk based approach, rather than specific crowd capacity trigger in either the Regulations or Code of Practice. All submissions received recognised that crowd size will influence the level of risk, but is not the only influence on risk and is therefore a more appropriate approach.

**Q13. Do you support the requirement to provide RMP at the application stage and provide a final version prior to approval? Alternatively, do you support a different timeline for the submission of documents?**

WALGA supports the two-staged application process, which is also supported by most submissions. MEHMG have identified where a draft risk management plan (or scaled version) should be provided at application stage and a final version is to be provided prior to the commencement of the event. The initial application should include a basic description of the risks and wherever possible a Risk Register and, when required by the AO, a full RMP before the final application deadline and prior to approval.

Both Shire of Augusta-Margaret River and City of Swan are unsure about the two-staged approach. City of Swan concerns were due to the resources needed to review the Risk Management Plan in both stages and suggest that review of the final Risk Management Plan may only be required in the case of medium or high-risk events.

**Q14. What type of additional assistance would you or your Local Government require in assessing RMP's?**

WALGA has identified the following areas where Local Government will need support:



- **Extent of Local Government’s liability in the Risk Management Process:** WALGA requests that DOH seek legal advice to consider the scenario where an AO accepts a Risk Management Plan (RMP) and issues an event approval and there is a death or serious injury, which calls the content of the RMP into question. Would the AO and/or the Local Government be liable in this situation? This issue is of great concern to all Local Governments who provided feedback. WALGA requests that the DOH investigate how the Regulations or Code of Practice can ensure that the AO and/or Local Government cannot be held liable in any way for the failure of the event organiser to comply with the Risk Management Plan, and for this to be clearly articulated in the Regulations.
- **Training:** All Local Government AOs will need adequate training on any changes to the process and how to assess RMPs prior to the legislation coming into effect.
- **Fees to assist in cost recovery:** The assessment of RMPs can take a lot of time when done correctly; Local Governments should have provision to charge for these assessments. WALGA recommends that scalable, standardised fees be introduced to ensure consistency of application across Local Government and assist in resourcing the extra workload. (MEHMG, City of Wanneroo, City of Kwinana)
- **Access to expert advice:** Local Governments have requested access to expert advice from DOH in cases where there is uncertainty about approving a RMP, particularly when looking to refuse to register an event. It is vital that this is available during the application and approval process, rather than if an event is knocked back and there is a dispute. This includes having a clear point of contact available to provide timely advice for all Local Governments.

## 2.3 Proposal Three – Provision for temporary structures

**Q15. In regards to temporary structures, do you support the proposed requirements for: a) structures to be safely erected and maintained b) prescribed thresholds c) seating d) steps e) changes in level?**

WALGA supports in principle the proposed requirements specified in the Discussion Paper, this is supported by MEHMG, City of Wanneroo, City of Kwinana, City of Joondalup, Shire of Augusta Margaret River.

All Local Governments are looking for some baseline clarity and consistency in this approach. For larger and high risk structures, MEHMG and City of Joondalup have a view to a centralised approval approach through either DOH, Worksafe or the Building Commission. The approach suits large metropolitan Local Governments, but this not likely to be feasible in smaller regional areas. The MEHMG and City of Joondalup responses are provided in Appendix 2.

## 2.4 Proposal Four – Provisions for first aid planning

**Q16. Do you support the proposed first aid requirements?**

WALGA supports the proposed first aid requirements; noting that it is important that the level of service is dependent on risk so small events are not overly burdened. MEHMG and all Local Government submissions support this, but note that clear requirements will need to be included in the guidelines.

The guidelines will need to ensure that the capacity of available first aid / medical aid in the area is considered. This is particularly significant in regional areas, where there are limited

resources and there may be competing requirements. The Shire of Augusta-Margaret River has highlighted the need for this to be included in the risk matrix.

## 2.5 Proposal Five – Provisions for exits

### Q17. Do you support the proposed exit requirements?

MEHMG has highlighted that clear guidance on acceptable exit widths is required as well as the relevant calculations. The City of Kwinana has recommended enforcement tools (such as infringement notices and prohibitions) for ensuring compliance with exits requirements are factored into the legislation. They also recommend that the Code of Conduct or Guidelines identify the requirements for types of exit gates and locks permissible for outdoor events such as concerts. WALGA recommends that the Events Working Group work to address these issues.

## 2.6 Proposal Six – Provisions for equipment and facilities

### Q18. Do you support the proposed requirements for a) general maintenance b) fire preparedness c) electrical safety d) lighting e) sanitary facilities?

