



Government of **Western Australia**
Department of **Health**

Consultation Summary Report

**For the discussion paper –
Managing public health risks at events in WA**
February 2020



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Summary

This report summarises the information received by the Department of Health (DOH) in regards to its consultation on managing public health risks at events in WA. It also summarises the responses and intended next steps of the DOH. It is not possible in a summary report to represent every view, so this report attempts to capture the main issues and themes raised and the key points of contention.

In March 2019 the discussion paper '*Managing public health risk at events in WA*' was released for a 13 week comment period, with a number of late submissions accepted. The paper discussed three options; repeal of the existing legislation without replacement, carry over existing legislation or provide new regulations under the *Public Health Act 2016* (Public Health Act).

The purpose of this consultation was to inform the implementation of the Public Health Act and associated review of existing regulations under the *Health (Miscellaneous Provisions) Act 1911* (Health MP Act), in particular to review the existing management of public health risks at events under the *Health (Public Buildings) Regulations 1992* (Public Building Regulations). The DOH sought to understand the potential impact on and opinions of industry, local government, government agencies and the wider community in the development of future management strategies of public health risks at events.

The DOH received a total of 60 responses during the comment period. There was strong support (93%) for the development of new regulations for events under the Public Health Act with updated guidelines. The proposals outlined in the discussion paper were generally well supported with some further development required.

There is a general consensus that an updated current, clear and consistent approach to the management of public health risks at events is needed. The separation of events from Public Building Regulations is well supported. There was strong support for the ability to scale requirements based on risk factors and for a flexible approach in any regulatory framework to consider the dynamic nature of events.

The comments in this document are the views of respondents only, and should not be taken as the views of the DOH. Recommendations by the DOH have been provided in italics.

Methodology

Stakeholders for this consultation were identified via a number of methods including:

- Web and map searches for event management, sports event organisations and markets across the state
- Existing information from DOH's internal event contact lists and events calendar
- Yellow pages data for 'event management', 'convention and/or exhibition organisers', 'marquees' and 'jumping castles'

The paper was circulated to a total of 139 local governments; ~40 state agency contacts and ~250 industry stakeholders, as well as subscribers to the DOH Environmental Health list server. Industry stakeholders included industry associations, individual event managers and companies, arts and culture organisations and a small number of other relevant organisations such as those involved in first aid or tourism. The paper was also publicly available on the DOH website.

Stakeholders were asked to read the DOH’s discussion paper ‘*Managing public health risks at events in WA*’ (available on the DOH website) and provide comment via:

1. the online Citizen Space survey,
2. emailing publichealthact@health.wa.gov.au or
3. mailing a hard copy response to the Environmental Health Directorate.

Consultation findings

The DOH received a total of 60 responses.

12 submissions were received via email and 48 submissions via the online Citizen Space survey. Responses were received from 6% of the industry stakeholders contacted. The response rate for this consultation is what would be expected (14%) compared to other external online consultation which typically averages a response rate of 10-15%

Stakeholder	Responses
Local government	43
State government	1
Industry	14
Public	2
Total	60

Findings on regulatory options

Respondents were asked to nominate their preferred option out of repealing the regulations without replacement, retaining current regulations or providing new regulations under the Public Health Act with an updated guideline.

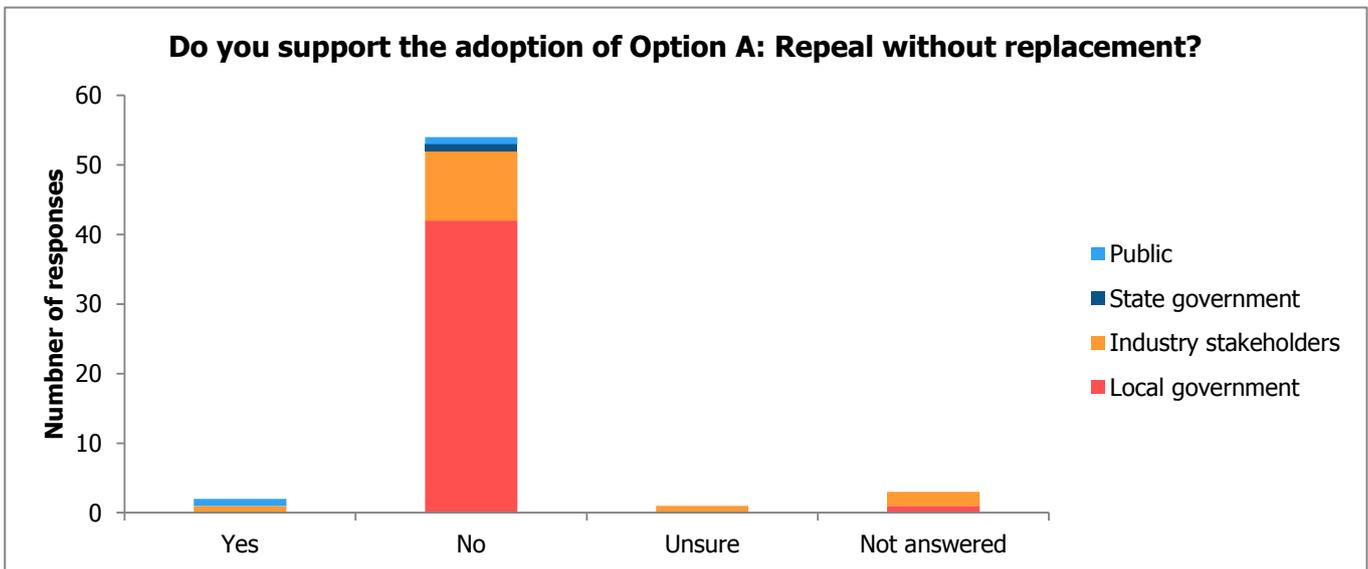


Figure 1: Number of responses from consultation period for Option A

Option A: Repeal without replacement

3%(2) respondents supported the repeal of regulations without replacement. Of these, one was an industry representative and the other was a member of the public.

The benefits given by these respondents were:

- Cross communication between Australian events will be faster
- Allow industry adoption of global event management strategies

- Self-regulation would encourage more events and allow smaller organisations to hold events. Event organisers have an innate desire to keep people safe at their events negating regulatory need.

Respondents perceived the disadvantages of Option A as follows:

- Without regulation there would be an increased risk to public health and safety. Many respondents emphasised the known risk of events with the capacity for fatalities to occur (national and international examples given)
- Public confidence in the safety of the events industry would be decreased. There is concern that industry would take the cheapest option and not self-regulate effectively, lowering safety standards.
- There exists a need for consistent ‘rules’ for event managers and Local Government to facilitate implementation/enforcement which would remain unfulfilled. Without oversight this could significantly increase public health risks and lead to inconsistencies with local governments individually trying to control these risks.
- People running events may not have the skills, experience or knowledge to adequately address public health risks, or even be aware of potential hazards.
- No alternative regulations exist to adequately deal with public health risks associated with events.

Option B: Retain status quo

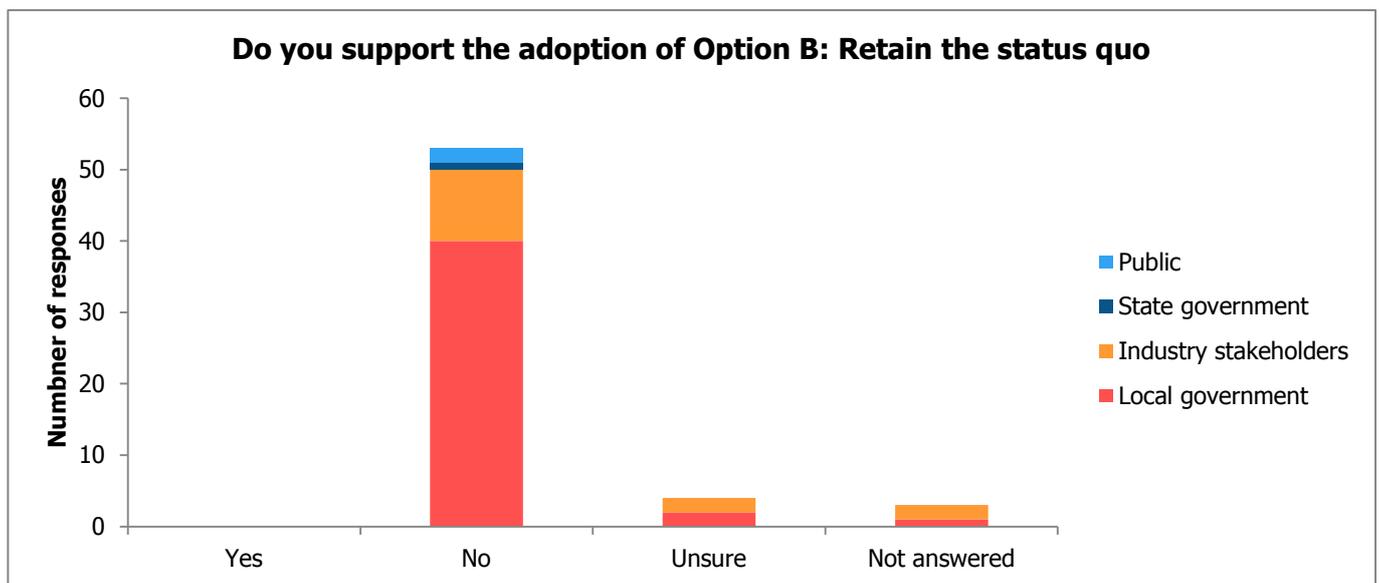


Figure 2: Number of responses from consultation period for Option B

The majority of respondents (88%) did not favour replicating the current regulatory system with no one responding favourably to this option.

