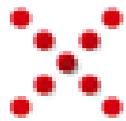




in association with



10 CONSULTING GROUP

Licensed Premises Policy-
Background Document

Prepared for Yarra City Council

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1 Introduction

1.1 Purpose and need

This document has as its primary purpose to inform and justify revised strategic local planning policy, statutory planning provisions and decision-making on the establishment and operation of licensed premises in the City of Yarra, within the jurisdiction and discretions created by the *Planning and Environment Act (1987)* and the *Yarra Planning Scheme*.

The need for a revised local policy addressing licensed premises arises from changes to State policy, the relative lack of direction provided by state-wide clause 52.27 – *Licensed Premises* of the *Yarra Planning Scheme* and from identified shortcomings with, and opportunities to strengthen, the existing local planning policy at clause 22.09.

The purpose of a local licensed premises planning policy are directed at contributing, through the planning permit process, to the achievement of an appropriate balance between the following considerations:

- Economic development, and business and employment opportunities in the hospitality sector.
- The social interaction, choice and vibrancy of the entertainment and recreation offer in activity centres and the municipality.
- Reasonable accessibility by the community to purchase and consume alcohol on and away from licensed premises.
- To protect and enhance the community's wellbeing and safety.
- Minimising harm, anti-social behaviour and impacts upon the amenity of the public realm and sensitive uses arising from the purchase and consumption of alcohol at licensed premises.

The document has had regard to and will have application to considerations and enabling provisions set out in the *Liquor Control Reform Act (1998)*, the *Public Health and Wellbeing Act (2008)* and the *Local Government Act (1989)*.

1.2 Scope

1.2.1 Licensed premises

For the purposes of this document licensed premises has the same meaning as set out at Clause 52.27 of the *Yarra Planning Scheme*, that is as it applies to premises licensed or to be licensed under the provisions of the *Liquor Control Reform Act (1998)*.

The document has application to all licence types such as those that apply to hotels, clubs and taverns, restaurants (including cafés), packaged liquor outlets and those with limited authority to sell and consume alcohol on/in other types of premises.

1.2.2 Background and structure

The document addresses and is structured around the following themes:

- The legislative and associated policy basis of alcohol control.
- The body of research and knowledge that informs the understanding about the relationship between alcohol-related issues in the broad community and in the City of Yarra, and the control of licensed premises.
- A recommended strategy for the management of licensed premises.
- Recommendations for the policy and provisions to be inserted into the *Yarra Planning Scheme*.

1.2.3 Recommendations

The document advances the existing local policy and statutory provisions that address:

- Location and access.
- Venue design.
- Hours of operation.
- Patron numbers.
- Noise.
- Amendments to existing planning permits.
- Application requirements (including noise and amenity action plans, acoustic reports, design guidelines for licenced venues, and cumulative impact assessments).

1.2.4 Ambit of policy

Alcohol and licensed premises impact both positively and negatively upon the community. While there is a fundamental wish to act in the best interests of the community's wellbeing this document does not, holistically, address all issues and strategies that might be attributed to alcohol and licensed premises as they affect the City.

The document's scope and recommendations are confined to addressing relevant matters for when Council is to consider a planning application pursuant to clause 52.27 of the Yarra Planning Scheme.

Recent amendments to Section 60 of the *Planning and Environment Act 1987* have varied Council's responsibilities as a Responsible Authority in so far as it must now consider any significant social and economic effects that might arise from the grant of a permit.

This has raised the question as to whether these responsibilities require a Responsible Authority to adopt a more comprehensive and holistic view of the impact of alcohol on the community. After all, Federal and State governments have a mandate and responsibility to also provide ongoing reform and guidance that strikes a reasonable balance between the accessibility and availability of alcohol in the community and harm minimisation. A recent decision of the Victorian Civil and Administrative Tribunal in the matter of *Hunt Club Commercial Pty Ltd v Casey City Council* [2013] VCAT 726, provides clear and useful guidance in understanding the scope and discretions provided for by the *Planning and Environment Act 1987* in considering licensed premises.

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 wellbeing 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.

2 Legislative and policy context

2.1 Relevant legislation

The relevant legislative framework, enabling provisions and strategic direction as it relates to the management of licensed premises is provided by:

- The Planning and Environment Act (1987)
 - The Yarra Planning Scheme
 - Practice Note 61 – Licensed premises: Assessing cumulative impact
- The Liquor Control Reform Act (1998)
- The Local Government Act (1989)
 - The Council Plan 2013-2017
 - Local Laws
- The Public Health and Wellbeing Act (2008)
 - Yarra Health Plan 2013-2017

2.2 The context of reform and future policy

Reducing the Alcohol and Drug Toll – Victoria’s Plan 2013-2017 (the Plan) is the State Government’s sequel to an earlier plan aimed at tackling escalating issues and challenges associated with the misuse of alcohol - *Restoring the Balance – Victoria’s Alcohol Action Plan 2008-2013*. The current plan responds to the misuse of alcohol and drug effects upon the Victorian community’s health, families, economy, criminal justice system and the lives of many individuals.

The Plan advances fifteen primary points. It provides an agenda for multiple agency responsibility and action aimed at legal and regulatory reform, service delivery, cultural change and research. Five of those points specifically address alcohol:

- Reducing alcohol-related violence, anti-social behaviour and drink-driving.
- Effective liquor regulation.
- Changing drinking culture.
- Better health promotion in education.

- Better, earlier healthcare for alcohol problems.

For the purposes of this report it is sufficient to examine in detail those initiatives that address effective liquor regulation, while acknowledging that Council has a broader role in contributing to all points of the Plan. Actions on regulatory reform will have flow on effects and benefits for other aspects of the Plan.

The following commentary provides a useful contextual framework to Council's review of its own policy. The Plan does not advocate blanket restrictions on the availability of alcohol, favouring a targeted and proportionate response to harm.

Across the community there is a need to assess policies on alcohol availability from many different perspectives, including public safety, health, planning, local government, tourism and business regulation.

Traditional government controls on trading hours or the types of venue do not respond to the diverse range of businesses that sell alcohol or the diverse and changing public preferences for when, how and in what setting people wish to drink.

Victoria's liquor legislation requires that these range of interests are taken into account and aims to minimise the harm from alcohol misuse and abuse while supporting a diversity of licensed premises in line with community expectations.

A range of initiatives are detailed in the Plan and have been undertaken over the last five years in terms of regulatory reform. The consequences being that during the life of the current Plan (until 2017), the priority will be upon evaluating the effectiveness of previous initiatives rather than embarking upon further legislative reforms.

2.3 Planning legislation - The Planning and Environment Act 1987 (PEA)

2.3.1 The objectives of planning in Victoria

The objectives of planning in Victoria (Section 4 of the *Planning and Environment Act 1987*), as they might be applied to the management of licensed premises, focus upon outcomes that would facilitate:

- A pleasant, efficient and safe environment for all.
- The fair, orderly and sustainable use and development of land.
- A balance between the present and future interests of all Victorians.

2.3.2 Policies, zones and planning provisions

The PEA provides for the preparation and amendment of planning schemes, including local and state provisions applying to licensed premises. Different types of land uses that might be associated with licensed premises are provided for through the zone provisions.

'Licensed premises' are not a land use per se or a defined term at Clause 74 of the *Yarra Planning Scheme*. Different discretions and provisions apply over the use and development of land for hotels, taverns, restaurants (including cafés), places of assembly, function centres, shops and the like, as well as for licensed premises.

2.4 Planning schemes

2.4.1 State Planning Policy Framework

There is no specific State planning policy addressing alcohol and licensed premises. Clause 10.04 addresses integrated decision-making and notes:

*Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. **Planning aims to meet these by addressing aspects of economic, environmental and social wellbeing affected by land use and development.***

*Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and **balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.***

Licensed premises span a range of land use categories addressed by the planning scheme. They are often associated with the collective reference to leisure and community facilities, cultural development or entertainment and recreation facilities. Through that association they have found strategic direction in activity centre and business development policy at Clauses 11 and 17.

Clause 13.04-1 Noise Abatement

The objectives of Clause 13.04-1 is to assist the control of noise effects on sensitive land uses. The relevant policy guidelines in the context of licenced premises are:

- *State Environment Protection Policy (SEPP) (Control of Music Noise from Public Premises) No. N-2.*

- *State Environment Protection Policy (SEPP) (Control of Noise from Commerce, Industry and Trade) No. N-1 (in metropolitan Melbourne)*

Both SEPPs seek to protect people from noise that may affect the beneficial uses made of noise sensitive areas. Beneficial uses are normal domestic and recreational activities in an area potentially affected by noise emissions.

Relevant to this policy, the beneficial uses which are protected by the SEPPs are different in the day, evening and night periods, and as a result so are the noise limits which apply during these times. In the night period, sleep is included as a beneficial use and noise limits in this period are lower than in the day and evening periods.

2.4.2 Local planning policy

The current provisions of the *Yarra Planning Scheme* only specifically references licensed premises as a local policy at Clause 22.09. The broader strategic consideration of licensed premises is dealt with in two less direct ways.

In the first instance the licensed premises are addressed by inference and reference to their potential impact upon the amenity of residential properties. Clause 21.04-1 *Accommodation and Housing* sets the objective:

To reduce the potential conflicts between residential and other uses.

It relies on the following relevant strategies.

- *Apply the Interfaces Use Policy at Clause 22.05.*
- *Ensure the location, design and operation of community facilities minimises the potential for negative impacts on surrounding areas.*
- *Discourage late night and 24-hour trading activities located near residential zones to minimize impacts on residential amenity.*
- *Apply the Licensed Premises policy at Clause 22.09.*

The second consideration of licensed premises is contained in imprecise observations regarding the vitality and excitement of retail strip centres and short descriptions of existing conditions in the *Neighbourhoods* strategy of Clause 21.08. The latter are confined to the existing hospitality and entertainment role of Fitzroy (Clause 21.08-7) and Central Richmond (Clause 21.08-10).