WALGA supports the proposed requirements for general maintenance, fire preparedness, lighting and sanitary facilities. All Local Government submissions also reflect this, but identify the need for clear guidance on all of these needing to be contained in the Guidelines.

WALGA does not support proposed requirements for electrical and gas installations and suggests further investigation is required by the Events Working Group for inclusion in the regulations. All submissions highlighted issues in relation to electrical safety. Local Governments (MEHMG, City of Wanneroo, City of Kwinana, City of Swan and Shire of Augusta-Margaret River) have concerns in relation to whether there will be any requirement for event organisers to demonstrate compliance with the *Electricity (Licensing) Regulations 1991* for temporarily installed electrical equipment at events.

Currently it is common practice for event organisers to provide an Electrical Certificate (Form 5) on the day the event is approved to open. The certificate is required as a condition of approval and it gives confidence that an expert (usually a licensed electrician) has carried out a basic inspection of the event to check for obvious risks or defects with the temporary electrical installation. All stakeholders readily accept these electrical checks as necessary. However, the format of the Form 5 Certificate is inadequate and a new format/certificate is required with the event regulations. The new certificate needs to clarify that the electrician has carried out an inspection of the event and has not identified any potentially dangerous electrical installations. The section in the Code of Practice needs to allow scalability whereby the Authorised Officer has discretion to require (via conditions to the initial approval) a full electrical safety certificate by a licensed electrician or for low risk events, an electrical safety certificate by the event organiser.

## 2.7 Further Comment and Stakeholder Input

**Q19. Do you believe there would be any additional impact on any stakeholder group that are not listed in section 8 of the paper, or that you have not detailed in previous answers?**

WALGA recommends that powers to manage events under the new regulations are allocated to EHO as AOs. This is in line with current practice, and would allow for timely and ongoing expert input, which would be delayed if all were required to go through an executive endorsement process within a Local Government.

Additionally, AO's should have the required authority to issue on the spot infringements or prohibition notices for non-compliance. The use of prohibition notices could ensure that where a high risk to public safety issues is not appropriately addressed, the event organiser can be required to prevent patrons from using a particular section, structure, or facility at an event without having to close off/cancel the entire event. This is important as it allows public safety to be maintained, with minimal disruption. .

**Q20. Are there any other issues that you believe should be captured under regulation in addition to those outlined in the proposals?**

WALGA acknowledges that DOH are viewing these regulations strictly from a public health perspective, however consideration needs to be given to the wide range of issues that are involved in event regulation. Other issues to consider include (but are not limited to) terrorism, tourism, traffic management and waste management. Viewing all of these event issues in isolation from a regulatory perspective is inefficient and increases the bureaucracy that frustrates community members and event organisers.

Currently many Local Governments address some of these issues, but there is no consistency or regulatory guidance. Local Government events approval should, wherever possible, include all issues rather than have multiple applications and approvals. With this current opportunity of event specific regulations being developed by DOH, WALGA requests that at a State Government level consideration should be given the range of other potential regulatory requirements relating to events that could be included in these regulations, beyond the specific public health issues.

### **Traffic and waste management plans**

Unlike noise and food there is no clear legislation that addresses traffic and waste management at events. Traffic and waste both have public health implications, particularly at high risk events so there needs to be guidance about the requirement for these and what the requirements are for them. MEHMG highlight that traffic management plans should comply with the Main Roads Traffic Management for Events Code of Practice, but this needs to be updated to consider parking and events that do not require road closures. Currently there is no guidance in place for waste management at events and all Local Governments approach it differently. Guidance is required to ensure consistency across Local Governments.

### **Terrorism**

The report released by Community Development and Justice Standing Committee: Report 5, No Time for Complacency has a recommendation that relates to terrorism, and the links to event regulation review. Recommendation 9 states

“That the Minister for Local Government and Minister for Health review the existing regime for event approvals and introduce legislation that empowers Local Government authorities to compel the owners and operators of crowded places to implement protective security measures, should a Local Government authority-in conjunction with the Western Australia Police Force-deem it necessary. It is essential that any such powers are exercised proportionately; create a simple, easy-to-follow framework; and are consistent across all Local Government authorities”

MEHMG support the recommendation that terrorism and crowded places model are incorporated in to the proposed events regulations. WALGA has done significant engagement around this report and recognise that amending the Health Regulations to include the legislative requirements for risk assessment in relation to crowded places would provide clarity on the needs, but highlight that this necessities careful consideration in what unintended and unforeseeable consequences it may bring. There are a range of other issues that need to be considered about the role of Local Governments and the legislation or policy framework that this is associated with managing terrorism and crowded places.

