



**Information** on **open areas**  
for **workplaces** and  
**hospitality venues**



## INFORMATION ON OPEN AREAS FOR WORKPLACES AND HOSPITALITY VENUES.

From 10 December 2004 the Smoke-free Environments Act requires all internal areas of workplaces, licensed premises and certain public enclosed premises to become smoke-free. The **purpose** of these changes is to **prevent** the detrimental effect of other people's smoking on the health of people who do not wish to smoke, thereby preventing exposure to second-hand smoke. The internal areas of all of these premises are required to be smoke-free and smoking will only be legally permitted in open areas. Proprietors may choose to prohibit smoking in their open areas as well.

### MINISTRY APPROACH AND EXAMPLES OF COMPLIANCE

This Ministry of Health booklet provides examples of what an open area could be, as well as examples of areas that would not be, or may not be, open areas. The numbers are only examples to provide guidance in particular to architects who have been asked to design 'open areas' that comply.

In this document the Ministry of Health is able to offer general advice about the requirements of the Act and how it will be applied. However, because the Ministry of Health is the lead enforcement agency it is not able to provide advice on specific premises. Anyone wanting specific legal advice or legal interpretations of the Act should contact a lawyer or legal expert.

## THE ACT DEFINES BOTH INTERNAL AREAS AND OPEN AREAS

Internal area, in relation to any premises or vehicle, means an area within or on the premises or vehicle that, when all its doors, windows, and other closeable openings are closed, is completely or substantially enclosed by -

- (a) a ceiling, roof, or similar overhead surface; and
- (b) walls, sides, screens, or similar surfaces; and
- (c) those openings.

Open area, in relation to any premises, means a part of the premises that is not an internal area.

When the Ministry looks at an area to consider whether it is an enclosed area it will consider all or some of the following factors:

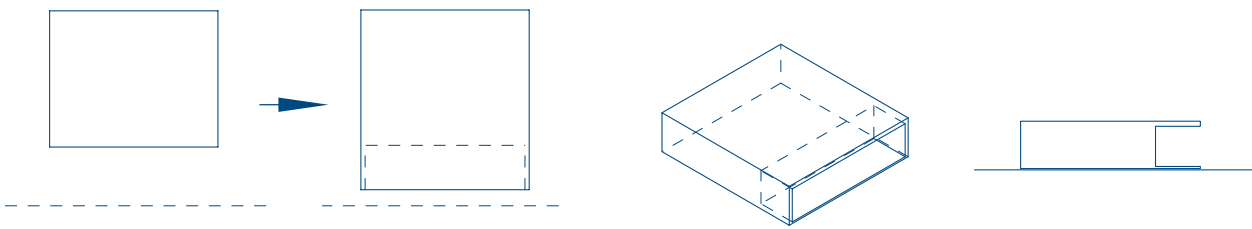
- whether the premises, building or structure has 100 percent walls, sides or screens
- whether the premises, building or structure has 100 percent ceiling, roof or overhead surface
- what closeable openings the premises, building or structure has
- the interrelationship between the walls/sides/screens, the ceiling/roof/overhead surface and closeable openings
- the permeability of walls/sides/screens and/or the ceiling/roof/overhead surface, eg, trellis vs concrete or glass
- the ratio of wall/side/screen length and wall/side/screen height to the existence of a ceiling/roof/overhead surface.

These factors will be considered in the context of the purpose - 'to prevent the detrimental effects of other people's smoking on the health of people in workplaces, or in certain public enclosed areas, who do not smoke or do not wish to smoke there'.

