

**Temporary Occupancy of Buildings
Policy**

GOV-DEV 007

Authority and Other Information	
Date of approval	28 September 2016
Source of approval	Council Resolution No. 15.041/16
Date of commencement	28 September 2016
Source of authority	<i>Building Act 2000</i>
Legislative Reference	<i>Building Act 2000</i> <i>Building Regulations 2014</i>
Delegations	Section 11 of the <i>Building Act 2000</i>
Strategic Plan Reference	1F
Date of review	At least once every four years but not later than September 2020 or as required as a result of any legislative change
Previous policies withdrawn or amended	<i>Temporary Occupancy of Buildings and Structures and Occupation of Caravans Policy</i> adopted 17 October 2012 by Council Resolution No. 15.034/12*
Department responsible for implementation	Regulatory and Development Services
Department responsible for policy	Regulatory and Development Services
Publication of policy	A copy of the Policy be placed on Council's website and copies be made available for inspection at and free of charge from Council's Customer Service Centre.

1. Purpose and Background:

1.1 Background

Pursuant to Division 4 of Part 8 of the *Building Act 2000* a person must not occupy an existing building or a temporary structure in respect of which an occupancy permit is not, or is not likely to be issued unless a *Temporary Occupancy Permit* is in force in respect of that building or temporary structure or the Building Regulations provide that a *Temporary Occupancy Permit* is not required for that building or temporary structure.

An owner, or an agent of the owner, of an existing building or temporary structure may apply to the General Manager for a *Temporary Occupancy Permit* to occupy the building or temporary structure.

The General Manager may grant an application for a *Temporary Occupancy Permit* if satisfied if the building or temporary structure is suitable for occupation. A permit is subject to any reasonable and relevant conditions.

The General Manager may cancel a *Temporary Occupancy Permit* if the building or temporary structure is unsafe or unhealthy or any condition of the permit is not complied with.

The General Manager is required under the Act to take into account a number of matters when considering an application for temporary occupancy as follows:

- A certificate of suitability for temporary occupation of the building provided by a building surveyor; and
- The construction of the building; and
- A certificate of likely compliance of the temporary structure with requirements of the *Building Code of Australia*; and
- The distance of the building or temporary structure from any adjoining fire source or feature; and
- The intended temporary occupancy use of the building or temporary structure; and
- Any access to wastewater management systems in place or provided; and
- Any plumbing permit or special plumbing permit granted; and
- Any access to a temporary water supply; and
- The suitability of the electrical installation in and around the building or temporary structure.

The General Manager must refuse an application for a *Temporary Occupancy Permit* if satisfied that the building or temporary structure is not suitable for temporary occupation.

In granting either of the abovementioned permits, the fact that a person applies does not make them entitled to receive the permit.

As a matter of policy the issue of any permit for occupancy of a *Building or Structure* is such that it is temporary of nature.

Policy guidelines are therefore required in the circumstances where a *Building or Structure* is to be occupied to ensure that there are no circumstances of permanent occupancy of a *Building or Structure* without the necessary approval.

1.2 Purpose

The purpose of this Policy is to ensure that occupation of a *Building or Structure* is of a temporary nature only.

2. Definitions:

In this Policy:

“Building or Structure” includes a Temporary Structure but does not include any *Building or Structure* that has been approved for *Permanent Accommodation* under the *Building Act 2000*;

“Event” means the use of a temporary structure within the meaning of the *Building Act 2000* for the purposes of any *Event* which includes but not limited to Huon Show, Taste of the Huon, Cygnet Folk Festival, Mid-Winter Fest, Focus on Franklin, any Market, fundraising stall and similar activities;

“Permanent Accommodation” means the full time permanent occupation of a *Building or Structure*;

“Permanent Dwelling” means a building approved as a Class 1 Dwelling under the *Building Act 2000*;

“Temporary Accommodation” means the full time occupation of a *Building or Structure* for the temporary period while a *Permanent Dwelling* is constructed on the land;

“Temporary Occupancy Permit” means a *Temporary Occupancy Permit* issued in accordance with Division 4 of Part 8 of the *Building Act 2000*;

“Temporary Use” means an activity which requires the provision of full time on-site accommodation in a *Building or Structure* for the period of the activity which may include construction, agricultural or other similar or seasonal activities.

3. Policy Statement:

The Council will issue Temporary Occupancy Permits for occupation of buildings and structures only for the purposes of occupancy of a temporary nature taking into account the following matters:

3.1 No *Temporary Occupancy Permit* shall be issued unless the following conditions are met:

- (a) The application is in accordance with the requirements of the *Building Act 2000*;
- (b) The proposed occupancy has any necessary permit required under the *Land Use Planning and Approvals Act 1993* and the application is consistent with that permit is applicable;
- (c) Title to the land on which it is proposed to occupy shall be in the name or names of the person(s) making the application (evidence of a transfer that is not yet registered will be sufficient) or written permission of the owner of the land is provided if the applicant is not the owner;
- (d) There are no other dwellings existing on the land for which the application is made, except for the purposes of *Emergency Accommodation*;
- (e) The *Building or Structure* to which a *Temporary Occupancy Permit* is to be issued must meet all requirements of the *Building Act 2000*.

3.2 A *Temporary Occupancy Permit* will be issued for a 12 month period from the date of approval except for the case of a *Temporary Use* where it shall only be issued for the specified time period associated with the use.

3.3 Extension of a *Temporary Occupancy Permit* will only be considered for the purpose of *Temporary Accommodation* subject to consideration of progress towards a *Permanent*

Dwelling provided that any extensions are for 12 month periods only and are not to exceed two further extensions unless an extension of time to complete the building work for the *Permanent Dwelling* has been extended in accordance with the *Building Act 2000* and then for the period of that extension only.

For the purposes of this clause, plans for a *Permanent Dwelling* on the land, in accordance with the Council's current development application guidelines, must be approved and a relevant building permit issued prior to or at the time for making the application for an extension of the *Temporary Occupancy Permit*.

4. Application:

This policy applies to applications for a *Temporary Occupancy Permit* under the *Building Act 2000*.

This Policy does not apply to a *Temporary Occupancy Permits* required for an *Event*.

5. Procedures:

Procedures for the issuing and consideration of applications for *Temporary Occupancy Permits* are to be in accordance with the *Building Act 2000*.