Those who answered unsure to Option B noted the current Public Building Regulations and DOH guidelines for events do assist managing public health requirements but also found they did not capture all essential Public Health issues.

Respondents perceived the disadvantages of Option B as follows:

- A lack of separation of public buildings from events. Existing prescriptive provisions within the Public Building Regulations relating to the built environment are not considered transferrable to events with a lack of flexibility to keep up with the changing landscape of events
- Some essential public health issues specific to events are not captured in the existing legislation
- Clarity and consistency in regulation is currently lacking for both industry and local government, this would not be addressed with the same regulations in place
- The current regulations do not align with the new Public Health Act risk based approach
- Retaining the status quo would present a lost opportunity to develop event related legislation that considers the public health risk at events and provides local government with the tools to ensure these risks are adequately considered with suitable requirements applied.

Option C: Provide new events regulations under the *Public Health Act 2016* with an updated guideline

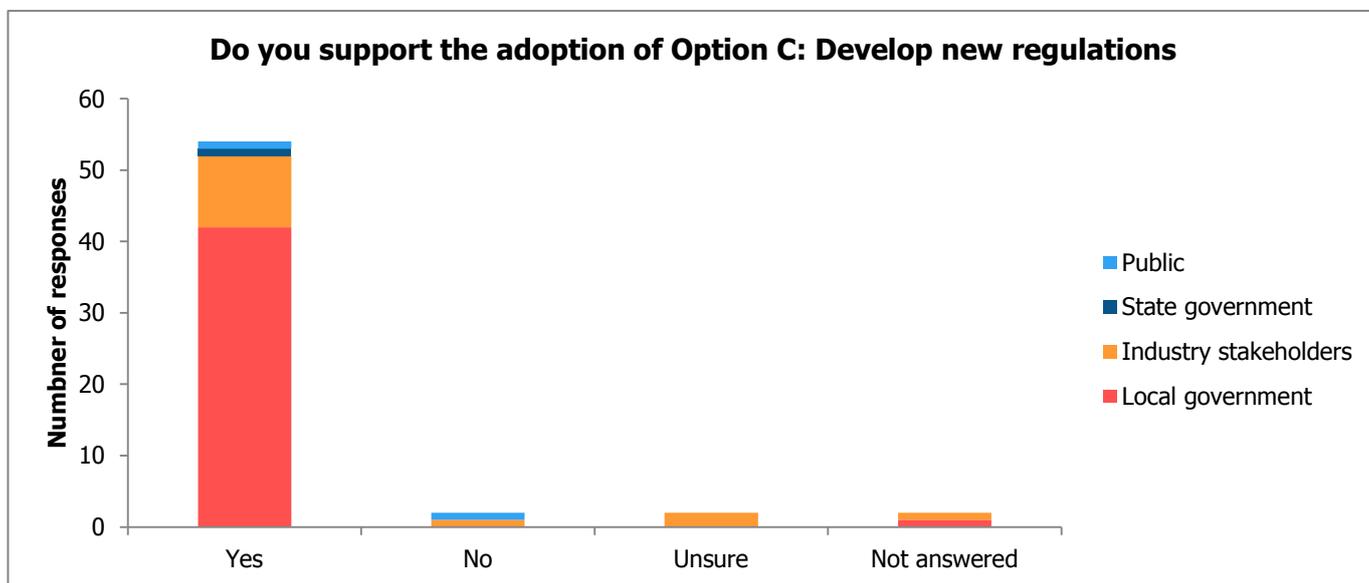


Figure 3: Number of responses from consultation period for Option C

There was broad support for new regulations under the Public Health Act, with 93% of respondents supporting option C. Of these, 77% were from local government. 71% of industry respondents supported this option, 100% of the state government and 50% of the public respondents.

Those who supported option C perceived the key benefits as follows:

- **Protect public health** - many respondents saw this option as the best way to mitigate the known and emerging public health risks associated with the patronage of events thus providing a high standard of public safety.
- **Provide clarity and consistency** - it was widely noted that clarity and consistency are needed in this area. New regulations give an opportunity for clearer compliance obligations for event organisers and improved consistency between local governments in the management of public health risks at events. Most saw this as the best way to separate and improve the current regulation around events.

- **Reflect the risk based approach of the Public Health Act** - the constantly changing nature of events mean the risks can vary significantly. Introducing a flexible regulatory framework which is risk based is well suited to the dynamic nature of events. Scalability will ensure the regulatory burden on low risk events is reduced.
- **Maintaining corporate knowledge** - enforcement remains with authorised officers with existing expertise in this area. Local government authorised officers have traditionally been responsible for events and have a body of knowledge in their administration. Their approvals and inspections provide an opportunity to work collaboratively with event organisers to mitigate risk to the public. Providing local government with legislative tools will assist in regulating emerging risks in the planning process and operationally.

Other perceived benefits included:

- Reflect the present environment surrounding events by providing up to date guidelines as the current guidelines were last updated in 2009
- With more clarity, consistency and relevancy the process of event regulation should become more streamlined making it easier to hold an event although the regulatory burden hasn't necessarily been reduced
- The ability to scale requirements based on risk will reduce the regulatory burden on low risk events
- Local government may utilise cost recovery for registration and inspection
- Captures events on both public and private land.

Comments made by respondents against adopting Option C included:

- Events already have medics and professionals overseeing them and they should be competent to mitigate risk effectively.

Alternative options and proposals

Respondents described a number of additional options, or proposals that could supplement options provided by the paper as follows;

- Guidelines be specified in the regulations as mandatory (to give enforcement options)
- Consideration needs to be given to events that spill out from a registered public building into a wider area that is not normally captured as part of the public building.
- Traffic and waste management needs to be addressed as part of the event process with standards to apply to ensure consistency.

Recommendation:

The DOH recommends that 'Option C: Provide new events regulations under the Public Health Act 2016 with an updated guideline' is adopted.

It is recognised that there is a need from both industry and local government to provide clear regulation specifically tailored to managing public health risks at events. Ongoing regulation would ensure the continuing recognition and management of public health risks applicable to events.

It is recognised that there needs to be clear differentiation between the management of public buildings and events. Public health requirements of any temporary extensions (<1 month) of existing public buildings will be dealt with under new event regulations as these are seen to be more suitable for temporary arrangements. Any extensions of a public building lasting over a

month will not be considered temporary and will be required to comply with the new public building regulations.

The dynamic nature of events and their associated risks demand a flexible risk based approach provided under new regulations. Comprehensive, updated events guidelines will support new regulations and allow for future developments within the event industry.

It should be noted that existing event-related processes within local government, such as traffic and waste management, do not relate to public health and will not be captured under the proposed regulations. These areas could be dealt with in updated events guidelines with reference to the relevant State Government Departments responsible for regulating these areas.

Under this option authorised officers would remain responsible for administering the regulations maintaining the existing expertise in this area. Regulatory tools available under the Public Health Act would assist authorised officers with dealing with public health risks that arise in the planning and execution of events. It is intended that authorised officers will assign relevant conditions to the registration of an event in consultation with the guidelines. If an issue arose a number of regulatory tools are available under the Public Health Act.

Findings on proposals

The discussion paper made a number of proposals to form regulations under Option C: Provide new events regulations under the Public Health Act with an updated guideline. Comments on these proposals have been detailed below, along with DOH responses. It is recommended that the following options are progressed:

Proposal 1: Registration of events with the local government is adopted.

Proposal 2: Provisions for risk management is adopted, subject to refinement.

Proposal 3: Provisions for temporary structures is not adopted.

Proposal 4: Provisions for first aid planning is adopted.

Proposal 5: Provisions for exits and egress is adopted.

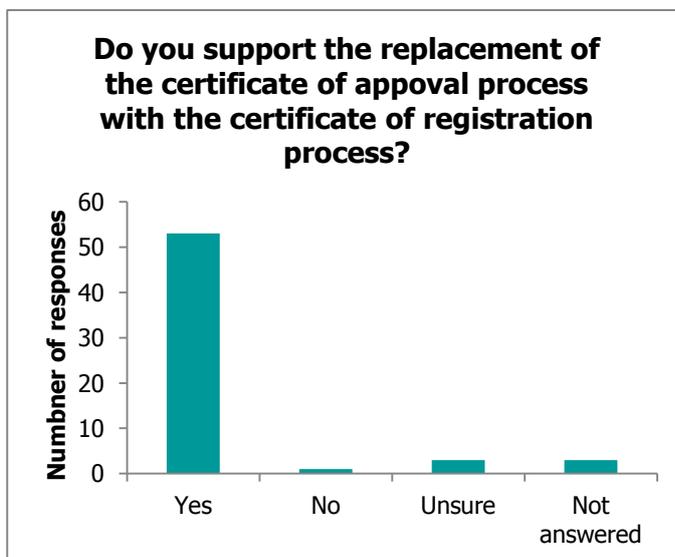
Proposal 6: Provisions for equipment and facilities is adopted.

Proposal 1: Registration of events with the local government

Proposal 1 suggested events be prescribed as a public health risk activity registerable with the local government under Part 8 of the Public Health Act. This process would replace the current Certificate of Approval application process.

93% of respondents supported this and many commented that this process is consistent with what is common practice in local governments already.

The change in nomenclature from approval to registration was widely supported. Some respondents felt the change would reduce local government’s corporate risk, minimise confusion about reapplication and noted the change reflects the language of the Public Health Act.