The planning scheme also includes in Reference Documents (Clause 21.11) the Inner City Entertainment Precincts Taskforce (ICEPT) report - *Good Night for All* (2005). None of the above

strategies provide clear direction on the further development or management of the hospitality and entertainment sectors or licensed premises.

The existing local policy on licensed premises was introduced as part of Amendment C84 in 2009. It applies to applications for new planning permits as well as amendments to existing planning permits. It has the following objectives:

- *To effectively manage the location, operation and hours of trading of licensed premises, in order to protect the amenity of nearby properties and areas.*
- *To protect residential and other commercial uses from excessive, noise, traffic and car parking issues.*
- *To provide daytime trade and active street frontages in retail strips, while providing reasonable commercial opportunities for the trading of licensed premises.*

The policy advances guidelines under the following 6 headings.

- *Location and access.*
- *Hours of operation.*
- *Patron numbers.*
- *Noise.*
- *Car parking.*
- *Noise and amenity plan.*

Some of the guidelines are proscriptive and precise such as:

New licensed premises should be located such that they are not located in Residential and Mixed use Zones.

While others are incapable of consistent or measurable attainment:

New licensed premises should be located such that there is opportunity for a high level of public safety and surveillance of patrons as they enter and leave premises.

The policy makes no statements about the circumstances, or direction towards, any particular entertainment precinct and as such falls short of giving effect to the strategy recommended in the ICEPT report.

The policy's only stated reference was the *Yarra Residential Interface Study 2001*, which has its own local policy at Clause 22.05 *Interface Use Policy*.

The interim Panel report on the amendment made the observation that the ICEPT Taskforce – *A Good Night for All* - included a suggestion that a strategic approach to the future location of entertainment venues should be considered by Councils as part of the structure planning process. The report remains a matter for *Future Work* at Clause 21.10.

The strategic analysis and direction provided in this report might be seen as a response to this suggestion.

2.4.3 Zones

There are a number of land use types that might be associated with applications for a liquor licences. These are further discussed in section 7.1.

2.4.4 Particular provisions - Clause 52.27 – licensed premises

Regardless of the need or ability to apply for a planning permit for a use or type of development, a planning permit is required for most liquor licences.

'Licensed premises' are addressed specifically at Clause 52.27 of the Yarra Planning Scheme.

The Clause has the following objectives:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of licensed premises on the amenity of the surrounding area is considered.*

Subject to a series of exemptions that apply to a small number of licence types, a planning permit is required for all other types of liquor licences.

In April 2011 Amendment VC79 varied the provisions of the *Yarra Planning Scheme* and other schemes throughout the State. The blanket exemption for a planning permit for packaged liquor licences was removed by the amendment. It ended an extended period over which the regulatory environment on packaged liquor had been progressively liberated.

The decisions guidelines of Clause 52.27 provide for consideration of:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and 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 licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

2.4.5 Practice notes

Practice Note 61 – *Licensed premises: assessment of cumulative impact* was originally issued in 2011 by the Department of Planning and Community Development and follow earlier calls in the ICEPT report for clearly defined benchmarks by which cumulative impact could be measured. Minor updates to this document were made in 2015, including referring to the new State Government department name of Department of Environment, Land, Water and Planning.

The need for a Practice Note had been foreshadowed in the *Swancom Pty Ltd v Yarra City Council* VCAT [2009] decision, in which the Tribunal suggested that the methodology for a cumulative impact assessment should include the three key considerations of the density of licensed premises in an area, the mix and type of licensed premises and existing amenity levels.

The Practice Note provides a definition of cumulative impact, and a methodology for the undertaking of an assessment.

It recommends that planning permit applications include information regarding:

- Seating ratios;
- Meals;
- Management;
- Music;
- Capacity and hours;
- Transport and car parking.

The assessment is to have regard to:

- Planning policy context;
- Surrounding land use mix and amenity;
- The mix of licensed premises;
- Transport and dispersal;
- Impact mitigation.

Of relevance, Practice Note 61 states “*Licensed premises with a patron capacity over 200 may pose a greater risk of alcohol-related harm and result in a negative cumulative impact*”.

A cumulative impact assessment will not always be necessary for all applications for a planning permit pursuant to Clause 52.27. Therefore it is relevant that a local policy establish a base line for the essential information that has to be submitted with an application, irrespective of the need for a cumulative impact assessment.

2.5 Alcohol legislation – The Liquor Control Reform Act 1998 (LCRA)

The objectives of the *Liquor Control Reform Act 1998* address harm minimisation and protection of community amenity while also facilitating diversity in the choice and offer of licensed facilities:

- *To contribute to minimising harm arising from the misuse and abuse of alcohol including by:*
 - Providing adequate controls over the supply and consumption of liquor; and
 - Ensuring as far as practicable that the supply of liquor contributes to and does not detract from the amenity of community life; and
 - Restricting the supply of certain other alcohol products; and
 - Encourage a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and
- *To facilitate the development of a diversity of licensed facilities reflecting community expectations; and*
- *To contribute to the responsible development of the liquor and licensed hospitality industries.*

The Act gives effect to these objectives through a complex, multifaceted licensing regime. There are seven licence types generally found in the metropolitan area:

- **General licences** provide for consumption on and off the premises and the sale of packaged liquor and are usually associated with a hotel, pub or tavern.
- **On-premises licences** enable the sale and consumption of alcohol for consumption on the premises and are usually associated with nightclubs and bars.
- **Packaged liquor licences** enable the sale of liquor for consumption off the premises and are typically associated with the liquor departments of supermarkets, specialist bottle shops and bulk liquor retailers.

- **Late night licences** enable general, on premises and packaged liquor outlets to trade after 1am.
- **Restaurant and café licences** allow alcohol to be supplied and consumed on these types of premises provided that the predominant activity is the serving of meals also to be consumed on the premises.
- **Full club licences** permit the supply of alcohol to members, guests and gaming visitors for consumption on the premises and to take away.
- **Restricted Club licences** are similar to the above but do not allow the sale of alcohol to be taken away and consumed off the premises.

The cumulative impact of licensed premises is not a relevant consideration under the *Liquor Control Reform Act 1998*, with applications dealt with on a case-by-case basis. For the purposes of this Act, the Yarra City Council is not a licence issuing authority but is an authority referred to in the process of licence issuing.

2.6 Amenity and licensed premises

The effects of a proposal on the ‘amenity’ of an area are considered under both the planning and liquor legislation. Amenity is a widely used and imprecisely defined term depending upon the jurisdiction. Pursuant to Section 3 of the liquor legislation, amenity has a specific definition:

- *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 whether the grant, variation or relocation of a licence would detract from or be detrimental to the amenity of an area include:*
 - The presence or absence of parking facilities;
 - Traffic movement and density;
 - Noise levels;
 - The possibility of nuisance or vandalism;
 - The harmony and coherence of the environment; and any other prescribed matters.

There is no comparable definition of amenity under the planning legislation or in the planning scheme, however as noted in *Swancom Pty Ltd v Yarra City Council* VCAT [2009], the decision of the Tribunal in *Zerbe v City of Doncaster and Templestowe* usefully stated that:

Amenity is an elusive but invaluable concept in town planning. The amenity of a neighbourhood is a complex of many attributes. It goes much further than mere

'pleasantness' and 'agreeableness'. In town planning terms it embraces all the features, benefits and advantages inherent in the environment in question.

2.7 Governance legislation – Local Government Act 1989 (LGA)

The LGA calls upon Councils to balance a range of responsibilities.

The primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In delivering that outcome a Council must have regard to:

- *Promoting social, economic and environmental viability and sustainability;*
- *Services are provided efficiently, effectively and in accordance with Best Value Practice;*
- *Improving the overall quality of life in the local community;*
- *Ensuring services and facilities are provided by Council accessibly and equitably;*
- *Ensuring transparency and accountability in decision-making.*

The nominated functions of a Council under the LGA include planning for and providing services, and undertaking strategic and land use planning for the municipal district.

2.7.1 Council Plan 2013-2017

At section 125, the LGA requires a Council to prepare a Council Plan setting out the strategic objectives and their associated strategies for at least the next four years. The current Yarra Council Plan is structured around five Strategic Objectives.

- *Celebrating Yarra's uniqueness.*
- *Supporting Yarra's community.*
- *Making Yarra more liveable.*
- *Ensuring a sustainable Yarra.*
- *Leading local government.*

From its opening remarks, the Council Plan recognises the role of restaurants (including cafés), galleries and live music venues as an important factor in defining Yarra, as having a central

contribution to creative Melbourne, and in drawing people across Melbourne, interstate and internationally into the municipality.

Celebrating Yarra's uniqueness (Strategic Objective 1) is a narrative about the evolving cultural diversity of the community and the wide range of arts and cultural venues that are associated with their diversity. Relevant strategies for the remaining three years of the Plan that will maintain and enhance the community's uniqueness include:

- *Foster and promote arts, culture, history diversity and vitality.*
- *Support Yarra's business community and celebrate and promote sustainable, innovative and creative business.*

The intent is that new economic development and tourism strategies will be prepared to enhance Yarra's uniqueness.

Making Yarra more liveable (Strategic Objective 3) is a response to the need to make the city more liveable, by managing the competition for space, responding to greater urban densities and managing change.

This strategy, arguably more than any other, is of particular relevance to licensed premises. Hand in hand with facilitating creativity and diversity in the community and business is the conflict that arises from the proximity of businesses, activity centres and evolving residential uses. The social and economic strength and importance of the night time economy is recognised in this context.

