



## **Maribyrnong City Council- Managing the Impacts of Licensed Premises**

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## INTRODUCTION

This report provides an overview of the issues facing Maribyrnong City Council with regard to alcohol consumption, and how relevant issues may be managed via the Planning framework.

By way of background, in 2012 Maribyrnong released a Discussion Paper on 'Managing the Impact of Licensed Premises' (Discussion Paper). The Discussion Paper (amongst other things) aimed to assist in developing a licensed premises local planning policy in the Maribyrnong Planning Scheme (Planning Scheme) that reflects Council's role in managing alcohol and related issues, and guide the preparation of a Reference document to inform this policy.

The purpose of this particular report is to provide background information in relation to the licensed premises local planning policy, develop the content for the local policy and become a reference document under the local policy.

Council has been assisted by Environmental Resources Management (Australia) Pty Ltd (ERM) in preparing this report. The scope of ERM's work in the preparation of the licensed premises local policy on behalf of Council is included in Annex A of this report.

## 2 EXISTING CONDITIONS

### 2.1 National Context

Alcohol plays many roles in contemporary Australian society. It provides a relaxant, and used as an accompaniment to socialising and celebration, as a source of employment and exports, and as a generator of tax revenue. It is intrinsically part of Australian culture. The majority of Australians who regularly drink, do so in moderation. Approximately three quarters (72.6 %) of Australians drink below levels for long-term risk of harm (AIHW, 2007). However, short-term consumption of alcohol at harmful levels, while only occasional, is also a prominent feature of the drinking culture in Australia. One in five Australians (20.4 %) drink at short-term risky/high-risk levels at least once a month (AIHW, 2007b).

### 2.2 State Context

In 1988 and 1998 Victoria underwent two substantial reviews of liquor licensing legislation. This resulted in the substantial broadening of licence types, relaxation of trading hours and removal of other restrictions on licence conditions.

These changes have resulted in increased availability of alcohol with the number packaged liquor outlets more than doubling in the last two decades, and the number of on-premise licensed premises increasing seven-fold. There have also been significant increases in the number of licensed premises (including packaged liquor premises) trading 24 hours a day.

### 2.3 Local Context

#### 2.3.1 Activity Centre Network

The City of Maribyrnong has over 250 licensed premises, the majority of which are located in the City's activity centres, which include:

- Footscray Metropolitan Activity Centre
- Highpoint Activity Centre
- Central West Activity Centre
- Yarraville Activity Centre
- Seddon Activity Centre
- West Footscray Activity Centre
- Edgewater Activity Centre
- a number of local centres.

Figure 2.1 reproduces the Land Use Framework Plan at clause 21.03 of the Planning Scheme. This plan shows the location and hierarchy of activity centres.

Figure 2-1 Land Use Framework Plan (showing the location and hierarchy of activity centres)



Land Use Framework Plan

- |  |   |  |   |
|--|---|--|---|
| Strategic Redevelopment Sites<br>- Areas of Substantial Change | Core Industrial Precinct                  | Principal Activity Centre<br>and Central Activities District | TRAIN STATIONS                            |
| Open Space   | PPTN Tram Corridor                        | Major Activity Centre  | Freight Rail Line<br>(Newport - Sunshine) |
| Western Hospital Precinct                                      | Vic Transport Plan:<br>Regional Rail Link | Neighbourhood Activity Centres                               | Victoria University                       |
| Municipal Boundary   |   | Local Activity Centres                                       | Maribyrnong River<br>Stony Creek          |

The role of the activity centres is varied. State Planning policy encourages activity centres as a focus for activity and living for the whole community. Strategies include developing a network of activity centres that comprise a range of sizes and function and is a focus for entertainment and recreation activities (among other things)

Clause 21.04-1 'Activity Centre Planning' of the Municipal Strategic Statement (MSS) sets out the following local objectives for activity centres in the municipality:

- *'To create an activity centre network with a variety of easily accessible, pleasant and safe places where people can gather, socialise, shop, work, live, be entertained and make use of many kinds of community and leisure services without having to travel far,*
- *To transform the Footscray CAD, Highpoint PAC and the Central West MAC into mixed use retail, commercial, residential and community services centres with a sense of place.*
- *To develop centres in accordance with their place in the activity centre hierarchy.*
- *To enhance the community focus of local activity centres'.*

Clause 21.11 'Local Areas' of the MSS provides some strategic direction on the role and expectations of various activity centres in the municipality. A summary is provided below.