A number of respondents highlighted the need to keep the process simple for small, community or low risk events. Suggestions included:

- Excluding smaller events from having to register
- Being able to give certificates of registration in advance for lower risk events rather than having to inspect them on the day (decreasing their costs)

Additional comments regarding event registration included:

- Some respondents suggested that there was information missing as part of the required documentation detailed regarding traffic and waste management.
- A number of respondents requested further information on timelines for application deadlines
- A suggestion was made that an appeals process for any events whose registration was refused should be mapped out
- Industry felt that there should be advance consultation with any changes to fees that may be applied
- Information was requested on the process for calculating maximum capacity with changes to the Public Building Regulations. Particularly when an established public building is used for an event out of the approved area.

Certificate of Registration

Respondents noted that the following details could also be included on the certificate of registration:

- Event holder's previous experience
- Approved event site plan that clearly identifies the specific geographic area
- If different from the applicant, the full name of the person responsible for the operations of the event
- Potentially a unique certificate ID number for reporting purposes
- Contact phone number for the applicant for purposes of a regulatory officer getting in contact with event organiser if required
- Consent from the land owner
- Clear end date-unlike registrations under the Food Act (e.g. for ongoing markets)
- Date of issue
- Public liability insurance details
- If multiple government agency approval is needed, a way to link or reference these approvals
- Submitted plans (crowd or emergency management)
- The certificate should include the name of the event
- Liquor licence details
- Any noise approvals, food businesses, evacuation plan, risk management plan, first aid, toilets, temporary structures, amusements
- A standardised cover letter outlining event holder obligations and consequence for non-compliance

- Exclude any reference or duplication to other jurisdictional requirements such as planning, local laws, liquor licensing, DFES etc.

Recommendation:

The DOH recommends that this proposal is adopted. Events should be prescribed as a public health risk activity that is registerable with the local government under Part 8 of the Public Health Act. As this mirrors similar processes already in place in the approval of events it is not thought that the impact of replacing this process would be significant.

It should be noted that fees will be charged by local government based on cost recovery, therefore there will be no fees prescribed by regulation and they will be determined by each local authority.

Local government will have discretion to scale requirements for low risk events, for example they may just require notification rather than registration. There will not be a requirement for all events to have an onsite inspection, in these cases pre-approval may be appropriate. The required contents of the certificate of registration will not be prescribed by the new regulations aligning with State Governments initiatives, though the DOH will provide a template that can be amended to suit each local government's preferences. In accordance with the Public Health Act any decisions made in regard to an application for registration, such as refusal, are appealable to the State Administrative Tribunal.

As part of the process of event registration a maximum capacity will be approved for a density of 0.5m² and above by local government when required, with anything below this to be determined by the Chief Health Officer. The calculation of maximum capacity would be informed by the updated event guidelines as the 'Guidelines on the Application of the Health (Public Buildings) Regulations 1992' will no longer be applicable.

It should be noted that existing event-related processes within local government such as traffic and waste management do not relate to public health and will not be captured under the proposed regulations. It would be possible however for local governments to require a waste management plan for example as a condition of event approval.

It is acknowledged that the event application timeframes can be a barrier to assessing event applications sufficiently. The DOH proposes a model similar to Regulation 18 under the Environmental Protection (Noise) Regulations 1997, an application for a Certificate of Registration will need to be made 42 days before a high risk event or 21 days for medium/low risk event is proposed to commence, with monetary penalties applied for late applications and CEO discretion to allow last minute applications with exceptional circumstances past a certain timeframe.

Proposal 2: Provisions for risk management plans

Proposal 2 discussed provisions relating to risk management plans (RMP) and public liability insurance provided by event organisers.

Public liability insurance

Public liability insurance is not currently required by the Public Building Regulations. The DOH sought feedback on the inclusion of a requirement for event organisers to provide evidence of insurance. This was supported by respondents however most felt that this was already common practice, especially when events were held on local government land.

Those that did not support this as a requirement felt that it was not a public health concern and should be up to the landowner to defer their responsibility to the event organiser.

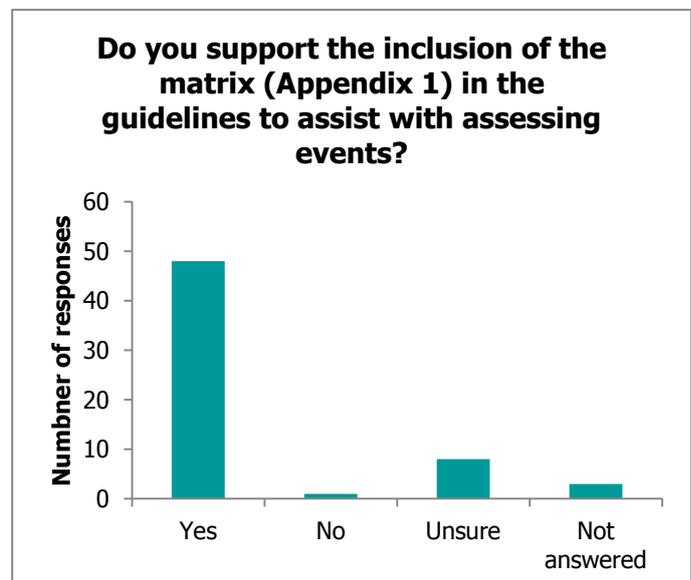
It was clear from the responses received that low risk community based or small “risky” events could be negatively impacted by such a requirement and the terms would need to be clear. A range of comments were made as follows:

- Clear reference to the required parties and the insurance amount, proportionate to the risk of the proposed activity/event is needed
- Local Government should be able to provide the public liability insurance to support the community at their discretion, as is often currently the case
- This could be limited to medium or high risk events
- The amount/value of insurance cover to be guided by the Mundaring matrix or Local Government Insurance Service
- Insurance cover should be provided by an Australian insurer.

Risk matrix to assist event risk assessment

84% of respondents favoured including a risk matrix in the guidelines to assist with assessing an events risk however a number of respondents found the risk matrix included in the discussion paper to be inadequate or underdeveloped. It was acknowledged that developing a risk matrix to categorise the risk of events would be difficult. A range of comments were made in relation to the matrix:

- Guidelines should include a self-assessment matrix for the event organiser as it will be difficult for local government to provide advice to organisers about whether a RMP is required
- The provided matrix underrepresents all the risks that should be considered. Consider including; alcohol, weather, expand the types of events, venue (indoor/outdoor, single/multiple story etc.), temporary structures, crowd dynamics
- The existing Medical Risk Classification Tool (MRCT) matrix provided by the DOH in the Guidelines for concerts, events and organised gatherings 2009 has been adopted or



copied by many operators around Australia. If a new matrix is being used it should be able to demonstrate its merits or effective application and be evidence based and broadly tested

- There is concern that automatic identification of a certain risk level may increase costs without the opportunity to address the classification. In addition the classification might impact the reputation of some events and the wider public's attitude towards them
- The matrix should consider compliance records and risk-management practices, and associated reduced risk loading for organisations with a positive reputation.
- The matrix doesn't take into account mitigation strategies put in place by event organisers to minimise the risk. Could a two-tier system be used where event organisers use the matrix to showcase how they would address risks with mitigation strategies in the RMP and then for the matrix to consider the residual risk as well as the risk profile itself
- Several local governments provided examples of events in their authority which using the provided risk matrix gave a much lower risk rating than they have been given historically. They felt this did not adequately rate the risk for the event.

Risk Management Plans

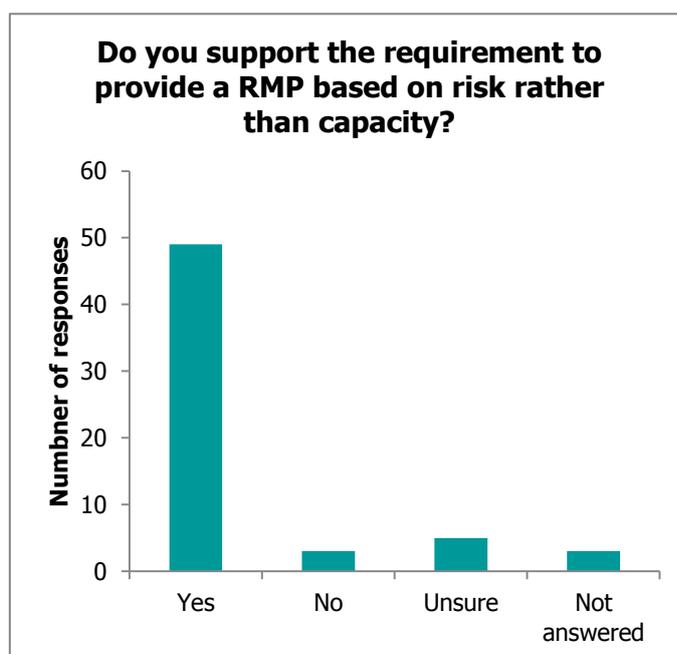
86% of respondents agreed with requiring a RMP based on risk rather than capacity. Under the current regulations, a risk management plan is required for all events expected to have more than 1,000 people in attendance, without taking into account the nature of the event or the risk factors present. It is proposed that risk management planning be proportional to risk level, scaling requirements based on risk. A number of additional factors other than capacity were given as likely to affect an events risk e.g. an event organiser's experience.

Decreasing the regulatory burden on small events by scaling the need for risk management documentation was supported by respondents. It was suggested that providing clear and easy to read guidelines and templates to applicants and a list of the types of risk that need to be considered may be useful for event organisers that don't have a lot of experience with risk management planning.

Many respondents, while supportive of a RMP being lodged, noted current inconsistencies across local government in terms of assessment, revision of RMP's and how this fits into the final event approval. Several key issues with AO's assessing RMPs emerged:

Many respondents, while supportive of a RMP being lodged, noted current inconsistencies across local government in terms of assessment, revision of RMP's and how this fits into the final event approval. Several key issues with AO's assessing RMPs emerged:

- Inconsistency in assessment. Clear direction will be needed from the DOH explaining local government's role through the regulation framework, supporting documents and ongoing training.
- What is the legal liability surrounding RMP assessment? What is the liability of the Authorised Officer or LG if a RMP is called into question after an incident has occurred?