## COMPLYING (OPEN) SMOKING AREAS

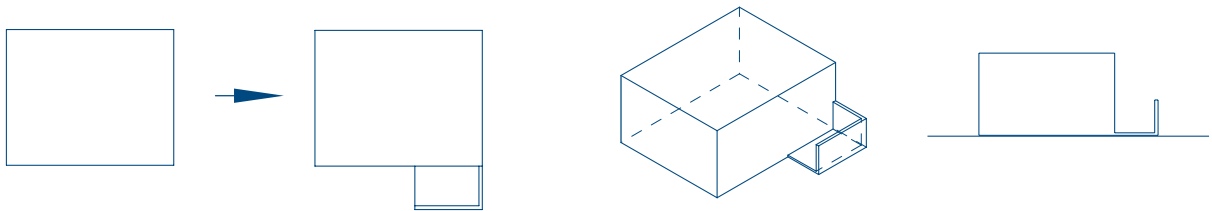
### 1 ADDITION

Long open front verandah/roof addition to the front/back or side of a building with closed ends, depth of floor/deck of verandah is small (2 – 3m) compared to the open front length. The open front is not enclosed by adjacent buildings or fences/walls.



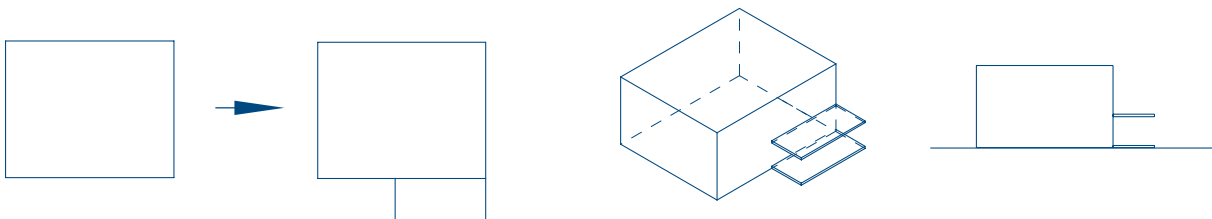
### 2 ADDITION

Walled off addition with no roof cover and one open side, wall height no more than 2 – 2.5m length and depth of floor/deck greater than height of 2 enclosing walls. The open top is not over built/enclosed by existing and/or adjacent buildings, awnings or roofs. The open side is not enclosed by adjacent buildings or fences/walls.



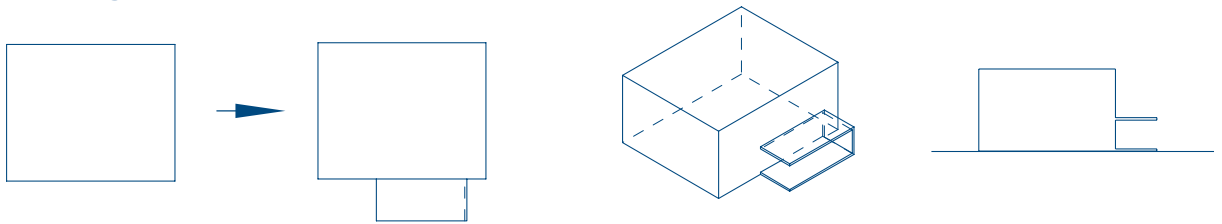
### 3 ADDITION (VERANDAH)

Long open front verandah/roof addition to the front/back or side of a building with open ends, depth of floor/deck of verandah is small (2 – 3m) compared to the open front length. The open front and sides are not enclosed by adjacent buildings or fences/walls.



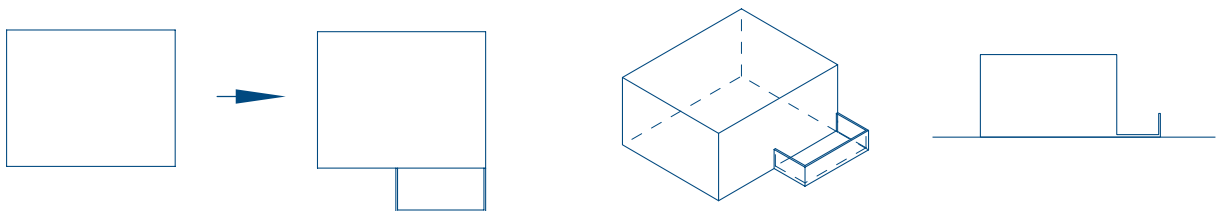
#### 4 ADDITION

Long open front verandah/roof addition to the front/back or side of a building with one open end and one closed end, depth of floor/deck of verandah is small (2 – 3m) compared to the open front length. The open front and side are not enclosed by adjacent buildings or fences/walls.