#### **Footscray Metropolitan Activity Centre**

*Plan Melbourne – Metropolitan Planning Strategy* designates Footscray as one of nine Metropolitan Activity Centres. The strategic direction of Metropolitan Activity Centres in accordance with Plan Melbourne is:

*'to maximise access to goods and services in a limited number of major centres with good public transport networks. These centres will play a major service delivery role, including government, health, justice and education services, retail and commercial, and provide a diverse range of jobs, activities and housing for a subregional catchment.'*

Clause 21.11-1 'Footscray Metropolitan Activity Centre' highlights that the Footscray Metropolitan Activity Centre (FMAC) is the most regionally significant activity centre of Melbourne's west. It states the vision for the Footscray CAA is *'a vibrant mixed use centre that offers diverse residential, employment and recreation options and is accessible via varied transport methods.'*

A relevant objective is:

*'To support/generate local opportunities for employment and business through new development.'*

A relevant associated strategy is:

*'Encourage extended hours of activity and further opportunities for entertainment and recreation within the centre.'*

This suggests Footscray will be a prime centre of growth and diversity of licensed premises and warrants special attention and planning to ensure an appropriate balance is achieved in delivering its CAA function while remaining a safe and attractive place to be particularly outside normal business hours.

#### **Highpoint Activity Centre**

The Highpoint Activity Centre is recognised as a regional retail, commercial, entertainment and recreation activity centre and a substantial change area for the purposes of housing. The vision is to secure a further shift from a stand alone retail centre to include development of vertical mixed uses, a greater entertainment presence and increased employment. A relevant Strategy is *'Encourage*



*extended hours of activity within the centre to promote public safety, amenity and vibrancy during the day and night.'*

#### **Central West Activity Centre, Braybrook**

The Central West Activity Centre operates primarily as a business and employment based activity centre, and is not a focus for entertainment activity. The centre has potential to intensify development generating more retail and industrial/ commercial development.

#### **Yarraville Activity Centre**

Yarraville village is an activity centre that has an established and vibrant entertainment precinct built around the presence of the Sun Theatre. The centre is well serviced by public transport located at the bus/ train interchange.

Parking at the centre is constrained to the periphery due to the railway line and narrow road widths within the centre. The lack of car parking presents an amenity issue due to the interface of the centre with residential areas. There is also limited opportunity to increase car parking to support future intensification the centre.

While the vision of the centre is to seek to encourage and intensify mixed uses and build up its cultural and social role, the policy seeks to ensure the cumulative effect of the increase of licensed premises does not threaten its local convenience role or the amenity of residential areas surrounding the centre.

#### **Seddon Activity Centre**

The Seddon Activity Centre meets local retail and service needs and attracts visitors from adjacent suburbs to the specialist facilities offered. A relevant objective is *'to consolidate and enhance the role of Seddon Village as a neighbourhood centre'*. Relevant associated strategies are *'increase intensity of activity and diversity within the centre, redevelop the low density of residential and light industrial properties to create new retail, commercial or mixed use floorspace'* and *'capitalise on redevelopment opportunities for sites with a rear frontage to Rennie and Vigo Streets to strengthen street level activity in those streets.'*

#### **West Footscray Activity Centre**

The West Footscray Activity Centre (also known as Barkly Village) is recognised as the heart of the West Footscray community. It has good access to public transport and includes community facilities. A relevant objective is *'to consolidate and enhance the role of the centre'* by *'strengthening street level activity'*, and *'encouraging a mix of businesses with the Village so as to create an active streetscape both night and day'* (among other things).

#### **Edgewater Activity Centre**

The Edgewater Activity Centre is a relatively new centre providing convenience retailing to the Edgewater Estate. A relevant objective is to *'facilitate the development Edgewater as a neighbourhood centre'*. Relevant strategies are to *'strengthen the café and outdoor eating culture to create places to meet and socialise in the centre'*, and *'discourage large commercial, industrial and other land use and development which is incompatible with adjoining activity and the surrounding residential area.'*

#### **Local centres**

There is no specific local policy direction about the role and vision for local centres. However, it is reasonable to assume some uses will establish over time requiring a permit under clause 52.27 that will offer a convenience service to the local community.

#### **Strategic Investigation Areas and the Settlement Framework**

Clause 21.04-5 'Strategic Investigation Areas' identifies three areas for further investigation to establish their role and future land use, transport and urban design directions. The investigation areas are

Braybrook (North), Hampstead Road (East), Maribyrnong and South Francis Street, Yarraville. These areas are shown on *Figure 2.1 – Land Use Framework Plan*.

These are areas where some further activity centre development are likely to occur and where it is reasonable to anticipate growth and increased residential densities and demand for licensed premises.

### 2.3.2 Existing Licensed Premises

In April 2015, there were 256 licensed premises operating within the City of Maribyrnong. The majority of licenses (35.9%) were restaurant or cafes (including BYO), 7.8% were club licenses, and 13.3% were packaged liquor licenses. The remaining 43% were on-premises venues, general and limited licences and pre-retail licenses.

