



Planning

# PLANNING FOR ENTERTAINMENT

October 2009

**Bringing  
back the music**

Making it easier for restaurants, pubs,  
clubs and cafés to have live entertainment





# Introduction

- Place of Public Entertainment licensing is abolished
- Provision of entertainment is now dealt with as any other activity under the Environmental Planning and Assessment Act
- Development consent is not required for 'public entertainment'
- 'Entertainment Venue' replaces POPE

# The New System

Legislative changes:

1. The Amendment Act 2008
2. SEPP (Temporary Structures) 2009
3. Entertainment Venues Regulation 2009
4. Standard Instrument (Entertainment Venues) 2009

Commenced 26 October 2009

# The New System

## **SEPP (Temporary Structures) 2007**

- Removes the requirement for development consent for use of buildings for public entertainment
- Removes all provisions relating to ‘public entertainment’
- Retains requirement for development consent for temporary structures and related exempt and complying development provisions
  
- Amends SI LEPs for Canada Bay and Goulbourn Mulwaree to remove ‘place of public entertainment’ and ‘nightclub’ from their land use tables



# The New System

## Environmental Planning and Assessment Amendment (Entertainment Venues) Regulation 2009

- Removes references to POPE
- Introduces the term ‘Entertainment Venue’
  - Cinema
  - Theatre
  - Concert hall or
  - Indoors sports stadium

# The New System

- Entertainment venues to comply with BCA:
  - NSW variation
  - Part H101 – formerly POPE requirements
- Reduces ‘building upgrades’ via:
  - narrower definition of entertainment venue to replace POPE definition
  - BCA NSW Part H101 impact reduced
- Still must comply with Clause 93 EP&A Regulation

# The New System

## Standard Instrument (Local Environmental Plans) Amendment (Entertainment Venues) Order 2009

- Definitions amended to include the provision of entertainment:
  - ‘Pub’
  - ‘Restaurant’ and
  - ‘Registered Club’
- ‘Nightclub’ definition has been removed
- Existing LEPs need to be amended to reflect changes

# The New System

## EP&A Amendment Act 2008

- Commences provisions allowing reviewable conditions on development consents
- Relates to entertainment venues, function centres, pubs, registered clubs and restaurants
- May apply to extensions of
  - hours of operation beyond core hours
  - increases in maximum capacities beyond the core numbers



# The Regulators

- The Role of Consent Authorities/Councils
  - Continue to assess DAs
  - Ensure compliance with DCs
  - Have powers to issue fire safety orders under EP&A Act
  - Continue to address noise under POEO Act

# Other Regulators

- Office of Liquor, Gaming and Racing
  - Assess applications for liquor licenses and variations under the Liquor Act
    - Can regulate hours, noise, numbers, CCTV, security, lockout provisions, RSA etc
  - Enforcement powers under the Liquor Act
- NSW Police
  - Enforcement powers under the Liquor Act, EP&A Act and other legislation

# Existing Premises

- POPE licenses no longer apply or required
- Continue under existing development consents or existing use rights
- Can now have music without need for permit/consent
- Can apply to councils to vary development consents
- Premises with existing DAs with capacity conditions must display signs specifying the capacity
- Councils or other parties can apply under Liquor Act provisions to seek conditions on liquor licenses

# Change of Use - Class 6 to Class 9b

- BCA2008 considered some pubs as Class 6
- BCA2009 considers some pubs as Class 9b
- Proposed NSW amendment to align with new system
- Clause 93 EP&A Regulation requires:
  - Assessment of change of use to Class 9b
  - Upgrade for certain fire safety measures
  - Upgrading to address fire and life safety

# New Premises

- Development Applications
  - development proposals which may include entertainment - will be assessed as part of the application
  - Guidance has been issued on matters that should typically be considered
  - Operational plans of management – should not be made a condition of consent

# Conditions of Consent

- Issues concerning management of licensed premises should be dealt with under Liquor Licence
- Guidelines on appropriate planning conditions
  - Should typically address public amenity, design and building safety issues
- Prescribed conditions in EP&A Regulations
  - Capacity notice – cl 98D
  - Schedule 3A amendments

# Conditions of Consent

- Reviewable conditions
  - Applies to entertainment venues, function centres, pubs, registered clubs and restaurants
  - Can be used to trial extensions of hours of operation and increases in maximum capacities



# Reference Group

- To assist councils in the implementation of the initiatives
- Representatives:
  - Local Government and Shires Association
  - OLGR
  - Department of Planning





# Information Resources

- Factsheets for councils, industry, venue operators
- Circular
- Guidelines
- Department of Planning website
- OLGR website
- Workshops



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