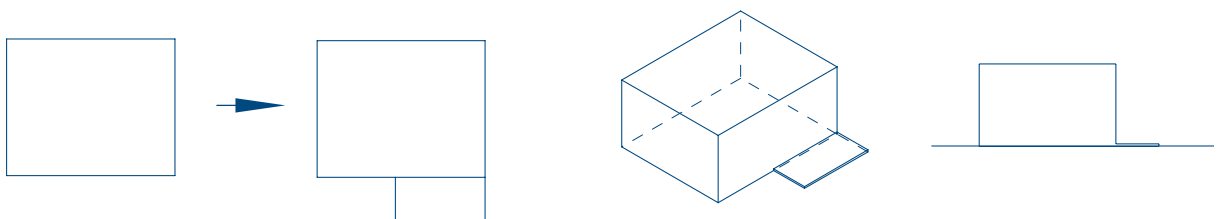
#### 5 ADDITION

Long open deck/floor addition to the front/back or side of a building with open top and enclosed side walls, wall height no more than 2 – 2.5m. The open top is not over built/enclosed by existing and/or adjacent buildings, awnings or roofs.



#### 6 ADDITION (GARDEN BAR)

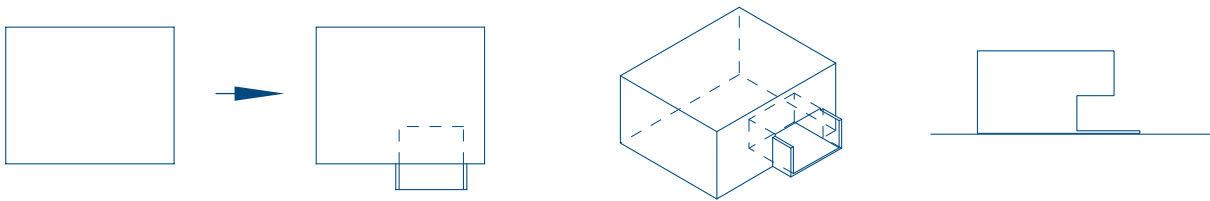
Open deck/floor with no roof/cover and open sides – open patio/deck/garden area. The open top and open sides are not over built/enclosed by existing and/or adjacent buildings, awnings or roofs and the sides are not enclosed by adjacent buildings or fences/walls.



## ADDITION/INSERTION

### 7 ADDITION/ INSERTION SMALL DEPTH RELATIVE TO LENGTH

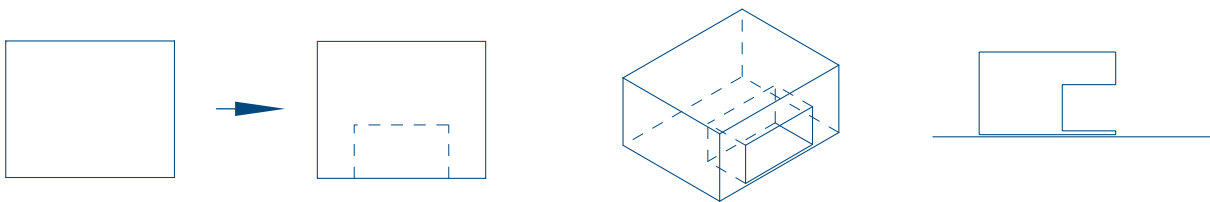
Long open front and open deck/floor with a small portion of deck/floor inside the building all open with each other, to the front/back or side of a building with closed ends, overall depth of floor/deck of verandah is small (2 – 3m) compared to the open front length, deck/floor inside building is small in depth (1 – 2m), wall height inside is greater than 2.5m, wall height outside no more than 2 – 2.5m. The open top is not over built/enclosed by existing and/or adjacent buildings, awnings or roofs and the open front is not enclosed by adjacent buildings or fences/walls.