- As the adequacy and effective implementation of the RMP is up to the event organiser, will the Regulations be framed so that the AO or LG is not held liable for the event organiser's failure to comply?
- AO's will need to upskill as they currently don't have the correct training and qualifications to assess RMPs sufficiently for high risk or large events.
- LGs should have a provision to charge for the assessment of RMP's due to the time consumed in adequately assessing them. These should be scalable, standardised fees to resource the extra work load.

Additional assistance for authorised officers to assess RMPs

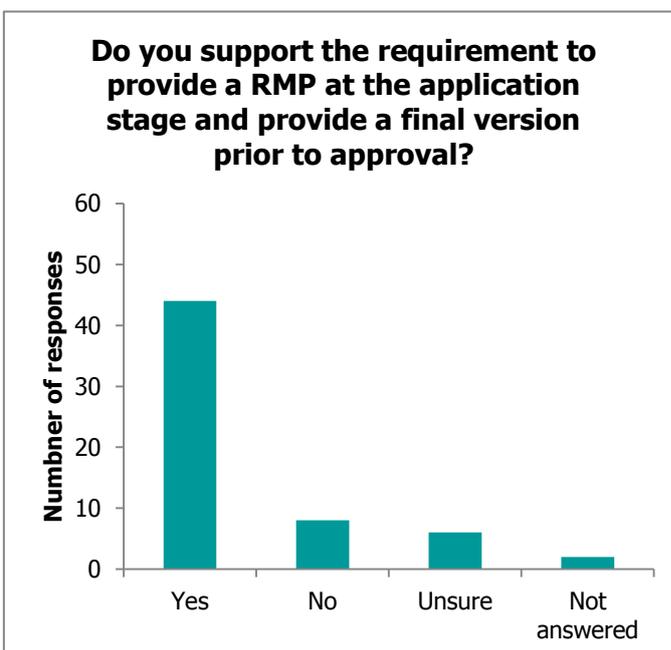
There was general agreement that authorised officers would require additional training and clear guidance documents in order to review RMPs critically, especially for officers who do not do this frequently. Other suggestions include:

- Standardised templates for community groups and low risk event organisers to use. These could include a risk register checklist, followed by guidance on translating the risk register into a full RMP
- Specific requirements on what and how to assess, as it is unlikely that most RMP's currently submitted actually comply with ISO 31000, a checklist would be helpful
- Training opportunities for event organisers, including LG event officers on the preparation of RMPs
- Basic risk matrix pre-populated for small to medium events to be used as a template.
- Rather than signing off that a RMP 'complies' AO's should be verifying that they have reviewed the plan (ensuring it contains certain elements as per the guides or standards that should be developed). Could the applicant certify that the RMP complies with the Australian Standard?
- Examples of compliant RMPs
- The ability to refer to the DOH or a third party with professional qualifications for review in the case of high risk, large events or events over multiple jurisdictions
- An accreditation process to demonstrate competency
- Legal advice in regard to the extent of LG's liability in the risk management process
- DOH advisory contacts

Timing of RMP submission

76% of respondents supported a draft RMP as part of the initial event application with a final RMP to be provided prior to the issue of the final event approval. The majority of respondents saw this as a logical approach which reflected best practice.

It was suggested that this process would assist event organisers to think fully about the



logistics of their event and give AO's assessing the RMP more information about the event that may not be provided in the application stage. Other comments, suggestions and concerns with this proposal include:

- What if anything would events that don't require a RMP, such as low risk events, be required to submit?
- Documentation provided at application stage will allow a thorough review as a lot of event organisers submit documentation at the last minute and there is a push to get the approval through quickly.
- An initial application should include a basic description of the risks and wherever possible a risk register and when required by an AO, a full risk management plan
- As the RMP is a live and fluid document by nature which is constantly changing, there may be difficulties in obtaining a 'final' version prior to the event. Industry had concerns about delayed approval as a result of a document that by nature should change up until close to the event. LGs had similar concerns in regards to potentially having to cancel an event (which would be unlikely to have council wide support) if not provided. The timing of when a final RMP must be provided needs to be clear and consistent (not vary from LG or AO).
- Two stage review would be time consuming and use more resources
- Concern was raised over events with a long lead in time as at the point of application the level of detail and resource required to prepare the RMP are not present. A RMP provided at the point of application will be inaccurate and problematic, 3 months before the event would be better.
- Again the legal liability of 'approving' a RMP was raised.

Recommendation:

The DOH recommends that this proposal is partially adopted, subject to refinement.

Although a majority of respondents support the addition of public liability insurance requirements to event regulations DOH considers that this area is already sufficiently covered by local government and industry. In addition, it falls outside the remit of public health and therefore is not appropriate to include in the regulations. To aid consistency between local governments supporting information on public liability insurance will instead be provided for in the guidelines.

The risk matrix will go back to the Event Working Group for further refinement. It should be noted however, that compliance records and risk management practices will not be taken into consideration as the matrix is used to determine what the inherent level of risk of an event is. This assumes no controls are in place and therefore determines what requirements must be applied. The DOH will consider reviewing the terminology used when labelling risk (introducing a category system instead of low-high risk) to address the concerns of industry.

There is concern amongst authorised officers around their role in assessing RMPs and the potential liability taken on when doing so. The intent is to minimise the liability taken on by authorised officers while maintaining the intent of the regulations; event organisers will always remain ultimately liable for the health and safety of their patrons.

After obtaining legal advice the DOH considers that RMP's will need to be considered as part of an event application. Authorised officers will consider its content in the context of public health risks, consistent with their authority and experience and taking into account any relevant regulations, policies or guidelines.

The authorised officer should be satisfied that the applicant can demonstrate that they have identified, considered and planned how they will address the relevant public health risks. Where an authorised officer is not satisfied that the applicant has considered and planned to address the relevant health risks, the officer can withhold approval of the event application until such time that the applicant can satisfy the officer of these matters.

A RMP is one potential source of information that authorised officers may take into account when considering whether an event organiser has recognised all relevant public health risks and consequently whether or not they should approve an event application.

RMPs should not be the sole source of information in relation to an applicant's public health risk; other documents and information sources may be highly relevant. The wording in the regulations will retain the ability for authorised officers to seek any other pertinent information on public health risks as specified by the local government when considering an events application.

Regulations will provide for a draft risk management plan (or scaled version) to be provided at the point of application. Rather than the requirement for a final risk management plan to be provided at a certain time, the risk management plan would be considered in the ultimate acceptance or rejection of an application as evidence of whether or not an event has addressed the public health risk it poses.

If a local government deems it necessary they could obtain a third party review of a risk management plan but this will not be provided for in the new regulations. The DOH will provide templates, checklists and training to support authorised officers in assessing RMPs.

Proposal 3: Provisions for temporary structures

93% of respondents supported the proposed requirements for temporary structures to be safely erected and maintained. Respondents found the proposal largely reflecting current practice in regards to temporary structures. It was seen as beneficial for protecting public safety and maintaining consistency between local governments.

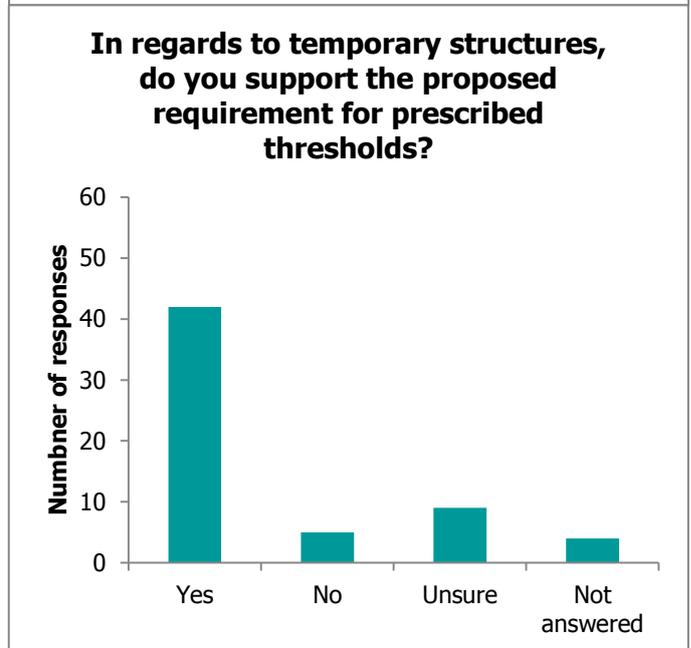
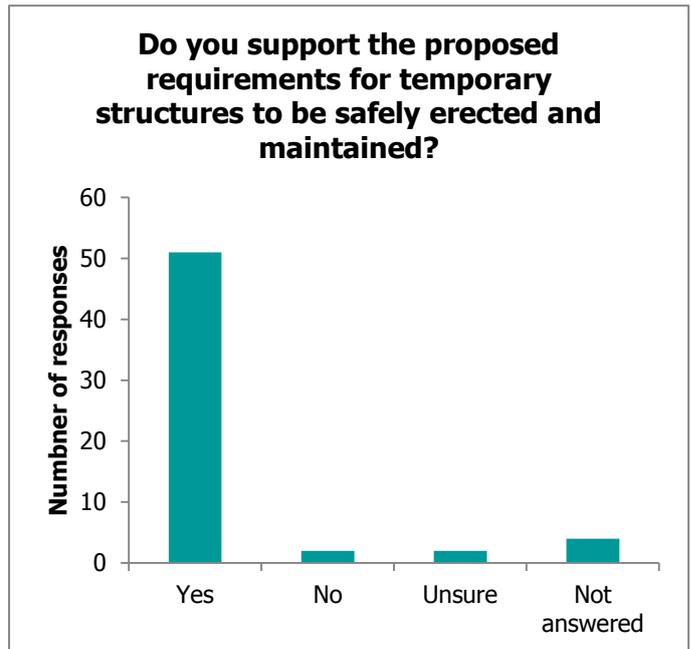
Prescribed thresholds

The following comments were made about structures between 9m² and 55m²:

- Off the shelf 6m x 3m marquees should be exempt (or just comply with manufacturers standards). Minimum tier should move from 9-18m²
- A tool should be supplied to deem what a 'high risk structure' would be
- A competent person should complete a checklist/form for deeming the structure safe and suitable in accordance with manufacturer and installers requirements and provide to authorised officer prior to use (this person should carry the risk).