Licensed premises are concentrated in the eastern half of the municipality. The suburbs of Footscray, West Footscray, Maribyrnong and Yarraville have the greatest concentration of venues totalling 77% of licensed venues. In addition, within these suburbs there is an increased concentration of premises in the Footscray Metropolitan Activity Centre, and the Seddon and Yarraville shopping strips. There is also a notable grouping of licensed premises along Ballarat Road. *Figure 2.2* shows the distribution of licensed premises throughout the municipality. *Figure 2.3* shows the breakdown of licensed premises per suburb, illustrated in a table and graph formats.

Figure 2-2 Existing Licensed Premises in the City of Maribyrnong

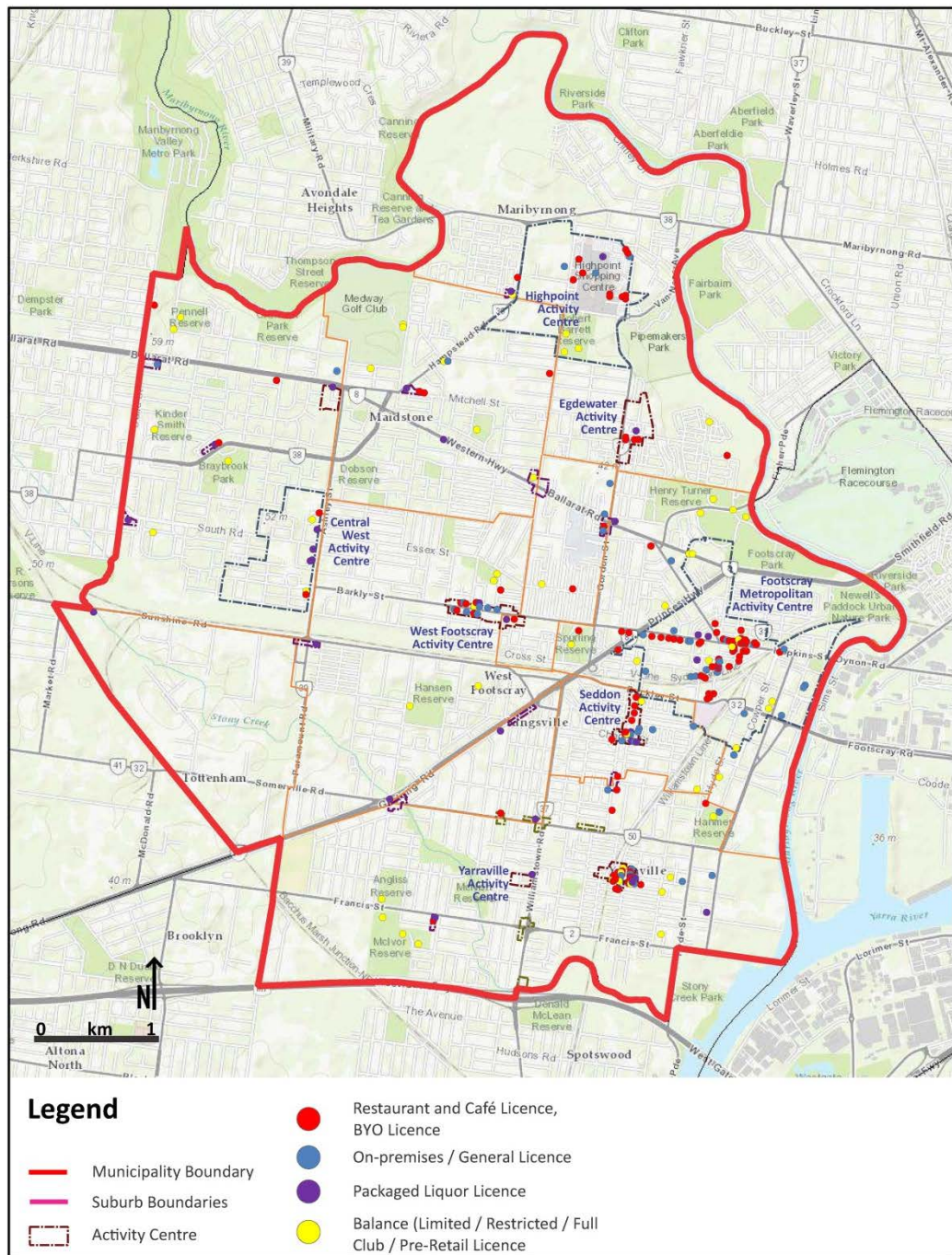
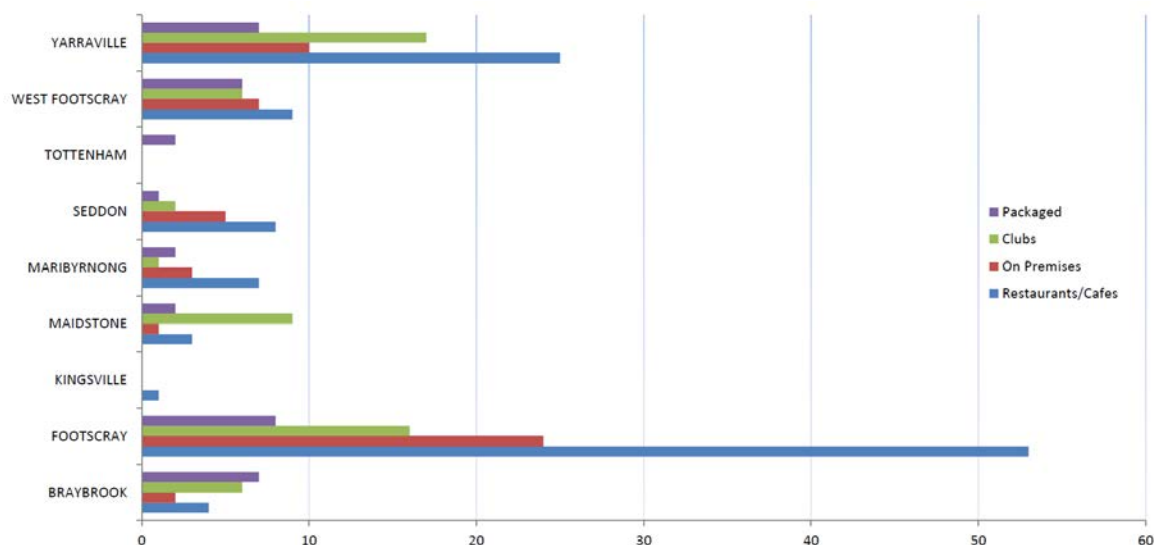