2.7.2 Night Time Economy Strategy 2014-2018

In addition to the above, Council has adopted a Night time Economy Strategy, also of relevance in this matter. One of the actions in the first year implementation plan is to: *Revise licensed premises policy in planning scheme (Clause 22.09) to ensure sustainable night precincts supported by public amenities and infrastructure.*

2.7.3 Local Law – Roads and Council Land Local Law No.2 (2012)

This local law provides for a liquor licence holder or business to enter into an annual Public Space Licence Agreement to trade and serve alcohol within an agreed and defined space and in accordance with conditions detailed in the agreement. Council's Footpath Trading Policy (2013) sets out guidelines for the operation and approval of agreements. Any areas where alcohol is to be consumed in the public space must be shown on a 'red line plan' which is attached to the liquor licence. Noise emanating from the public area is the responsibility of the licence holder

and no outdoor speakers, sound amplification or the like can be used on the footpath except with the approval of Council.

Planning permits are not normally required for the footpath area provided the use of the public area is consistent with the provisions of Clause 62.02 of the *Yarra Planning Scheme*.

In the VCAT decision on the *Corner Hotel - Swancom Pty Ltd v Yarra City Council* VCAT [2009] it was put, in submissions, that the application of this local law to the public domain of Swan Street might have had a significant benefit in terms of improving the public and neighbouring amenity.

2.8 Wellbeing legislation – Public Health and Wellbeing Act 2008 (PHWA)

This Act provides a significant role for the State Government to promote public health and wellbeing by intervention or assistance. It provides for:

- *The protection of public health and preventing disease, illness, injury disability and premature death;*
- *Promoting healthy conditions;*
- *Reducing inequalities in the state of public health and wellbeing.*

Section 26 of the Act requires a Council to prepare a *Municipal Public Health and Wellbeing Plan* (MPHWP). It must be consistent with the Council Plan and the Municipal Strategic Statement set out at Clause 21 of the *Yarra Planning Scheme*.

The *Yarra Health Plan 2013–2017* has regard to the *Victorian Public Health and Wellbeing Plan* and provides for the reduction of harm from alcohol, tobacco and other drugs as one of its four priorities.

In the current plan the '*Reducing harm from alcohol, tobacco and other drugs*' priority advances four directions to reduce the harm resulting from alcohol misuse in the community:

- *Use the planning scheme to ensure appropriate location and concentration of licensed venues.*
- *Make informed and positive contributions to improve the regulation and enforcement of liquor licenses.*
- *Work with local venues to promote the responsible service of alcohol and maintenance of community amenity in and around premises.*

- *Improve the safety of Yarra's night time entertainment precincts by improving amenity and diversifying activity.*

2.9 Policy implications

The local licensed premises planning policy should be consistent with, and reference as appropriate, the above legislative and policy frameworks. Any amendments to the Municipal Strategic Statement or the Local Planning Policy Framework should be consistent with the Council Plan and Health Plan.

3 Alcohol consumption and amenity

3.1 Alcohol consumption

Alcohol is commonly consumed in Australia. To illustrate, in 2011-12, 82.4% of Australians aged 18 years and over had consumed alcohol in the past year (ABS 2012).

However, per-capita consumption of alcohol has declined in Australia from a peak of 13.09 litres of pure alcohol per adult in 1974-75 to 9.88 litres per capita in 2012-13 (see Figure 3.1). Total alcohol consumption has remained relatively stable since 1991-92 when consumption was 10.14 litres per capita. Also of interest, beverage preferences have changed substantially since the mid-1970s, with wine and spirits now comprising a much larger proportion of total alcohol consumed (ABS 2015).

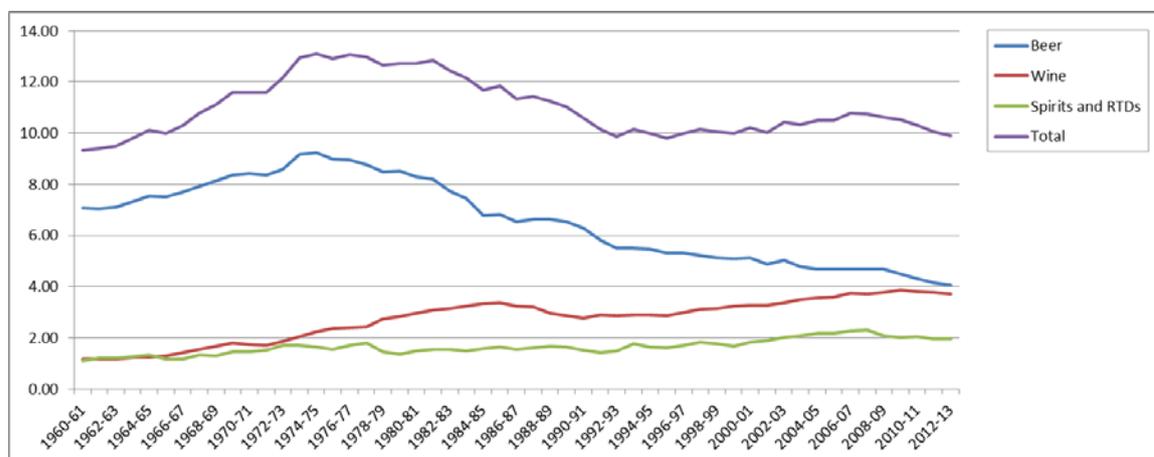


Figure 3-1: Apparent Consumption of Alcohol, Australia, 1960 to 2013 (Adapted from ABS 2015).

3.2 Risky Drinking

At low or moderate levels, the consumption of alcohol may help reduce the risk of heart disease. However, regular excessive consumption of alcohol places people at increased risk of chronic ill health and premature death, and episodes of heavy drinking may place the drinker (and others) at risk of injury or death.

The Victorian Government assesses the prevalence of risky drinking behaviours at the population level with reference to the Australian Alcohol Guidelines for short term and long term risk. Based on these guidelines the Victorian Population Health Survey (2010) indicates that the proportion of the Victorian population drinking at risky levels has remained relatively

stable since 2002. In 2010, approximately 13.2% of males and 6.5% of females were drinking at risky levels level in the short term, at least weekly (see Table 3.1).

Table 3-1: Proportion of Victorians Drinking at Risky Levels in the Short Term (at least Weekly).

	2003	2004	2005	2006	2007	2008	2010	2012
Males	14.2	16.0	13.0.	14.5	13.5	13.6	13.3	12.7
Females	6.3	7.2	6.7	6.3	6.7	6.9	6.5	5.6

Source: DHS 2014

The Victorian Population Health Survey 2011-12 also provides data which indicate the extent of risky drinking within particular demographic groups (see Table 3.2). The data indicate that:

- Men are more likely to drink at risky levels than women.
- Younger people (aged 18-34) are more likely to drink at levels which are risky in the short term, a behaviour that becomes increasingly less common in older age groups. However, people aged 35-54 are more likely to drink at levels which are risky in the longer term.
- Those on higher incomes are more likely to drink at risky levels.
- A higher proportion of employed persons drink at risky levels in the short-term compared with unemployed persons and people not in the labour force.

Table 3-2: Risky of alcohol-related harm by selected socioeconomic determinants

		Males		Females	
		Short Term	Long Term	Short Term	Long Term
Age	18–24	68.2	3.5	64.4	3.7
	25–34	68.1	4.6	45.6	1.6
	35–44	56.3	4.1	44.9	3.9
	45–54	51.7	5.2	39.3	4.5
	55–64	46.7	4.6	25.8	4.5
	65+	27.2	2.9	12.9	3.0
Education	Primary	57.5	6.2	36.5	2.8
	Secondary	54.0	4.6	38.2	2.9
	Primary Tertiary	49.6	2.2	37.4	2.4
Household Income	<40,000	42.1	5.1	29.2	2.8
	\$40,000 to \$100,000	53.1	4.5	38.9	2.6
	>\$100,000	63.1	4.9	49.6	4.0
Labour Force Status	Employed	60.9	4.4	47.8	2.4
	Unemployed	49.4	5.2	36.1	1.6
	Not in Labour Force	47.8	6.1	35.2	1.7

Source: DHS 2014

3.3 Amenity impacts

The annual cost to the Australian community from alcohol-related harm is disputed with estimates ranging from \$3.8 billion (Crompton *et al.* 2011) to more than \$15 billion (Commonwealth Of Australia 2008). Costs flow from a variety of impacts including chronic health conditions and road trauma. Whatever method is employed, amenity impacts comprise a notable proportion of all social costs. Moreover, there is a clear spatial and temporal pattern in relation to alcohol-related amenity impacts, which means that some members of the community are disproportionately affected. Specifically:

- Alcohol-related amenity impacts are concentrated between the hours of between 9pm and 3am, peaking between midnight and 3am (for example see Briscoe and Donnelley 2001 and Rumbold *et al.* 1998).
- Alcohol-related amenity impacts are concentrated in inner urban areas with extensive night time economies, which attract visitors from various locations. To illustrate, postcode areas in inner Melbourne experience elevated rates of alcohol-related assaults (see Figure 3.2)¹. The rate of assaults per 10,000 residents in 2011/2012 was 381.5 for Melbourne; 74.7 for St. Kilda and 80.5 for Fitzroy, compared with the state average of 21.6.