Regarding structures over 55m²:

- It may be unreasonable to require every structure over 55m² to provide engineers certification
- 55m² threshold is too low (in terms of size of structures frequently used at events), 150m² would be more reasonable (100m² and 200m² were also suggested with a Code of Practice for mid-size structures)
- An approach similar to Mechanical Rides by Worksafe was suggested by a number of respondents. A central approving authority would assess and approve all large structures/tents via a certificate with an expiry date. The authority would liaise with the owner of each structure to ensure that a structural engineer's certificate is provided. This certificate would include specific installation measures for each structure including maximum permitted wind speeds and maximum occupancy numbers
- A similar process to what is currently applied; authorised officer's requiring an engineer's certification of the temporary structure and then certification that the structure has been erected in accordance with the requirements of the manufacturer. If the structure is not installed in accordance with these specifications, the authorised officer would then request an engineer to sign off that that the installation is safe.



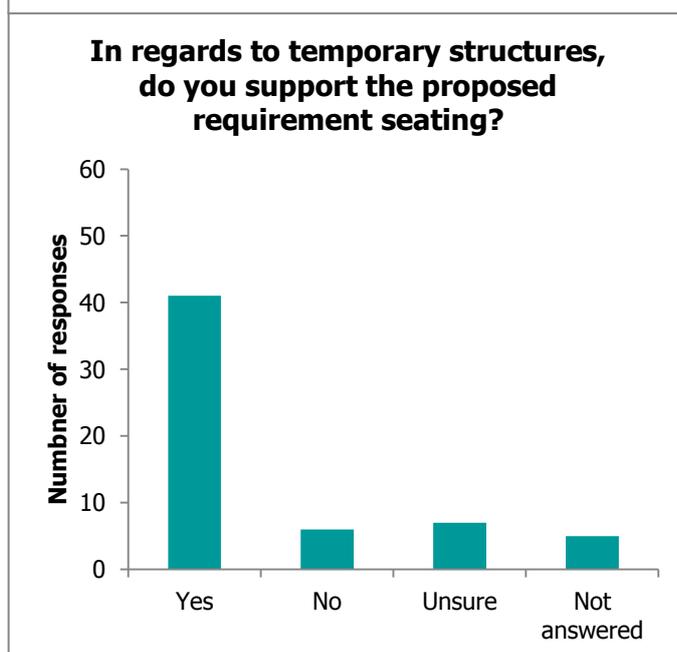
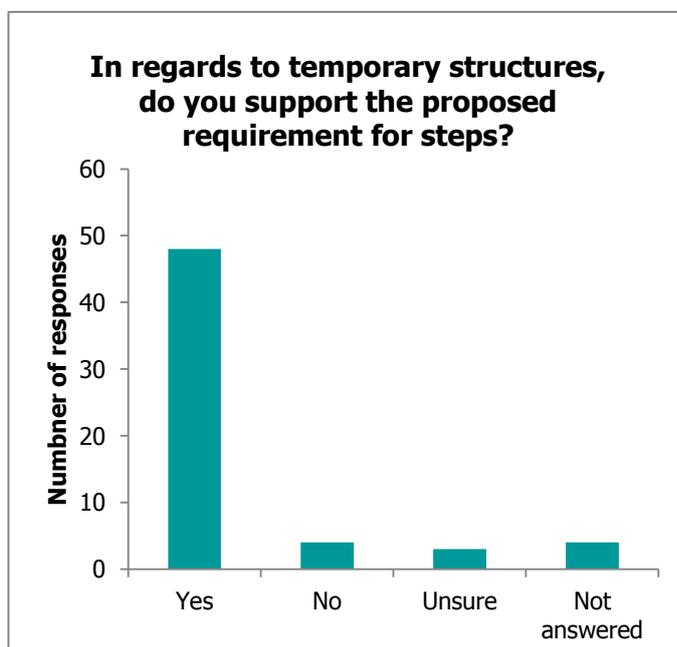
- Requiring an engineer to inspect and sign off every time a circus tent, temporary stand or other temporary structure is erected is not likely to be feasible. Where the owner erects the structure (currently the norm) then they should carry the risk and ensure the situation is suitable. A template for self-certification needs to be provided for the person who built the structure to tick and sign.
- Sign off to manufacturer's specification should be used more widely.
- Would a building surveyor be the relevant person to determine if a tent peg had been installed to requirements, or would an engineer be more appropriate? Undue liability for LG and building surveyor with no surety of design requirements and site/ground suitability for installation. Undue pressure on LG to pass things they cannot test?
- If the *Building Act 2011* is correctly applied the common sense and lawful approach is that the Building Commission would ensure the correct administration of temporary structures. More certainty should be provided by the Building Commission on the application of the *Building Act 2011* to temporary structures at events.
- An engineer's certification should be unconditional without requiring any additional interpretation by an authorised officer
- A standardised form should be brought in for mandatory certification
- Need to make sure that stages and other structures that are not accessible to patrons but are adjacent to public areas, are signed off by engineers / building surveyor. In case of collapse of structures, beams and other materials on the structures will likely to impact on public areas. Could there be a trigger to capture these (where they are in proximity to publicly accessible areas)?

In relation to steps:

- LG's should be given discretion on steps within old temporary structures such as tents (Fringe World) where prefabricated risers and goings were already non-compliant with the National Construction Code
- Accessibility requirements need to be cross referenced in Regulations.

In relation to seating:

- Give LG discretion e.g. outdoor cinema where people bring deck chairs, bean bags etc. (these can't be secured)
- Seating/steps/changes in level should refer to NCC for consistency, ambiguity to be avoided



- Include flexibility so the outcome is the focus rather than prescriptive.
- Guidelines should have a 'deemed-to-satisfy' provision to demonstrate seating arrangements do not form a trip hazard or obstacle not only to egress, but also to ingress and circulation within the temporary structure.

Changes in level:

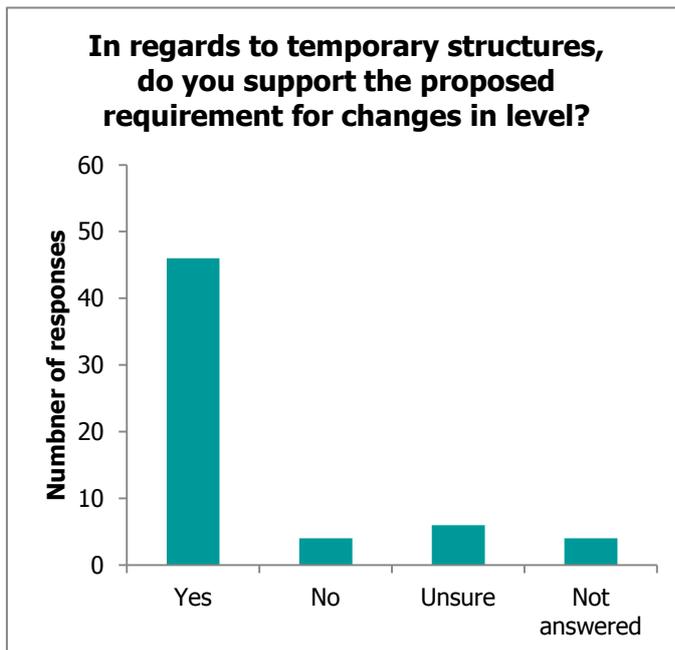
- An overarching clause to allow authorised officer's to require works to be undertaken that in our opinion is required to make the venue safe
- Wall/guardrail/handrail requirements needs to be covered in Regulations

General comments:

- Include in guidelines obstacles used in obstacle events, inflatables and art works
- Provide more information on how to design, check and ensure structures are safe; like the building code.

Procedures on building, calculations to make and a bit more flexibility in definitions should be provided

- This will create an increased work load for LG
- Cost prohibitive for community groups
- Regional access to qualified person is lacking.



Recommendations:

The DOH recommends that this proposal is not adopted.