Figure 2-3 Summary of Licensed Premises by Suburb (April 2015)



Location	Restaurants/Cafes	On Premises	Clubs	Packaged	Total	Percentage
BRAYBROOK	4	2	6	7	19	7%
FOOTSCRAY	53	24	16	8	101	40%
KINGSVILLE	1	0	0	0	1	0%
MAIDSTONE	3	1	9	2	15	6%
MARIBYRNONG	7	3	1	2	13	5%
SEDDON	8	5	2	1	16	6%
TOTTENHAM	0	0	0	2	2	1%
WEST FOOTSCRAY	9	7	6	6	28	11%
YARRAVILLE	25	10	17	7	59	23%
<b>Total</b>	<b>110</b>	<b>52</b>	<b>57</b>	<b>35</b>	<b>254</b>	

A review of metropolitan LGA data in 2014 revealed that the outlet density of licensed premises in Maribyrnong has increased steadily in the City of Maribyrnong between 2000 and 2009, from 21.99 outlets per 10,000 adults in 2000, to 29.56 outlets per 10,000 adults in 2009 (10 Consulting 2014, VicHealth 2011).

Compared to other Local Government Areas that are located a similar distance from the CBD, such as Yarra, Port Phillip and Stonnington, Maribyrnong has a comparatively low density of outlets. This may be as a result of a relatively underdeveloped night-time economy (10 Consulting Group)

### 2.3.3 Local Policy Implications

Generally, it is expected the number, range and diversity of licensed premises in the municipality will grow as the resident population continues to increase.

The strategic settlement patterns provide population growth to occur at higher densities across the residential areas of the municipality with a particular focus and concentration in and around activity centres and strategic redevelopment sites.

The network and hierarchy of activity centres also underpins the provision of a broad range of retail and community services, entertainment, and recreation facilities. Activity centres should therefore be a primary focus for establishing a broad range of licensed premises, consistent with the role of the centre.

The Strategic Investigation Areas and larger redevelopment sites provide an opportunity to establish new activity centres, and the Commercial 1 Zone (C1Z) allows supermarkets, convenience shops and bottle shops to operate ‘as-of-right’. Such areas are therefore likely to support licensed premises.

It is impossible to predict or control the particular mix of licensed premises in a given location. However, the MSS and licensed premises local policy is a useful tool for providing direction on preferred locations for licensed premises and effectively managing off-site amenity impacts attributable to licensed premises. It is also appropriate to consider the role and hierarchy of the city's activity centre network and the associated population patterns.

### 3 IMPACTS OF LICENSED PREMISES

The presence of licensed premises can have both positive and negative impacts on the community. Positive impacts can include enhancing the vitality of an area, increasing consumer choice, and providing economic benefits.