However, if there is going to be a requirement to implement a risk management approach in relation to crowded places this should be included in this regulation review.

**Q21. Do you have any further suggestions on ways to improve the consistency of event regulation across Local Government areas, or any other comments?**

**Role of DOH**

WALGA wants to highlight that the DOH will need adequate resources to provide training and resources to ensure that together, DOH and Local Government EHO's are skilled to appropriately and consistently implement regulations. It is widely recognised that the number and complexity of events is increasing. This highlights the need for AOs to be adequately skilled and informed through targeted training and professional development. Local Governments rely heavily on the expertise and support from DOH in relation to managing public health risks at events. Local Governments have benefited significantly from support and training previously offered by Department of Health and have identified that the recent reduction in this service has resulted in increasing inconsistencies.

WALGA request that the highest possible level of support be provided by DOH as the “system manager” which is stated in page 18 of the Discussion Paper. This would assist Local Governments in the delivery of this service, as well as increasing consistency across the State, something that that the events industry is constantly calling for.

WALGA recommends that where an event is so large that it crosses one or more Local Government boundaries there is a need for a process that ensures that the event organiser does not need to obtain different approvals from numerous Local Governments, as is currently

the case. It may an option that in these cases DOH could be the single regulator, but this issue will require further investigation by the Events Working Group for inclusion in the regulations.

### **Events calendar**

WALGA recommends that further consideration is given to management of the existing DOH events calendar to ensure its effectiveness. MEHMG and City of Wanneroo have indicated that they do not support the calendar, as without the input from all Local Governments it has not been accurate. City of Kwinana, whilst acknowledging current limitations, identifies that if managed appropriately it could be a great resource for the events industry. They do note that it should include only medium and high risk events.

### **Deadlines for applications and provision of information**

There is a need to support and encourage events as they encourage community cohesion, increase tourism, support local economies and create vibrant communities as well as balancing the compliance requirements for Local Government. The nature of events means that they can sometimes be very changeable and last minute, which poses difficulties for AOs trying to grant approvals. MEHMG, City of Wanneroo, and City of Kwinana acknowledge that a strict legal timeframe requiring applications to be lodged 60 days prior to an event is not acceptable. The Code of Conduct or Guidelines will need to outline the required timeframes. MEHMG have suggested six weeks for high risk events and three weeks for medium to low risk events. This will require event organisers to have access to all the information they need to identify the level of risk of their event. There needs to be clear timeframes for issuing initial event approval (MEHMG suggests one week) included in Guidelines or Code of Conduct. Note that further consultation will be required with Local Governments to determine what the most appropriate timeframes should be.

Critically, there must be provisions within the Guidelines or Code of Conduct to allow for unusual or unexpected events, so that they can still go ahead (for example major local sporting teams making grand final).

### **Contestants/participants versus the public**

WALGA is seeking clarification for exactly who is covered under the future regulations. Some Local Governments (MEHMG, City of Wanneroo, and City of Kwinana) have raised concerns about any event approvals leaving them liable to the safety of 'active participants' in any type or race or sport. For example, there is concern that Local Governments may have the responsibility for ensuring that swimmers and runners are fit enough to compete in a triathlon or similar event. Currently, sporting clubs who use sporting reserves across Western Australia every weekend are not required to get event approval, and it is important that these types of venues and uses are not captured by the new events regulations.

The Kimberley Ultramarathon incident referred to in the events paper was not covered in the existing regulation, but the view of MEHMG is that it also should not be covered in the new

regulations. This issue may require further investigation through the Events Working Group and a conclusion reached to be included in the regulations.

## 2.8 Proposed Risk Matrix

### **Q22. Do you support the inclusion of the matrix (Appendix 1) in the guidelines to assist with assessing events?**

WALGA supports the use of the risk matrix to assist Local Governments and event applicants to determine if an event is low, medium or high risk, but further work is required to ensure that the matrix itself is adequate (supported by all submissions). An effective risk matrix with defined terms will need to be finalised following consultation with all relevant stakeholders.

The City of Kwinana and the City of Swan both used the risk matrix in Appendix 1 on previously hosted events and found that it was not what they would consider accurate.

The City of Kwinana assessed the Tianqi Symphony Spectacular event which attracted more than 6,000 people and involved allowance of alcohol consumption, noise approvals to exceed the limits, a marquee and a stage, multiple food van and stallholder permits, the requirement of risk and traffic management plans and the requirement for security to patrol the event. The planning for this event commenced a year in advance. The total score for such an event came up at 18, which fits within the Low risk rating. The City of Kwinana is of the opinion that at the very least this event would be Medium risk, more likely High risk. It is important to note that in the context of the Tianqi Symphony Spectacular, 45 days (the approval timeframe suggested previously) would not be sufficient to manage the application process and completion of all the documentation and therefore, the risk rating could be considered high. Further, in support of the high risk classification, the event would tick six boxes of the criteria listed in the previous section for considering whether an event is high risk. However, if in the context of much larger events, if the example event is to be considered Medium risk, the legislative requirements for managing risks at such events should be reduced and legislated accordingly.

The City of Swan also used the provided matrix to evaluate a large outdoor entertainment venue where they have; concerts, are outdoor but defined boundaries, up to 5000 persons, mix between seated patrons and standing, predominately adults (usually, although this does depend on the event) within 45 minutes of hospital which reached a low risk rating. However, there is potential that if an event is at night in subdued lighting, in an amphitheatre full of steps, in an extreme bushfire risk area, significant alcohol consumption (or many other options) which would significantly increase the risk profile.

It is highly likely that there will be many other such examples across Western Australia, where the risk rating of the event is not commensurate with the time required to process the application for such events and the provision of required documentation by the event organiser. Therefore, careful consideration is required to develop an effective risk matrix with significant stakeholder consultation.

A significant challenge for many regional Local Governments is the capacity for emergency services to respond to an incident at an event, particularly if there are multiple events occurring

across the region at the same time. This needs to be considered when rating the risk of an event and should be included in the risk matrix.

Additionally it is important that the DOH, as system manager, own and manage the risk matrix, to ensure that there is consistency across all Local Governments.

### 3.0 Conclusion

Thank you again for the opportunity to make comment on the *Management of Public Health Risks Associated with Events in Western Australia* Discussion Paper. Local Governments are appreciative of the opportunity to provide input on the development of the *Public Health Act 2016* regulations, and it is anticipated that integrating the experiences and knowledge of Local Government Environmental Health Officers into regulation will lead to improved safety at all events.

It should be noted that this submission has not yet been considered or endorsed by WALGA's State Council and therefore is an interim submission. The Association reserves the right to modify or withdraw the comments as directed by State Council. This submission will be considered at the WALGA State Council meeting in September 2019 and you will be notified of the outcome.

## 4.0 Appendix 1.

Written submissions received from:

- Metropolitan Environmental Health Officers Group
- City of Wanneroo
- City of Kwinana
- City of Swan
- Shire of Augusta-Margaret River

Comments received from:

- City of Joondalup
- Shire of Wagin
- Kirstie Davis (WALGA)
- Vanessa Jackson (WALGA)
- Melissa Pexton (WALGA)
- Jodie Holbrook (DLGSC)

### Engagement Process

Newsletters:

- WALGA Local Government News
- WALGA Planning News

Emails:

- MEHMG
- LG Environmental Health Officers Mailing List
- LG Community Development Officers Mailing List
- LG Event and Marketing Officers Mailing List
- LG Health Promotion Network

Direct contact:

- Shire of Broome
- Shire of Busselton
- City of Perth
- City of Mandurah
- City of Fremantle
- City of Wanneroo
- Shire of Augusta-Margaret River
- Shire of Wagin

Info page with summary information developed and distributed

Submission sent to WALGA People and Place Policy Team and Executive Committee



## 5.0 Appendix 2. Responses to Question 15 from MEHMG and City of Joondalup

### City of Joondalup response

The discussion paper references s69 of the *Building Act 2011* – that in effect, requires a permit for a building or incidental structure that members of the public will use or have access to.

However, the discussion paper states that *the Building Commission has advised that where such buildings are subject to health provisions and requirements, these processes are adequate and that issuing a building permit is unnecessary duplication.*

As the existing *Health (Public Building) Regulations 1992*, do not have any requirements regarding structures, this advice appears to be counterintuitive and be a significant contributing factor to the existing inconsistencies between local governments for managing temporary structures at events.

Where the Building Commission accept that s69 requires temporary structures at events to be subject to a building permit process, and where the *Health (Public Building) Regulations 1992* do not contain provisions that relate to structures, the most common sense and lawful approach is that the Building Commission ensure that the *Building Act 2011* is correctly administered for temporary structures.