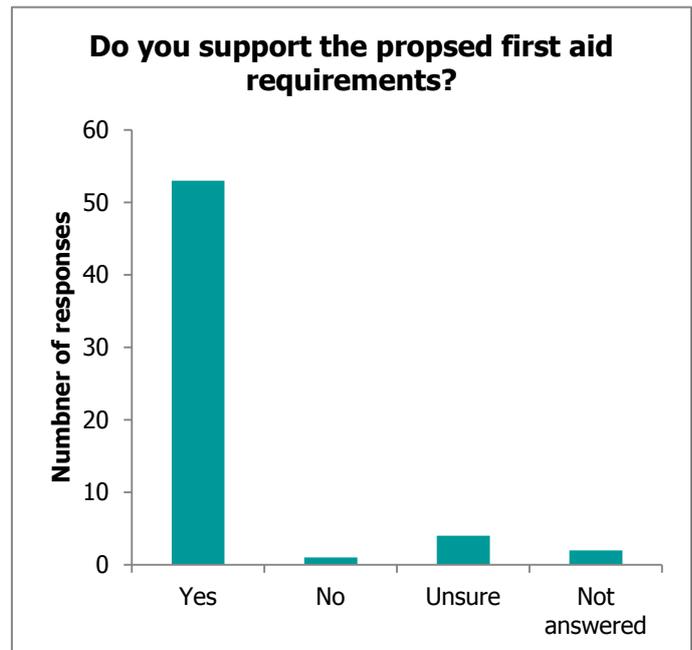
The DOH has obtained advice from the State Solicitors Office that any new legislation must be consistent with and not duplicate any existing Federal and State Legislation. As the Building Act 2011 covers temporary buildings or incidental structures that members of the public normally use or are permitted access DOH cannot impose additional regulation as this will be an unnecessary duplication.

Event Guidelines will include and refer to information in the Australia Buildings Codes Board (ABCB) standards for temporary structures. The ABCB standard for temporary structures will be updated to reflect the repeal of the old public building regulations to which it references. Any temporary structures relevant to events which aren't covered by the ABCB standards will be covered in the updated Guidelines.

Proposal 4: Provisions for first aid planning

Although local governments may already require consideration of first aid at events, currently this is not a legislative requirement. 91% of respondents supported the proposed first aid requirements. It was perceived that first aid was an expected, standard requirement at community events. Other comments included:

- Small events should not be overly regulated, the level of service should be dependent on risk
- Consideration of first aid requirements needs to be extended to include 'provision of first aid facilities'
- Templates should be provided to facilitate consistency between LG's
- A choice of service provider for first aid facilities should continue to be allowed
- In small regional areas, the capacity of emergency services which are largely run by volunteers should be considered in the risk level (in the risk matrix)
- Substantial guidance is required in what first aid plans for high risk events will need to cover
- Trained first aid officers should be mandatory for high risk events as well as providing a comprehensive first aid plan
- There needs to be appropriate consideration for the accreditation or mandatory requirements for first aid providers
- First aid requirements being enforceable will allow AO's to work with organisers who may be reluctant to comply with first aid requirements
- If a first aid provider is engaged for any events; low, medium or high risk, then a first aid/medical plan should be required. This plan should be prepared for the event organiser so they are fully aware of what is being provided on the day
- The DOH should consider further investigation into the possible regulation or accreditation of the first aid providers, as this is currently an unregulated space.



Recommendations:

The DOH recommends that this proposal is adopted. Event organisers will be required to provide evidence to the local government of consideration of first aid requirements with documentation proportional to the risk of the event. Guidelines will be the key guidance document to indicate what should be determined as 'proportional to the risk level of the event'.

The DOH will provide comprehensive guidelines, checklists and training to support authorised officers in assessing first aid information. The DOH will provide information on the appropriate provision of first aid facilities in the guidelines. Consideration for the accreditation or mandatory requirements of first aid providers is outside the scope of Public Health and will not be considered under these regulations, although advice on suitable training/qualifications may be provided for in the guidelines.

Proposal 5: Provisions for exits

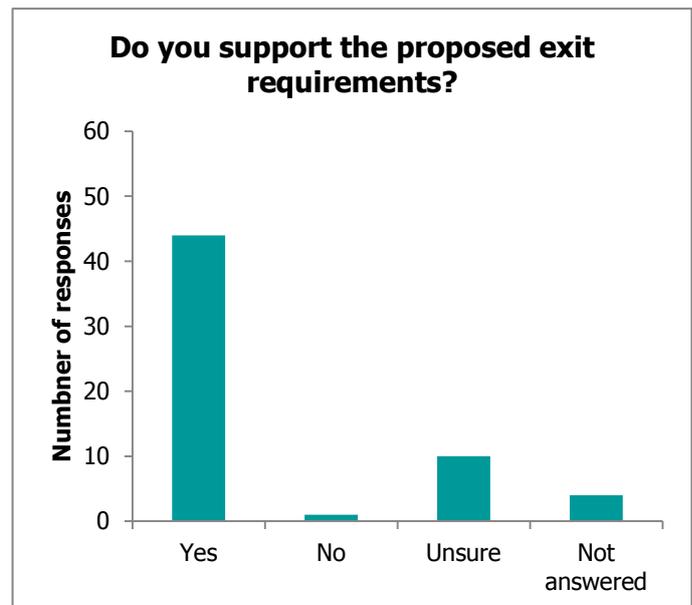
The majority of respondents, 80%, support exit requirements being included in the regulations with guidance and detail on how exit widths and rate of egress should be calculated.

Several respondents noted difficulties with implementing the suggested requirements. Comments included:

- There would be difficulties with outdoor events and how to design appropriate exit signage. Clarity in the guidelines is required to show that ‘adequately signposted’ may include no signage at all if the event is held in a park with no fencing
- Lit exit signs may be impractical in many environments so perhaps exit labelling should be “appropriate” for the environment and conditions in which it is located at the discretion of the organisers
- Discussion and detailed workings are required to conclude the application of a maximum accommodation number of open air street festival type events where entry and exit points are unmanned, free flowing, people can come and go as they please, open at all times.

Other comments regarding this proposal include:

- Further to the use of crowd management tools (such as the Design Information and Management Elements (DIM-ICE) matrix, UK green guide etc.), the submission of a crowd management plan may be necessary.
- Provisions for exits and egress of ambulances and emergency vehicles is notably absent in the discussion paper
- LG should have discretion for low risk events e.g. 1 exit for 50 persons
- Similar to NCC, capacity for alternate solutions depending on scale and risk.
- There needs to be flexibility where exits are placed and further training for AO’s on exit-evacuation planning
- Training/guidelines would be beneficial on the assessment of adequate level of exit in an outdoor venue setting.



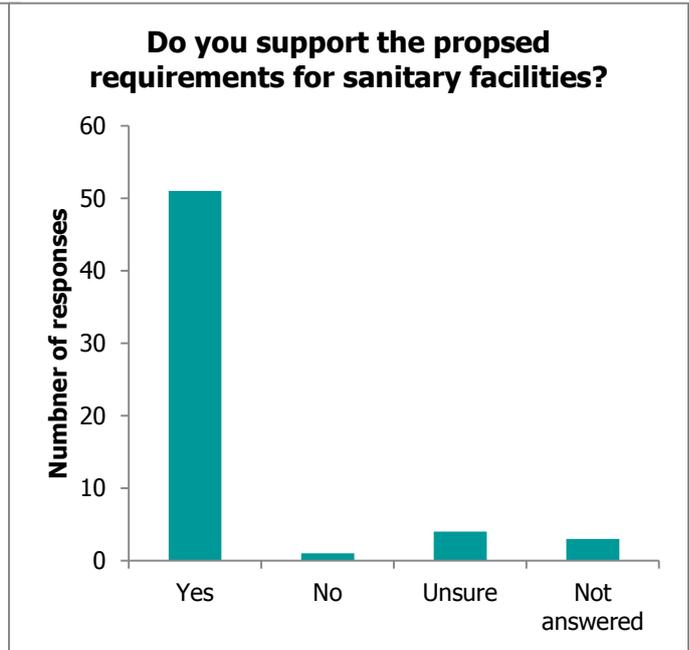
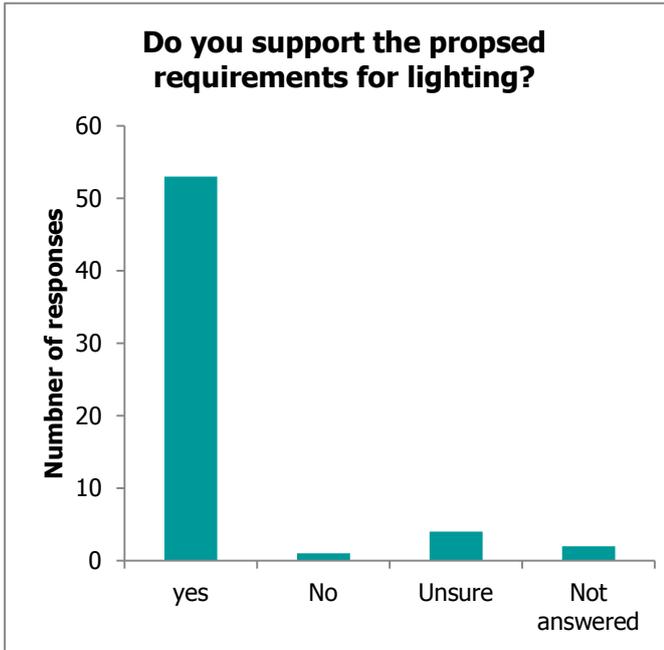
Recommendations:

The DOH recommends that this proposal is adopted. To allow for egress at an acceptable rate, regulations will require sufficient exit capacity to be provided and maintained at all times during which the public has access to the event site. Exits, exit paths and paths of egress will be required to be adequately signposted.

Guidelines will heavily support the assessment of provisions for exits and egress including acceptable rates of egress and adequate signage. Requirements will be modelled on the UK’s Green Guide to Safety at Sports Grounds. The DOH will provide training and support in the implementation of these guidelines.

Local government will have discretion as to whether or not to supply a maximum capacity for an event. This will allow flexibility to cater for occasions where it would be considered unnecessary such as an open air street festival.

