

<b>Circular</b>	PS 09–028
<b>Issued</b>	26 October 2009
<b>Related</b>	Replaces PS 08–012

## Planning for entertainment

The purpose of this circular is to advise councils of changes that have been introduced to the regulation of public entertainment under the *Environmental Planning and Assessment Act 1979*.

Amendments have been made to the planning system to facilitate the wider provision of live entertainment at premises around NSW by removing unnecessary regulation whilst retaining appropriate safeguards to public amenity and safety.

Commencing on 26 October 2009 there will be a simpler and fairer approval system for live entertainment that will replace the place of public entertainment licensing system which has been removed. As part of the changes the term 'place of public entertainment' (POPE) will be removed from relevant planning legislation.

The changes mean that pubs, restaurants, registered clubs and other venues do not need development consent to provide live, or any other form of, entertainment that is part of the venue's main business.

The changes have been put into effect by:

- commencing certain provisions in the *Environmental Planning and Assessment Amendment Act 2008* that repeal the definitions of place of public entertainment and public entertainment and allow for regulations to be made dealing with entertainment venues
- amending the Environmental Planning and Assessment Regulation 2000 to introduce a definition of 'entertainment venue' as cinemas, theatres, concert halls and indoor sports stadiums, which will replace the term POPE and relate to a narrower range of uses. The amendments also allow for councils to impose reviewable conditions on development consents relating to hours of operation and maximum capacity, and make a number of other changes relating to the regulation of entertainment venues and temporary structures
- amending State Environmental Planning Policy (Places of Public Entertainment and Temporary Structures) 2007 (the SEPP) to remove the requirement for development consent for POPEs. The SEPP has also been amended to remove all references to POPEs in the

provisions of the SEPP dealing with temporary structures. As part of the changes, the SEPP will be renamed 'State Environmental Planning Policy (Temporary Structures) 2007'

- amending the Standard Instrument—Principal Local Environmental Plan to change the definitions of restaurant, pub and registered club to include entertainment.

These changes commenced on 26 October 2009 to coincide with the lapsing of any conditions applying to existing POPE approvals that were preserved until that date under the savings and transitional arrangements introduced into the *Environmental Planning and Assessment Act 1979* when POPE licensing was removed in 2007.

The new system will operate as follows:

- POPE licences are no longer needed—venues can have live entertainment as part of their main business without the need for separate approval. Entertainment should now be considered as part of normal activities of pubs, restaurants and registered clubs.
- For new venues, the provision of live entertainment will be considered as part of the development application.
- POPE licences and conditions will no longer have effect from 26 October 2009. However, the conditions on a venue's liquor licence and development consent will remain in force. Where necessary, the NSW Office of Liquor, Gaming and Racing will consider proposals for the application of new liquor licence conditions to regulate security, trading hours, patron numbers and other matters at venues.
- Venues can still apply to the NSW Office of Liquor, Gaming and Racing to modify liquor licence conditions, and to local council to amend development consents.

The role of councils remains important under the new system. Councils will continue to administer the conditions of development consents for venues. If the provision of entertainment breaches a development consent condition, council can take action. Councils can also respond to complaints from residents relating to disruptions that may breach a venue's development consent conditions.

Venue operators must continue to ensure that they do not cause undue disturbance to the quiet and good order of their neighbourhood.

The NSW Office of Liquor, Gaming and Racing has enhanced powers under the *Liquor Act 2007* to deal with complaints, and a range of appropriate measures to respond to issues relating to a venue or its patrons. These include negotiating a workable solution between venue operators and local residents. A venue can also be issued with warnings or directions, or have conditions imposed on its liquor licence.

Councils are reminded that if they are concerned regarding the inadequacy of the fire safety aspects of the premises, they can issue an order under section 121 of the *Environmental Planning and Assessment Act 1979*.

Provisions also exist under the *Protection of Operations Act 1997* to control noise from the premises.

## Further information

Information on planning for public entertainment, including *Planning for entertainment guidelines* (October 2009) community brochures and fact sheets can be accessed from the Department of Planning's website at:

<http://www.planning.nsw.gov.au/LinkClick.aspx?link=243&tabid=318>

Copies of the *Environmental Planning and Assessment Amendment Act 2008*, Environmental Planning and Assessment Amendment (Entertainment Venues) Regulation 2009, Standard Instrument (Local Environmental Plans) Amendment (Entertainment Venues) Order 2009 and State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) Amendment (Temporary Structures) 2009 are available on the NSW legislation website at: <http://www.legislation.nsw.gov.au>

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au).

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/PlanningSystem/Circularsandguidelines/PlanningSystemCirculars/tabid/81/Default.aspx>.

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