However, there is increasing community awareness of the problem of harmful consumption of alcohol and the negative impact this can have on the community. These impacts relate to the following:

#### 3.1 Health Impacts

There is considerable evidence to demonstrate that alcohol's impact on the health and wellbeing of Australians is profound (Babor et al. 2010).

In Victoria, alcohol is estimated to directly account for 4.9 per cent of the total burden of disease (DHS 2005), and it is related to the causes of more than 60 different medical conditions (Rehm et al. 2003). The most common cause of death due to intoxication is road crash injury, and among the chronic conditions, alcohol-related liver cirrhosis accounted for the majority of deaths (Chikritzhs et al. 2003).

Almost 75 per cent of adult Australians have been adversely affected by someone else's drinking (Laslett et al. 2010).

In the City of Maribyrnong, 9.1 per cent of the community are at risk of short term harm from alcohol consumption which is the same as the State average (Department of Health, 2013).

#### 3.2 Social Impacts

Licensed premises are popular venues for entertainment, the consumption of alcohol, and an important location for socialising, particularly among young people. However, strong links have been identified between alcohol consumption and negative social impacts.

Licensed premises are a high-risk setting for alcohol related violence and injury, particularly in close proximity to hotels and nightclubs. Patrons and staff of licensed premises are at an increased risk of becoming involved in a violent incident by comparison with other locations (AIC 2011).

High concentrations of licensed premises have been linked to higher levels of violence inside and outside the premises as patrons move between venues and congregate together (Livingston 2008a). Research demonstrates a strong correlation between liquor outlet density and incidence of multiple forms of social disruption, including assault, injury and drink driving (AIC 2011).

Research conducted between 1996 and 2005 found that bars, nightclubs and restaurants were associated with violence in the inner city suburban areas, while packaged liquor outlets are associated with violence in suburban areas (Livingston 2008a). Packaged liquor premises influence violence primarily through higher levels of alcohol availability.

Late trading also contributes to increased alcohol consumption and increased violence. A Perth study by Chikritzhs and Stockwell (2002; 2006) found a general increase in monthly assaults rates in and around hotels with late trading. A study in NSW also found that assaults at licensed premises were more likely to occur during extended trading hours, most frequently between midnight and 3am.

#### 3.3 Economic

Licensed premises can lead to positive economic impacts in terms of increasing visitor spend, employment generation, and tax revenue. Positive economic impacts can increase an area's amenity and attractiveness, which then begins a virtuous cycle that adds to a city's economic vitality.

However, the financial cost of alcohol-related harms to Australian society, including harms experienced by drinkers and ‘victims’ of other peoples’ drinking, is substantial (Laslett et al. 2010; National Preventative Health Taskforce 2009). An estimated total financial cost is in excess of \$15.3 billion per annum (Collins & Lapsley 2008).

The indirect cost of alcohol-related harm in Victoria in 2007-08 was estimated to be \$1.1 billion. Indirect costs come about from reduced labour in the workforce (paid work), reduced labour in the household through sickness or death (estimated value of unpaid work in the home) and government investment in education, promotion and research programs. For the same period, intangible alcohol-related costs are estimated at \$1.2 billion. These costs include the valuation of loss of life and the pain and suffering attributed to alcohol-related harm.

### 3.4 Amenity Impacts

Amenity impacts relate to the impacts of licensed premises on the surrounding neighbourhoods in which they operate, and can relate to both positive and negative impacts.

The *Liquor Control Reform Act 1998* defines amenity as ‘the quality that an area has of being pleasant and agreeable.’ In the decision of *Zerbe v City of Doncaster and Templestowe*, the Tribunal stated that amenity ‘goes much further than mere “pleasantness” and “agreeableness”. In town planning terms, it embraces all the features, benefits and advantages inhering in the environment in question.’

Positive amenity impacts resulting from licensed premises in a town planning context include the enhanced vitality of an area, streetscape activation, passive surveillance, and the creation of a local ‘identity’ as an entertainment or tourism destination. Negative amenity impacts relate to violence, street disturbance, noise, anti-social behaviour, litter, and vandalism.

The provision of licensed premises in ‘clusters’ particularly with a focus on on-premises outlets such as hotels and bars, may attract crowds above and beyond what would be attracted by the same number of premises on their own, generating large numbers of people circulating from one premises to the next. This can create the potential for additional negative amenity impacts particularly in terms of noise, anti-social behavior, infrastructure capacity problems, threats to safety, and property damage.

It is the role of planning to address potential amenity impacts resulting from the use and development of land where a permit is required under clause 52.27 ‘Licensed Premises’ by applying clause 52.27 and developing local policy where necessary to guide the decision maker’s exercise of discretion.