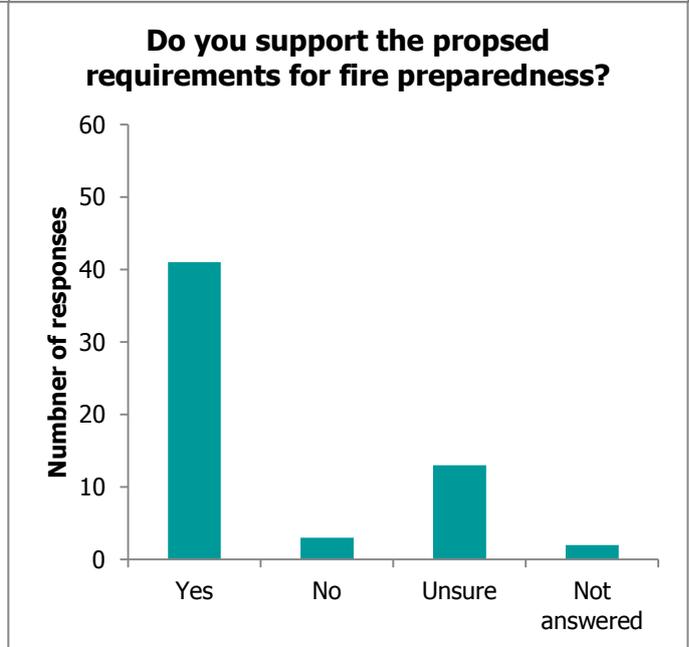
Proposal 6: Provisions for equipment and facilities



All of the areas covered under proposal 6 were considered to be important for delivering a safe event and meeting basic public health requirements of temporary facilities. These were not considered to be covered adequately by other legislation. 91% of respondents supported the provisions proposed for general maintenance, lighting and sanitary facilities.

Further comments regarding these areas included:

- Guidelines should clarify what sort of lighting is 'adequate'
- Needs to be clear whether sanitary facilities will be covered separately by guidelines or use the NCC
- Guidelines should be developed to assist unusual situations (e.g. single sex dominated events, accessible toilet facilities, showering facilities for competition style events (e.g. mud rush) and for events involving camping
- LG may need to use discretion in some cases



The proposed requirements for fire preparedness and electrical safety received less support than the other requirements, 72% and 68% respectively.

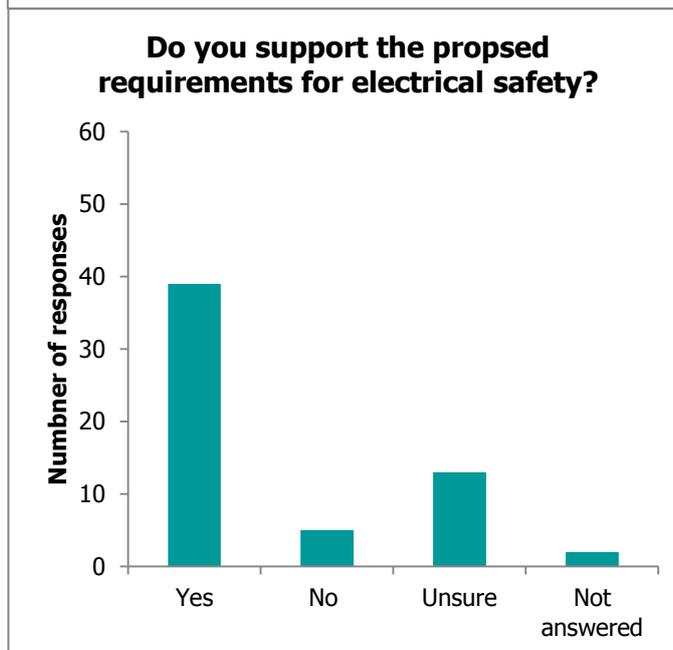
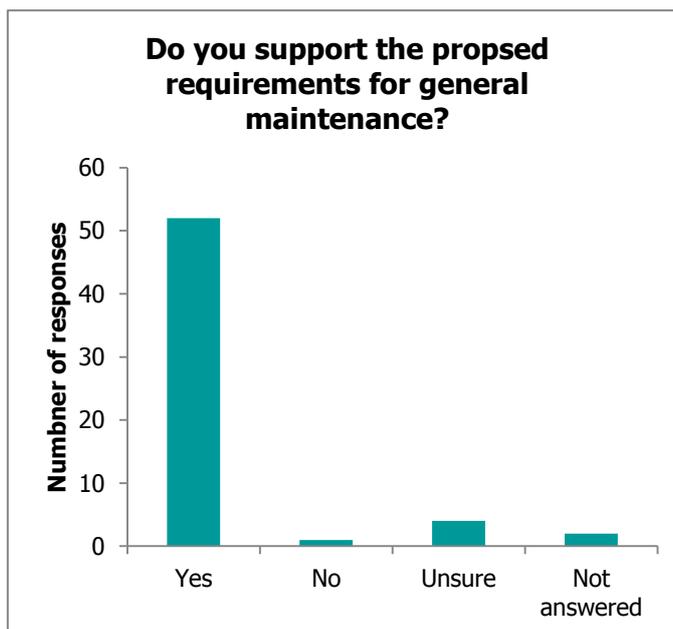
In regard to the requirement for event organisers to provide adequate firefighting equipment, in good working order and serviced in accordance with the requirements of AS 1851; there was generally a feeling that clear guidance was needed around what constitutes 'adequate' and what level of firefighting equipment should be provided (as this would likely change with each event). It was suggested that reference is made to any decorative treatments encompassed by the event as this could also be a fire hazard.

Electrical safety remained the most contentious area with most respondents indicating they felt unsure that the *Electrical (Licensing) Regulations 1991* satisfactorily ensured public safety at events. Comments reflected that while these regulations may cover aspects of electrical safety (particularly electrical installations) it is not felt they cover key elements of event setup such as extension cords, festoon lighting and other appliances plugged into the fixed wiring. In addition, the urgency with which the Office of Electrical Safety would be able to respond was called into question.

Unsafe electrical and gas installation and/or equipment were considered to pose a significant health and safety risk making accountability, maintenance and inspection important to manage the risk.

Further comments regarding electrical safety were as follows:

- There are safety risks with extension cords in the public realm. Cords that are buried under matting or strung up should be tested and tagged. EHO's should check cords aren't a trip hazard.
- For larger festival events there may be a call for certification but for smaller community events, the need to hire an electrician is an unnecessary expense.
- Authorised officers are uncomfortable with a scenario where there is no check of electrical installations by an expert. This check gives the AO confidence that an expert (usually a licenced electrician) has carried out a basic inspection of the event to check for obvious risks or defects with the temporary electrical installation.
- Develop a new format for Form 5 certificate which clarifies that the electrician has carried out an inspection of the event and not identified any potentially dangerous electrical installations. Scalability is required whereby the AO has discretion to require (via conditions of approval) a full electrical safety certificate by a licenced electrician or for low risk events an electrical safety certificate by the event organiser.
- At what point would an AO be able to refuse to issue a certificate because of concern over electrical hazards?
- Gas installations should be considered in respect to energy safety requirements.



A definition of 'adequate' for all of the provisions for equipment and facilities was considered necessary for clarity in any guidelines produced. Several respondents felt they would require additional detail in order to determine appropriateness for this proposal.

Recommendation:

The DOH recommends that this proposal is adopted. All equipment, fittings, appliances, seating etc. will be required to be maintained in good working order and fit sanitary condition. Adequate fire protection equipment must be provided in good working order and serviced in accordance with AS 1581 Routine service of fire protection systems and equipment. Adequate general and safety lighting must be provided, and emergency lighting capable of giving sufficient light for people to leave safely (as determined by the risk assessment). Adequate sanitary facilities' (including facilities for people with a disability) must be provided. Comprehensive guidelines will support these requirements including clarification on what would be considered 'adequate'.

Gas installations are considered to be adequately covered by the Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999 and will not be considered in event regulations although relevant information will be included in the guidelines.

The DOH considers electrical work to be sufficiently covered under Regulation 49 of the Electricity (Licensing) Regulations 1991 which mandates compliance with the WA Electrical Requirements (WAER). The WAER comprehensively covers safety for electrical installations and section 3.6.10 also specifically states that temporary supplies for short term events shall comply with the Wiring Rules and AS/NZS 3002. Event regulations will require that all electrical work must not be hazardous and must comply with the Electricity Regulations so if for example wiring was exposed to the public an authorised officer could request changes.

Further comments and stakeholder impacts

Issues that could be captured under regulation in addition to those outlined in the proposal

Traffic and Waste Management

Traffic and Waste were mentioned by multiple respondents as areas that lacked clear legislation to address but were intrinsically part of most events. Many respondents felt these areas did have public health implications. It was a common opinion by respondents that AO's should be able to require a traffic management plan, parking plan and/or a waste management plan. It was suggested that traffic management plans should comply with the MRWA Traffic Management for Events Code of Practice with addendum to cover parking and events that do not require road closures. Exclusion might lead to an ad hoc and inconsistent approach as local governments attempted to manage this risk. Without power to require this it is possible an event organiser may not manage these aspects therefore risking public health.

The DOH will not include traffic management in new event regulations. There are various existing legislative requirements in regards to traffic management that organisers of events need to adhere to. While DOH recognises that often traffic management is a part of running an event this area falls outside the scope of public health. The guidelines can however provide information about best practice for traffic management to draw attention to existing requirements and local governments could require that an event organiser comply with these as a condition of registration.

There is a broad range of legislation that may impact on waste management at events; in addition there may also be local council policies and guidelines. There are no mandatory requirements for events to consider waste; however, the DOH considers that local governments would be better placed to deal with waste management using mandatory strategic waste

management planning, provided for in the Waste Avoidance and Resource Recovery Regulations 2008. Again, the guidelines can provide information on best practice with waste management.