## INSERTION

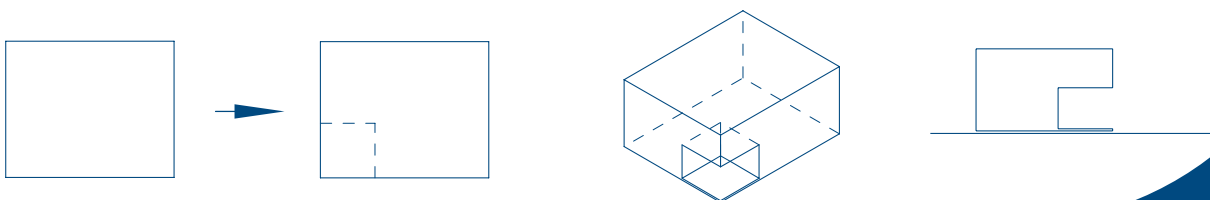
### 8 INSERTION

Long open front deck/floor insertion, depth of deck/floor inside building is small (2 – 3m), to the front/back or side of a building, wall height inside is greater than 2.5m. The open front is not enclosed by adjacent buildings or fences/walls.



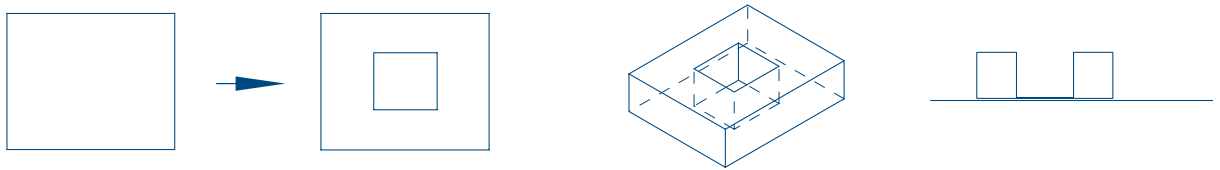
### 9 INTERSECTION CORNER

Long open fronts, corner deck/floor insertion, depth of deck/floor inside building is small (2 – 3m), to the corners of a building, wall height inside is greater than 2.5m. The open front is not enclosed by adjacent buildings or fences/walls.



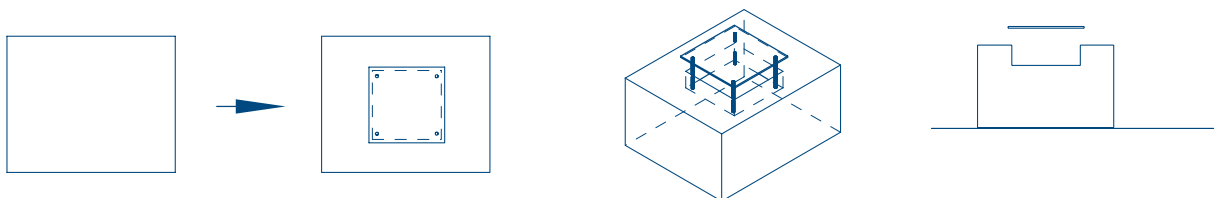
## 10 INTERNAL COURTYARD LOW HEIGHT RELATIVE TO AREA

Open internal courtyard/deck/floor insertion, length and width of deck/floor insertion is greater than height of building walls. The open top is not over built/enclosed by existing and/or adjacent buildings, awnings or roofs.



## 11 INTERNAL COURTYARD/ROOF DECK

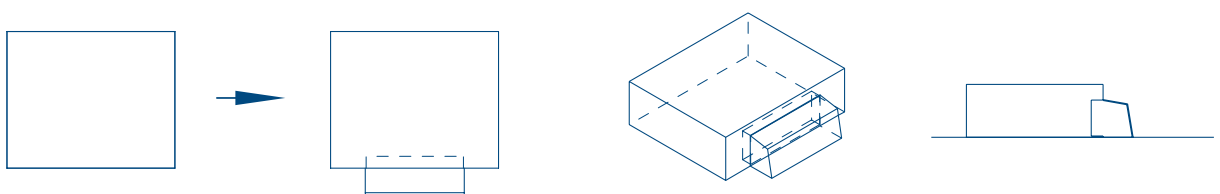
Open internal courtyard/deck/floor insertion with or without roof/cover over, length and width of deck/floor insertion is greater than height of building walls. Wall height not more than 1.2m and roof underside not lower than 2.5m. The open sides are not enclosed by adjacent buildings/roofs/screens from the existing and/or adjacent buildings.