Introducing requirements for temporary structures under new event regulations may be inconsistent to the general approach that has been adopted for the review of all regulations under the *Health (Miscellaneous Provisions) Act 1911*. As an example; In consideration of the proposed public building requirements, the previous discussion paper '*Managing public health risks in public buildings in WA*' indicated that duplication of structural requirements (eg steps and landings, seats and aisles, electrical certification) with the *Building Act 2011* would be avoided.

It appears that more certainty should be provided by the Building Commission on the application of the *Building Act 2011* to temporary structures at events, as well as guidance to local governments and event organisers. This may have a significant impact on any new event related regulations.

There is commonality to the nature of assessment of structures, such as examining engineering drawings, engineer's conditions or verifying engineer's certifications, to the assessment of other structures under the *Building Act 2011* and subsidiary legislation. Temporary structures also provide a unique challenge where they are continuously erected and then dismantled. Although event sites can vary in terms of risk to adverse weather conditions or the nature of the ground surface, a central approving authority could significantly improve the management of temporary structures at events.

To this effect; rather than temporary structures receiving formal approval each time they are erected at various locations across WA, it is proposed that a once off (or time specific) approval be given by a central approving authority. This may be to each individual type of construction (eg 'Type A' marquee), rather than each individual structure. It is proposed that temporary

structures at events could be managed through the Building Commission as the lead agency. Benefits of this approach would include:

- Absolute certainty to event organisers
- Consistency between local governments
- Assurance that permits have been assessed by the appropriate specialist officers with the relevant skills and experience
- Reduced 'red tape' and administrative burden, by negating the need for event organisers to seek permits for temporary structures

With this approach, a local government through the event approval/registration process, can ensure that any specific conditions of approval are met. This may include certification by a suitably qualified person, the installation of an anemometer, and the like.

In regard to the proposed requirements that relate to an arbitrary floor area, particularly a requirement for an engineer's certification for structures over 55m<sup>2</sup>; this approach may be unreasonable. The risk of harm to the public from a structure failure should consider other factors relating to the nature of the structures design. A 9m x 9m (81m<sup>2</sup>) marquee that is made up of 3m spans and is 2.4m tall, may present less risk than a structure that is 5m x 5m, but 8m tall with attachments such as performance lighting, art works or other items. A smaller structure that is enclosed may pose a greater risk than a larger open structure. A fixed structure such as a large viewing platform that simply folds out (similar to a 'trailer stage'), may present less risk than a smaller platform that is erected on site with different materials.

It is noted that the discussion paper indicates that 9m<sup>2</sup> – 55m<sup>2</sup> may require some discretion to require engineer's certification, it may be unreasonable to require every structure over 55m<sup>2</sup> to provide engineer's certification.

The exclusion of structures that are 'not in public areas' may be inadequate. For example, a stage may not be considered a public area, however stage collapses have caused deaths to patrons located in close proximity.

It is not clear whether occupational, health and safety legislation would be adequate to proactively consider risk for structures 'not in public areas'. If it was considered that occupational, health and safety legislation is adequate to manage this risk, it is unclear why this would not be applied to every structure to avoid legislative duplication. Structures that are accessible to the public will also be accessible to employees.

In summary, requirements for structures to be safely erected and maintained is supported. The challenges are on how this can be practically administered with consideration to:

- Consistency across local government
- The skills and expertise of Environmental Health Officers – if structures form part of new event regulations
- Reduced administrative burden to event organisers
- A reasonable regulatory approach
- The application and enforcement of the existing requirements of the *Building Act 2011*

## MEHMG

AO's support an approach similar to that applied to Mechanical Rides by Worksafe. DoH officers (or Worksafe) should assess and approve all large structures/tents via a certificate with an expiry date. DoH would liaise with the owner of each structure and ensure that a structural engineers certificate is provided. The DoH/Worksafe certificate should include the specific installation measures for each structure including maximum permitted wind speeds and maximum occupancy numbers. This system would only apply to large structures and will require additional resources for DoH/Worksafe but its value for Local Government and event organisers would be significant. This requires more attention and should be addressed by the Events Working Group.

In respect to other temporary structures a similar process to what is currently being applied would be supported. At present AO's are requiring an Engineers certification of the temporary structure, and then certification that the structure has been erected in accordance with the requirements of the manufacturer.

AO's support a suitable/competent person being allowed to erect the structure and following the relevant instructions, but having an engineer inspect and sign off every time a circus tent, temporary stand or other temporary structure is erected is not likely to be feasible. Where the owner erects the structure (which is currently the norm for larger structures) then they should carry the risk and ensure that the situation is suitable.