Terrorism

Terrorism is seen as another emerging issue in event management that affects patron's safety. The report released by the Community Development and Justice Standing Committee: Report 5, No Time for Complacency has a recommendation that relates to terrorism and event regulation review. The finding from this report was that mandating an environmental health model to address terrorism risk may place undue strain on the capacity of local governments.

The guidelines will provide links to information on issues such as hostile vehicle management and active shooter, risk mitigation measures, and circumstances where these issues should be considered, as well as self-assessment resources. The area of terrorism while relevant to events, falls well outside of the scope of public health and it is anticipated that authorised officers will not have the expertise or resources to deal with such issues, as such they will not be included in the event regulations.

Disability Access and Inclusion

Disability access and inclusion was another area raised by a number of respondents. It was suggested that accessibility should be included in conjunction with other regulations. Examples given were: sufficient accessible seating or accessible viewing platform, compliant and accessible pathways for patrons who are in a wheelchair and universal access toilets.

DOH considers this outside the scope of managing public health risks and this area is sufficiently provided for in existing legislation. The Disability Services Act 1993 requires all local government and selected State Government agencies to develop a Disability Access and Inclusion Plan which assists public authorities to plan and implement improvement to access and inclusion across different outcome areas including events.

Suggestions to improve the consistency of event regulation across local government areas and other comments

DOH as a system manager

It was suggested that DOH needs to continue to provide a proactive overseeing role in this area to provide consistent application of the new event regulations. Local government respondents called for the highest possible level of support to be provided by DOH including regular training (including online training for regional areas), clear and comprehensive guidelines and education opportunities. Providing resources such as templates and checklists for standard documentation would help consistency between local government and event organisers.

As the system manager, the DOH will provide advice on the implementation of the new regulations and allocate resources to developing and maintaining approved forms, the guidelines and any other required templates. The DOH will also continue to provide training, advice to authorised officers on request, and assist in liaising between authorised officers and event organisers.

Cross-boundary events

With cross-boundary events it was suggested there needs to be a system in place that ensures event organisers do not need to obtain different approvals from numerous authorised officers. It was queried whether it would be possible for the DOH to provide a single approval or perhaps nominate a lead local government, identified by the location of the end-point of the event. If there are jurisdictional issues the assessment could be deferred to DOH. The starting and end

points of such an event could be assessed as a separate application by local government if required. This could be explored further by the event working group.

Management of cross-boundary events will continue to require each affected local authority's input and cooperation under the new regulations. It is anticipated that the event approval process will be more streamlined and consistent with the new event regulations and updated guidelines.

Participants versus the public

Further clarity was requested on participants versus the public in event management. The DOH considers that current and future regulations are intended to protect only spectators and the public. There is concern over local government being liable for the safety of the participants in a race or artistic event e.g. running races, motor vehicle races, muddy assault courses etc. These events should comply with industry safety standards. The Kimberley Ultramarathon incident referred to in the event paper was not captured by the existing regulation, but many respondents felt that it should not be covered in the new regulations either. It was further suggested that the new regulations should not capture sporting reserves.

Recommendations from the 2011 Kimberley Ultramarathon bushfire inquiry were to capture 'high risk' events in an events approval process so that medical and risk management plans would be subject to assessment by relevant authorities. The inquiry concluded that the organisers did not take all reasonable steps to identify risks, reduce risks to the safety of the competitors, employees, contractors, spectators and volunteers. The new event regulations are not intended to regulate participant's safety with respect to the inherent risks of competing in sports or adventure sports but rather to capture risks applicable to the holding of the event regardless of size or activity enabling high risk or adventure sport activities to be included.

Duplicate Risk Management Documentation

Other managing bodies such as Perth Theatre Trust and MRA request specific documentation for operating events on land under their control. Respondents suggested that it needs to be determined if the information requested by these managing bodies is also informed by the new guidelines, removing the need for event organisers to duplicate or create submission documents to meet different criteria. For example; under the new guidelines the organiser of a low to medium risk event only needs to provide a risk assessment to the authorised officer from the Local Government Authority but if the event is to take place on MRA or PTT managed land a complete Risk Management plan to ISO 31000 may be requested.

Requests made by Perth Theatre Trust or MRA are not under the control of the DOH. Documentation prepared for an event should still only need to be prepared once but may be required to be submitted to multiple interested parties e.g. if the MRA has more onerous risk management documentation requirements than those required as part of an events registration with local authorities then an event organiser would submit the higher standard of documentation to both the local authority and the MRA.

Regulatory Framework

Many respondents suggested models for a hierarchy of regulation and detailed regulatory tools they would like to see, such as a Code of Practice, the ability to impose penalties for late applications, infringement notices and separate guidelines for event organisers and local governments -

The DOH intends to create regulations which will cover the following;

- *Registration of events with local government*
- *Provisions for risk management plans*

- *Provisions for first aid planning*
- *Provisions for egress and exits*
- *Provisions for equipment and facilities.*

These regulations will be heavily supported by comprehensive, updated events guidelines for authorised officers which will be the primary tool to determine appropriate standards at events, particularly where the regulations require a 'proportional' or 'adequate' approach. The guidelines will be redeveloped in consultation with the Events Working Group and additional relevant stakeholders including WA Police and first aid professionals. They will be suitable for local government and industry use. Offences, penalties and powers for authorised officers are provided for by the Public Health Act outlined, Part 16.

Next steps

The information gathered in this consultation indicates that there is a majority preference for ongoing regulation of events under the Public Health Act.

The DOH will seek to further refine the risk matrix with the Events Working Group.

Once this information has been finalised, the DOH will commence developing a Preliminary Impact Assessment for the Department of Treasury's Better Regulation Unit. This is required as part of the Regulatory Impact Assessment process.

For information on the DOH's Public Health Act regulation review program, visit the **WA Health website** <https://ww2.health.wa.gov.au/Improving-WA-Health/Public-health/Public-Health-Act/Regulation-review-program>; or sign up to the **Environmental Health Directorate newsletter** to be notified of any upcoming consultations <https://health.us7.list-manage.com/subscribe?u=bbc68d42eff51a06d25cb71db&id=618b4db23b>.



Appendix 1 – Consultation submission list

Submissions to this consultation were received from the following organisations*:

Local government	
Shire of Beverley	City of Kwinana
City of Belmont	City of Mandurah
City of Bunbury	Shire of Manjimup
City of Busselton	Shire of Merridin
Town of Cambridge	Shire of Moora
Town of Claremont	Shire of Murray
Town of Cottosloe	City of Nedlands
City of Cockburn	City of Perth
Shire of Corrigin	Town of Port Hedland
Shire of Dandaragan	Shire of Quairading
Shire of Esperance	Shire of Serpentine Jarrahdale
City of Fremantle	City of South Perth
City of Gosnells	City of Stirling
City of Greater Geraldton	City of Subiaco
City of Joondalup	City of Swan
City of Kalamunda	Town of Victoria Park
City of Karratha	City of Wanneroo
Industry Groups and Associations	
Alcohol and Drug Foundation	
Australian Festival Association	Secure Events and Assets Pty Ltd
Environmental Health Australia	St John Ambulance
Live Music Office	The Event Team
Live Performance Australia	WA Local Government Association
Metropolitan Environmental Health Managers Group	
Nannup Music Club	
Perth Festival	
RTRFM 92.1	
State government	
Department of Mines, Industry Regulation and Safety	

*Respondents who wished to remain confidential were not included in this list

Appendix 2 – Citizen Space online survey questions

Question 1: Do you support the adoption of **Option A: Repeal without replacement**? Why or why not?

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

Question 3: Do you support the adoption of **Option B: Retain status quo**? Why or why not?

Question 4: Can you identify any further advantages or disadvantages of **Option B**?

Question 5: Do you support the adoption of **Option C: Provide new events regulations under the *Public Health Act 2016* with an updated guideline**? Why or why not?

Question 6: Can you identify any further advantages or disadvantages of **Option C**?

Question 7: Do you have any suggestions for alternative options that have not been considered? Please explain your ideas by providing examples of complaints, case studies, data or other evidence.

Question 8: Can you identify any potential gaps or overlaps between the proposed public buildings regulations and the proposed events regulations? Do you have any suggestions for ways of preventing these?

Question 9: Do you support the replacement of the certificate of approval process with the registration process? Please detail any positive and negative impacts on you or your organisation.

Question 10: Do you believe any further information should be provided on the certificate of registration?

Question 11: Do you believe that the requirement to provide adequate public liability insurance should be part of the proposed new regulations? Why or why not?

Question 12: Do you support the requirement to provide a RMP based on risk rather than capacity? Please detail any positive and negative impacts on you or your organisation.

Question 13: Do you support the requirement to provide a 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? Please detail.

Question 14 (for authorised officers): What type of additional assistance would you or your local government require in assessing RMPs? Please detail.

Question 15: 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?

Please detail any positive and negative impacts on you or your organisation.

Question 16: Do you support the proposed first aid requirements? Please detail the positive and negative impacts on you or your organisation.

Question 17: Do you support the proposed exit requirements? Please detail the positive and negative

Question 18: Do you support the proposed requirements for:

- a) General maintenance?
- b) Fire preparedness?
- c) Electrical safety?
- d) Lighting?
- e) Sanitary facilities?

Please detail the positive and negative impacts on you or your organisation.

Question 19: 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 your previous answers?

Question 20: Are there any other issues that you believe should be captured under regulation in addition to those outlined in the proposals?

Question 21: Do you have any further suggestions on ways to improve the consistency of event regulation across local government areas, or any other comments?

Question 22: Do you support the inclusion of the matrix in Appendix 1 in the guidelines to assist with assessing events? Please detail the positive and negative impacts on you or your organisation.



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