## NON-COMPLYING SMOKING AREAS

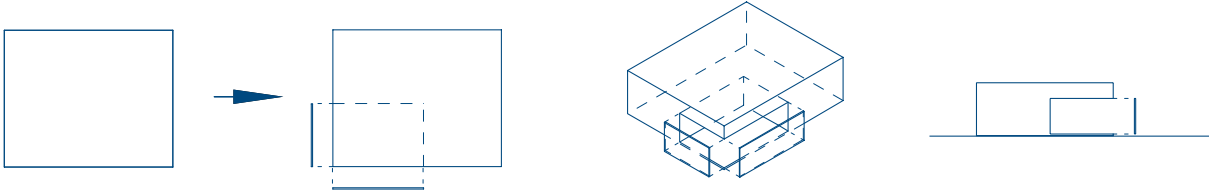
### 1 MARQUEE/TENT

Marquee/tent/covered structure addition to the front/back or side of a building. With or without openings for access or ventilation, the structure can be enclosed and does not provide permanent openings.



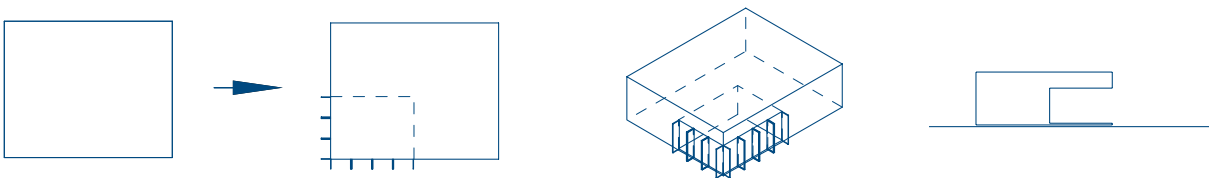
## 2 INSERTION/ADDITION FULLY CLOSEABLE

Open fronts, corner deck/floor insertion to the corners of a building, with adjacent full height walls opposite open fronts. Small opening over and at ends insufficient to ventilate insertion area.



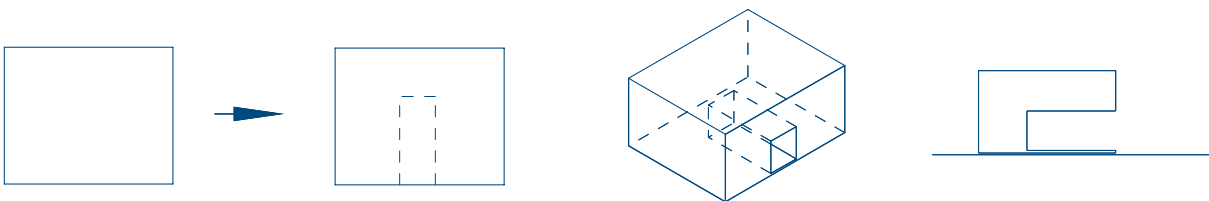
## 3 INSERTION/ADDITION DOORS/WINDOWS

Opening doors and/or windows to building corner. Does not provide permanent openings.



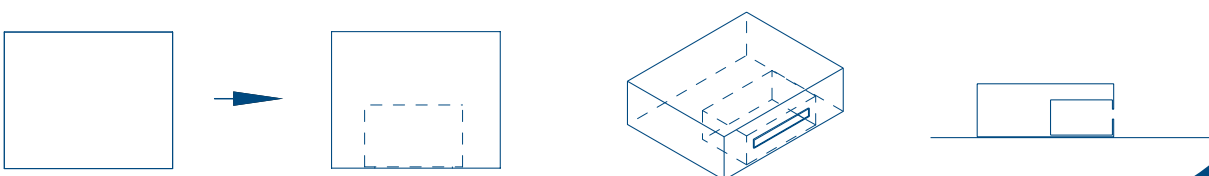
## 4 INSERTION (TUNNEL)

Long tunnel insertion to the front/back or sides of a building. Small front opening and depth of insertion insufficient to ventilate depth of insertion.