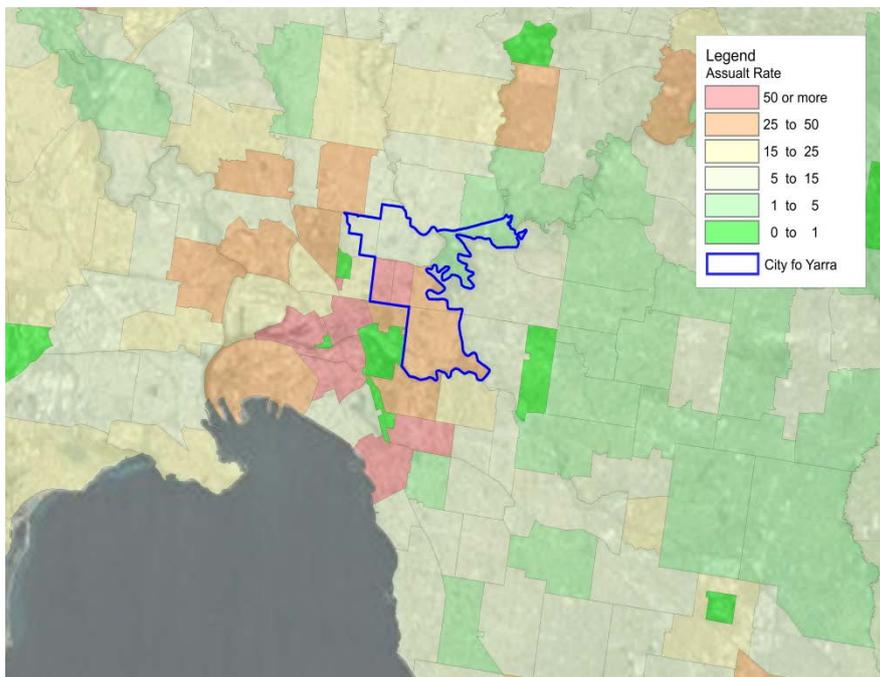


Figure 3-2: Alcohol Related Assaults in Melbourne (rate per 10,000 residents)

¹ Assault data were provided on request by Victoria Police from their Law Enforcement Assistance Program (LEAP) data base.

Different segments of the community, notably younger people, are more likely to report negative experiences resulting from the alcohol consumption of others. As Table 3.3 shows, persons aged 18-29 are more likely to have been the victim of an alcohol-related incident than those in younger or older age groups. The data are not surprising when the spatial and temporal patterns of alcohol-related assault are considered, as younger persons are more likely to live in inner urban areas and/or be users of licensed venues/late night entertainment precincts in inner urban areas.

Table 3-3: Victims of Alcohol Related Incidents in the Previous 12 Months (Percentage)

Age	12-17	18-19	20-29	30-39	40+
Verbal Abuse	16.1	41.3	39.9	28.0	17.7
Physical Abuse	6.7	20.8	15.7	9.0	4.4
Put in Fear	12.8	24.8	23.3	16.5	9.9
<i>Any Incident</i>	21.4	46.9	46.0	32.2	20.7

Source: AIHW 2011

3.4 Summary

- The consumption of alcohol is a common and accepted part of life in Australia. Moreover, licensed premises are popular venues for entertainment and an important location for socialising, particularly among young people.
- Total consumption and rates of heavy drinking have remained stable in Victoria since 2003. Notwithstanding, notable proportions of Victorians consume alcohol at risky levels.
- Drinking at risky levels is more common among those who are employed, and earning relatively high incomes. In addition:
 - Short term risky drinking is most common among those aged 18-34.
 - Long term risky drinking is most common among those aged 35-54.
- The social costs and benefits of alcohol consumption are substantial. Impacts on amenity and perceptions of safety make a notable contribution to overall costs.
- Alcohol-related amenity impacts are concentrated between the hours of 9pm and 3am. Moreover, these impacts are concentrated in inner urban areas, particular those with well-developed night time economies. These areas attract a large number of visitors and in doing so effectively import alcohol related amenity impacts.

4 Licensed premises and amenity

4.1 Introduction

This section outlines how the number, distribution and character of licensed premises can affect the magnitude and distribution of amenity impacts in a community.

4.2 Venue numbers and distribution

The emerging research base indicates two primary mechanisms linking the number and distribution of licensed premises and the extent of social benefits and harms in the community: the proximity effect and the amenity effect (see Table 4-1 below).

Table 4-1 How Outlet Density/Distribution/Type Affects the Level of Alcohol Related Harms

Effect	Theory	Mechanism	Impacts
Proximity Effect	Availability Theory - demand is stimulated by reduction in the 'full price' of alcohol (market price, plus convenience cost of obtaining alcohol).	Convenience increased, reducing 'full price' of alcohol. Competition increased, reducing 'full price' of alcohol.	Increased number/size of outlets increases overall consumption of alcohol/pattern of consumption. Impacts are not spatially concentrated.
Amenity Effect	Routine Activities Theory - when, where and how drinkers consume alcohol (e.g. drinking in bars compared with drinking at home) affects the nature and distribution of alcohol-related harm.	Introduction of new outlet - drinkers visit the area to purchase/consume alcohol. Clustering of outlets – drinkers visiting different venues come in contact with one another. Diversification of outlet types creates specialised niches. High risk drinkers are concentrated.	Increased outlets/clustering of outlets, increases violence, noise, street disturbances, etc. Impacts are spatially concentrated.

Adapted from Livingston *et al.* (2007) and Gruenewald (2007)

The proximity effect

The proximity effect operates when the convenience costs of obtaining alcohol, such as distance to travel (physical availability) and real price (economic availability) are altered. As new outlets appear the intensity of competitive pricing practices may increase, enhancing the relative buying power of consumers, and average travel distance to an outlet will reduce. The marginal impact of each new outlet on convenience and competition (and ultimately consumption and associated benefits and harms) reduces as more outlets are introduced to an area.

The amenity effect

The introduction of new outlets/redistribution of existing outlets can also affect the magnitude and distribution of benefits and harms via the ‘amenity effect’. This is because outlets draw drinkers to a particular area and into close contact with one another, with potential implications for those who live nearby and the drinkers themselves.

The congregation of drinkers in a place may enhance the relative safety of the drinking environment, due to formal and informal surveillance, and because the consumption of alcohol in licensed venues is moderated by responsible serving guidelines. However, congregation also opens up the possibility of conflict and may intensify amenity impacts for nearby residents. In addition, in a diversified entertainment precinct, licensed venues may specialise, resulting in the grouping of drinkers with similar attributes. A result of specialisation may be, for example, that some venues seek to cater to the needs of heavy drinkers, by tolerating or even encouraging heavy drinking. At some point a critical threshold may be passed after which the number and/or mix of venues in an area is such that the positive and or/negative impacts associated with additional outlets increases markedly.

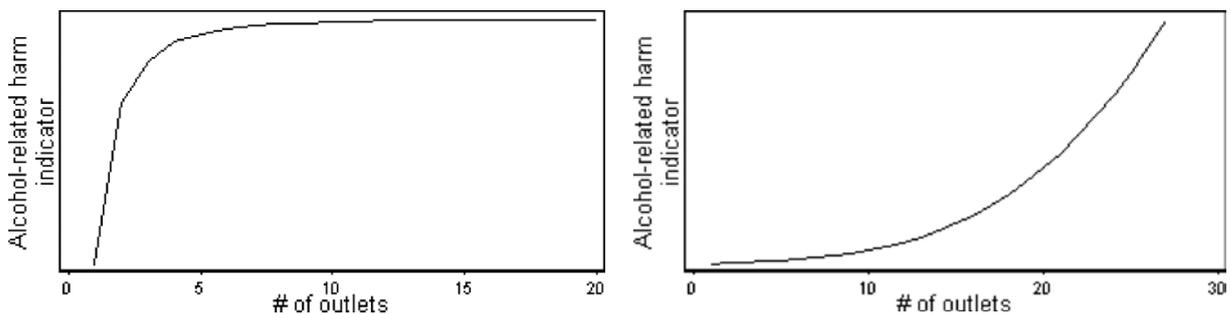


Figure 4-1: The Proximity and Amenity Effects - Theorised relationship between number of liquor outlets in an area and alcohol-related harms (Livingston *et al.* 2007)

On and off premises

Changes to the number and distribution of packaged liquor outlets contribute to the overall level of alcohol-related benefit/harm in a community primarily through the proximity effect. This is because alcohol purchased from packaged liquor outlets is not consumed at the point of sale and therefore impacts are unlikely to be spatially concentrated. Rather, as the number of outlets in an area increases, convenience and price competition may increase resulting in changed levels and patterns of consumption throughout the community.

In contrast, on-site outlets work primarily via the amenity effect. That is, on-site outlets draw drinkers to particular locations resulting in spatially concentrated benefits and harms.

4.3 Venue characteristics and urban context

The nature and magnitude of social benefits and harms which arise in conjunction with licensed premises is influenced by the nature of the venues themselves and also the environment in which they are situated.

4.3.1 Venues

The ways in which licensed venues are designed and managed, and the attitudes and behaviours of patrons which frequent the venue can influence the relative extent of alcohol-related benefits and harms in a community. Specifically, there are a number of characteristics of the physical form of venues, the social environment within venues, and management practices employed, that have been consistently linked to anti-social behaviour and violence (see Table 4.2). Key observations within this table include:

- Intoxication level is consistently associated with both the frequency and severity of anti-social behaviour and violence in and around licensed venues. However, permissive behavioural expectations, including tolerance for rowdiness and swearing, predict anti-social behaviour and violence more strongly than intoxication.
- Crowded venues where patrons cannot circulate freely and which have extended opening hours have consistently been linked with higher levels of anti-social behaviour and violence.
- The overall size of a venue is not clearly linked with rates of anti-social behaviour and violence. However, if a larger venue has attributes that make it higher risk (such as late trading hours) any issues will be magnified in proportion to the size of the venue. Also, the total volume of patrons who spill out of venues into an urban area will influence amenity conditions in that area, and therefore the size of venues is a relevant consideration in the context of likely external amenity impacts.
- Queuing is consistently related to violence, suggesting a need for this aspect of the venue setting to be well designed and managed judiciously and non-aggressively by staff.
- A clean, well maintained and orderly establishment sets higher expectations for behaviour among patrons.
- The nature of patrons (friendly or hostile, involved in criminal behaviour or not) who frequent different venues are very influential in determining overall levels of anti-social behaviour and violence. That is, some venues simply attract particular types of people who are more likely to be violent (Gruenewald 2007, Quigley *et al* 2003).