These matters are further discussed at Section 4.3 of this report.

## 4 MANAGING THE IMPACTS

### 4.1 Role of Local Government

There is a lack of cohesive policy guidance among liquor licensing agencies and local government over the relationship between alcohol outlet density, trading hours and alcohol-related problems and on how this relationship should inform decision-making.

Local government has a role to play in managing licensed premises and the associated amenity impacts are reasonable.

In addition, local governments provide a varying range of initiatives and strategies to specifically manage alcohol-related issues. These fall outside the planning regime.

At the council level, planning in relation to alcohol is usually mandated through statements and policies that are intended to directly or indirectly influence the health and wellbeing of the community. Mechanisms available to Council to manage alcohol related issues include a Municipal Health Plan,

Council Corporate Plan, local laws, submissions to applications pursuant to the *Liquor Control Reform Act 1998*, and through the planning framework.

The planning framework aims to address potential amenity impacts resulting from the use and development of licensed premises. The *Liquor Control Reform Act 1998* allows councils to make submissions regarding amenity and social impacts. It is not open to Council to manage other impacts (eg. health and well-being, economic) through the planning framework. These are to be managed through other means such as the Municipal Health Plan, the Council Corporate Plan, and local laws.

The *Liquor Control Reform Act* and planning framework are further discussed below.

## 4.2 Liquor Control Reform Act 1998

Under Section 40 of the *Liquor Control Reform Act 1998*, a council may object to the granting, variation or relocation of a liquor licence. Councils may object on the grounds that the grant, variation or relocation would:

- ‘1. *Detract from or be detrimental to the amenity of the area in which the premises are situated.*
2. *Be conducive to or encourage the misuse or abuse of alcohol (in the case of packaged liquor or late night (packaged liquor) license.)*

Councils receive notification of liquor license applications from the Victorian Commission for Gambling and Liquor Regulation (VCGLR) and councils usually have 30 days to respond.

Amenity is a key objective under the *Liquor Control Reform Act 1998*. As previously mentioned, for the purpose of this Act the amenity of an area is the ‘*quality that the area has of being pleasant and agreeable*’. Factors that may be taken into account in determining potential amenity impacts include availability of parking, traffic movements, noise, vandalism and the harmony and coherence of the environment.

Minimising harm arising from the misuse and abuse of alcohol is another key objective of the *Liquor Control Reform Act*. This can be controlled by restricting the supply of alcohol, encouraging a culture of responsible consumption, and facilitating the development of a diversity of licensed premises.

With regard to the misuse or abuse of alcohol, councils may only object to packaged liquor or late night (packaged liquor) licenses. There are no similar grounds of objection for on-premises licenses.

## 4.3 Planning Framework

Clause 52.27 of the Victorian Planning Provisions (VPP) ‘Licensed Premises’ requires a permit to use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998* (amongst other things). Exemptions apply including a ‘limited licence’ which is further discussed in the following section of this report.

Clause 52.27 outlines the decision-making guidelines that Council must consider, as appropriate when determining whether to grant a planning permit where land is used or proposed to be used to sell or consume liquor. The purposes of the Clause and the decision guidelines focus on amenity issues including cumulative impact and the location of licensed premises.

The guidelines include consideration of:

- *‘The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and the local planning policies,*
- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area,*
- *The impact of the hours of operation on the amenity of the surrounding area,*
- *The impact of the number of patrons on the amenity of the surrounding area,*



- *The cumulative impact of any existing and proposed liquor licences, the hours of operation and number of patrons, in the amenity of the area.'*

Under Clause 52.27, determinants of amenity impacts as included in Clause 52.27 include:

- *patron behaviour (at the premises, immediately outside the premises, through the precinct and through the adjoining residential areas),*
- *venue management,*
- *noise, anti-social behaviour (actual and likely potential), vandalism, litter, violence or perceptions of violence, car parking deficiencies, traffic movement and density.*

Section 60(1)(f) requires Council, as the responsible authority when determining an application to consider:

*'any significant social effects and economic effects which the responsible authority considers the use or development may have.'*

In the decision of *Hunt Club Commercial Pty Ltd v Casey City Council* [2013] VCAT 726, the Tribunal set out useful commentary about the scope of relevant discretions in the exercise of discretion under clause 52.27. The Tribunal observed:

*'Although the significant social effects of a planning decision may conceivably be a relevant consideration in a given case, as a matter of general principle, a broad concern about the social harm caused by alcohol, the accessibility of alcohol in the community generally, or the potential for the abuse and misuse of alcohol, will rarely (if ever) be a relevant consideration in the exercise of discretion for a particular licensed premises under Clause 52.27. These matters are more commonly relevant to the complementary regulatory framework under the Liquor Control Reform Act 1998, albeit that there is some overlap between the liquor licensing and town planning frameworks.'*