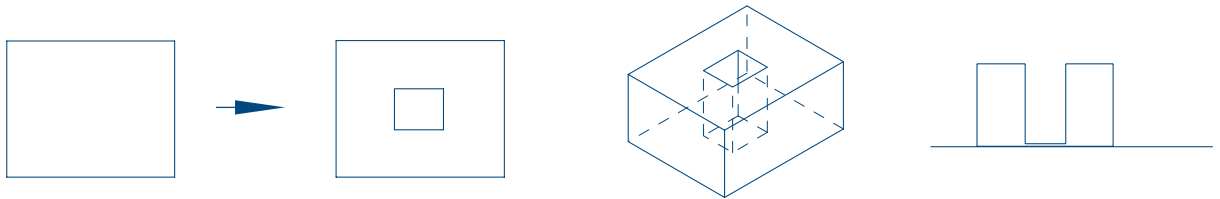
## 5 INSERTION OPENINGS SMALL RELATIVE TO VOLUME

Small slot opening to the front/back or sides of a building. Opening is small relative to width and depth of insertion, insufficient to ventilate area.



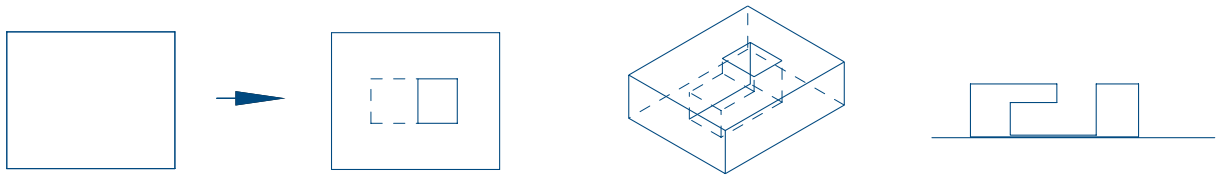
## 6 INTERNAL COURTYARD (CHIMNEY)

Open internal courtyard with high walls to all sides. Small top opening-chimney, and wall height, insufficient to ventilate the courtyard area.



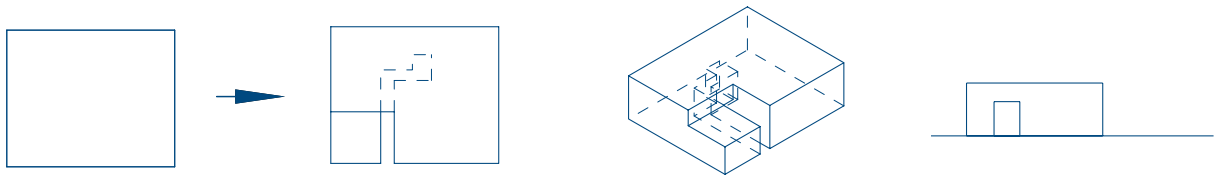
## 7 INTERNAL COURTYARD PART ROOF

Open internal courtyard with large portion of top covered in a roof/awning. Small top opening and large courtyard, insufficient to ventilate the courtyard area.



## 8 PASSAGEWAYS/ACCESS & EGRESS

Passageways/access and egress ways cannot be used as smoking areas.



For the purposes of the Act, premises in the ordinary meaning of that word includes -

- a building;
- a piece of land;
- a building and land together;
- a part of the building or land; and
- any structure or shelter or similar thing.



## DISCLAIMER

This information is intended to provide general information on open areas and should not be construed as legal advice. The Ministry of Health does not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading; or reliance placed on the Ministry of Health because of having read any part, or all of this information. In instances where breaches of the Act are alleged or where prosecutions may be considered it would be inappropriate for the Ministry of Health to provide specific legal interpretations relating to particular situations.

For further information on tobacco, health and the Smoke-free Environments Act 1990 contact:

[www.smokefreelaw.co.nz](http://www.smokefreelaw.co.nz)

[www.moh.govt.nz](http://www.moh.govt.nz)

[www.healthed.govt.nz](http://www.healthed.govt.nz)

Public Health Service at your local District Health Board

Public Health Service contact details:

