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# Public Buildings Regulation Review

## Overview

The key focus of this review is to obtain stakeholder feedback on the most effective option for the management of public health risks associated with public buildings in Western Australia.

Please read the discussion paper entitled **Managing public health risks in public buildings in Western Australia**, before completing this survey.

The discussion paper outlines a number of options and recommendations for managing public health risks associated with public buildings in WA.

These options include:

- **Option A:** Take no action - repeal the existing regulations without replacement and allow the industry to self-regulate
- **Option B:** Provide new, updated regulations under the Repeal the *Public Health Act 2016*

The feedback will be presented to the Better Regulation Unit to aid in future management decision making.

The survey should take approximately 40 minutes to complete. There are 28 questions. You do not have to comment on all the questions, and can focus on those areas that are important to you.

Unless marked as confidential, all correspondence will be regarded as public and documents may be made available on the Department of Health website or viewed by members of the public on request. If you wish for your response to remain confidential please check the box at the beginning of the survey.

You can read the **survey questions here** <[user\\_uploads/public-buildings-citizenspace-questions.pdf](#)> prior to completing the online survey.

## Why we are consulting

With the introduction of the *Public Health Act 2016* in WA, all public health regulations, including the *Health (Public Buildings) Regulations 1992*, must be reviewed and either repealed or replaced with regulations aligned with the new regulatory framework.

You are welcome to provide additional feedback that may not be related to any of the questions or ideas for options that have not been considered.

Please explain the reasons behind your suggestions, and where possible evidence to support your views, estimates of any costs that may relate to the proposal, and examples of solutions.

## Introductory text

Please read the discussion paper '*Managing public health risks in public buildings in WA*' before attempting to answer these questions.

The *Introduction* and *Future management options* sections contain a number of mandatory questions which must be completed. However, for the rest of the survey you do not have to comment on all of the questions and can focus on the areas that are important to you.

When you complete each section, you will be returned to this page. Once you have completed at least one section, a submit button will appear.

**Please make sure that you click the 'Submit' button at the bottom of this page in order to send your answers.**

## Introduction

Would you like this response to be confidential?

(Required)

*Please select only one item*

Yes  No

What is your name?

Name

What is your email address?

Please enter your email address (Required)

## Please indicate who you represent

(Required)

Please select only one item

- Local government     State government     Industry representative  
 Member of the public     Other

What is the name of the organisation you represent? If you are a member of the public please type 'public'.

## Future management options

Options for the management of public buildings are detailed in section 7 of the discussion paper (page 19-21).

The options examined are:

### **Option A: Take no action (repeal without replacement)**

With the implementation of the *Public Health Act 2016*, the existing regulations must be repealed. Option A means they would not be replaced by regulation, and owner/occupiers would become responsible for self-regulation. The Department of Health could issue non-mandatory guidance documents and authorised officers could use the general public health duty if any issues arose.

### **Option B: Provide new, updated regulations under the *Public Health Act 2016***

This option would involve the development of new regulations under the *Public Health Act 2016*, which would be enforced by authorised officers as is current practice. Proposals for what these regulations could look like are detailed in the discussion paper.

**1 Do you support the adoption of Option A: Repeal without replacement?**

(Required)

*Please select only one item*

Yes  No

Why or why not?

**2 Can you identify any further advantages or disadvantages of Option A?**

Please explain.

### 3 Do you support the adoption of Option B: Provide new, updated regulations?

(Required)

*Please select only one item*

Yes  No

Why or why not?

### 4 Can you identify any further advantages or disadvantages of Option B?

Please explain.

### 5 Do you have any suggestions for alternative options that have not been considered in the discussion paper?

Please explain your ideas by providing examples of complaints, case studies, data or other evidence.

## Proposal 1 - Amend the definition of a public building

*Proposal 1 - Amend the definition of a public building* is detailed in section 8.1 (page 22-26) of the discussion paper.

It is proposed that the definition of a public building is changed in order to accurately reflect the type of buildings that pose a public health risk.

Key aspects of the definition include:

- that events and temporary structures be excluded
- that buildings with total space for less than 50 people be excluded
- that broad types of purposes (such as social, religious or recreation) be specified
- that 'directly associated gathering areas' such as beer gardens or patios be included.

It is also proposed that a risk matrix (Appendix 1) would be used to classify public buildings as high, medium or low risk - most local governments already use their own matrices to do this.

Management requirements such as risk management plans would then be scalable based on the level of risk - a high risk building would have to provide far more detail than a low risk building.

### **Proposed exclusions**

It is recommended that the following types of buildings continue to be excluded from public buildings regulation:

- Correctional centres
- Places of child care
- Private healthcare facilities
- Places of transit

### **Buildings for consideration**

The Department of Health is seeking comment on the inclusion or exclusion of the following types of buildings in public buildings regulation:

- Places of tuition (assembly areas only)
- Public health care facilities (assembly areas only)
- Shopping centres
- Places of aged care (assembly areas only)
- Restaurants

Please keep in mind that only areas with a maximum capacity of more than 50 people would be included under the new proposals.

**6** Do you believe any of the current public building types should be excluded from regulation? A non-exhaustive list is provided on page 7 of the discussion paper as an example.

Please explain your reasoning.

**7** Do you believe that excluding buildings with a total capacity of less than 50 people (page 22) would have any adverse impacts on public health?

*Please select only one item*

Yes  No

Please provide specific examples.

**8** Do you support the exclusion of buildings under 'Proposed exclusions' (page 23)? Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

**9** Do you believe that any of the following 'Buildings for consideration' (page 24) should be regulated as public buildings? Please tick all that are applicable.

*Please select all that apply*

- Places of tuition  Public health care facilities (assembly areas only)  
 Shopping centres  Places of aged care (assembly areas only)  Restaurants  
 Other

Please explain your reasoning or make additional comments.



**10** Overall, do you support the proposed changes to the definition of a public building in section 8.1? Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

**11** Can you identify any situations where comparable regulations exist in similar buildings (that are not public buildings)? The purpose of this question is to identify any potential duplication.

Please provide examples where possible.

## Proposal 2 - Requirement for registration

*Proposal 2 - Requirement for registration* is detailed in section 8.2 (page 26-28) of the discussion paper.

At present, a certificate of approval is required to open a public building. It is proposed that the certificate of approval process be changed to a registration process in order to align with the *Public Health Act 2016*.

It is proposed that the certificate of registration should include:

- the prescribed use of the building
- the maximum accommodation permitted for the building
- any other conditions to which the registration is subject and
- approved Performance Solutions associated with the building.

### **12** Is there any additional information you believe should be included on the certificate of registration?

Please explain.

**13** Do you support the replacement of the certificate of approval process with the certificate of registration process? Please detail the positive and negative impacts on you or your organisation.

Please select only one item

Yes  No

Comments

### Proposal 3 - Requirement for an annual or other fee

*Proposal 3 - Requirement for an annual or other fee* is detailed in section 8.3 (page 28-29) of the discussion paper.

There is no process in place for regular reviews of public building safety documentation (such as evacuation plans and risk management plans) at present. Such documents must remain current in order to respond adequately in an emergency.

It is proposed that under the new registration process, public buildings also be subject to review on an annual (or other pre-determined time period) basis, including a fee. This fee would be fixed and recovered under the *Local Government Act 1995* and would be set on a cost recovery basis to cover expenses such as administration and inspections.

Risk level	Fee frequency
High	Annually
Medium	Every 3 years
Low	Every 5 years
Very low	Only in the instance of change

The proposed fee frequency for different risk levels is:

**14** Do you support the requirement for an annual or other registration fee?  
Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

## Proposal 4 - Amend risk management plan requirements

*Proposal 4 - Amend risk management plan requirements* is detailed in section 9.1 (page 30-31) of the discussion paper.

At present, a risk management plan (RMP) is required for public buildings with a maximum capacity of more than 1,000 people. This does not accurately reflect the types of public buildings which require risk management planning.

It is proposed that owners/occupiers of public buildings be required to develop a RMP based on the building's risk level rather than its maximum capacity (Please note that the determination of a building's risk level is separate from the RMP process itself, and would be based on the risk matrix on page 44 of the discussion paper).

It is proposed that RMP's continue to be developed in accordance with the current version of Australian/New Zealand Standard ISO 31000.

It is also proposed that authorised officers be able to:

- view an RMP on request
- comment on an RMP and
- request amendments to be made to an RMP.

**15** Do you support the requirement to provide a risk management plan based on risk rather than capacity? Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

**16** For authorised officers: What type of additional assistance would you or your local government require in assessing risk management plans?

Please explain.

## Proposal 5 - Improve transparency of Performance Solutions

*Proposal 5 - Improve transparency of Performance Solutions* is detailed in section 9.2 (page 31-33) of the discussion paper.

Under the Building Code of Australia (BCA), Performance Solutions can be used to make modifications that satisfy the BCA but may not comply with safety requirements under the Public Buildings Regulations. They are often poorly documented throughout the application process.

Authorised officers need information on Performance Solutions in order to make decisions about the maximum accommodation of the public building.

It is proposed that prior to registration, authorised officers must be provided with fire engineering reports or any other report or documentation pertaining to a Performance Solution that has been applied and approved within a public building.

It is proposed that authorised officers have the power to ensure compliance with any special requirements relating to building operation that were approved when the building was opened, such as a condition associated with an approved Performance Solution.

**17** Do you support the requirement to provide Performance Solution information to authorised officers prior to registration? Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

**18 For authorised officers: Have you faced any challenges in dealing with Performance Solutions?**

Please detail and provide examples where possible.

**19 Are there any other measures you believe could be taken under Health legislation to protect public safety in regards to Performance Solutions?**

Please explain.

## Proposal 6 - Requirements for temporary structures

*Proposal 6 - Requirements for temporary structures* is detailed in section 9.3 (page 33-35) of the discussion paper.

The approval process for temporary structures such as tents, marquees, tiered seating and enclosures can vary widely between local governments.

It is proposed that a baseline set of requirements for temporary structures are introduced in regulation:

**Structures up to 9m<sup>2</sup>:** No sign off required.

**Structures up to 55m<sup>2</sup>:** A competent person/installer is required to sign off.

**Structures over 55m<sup>2</sup>:** A structural engineer is required to sign off.

Multiple structures at a large event could be listed on a single sign off by a structural engineer, as is current practice.

If a structure is not in a publicly accessible area, or is only for use by staff, sign off may not be required.

### 20 Do you support the proposed thresholds and levels of qualification for sign off of temporary structures (page 35)?

*Please select only one item*

Yes  No

If no, please detail your preferred alternative.



## 21 Would prescribing thresholds for the sign off of temporary structures affect you or your organisation?

Please select only one item

Yes  No

If yes, please describe the advantages and disadvantages.

### Proposal 7 - Repeal electrical requirements from the Public Buildings Regulations

*Proposal 7 - Repeal electrical requirements from the Public Buildings Regulations* is detailed in section 10.1 (pages 36-37) of the discussion paper.

Under the Public Buildings Regulations (Regulation 10), owners/occupiers are required to provide certification of electrical work through a Form 5 Certificate of Electrical Compliance. This is considered to be a duplication of other legislation effectively administered by more appropriate agencies. Additionally, authorised officers are not trained or qualified to assess the safety of electrical installations.

It is proposed that the requirement to complete a Form 5 is repealed.

**22** Do you support the proposal to repeal the requirement for a Form 5 (electrical safety certification)? Please detail the positive and negative impacts on you or your organisation.

Please select only one item

Yes  No

Comments

## Proposal 8 - Repeal requirements adopted into the BCA 2019

*Proposal 8 - Repeal requirements adopted into the BCA 2019* is detailed in section 10.2 (pages 37-38) of the discussion paper.

The Department of Health and Building and Energy have agreed to move a number of construction requirements from the *Health (Public Buildings) Regulations 1992* into the Building Code of Australia 2019. This process will happen regardless of the outcome of this consultation.

As such, it is proposed that these requirements be repealed without replacement, and that any parts which will carry over be reworded. Included are a number of regulations for:

- Permanent seats and aisles. It is proposed that requirements for temporary seats and aisles are adopted into new public buildings legislation
- Steps and landings (handrails, treads and risers)
- Exit requirements
- Lighting of egress
- External lighting

**23** Do you support the proposal to repeal the requirements which duplicate the BCA? Please detail the positive and negative impacts on you or your organisation.

Please select only one item

Yes  No

Comments

## Proposal 9 - Repeal various other requirements

*Proposal 9 - Repeal various other requirements* is detailed in section 10.3 (pages 38-41) of the discussion paper.

A number of requirements are now outdated or covered by other legislation, and it is proposed that they are repealed and not replaced. This includes a number of the requirements for:

- Exit doors
- Exit signs
- Electric fans
- Heaters
- Minimum illuminance for sanitary facilities
- Fire and smoke control devices
- Artificial lighting
- General lighting
- Position of luminaires
- Emergency lighting
- Safety lighting

**24** Do you support the proposal to repeal the regulations listed in Proposal 9? Please detail the positive and negative impacts on you or your organisation.

*Please select only one item*

Yes  No

Comments

**Further comments and stakeholder impacts**

**25** Do you believe there would be any additional impacts on any stakeholder group that are not listed in section 10 (page 41), or that you have not detailed in your previous answers?

Please explain.

**26** Do you have any further suggestions on ways to improve consistency of public building regulation across local government areas, or any further comments?

Please explain.

## Proposed risk matrix

A proposed risk matrix is detailed in Appendix 1 (page 44-45) of the discussion paper. This risk matrix would be used to classify public buildings into low, medium and high risk categories.

**27** Do you support the use of the matrix in Appendix 1 to assess public buildings? Please detail the positive and negative impacts on you or your organisation.

Comments

**28** Can you think of any examples of areas where this matrix may fail to classify buildings accurately?

Please detail.