*Town planning is not a panacea for all perceived social ills, nor is planning decision-making a forum for addressing all issues or community concern. At its heart, planning is about the use, development and protection of land. It has a spatial context that is primarily concerned with the fair, orderly, economic and sustainable use and development of land. Town planning does not involve itself in moral judgements nor, subject to this locational or spatial perspective, in the operation of a competitive market economy in which certain goods and services are lawfully made, sold or consumed. Whilst town planning seeks to secure a pleasant efficient and safe working, living and recreation environment, it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the well being of a society.'*

*and*

*'Similarly therefore it is not the role of a planning decision maker to consider the broader impact of the use, abuse or misuse of alcohol in a society, or to pioneer its own standards about the accessibility or alcohol generally in the community, when making a decision about the use or development of land for a liquor outlet. These are all relevant social concerns, but they are not necessarily relevant planning considerations to a particular statutory planning decision at a local level.*

*Broader environmental, social and economic factors may be more relevant at a strategic planning level, in the application of planning controls that group compatible uses together in a spatial context (i.e. through zones and overlays) or in the setting of particular policies and provisions to achieve particular planning objectives – e.g. an adequate provision of community facilities or services in a particular area. Once the strategic planning direction has been set, certain uses and developments become permissible in certain areas, and some of these broader social and economic factors may become less relevant to planning decision making at a statutory planning level. Provided a use is not prohibited, the statutory planning decision is not so much concerned with the appropriateness of a use per se (which has already been determined strategically through the setting of the zone or overlay), but rather with the appropriateness of that use in a particular location.'*

In addition to Clause 52.27, this report is intended to inform developing a local policy to guide Council's discretion when considering applications under clause 52.27. This report provides background information as it relates to licensed premises in the municipality, and the licensed premises local policy.

#### 4.3.1 Limited Licence

A limited licence allows alcohol to be served on a 'limited' basis, and is exempt from requiring a planning permit under Clause 52.27.

In accordance with the *Liquor Control Reform Act 1998* a limited licence may take the form of a 'temporary' or 'renewable' limited licence. A temporary limited licence applies to uses such as a fete or festival, and as such its application is reasonably easily determined. However, the application of a renewable limited licence is not as easily determined.

A renewable limited licence is typically issued for venues such as bed and breakfasts, florists, or caravan parks where alcohol is be served on a limited basis. However some restaurants and cafes operate under a renewable limited licence approved by the VCGLR.

There is no clear direction in Clause 52.27 and the *Liquor Control Reform Act 1998* as to what type of licensed premises fall within the definition of a renewable limited licence and it is a matter which is often heavily debated at the Victorian Commission for Gambling and Liquor Regulation (VCGLR) hearings conducted pursuant to this Act.

Further, assessing the appropriateness of a renewable limited licence is a merit based process which further adds to the ambiguity of the application. A relevant consideration is to whether the serving of alcohol is at the 'low end' of usage, a matter which is open to a variety of interpretations.

It is not within the realms of the planning framework to define what constitutes a renewable limited licence. Clause 52.27 is a licence 'category' based policy, as opposed to a license 'use' based policy, and therefore does not provide any guidance on the type of licensed premises suitable for a renewable limited licence. An amendment to the VPP would be required in this regard.

## 5 POLICY IMPLICATIONS

The City of Maribyrnong's licensed premises local planning policy should ensure that the positive aspects of licensed premises are enhanced and potential negative amenity impacts are appropriately managed.

This can be done by considering:

- Internal and external design,
- Noise,
- Operating hours,
- Patron numbers,
- Location and access, including availability of public transport services, and
- Clustering (number, type, mix and density of venues).

These matters should be addressed in the licensed premises local policy. The local policy should also include policy requirements specific to local areas (activity centres) where relevant, in seeking to meet the vision for the centre as described in the MSS.

The above matters are further discussed below.

### 5.1 Internal and External Design

Internal and external venue design can mitigate or inflame anti-social behaviour and conflict within and around licensed premises. Planning Practice Note 61 – 'Assessing Cumulative Impact' draws attention to the layout and design of buildings and public spaces in enhancing safety and amenity.

To ensure these issues are minimised, venues in Maribyrnong should be designed in accordance with best practice, as indicated by the *Victorian Design Guidelines for Licenced Venues*.

Therefore the licensed premises local policy should encourage venues to be designed in accordance with these guidelines, and require plans and details of design to be submitted to Council satisfying a high standard of design will be achieved when granting a planning permit.

### 5.2 Noise

Noise emissions from licensed premises often have a direct impact on local amenity. Potential sources of noise and amenity impact include:

- Patrons queuing to enter a licensed premises,
- Patrons congregating in the area,
- Patrons departing and walking through surrounding areas and local streets,
- 'Vertical drinking' in large venues where there is limited seating,
- Live and amplified music and other equipment, and
- Outdoor areas.

It is appropriate a licensed premises local policy appropriately addresses the management of potential noise and other impacts, including a requirement for a noise impact assessment for late night venues.

### 5.3 Operating Hours

There is a direct link between the opening hours of licensed premises and the impact on the amenity of the surrounding area, particularly with regard to anti-social behaviour and noise.

Venues that operate after 11pm and late into the evening (after 1am) are more commonly associated with alcohol related anti-social behaviour.

As such the licensed premises local policy should provide direction on the appropriate location and circumstances for different operating hours.

#### **5.4 Patron Numbers**

The number of patrons of a licensed premises can impact on the amenity of the surrounding area, and the operating capacity of premises by reason of noise, congestion and anti-social behavior.

Planning Practice Note 61 'Licensed Premises: Assessing Cumulative Impact' identifies that licensed premises with a patron capacity of over 200 may pose a greater risk of alcohol related harm. In crowded venues impacts are exacerbated where vertical drinking occurs, where patrons stand up and drink and therefore drink faster.

Therefore a licensed premises local policy should address patron capacity.

#### **5.5 Location and Access**

The location of licensed venues should reflect the consideration of a combination of factors such as the type and size of licensed premises, patron capacity, and the venue's operating hours.

For example, premises such as restaurants and cafés where heavy drinking is not the norm and where operating hours are limited, may sit comfortably within an activity centre amongst other such premises and/or in close proximity to sensitive land uses. Other premises such as nightclubs, which operate late into the evening and which have the capacity to accommodate larger numbers of patrons, should be located to ensure adequate buffers to sensitive land uses are achieved (10 Consulting Group).

The network of activity centres underpins the provision of a broad range of retail and community services, entertainment, recreation and the focus of higher densities of residential development. Activity centres should be the primary focus for the establishment of a broad range of licensed premises, consistent with the role of the centre.

The availability of public transport during the operating times of the licensed premises should also be an influencing factor when considering the location of licensed premises to ensure patrons are able to leave the area as soon as possible after leaving the premises.

A licensed premises local policy should provide adequate direction with regard to locational requirements taking into account the above considerations.

#### **5.6 Clustering**

There is a direct link between the density of licensed premises and the impact on the amenity of the surrounding area.

Planning Practice Note 61 – 'Assessing Cumulative Impact' provides adequate direction with regard to defining cumulative impact taking into account other licensed premises and the local conditions of the surrounding area. The practice note should be referenced in a licensed premises local policy.

## 6

### CONCLUSION

This report provides an overview of the issues facing Maribyrnong City Council with regard to managing amenity impacts flowing from the use and development of land accommodating licensed premises under the planning framework.

The findings conclude that licensed premises can have both a positive and negative impact on the community. Positive impacts relate to enhancing the vitality of an area, increasing consumer choice, and economic benefits. Negative impacts relate to health, social, economic and amenity impacts. There is increasing community awareness of the problem of harmful consumption of alcohol and these negative impacts on the community.

The Planning framework requires responsible authorities to consider and address amenity impacts when considering applications to use land to sell or consume liquor. It is appropriate to develop local policy that will guide council's exercise of discretion when determining permit applications under clause 52.27. The types of considerations:

- Internal and external venue design,
- Noise
- Operating hours,
- Patron capacity,
- Location and access, and
- Clustering of premises.

The amenity impacts set out at Section 3.4 report, coupled with the policy implications as set out in Section 5, have informed the MSS and licensed premises local policy in the Maribyrnong Planning Scheme.

## 7

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## **ANNEX A – ROLE OF ERM**

Environmental Resources Management (Australia) Pty Ltd (ERM) was engaged by Maribyrnong City Council to provide advice on the preparation of a licensed premises local planning policy to be included in the Maribyrnong Planning Scheme.

It's primary role was to focus and advise on the structure of the local planning policy (with reference to the Victorian Planning Provisions) as well as outlining the issues facing the community as a result of licensed premises (both positive and negative) which are able to be addressed within a planning framework.

The issues facing the community as a result of licensed premises were provided from the findings of the Discussion Paper prepared by the City of Maribyrnong (as well as other previous work undertaken by an external consultant - 10 Consulting Group). ERM did not undertake any further research in relation to the impacts on the community as a result of licensed premises.

ERM's work drew together the findings of the Discussion Paper as well as the other work undertaken by external consultants into one concise report. The purpose of this report was to provide background information in relation to the licensed premises local planning policy, develop the content for the local policy and become a Reference Document under the local policy.