Table 4-2: Attributes of Venues which Increase Risk of Harm

Attribute	Description
Crowding	<ul style="list-style-type: none"> ▪ Venues typified by inefficient pedestrian movement and crowding increase the chances of accidental contact between patrons. Moreover, in a licensed venue setting, alcohol may impair the ability of patrons to respond appropriately, leading to aggression and alcohol-related violence (see Green and Plant 2007, Leonard <i>et al.</i> 2003, Brookman and Maguire 2003 and Homel and Clark 1994). ▪ A noteworthy example, Macintyre and Homel (1997) explored links between violence and patron density (patrons per m²) and crowding (rate of unintended physical contacts between patrons) in nightclubs in Surfers Paradise. They found that for a given patron density, some venues exhibited higher crowding. Moreover, more crowded as opposed to more densely populated venues, tended to be more violent. Crowding arose in venues as a result of inappropriate pedestrian flow patterns, caused by poor location of doors, dance floors, bars and toilets. Lower risk clubs had fewer design induced cross flows, and hence fewer potential collision points.
Trading Hours	<ul style="list-style-type: none"> ▪ Extending on-premise trading hours into the early hours of the morning increases alcohol use and related harms. To illustrate, Chikritzhs and Stockwell (2002) found the number of violent assaults in and around Perth hotels that were granted extended trading permits (allowing operating hours to extend from midnight to 1am) increased by 70% compared with baseline conditions between 1991-1997. The increase corresponded with increased alcohol sales in the hotels, consistent with greater levels of intoxication during the period of extended operation (see also, Stockwell and Chikritzhs 2009 and Briscoe and Donnelly 2003). ▪ In the case of packaged liquor licences, there is increasing anecdotal evidence that extended operating hours for these licences can facilitate late night purchases for immediate consumption by customers, thus contributing to 'pre-loading' and associated alcohol-related harm.
Level of Intoxication	<ul style="list-style-type: none"> ▪ Intoxication level is consistently associated with both the frequency and severity of aggression in and around licensed venues (see Graham and Homel 2012). Similarly, factors such as fast drinking, round buying, cheap drinks and drink specials, were also found to be significantly associated with aggression.
Permissive Environments	<ul style="list-style-type: none"> ▪ Graham and Homel (2012) following a review of 13 separate studies, suggest that permissive behavioural expectations, including tolerance for rowdiness and swearing, predict aggression more strongly than intoxication. This association is consistent with situational crime prevention theory, in that the situational message in highly permissive and rowdy environments is that bad behaviour, including aggression, will not be punished. As well as setting up behavioural norms, cues and expectations, rowdy behaviour may also increase risk of aggression through direct provocation.

Attribute	Description
Venue Size	<ul style="list-style-type: none"> There is not unequivocal evidence that venue size increases risk of harm <i>per capita</i> of patrons (see Graham and Homel 2012, Green and Plant 2007, Homel and Clark 1994). However, venue size is an important factor when other risk factors are present, such as late night trading and crowding. That is, a venue's capacity is of concern if it permits large numbers of people to drink within/during an otherwise high risk environment/period. As the Department of Justice states: <ul style="list-style-type: none"> <i>The impact of venue capacity on risk associated with a venue is only considered to be significant where other risk factors are present. That is, the difference between the relative risk associated with two venues of different sizes is less significant during ordinary trading hours and where both licences have a good compliance history. However, where licences exhibit factors that indicate they pose a higher risk of alcohol-related harm, such as operating during high risk late trading hours, the risk associated with each licence will be magnified by the capacity of the venue (DoJ 2009 pg. iv).</i>
Queuing	<ul style="list-style-type: none"> A number of studies find links between the extent of queuing to enter a venue and level of aggression and violence. The precipitating factors are frustration, provocation and perceived unfairness resulting from long waits, queue jumping, guest passes, as well as by officious and arbitrary or confrontational behaviour by door staff (see Graham and Homel 2012).
Cleanliness	<ul style="list-style-type: none"> Some research indicates that unclean premises tend to be more violent. It is suggested that cleanliness is a visible sign of behavioral expectations and level of permissiveness in an establishment. If an establishment is run down, patrons may feel that aggression will be tolerated. A well maintained environment on the other hand suggests that misbehaviour is less likely to be tolerated (see Graham and Homel 2012).
Comfort	<ul style="list-style-type: none"> A number of indicators of the overall level of comfort in venues have been linked with aggression, including noise levels, temperature and availability of seating (see Graham and Homel 2012). For example, Homel et al. (2004) conducted observations in hotels in Queensland before and after a number of environmental and management practice changes were introduced. They found that improvements in comfort and the introduction of more chairs with armrests were associated with reductions in aggression and violence in the venues studied.
Sexual Activity/ Competition	<ul style="list-style-type: none"> Sexual activity and sexual competition consistently linked with the frequency of aggression in bars. Making sexual advances involves a degree of ambiguity and risk. A highly sexualised environment has implications for patrons and staff. Dancing has also been linked with levels of aggression and violence in some studies, perhaps because of the association between dancing and sexual competition (see Graham and Homel 2012).
Food	<ul style="list-style-type: none"> Availability of food potentially reduces risk of aggression by defining an establishment as being about food as well as drinking, and by encouraging consumption of food to slow the rate of absorption of alcohol. However, research findings are mixed, leading Graham and Homel (2012) to conclude that the availability of food may not be a promising direction for reducing violence if patrons are generally not interested in eating during the highest risk periods.

4.3.2 Urban context

A number of features of the urban environment influence the extent to which the presence of one or more licensed premises is appropriate and safe.

Sensitivity to amenity impacts

- Some areas, particularly those which are comprised primarily of residential dwellings, are likely to be more sensitive to the presence of licensed premises. Both the size of the venue and operating hours are relevant considerations in this context. Larger venues attract more people to particular areas, and those open later into the evening create activity at times when expectations regarding acoustic amenity are higher.
- In a submission to the Victorian zoning reforms review, FairGo4LiveMusic and Creative Spaces suggest that smaller venues which support arts and cultural activities and which sell food and drink for consumption on the premises should be considered appropriate in the context of the Mixed Use Zone (as well as in commercial and industrial zones), assuming they can comply with *SEPP N2 standards*. The submission also suggests that larger venues may be more appropriately located in *commercial and industrial zones*. The submission highlights the following potential thresholds:
 - **Small venue:** Area open to the public must be less than 100 square metres;
 - **Medium venue:** Area open to the public must be less than 250 square metres;
 - **Large venue:** Area open to the public is more than 250 square metres.

Infrastructure

- Public infrastructure such as seating, rubbish bins and public toilets are an important part of any functional entertainment precinct. Several cities such as London and Amsterdam, and recently Sydney, use temporary urinals on busy nights to preserve the local amenity. Also some cities in the UK have supervised 24 hour public toilets (Hadfield 2011).
- Other infrastructure such as street lighting enhances perceptions of safety and prevent crime in and around busy activity centres because it encourages foot traffic and encourages natural surveillance (Hadfield 2011).

Transport

- The stranding of groups of late night patrons who may be intoxicated can lead to violence and injury, resulting in compromised neighbourhood amenity and safety

(Hadfield 2011). Transport infrastructure plays a very important role in facilitating patron dispersal from an area and mitigating anti-social behaviour including violence.

Clusters

- Clustering of venues can have a positive and negative influence on the nature and magnitude of social benefits and harms associated with licensed premises. On the positive side, in places where larger volumes of people congregate, natural surveillance promotes safety in areas surrounding licensed premises.
- Clustering of patrons in particular areas may also make provision of policing and transportation services more efficient.
- However, clustering of licensed premises may potentially incite alcohol-related conflict, for example due to pedestrian congestion/incidental collisions. Synergistic effects have been observed in broad statistical studies (Liang and Chikritzhs 2011 and Donnelley *et al.* 2006) and finer grained observational studies (Tuck 1989 and Macintyre and Homel 1997). The extent of crowding and conflict is shown to be a function of the volume of patrons sharing a space and the capacity of that environment to accommodate the crowds. Management of peak flows of patrons through the progressive closure of venues has been shown to assist in mitigating crowding in some settings (Marsh and Kibby 1992).
- The above suggests that each urban setting has a limited capacity to accommodate pedestrian traffic and facilitate dispersal of venue patrons in an orderly manner. Moreover, and similarly to internal venue environments, crowding and constrained pedestrian movement in the urban environment may exacerbate issues which arise in conjunction with the consumption of alcohol.

Place identity

- The socially constructed identity of a place can influence who visits the place and for what purpose. For example, concentration of venues of one type in an area can lead to the concentration of particular population groups, lowering population diversity. If this trend is accompanied by growing rates of violence and loss of amenity, a self-perpetuating cycle may be created, whereby an area becomes stigmatised. Subsequently, the area may attract users who come with the explicit intention of engaging in anti-social behaviour. Interventions which seek to create a positive place-image (place making) may avoid areas becoming known trouble hotspots.
- Successful night time cities offer an interesting choice of leisure and entertainment for a diversity of ages, lifestyles and cultures (Sydney City Council 2011). Providing more

diverse attractions and routine activities (for example, a supermarket or gym) in the evening attracts a broader population into the area which promotes social cohesion, vibrancy and deters crime (Hadfield 2011).

4.3.3 Victorian design guidelines for licensed venues

The Victorian Government has recognised that the design of licensed venues and the urban settings in which they are situated can influence the extent of alcohol-related anti-social behaviour in and around licensed premises. Specifically, the guidelines outline design and layout responses to address issues of anti-social behaviour, violence and amenity impacts (for example, noise, litter, vandalism). The guidelines outline a number of physical design and management principles related to:

- Internal areas
 - Dance floors, bar areas and circulation space
 - Lounges and seating areas
 - Lighting, climate and noise
- External areas
 - Entries, exits and queues
 - Public places, including footpaths, laneways and car parks

A key focus of the guidelines is to avoid congestion and overcrowding both within and outside venues. The importance of passive surveillance and sight lines is also emphasised, as is the need for provision of a variety of spaces within venues including those which provide comfortable seating.

4.4 Summary

- The proximity effect operates when the convenience costs of obtaining alcohol, comprising travel costs and the monetary price of beverages, are altered.
- The amenity effect operates when liquor outlets draw drinkers to a particular place at a particular time and into close contact with one another.
- Some venue attributes are consistently associated with elevated levels of aggression and violence, including crowded internal environments with poor circulation, extended trading hours and poor management of entry queues.
- The overall size of a venue is not clearly linked with rates of anti-social behaviour and violence. However, if a larger venue has attributes that make it higher risk (such as late trading hours) any issues will be magnified in proportion to the size of the venue.
- In much the same way as internal environments, urban environments can exacerbate alcohol-related anti-social behaviour if they are crowded, or do not have the necessary infrastructure to facilitate orderly patron dispersal.
- A degree of clustering of venues will deliver positive benefits such as improved perceptions of safety and vibrancy.
- Also, the functioning of a given area may be improved through strategies such as regulating entry and exit to venues, staggering closing times, management of pedestrian movements outside premises, ensuring convenient access to and suitable capacity of transport options, targeted law enforcement and place making initiatives.
- The above considered, well-run licensed venues, public spaces with toilets and good lighting, diverse night activities, visitors of various ages and late night public transport options collectively improve the safety of the local area.
- Notwithstanding, total elimination of alcohol-related disorder within or around licensed premises may be an unachievable goal. The policy objective of fostering safer licensed venues and urban settings is a more realistic goal than a trouble free night time economy.

5 Licensed premises in Yarra

5.1 Introduction

This section describes the number, character and distribution of licensed premises in City of Yarra and the benefits and costs associated with these premises.

5.2 Supply of licensed premises

5.2.1 Trends in supply

A common measure of the level of supply of licensed premises in a planning area is 'outlet density' or rather the number of outlets per 10,000 adults. As Figure 5.1 indicates, outlet density increased steadily in City of Yarra over the period 2000 to 2009, from 63.1 outlets per 10,000 adults in 2000 to 79.1 outlets per 10,000 adults in 2009. Density in Yarra as at 2009 was significantly higher than for the North and West Metropolitan Melbourne (29.3) and Victoria (27.2).

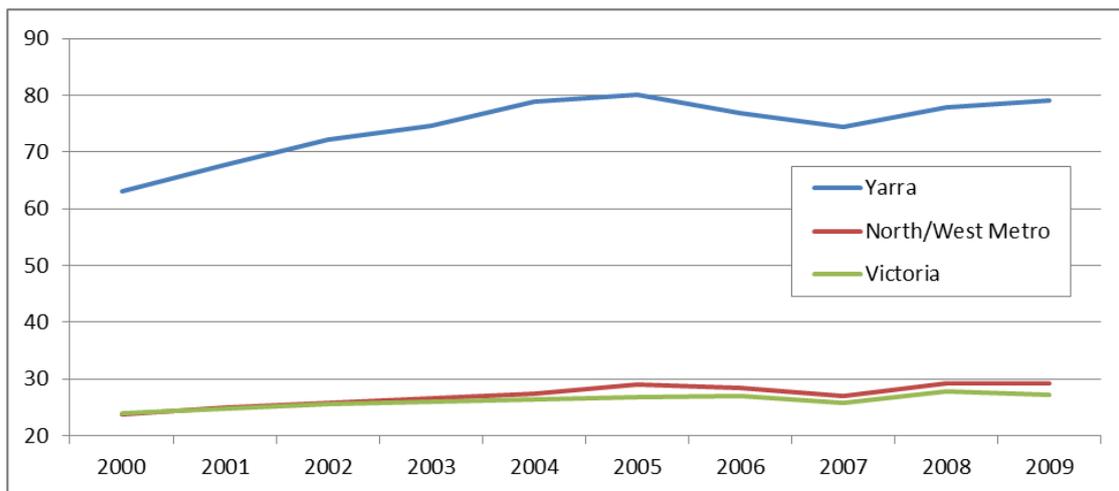


Figure 5-1: 'Density' of Licensed Premises (rate per 10,000 people aged 15+) 2000 to 2009 (Adapted from Matthews et al. 2011)

The density of licensed premises in Yarra was the highest of all Local Government areas excluding the City of Melbourne. As Figure 5.2 shows, City of Port Phillip had the next highest density of licensed premises, although approximately 25% less than City of Yarra.

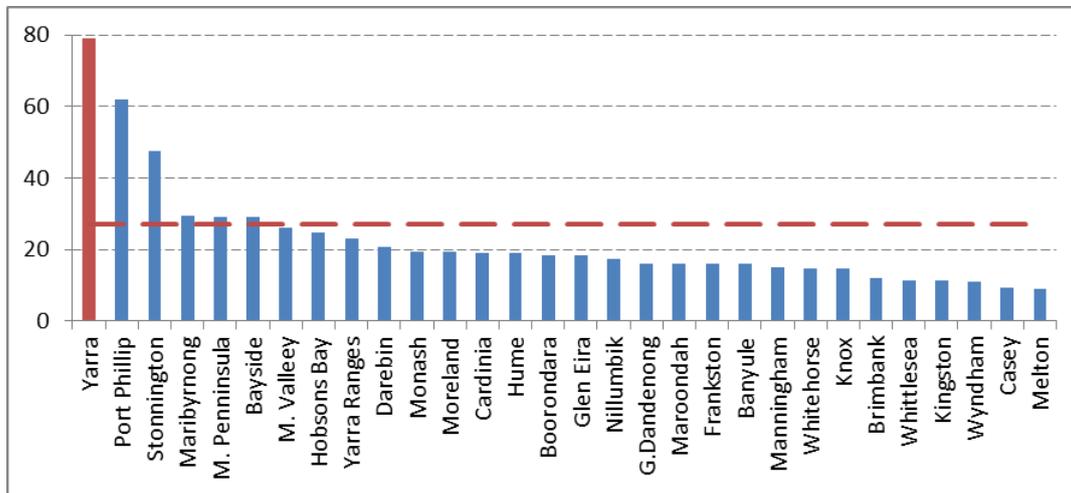


Figure 5-2: Outlet Density - Metropolitan LGAs. (Adapted from Matthews et al. 2011)

5.2.2 Current mix and distribution

As at November 2013, there were 796 licensed premises operating within the City of Yarra. As shown in Table 5.1, a large proportion of all licensed premises were restaurants (including cafés) (39.3%) (including BYO), while packaged liquor outlets accounted for 6.3% of all licences. Premises licensed to allow consumption of alcohol on site such as bars, pubs and clubs comprised 35.2% of all licences (8.1% being licensed for late night trading). The ratio of restaurants (including cafés) to bars/pubs/clubs across the City is approximately 0.95:1. The ratio is between 0.8 to 1.2 to 1 in parts of the City such as Collingwood, Fitzroy and Richmond and lower (i.e. restaurants/cafés dominate) in areas such as North Carlton and Clifton Hill.

The majority of licensed premises are in commercially zoned areas. However, a large number of licensed premises are also located in residential areas or are adjacent to residential areas.

Figure 5.3 shows the distribution of licensed premises throughout the City and the spatial extent of areas that would be deemed to be within either a 100 metre or 500 metre cluster of venues under Practice Note 61. Licence types such as pre-retail, where there is little potential for the premises to generate negative amenity impacts, have been excluded.² As the figure shows, licensed premises are distributed widely throughout the City with the majority of the

² A pre-retail licence authorises the wholesale supply of liquor to other licensees

land area of the City currently within a cluster. High concentrations of licensed premises exist in:

- Fitzroy and Collingwood – in particular Brunswick, Gertrude, Johnston and Smith Streets. These streets all accommodate notable numbers of late night venues.
- Richmond – in particular, Victoria and Swan Streets and Bridge Road. Late night venues are concentrated in Swan Street around the intersection of Church and towards the Richmond Train Station.

And to a lesser extent:

- Fitzroy North and Carlton North – mainly on Nicholson Street and St Georges Road. There are relatively small numbers of late night venues in these areas.
- Clifton Hill – mainly on Queens Parade. There is only one late night venue in Clifton Hill.

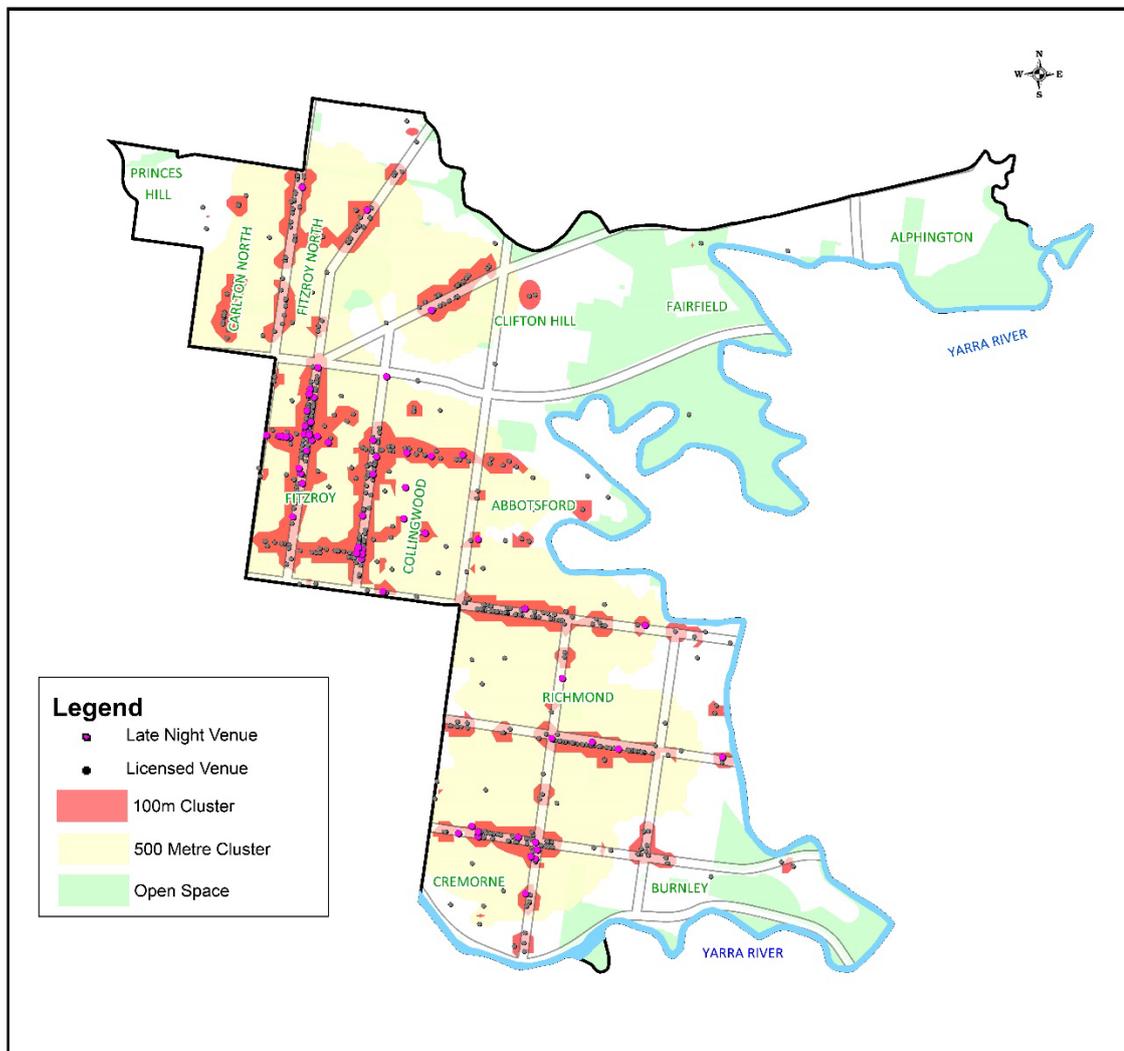


Figure 5-3: Spatial Distribution of Licensed Venues in the City of Yarra

Table 5-1: Licensed Premises in City of Yarra

	Total		Restaurants/Cafes		On Premises				Bar: Rest	Clubs			Packaged Liquor	Wine & Beer Producer	Pre- Retail
			BYO	R'rant and Café	On Prem	On Prem (Late Night)	General	General (Late Night)		R'ted Club	Full Club	Limited			
ABBOTSFORD	69	8.7%	2	17	10	0	6	3	1:1	0	0	20	7	2	2
ALPHINGTON	4	0.5%	0	0	0	0	0	0	N/A	1	2	1	0	0	0
BURNLEY	1	0.1%	0	0	0	0	0	0	N/A	0	0	1	0	0	0
CLIFTON HILL	28	3.5%	1	12	3	0	3	1	1.9:1	0	0	6	2	0	0
COLL'WOOD	93	11.7%	6	31	16	5	9	7	1:1	0	0	12	6	0	1
FAIRFIELD	5	0.6%	1	1	1	0	0	0	2:1	0	0	2	0	0	0
FITZROY	218	27.4%	4	82	46	16	18	15	0.9:1	0	1	24	10	0	2
NTH CARLTON	49	6.2%	3	21	5	0	4	0	2.7:1	0	0	8	6	0	2
NTH FITZROY	66	8.3%	4	19	11	1	9	2	1:1	1	1	14	3	1	0
PRINCES HILL	2	0.3%	0	0	0	0	0	0	N/A	0	0	2	0	0	0
RICHMOND	258	32.4%	25	84	47	7	27	8	1.2:1	0	4	43	15	0	1
TOTAL	796	100%	46	268	139	29	77	36	0.95:1	2	8	133	50	3	8
			5.8%	33.5%	17.4%	3.6%	9.6%	4.5%		0.3%	1.0%	16.6%	6.3%	0.4%	1.0%

Source: DoJ 2013

5.3 Entertainment precincts

As the above discussion indicates, Yarra's licensed premises are concentrated heavily in Collingwood and Fitzroy (Smith, Gertrude, Brunswick and Johnston Streets) and Richmond (Victoria and Swan Streets and Bridge Road). A more detailed description of these precincts is provided below.

Fitzroy and Collingwood

- The Fitzroy-Collingwood precinct contains 40% of Yarra's licensed premises. Night time entertainment is concentrated on Smith, Gertrude, Brunswick and Johnston Streets.
- Virtually the entire Fitzroy and Collingwood area is within a 500 metre cluster. Also, as Figure 5.4 shows, the majority of Smith, Gertrude, Brunswick and Johnston Streets are within a 100 metre cluster. The ratio of bars, pubs and clubs to restaurants (including cafés) in the areas is approximately 1:1. However, this mix varies considerably throughout the area. Some examples:
 - Near corner of Brunswick and Johnston Street - Bar to restaurant (including cafés) Ratio 1.2:1
 - Brunswick Street south of Johnston Street - Bar to restaurant (including cafés) Ratio 0.8:1
 - Smith Street near corner of Gertrude Street - Bar to restaurant (including cafés) Ratio 1.2:1
- In all areas, later into the evening, it is bars and clubs which continue to operate.
- As the above indicates, the character of the Night Time Economy (NTE) in the different parts of Fitzroy-Collingwood varies. Brunswick Street near the corner of Johnston Street and Smith Street near the corner of Gertrude Street are areas of intense provision of bars and clubs. In other parts of the precinct bars are less spatially concentrated and restaurants (including cafés) represent a higher proportion of all venues.
- The Fitzroy-Collingwood area is very well provisioned with public transport. Tram routes providing access to the City and Northern Suburbs run along Nicholson, Brunswick and Smith Streets. The Hurstbridge/Epping Rail line is also located to the east of the precinct. There are three public toilets on Smith Street and one on Brunswick Street.
- Residential and mixed use areas are located either side of the main commercial strips. Built form on each of Smith, Gertrude, Brunswick and Johnston Street shield these areas from noise generated on street around venues. However, the compact nature of the precinct and its permeability means that venue patrons can easily walk between the

strips, through residential areas. A number of venues have outdoor areas to their rear which abut residential areas.

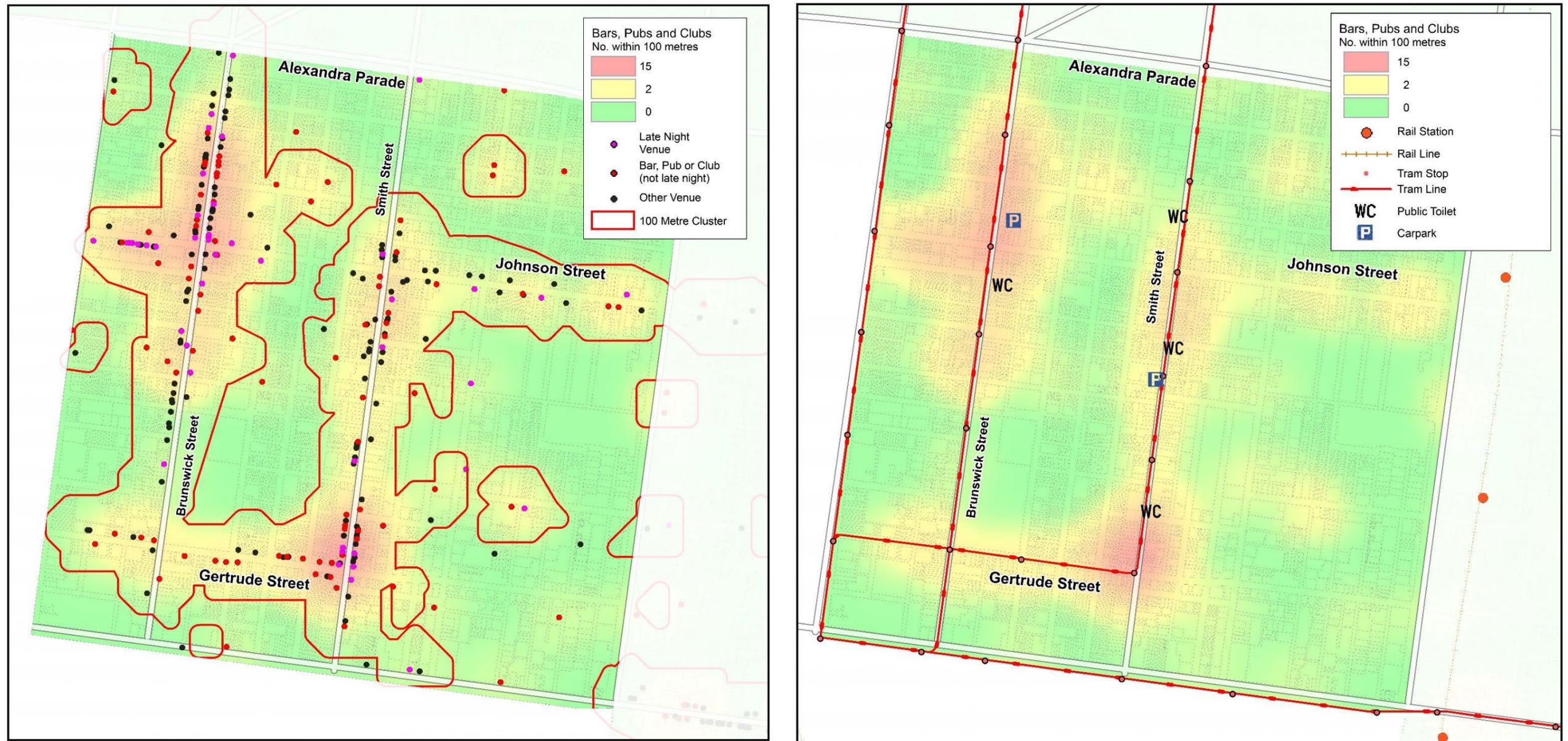


Figure 5-4: The Fitzroy-Collingwood Precinct

Richmond

- The Richmond entertainment precinct extends from immediately to the south of Victoria Street to immediately to the north of Swan Street, and from Punt Road to Burnley Street. Night time entertainment is concentrated predominantly on Swan and Victoria Streets and Bridge Road. The area is home to 32% of Yarra's licensed premises.
- A very large proportion of the Richmond area is within a 500 metre cluster. Also, as Figure 5.5 shows, large sections of Swan and Victoria Streets and Bridge Road are within a 100 metre cluster. The ratio of bars, pubs and clubs to restaurants (including cafés) is approximately 0.8:1, that is there are more restaurants (including cafés) than bars, pubs and clubs. However, this mix varies considerably throughout the area. Some examples:
 - Victoria Street between Punt Road and Church Street - Bar to restaurant (including cafés) ratio 0.26:1
 - Bridge Road between Church Street and Burnley Street - Bar to restaurant (including cafés) ratio 0.5:1
 - Swan Street from Punt Road to the area around the corner of Church Street - Bar to restaurant (including cafés) ratio 0.9:1
- As the above indicates, the character of the NTE of the different part of Richmond varies. Victoria Street is home to large number of restaurants (including cafés), and only a limited number of bars, pubs and clubs. Bridge Road similarly is dominated by restaurants (including cafés). Swan Street, particularly around the corner Church Street and near the Richmond Train Station accommodates a large proportion of bars/pubs/clubs.
- The Richmond area is very well provisioned with public transport. Tram routes providing access to the City and eastern suburbs operate on Victoria, Swan and Church Streets and Bridge Road. The Hurstbridge/Epping Rail line can be accessed from the western end of the precinct and Richmond Station, which located on Swan Street, provides access to a number of rail lines serving the east and south east. There are two public toilets located on Swan Street.
- Residential areas are located either side of the main commercial strips and some residential dwellings are located very close to intense concentrations of licensed premises. However, to the south of Swan Street there is a notable buffer created by the train line, and this is also the case to the north of Swan Street near the rail overpass. Similarly on sections of Bridge Road and Victoria Street, residential areas are set back from the commercial strips, separated by civic and industrial uses. The precinct is less

compact than Fitzroy-Collingwood precinct, with the main commercial strips being separated by over 800 metres.

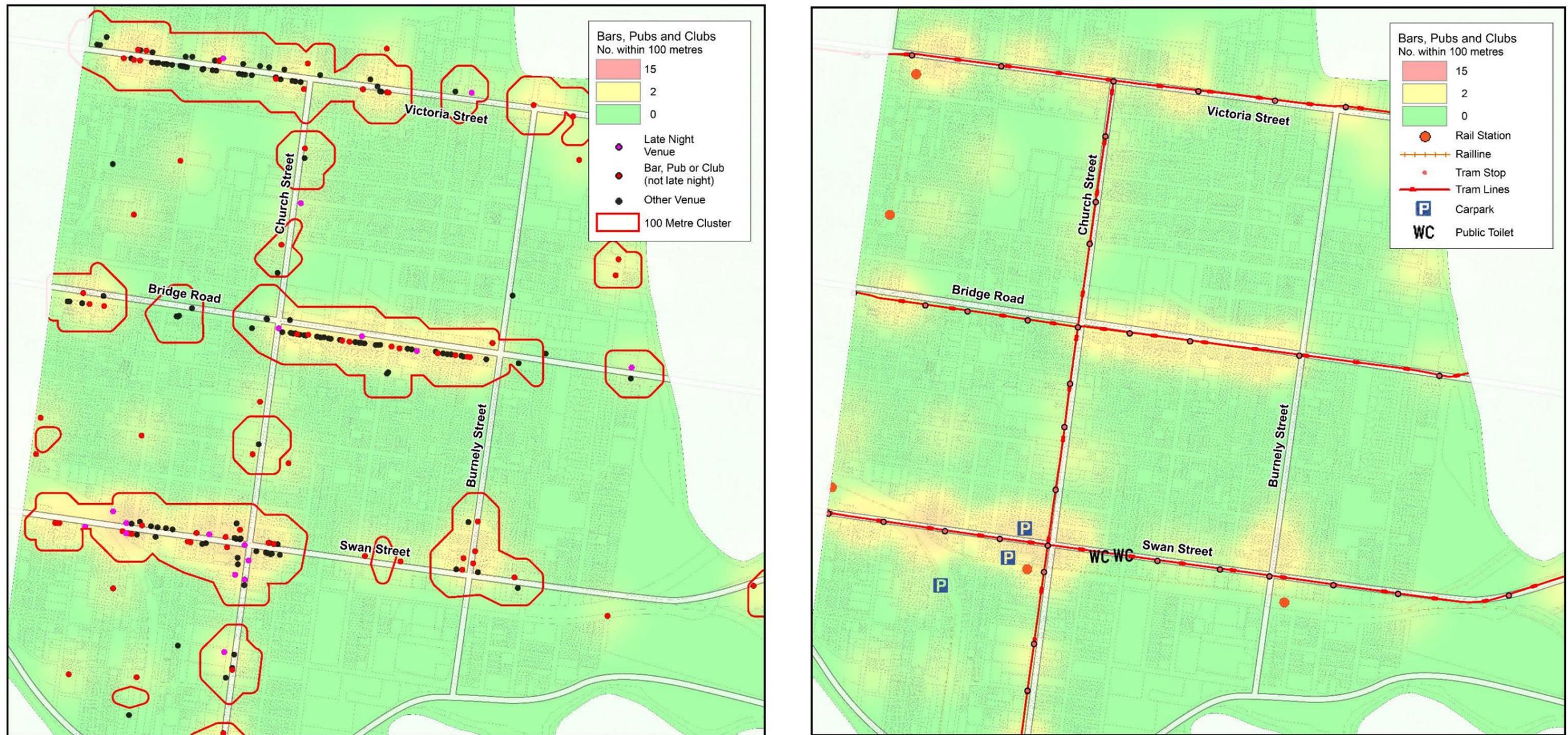


Figure 5-5: The Richmond Precinct

5.4 Costs and benefits of licensed premises in Yarra

5.4.1 Benefits

The City of Yarra is renowned for its dynamic night life spread across several precincts, principally Collingwood and Fitzroy (Smith, Gertrude, Brunswick and Johnston Streets) and Richmond (Victoria and Swan Streets and Bridge Road). Yarra's Night Time Economy (NTE) generates substantial social and economic benefits. To illustrate:

- Yarra's NTE supports approximately 2,967 jobs.
- The direct economic output generated by the 2,976 NTE workers is estimated at \$333.14 million per annum, or \$112,282 per worker.
- The NTE generates demand for goods and services within Yarra and it is estimated that these flow-on impacts generate a further \$156.9 million.
- The 2,976 people employed in the NTE, and the workers in the supplying businesses spend some of their wages and salaries in the local economy and these flow-on consumption benefits are estimated at a further \$175.1 million.
- The total output associated with the NTE in the City of Yarra, including all direct and flow-on effects is estimated at up to \$665.2 million (REMPPLAN 2013).

Residents of Yarra value the area's diverse NTE which many consider a major attraction of living in the City. To illustrate, a City of Yarra survey asked residents what things they most like about their local area. The most popular responses (unprompted) were: a variety of businesses on offer (24.5 percent), easy to get to (19.9 percent), vibrant (16.9 percent), quality of pubs, bars (15.7 percent), choice of eating outlets (15.7) and sense of safety & local vibe (7.4 percent). As one resident noted:

Night time activity is what makes Yarra diverse and a great place to live. I chose to live in the area because it is alive both during the day and night.

Research undertaken by City of Yarra has found that people representing traders, visitors and stakeholders generally share the view that Yarra's NTE is safe and vibrant (Yarra City Council 2013).

Artistic and cultural activity

In addition to the economic benefits of licensed premises, these venues support a diverse range of independent artistic and cultural activity. Research conducted by Shaw (2013) highlights the importance the ‘primordial’ activity of independent artistic subcultures. As the author suggests:

Independent creative subcultures, in their various hybrids of music, theatre, art, and new and old media, are the primordial soup of cultural evolution. They have the capacity for a highly definitive influence on their participants – catalysing the transition from consumer to producer for instance – often conferring much broader cultural and social benefit. Creative subcultures make continuing, well-documented, contributions to established city cultures for relatively low outlay (Shaw 2013).

The artistic and cultural activities studied by Shaw do not make much money nor do they cost much to set-up. As a result, they tend to cluster in areas characterised by low rents and non-residential uses such as retail and industrial areas. Moreover, the ‘scenes’ which surround the activity are most vibrant when the activity is centrally located in an accessible place.

Independent creative subcultures need centrality for interaction and they need affordable space.

While independent artistic and cultural activity need not necessarily occur in a licensed premises in practice much of it does, in particular live music, but also the many other forms. Figure 5.6 shows the distribution of such activity in Yarra. There is a clear alignment between clusters of licensed premises (particularly in Fitzroy and Collingwood) and clusters of independent artistic and cultural activity.

The importance of City Yarra and its licensed premises in offering a place for independent artistic and cultural activity has intensified over time. Specifically, over the past 20 years processes of gentrification have ‘emptied out’ the independent cultural activity which once occurred in the arc from the southern suburb of St. Kilda through the south-eastern suburbs of Windsor, Prahran, South Yarra and Richmond. Consolidation and intensification has occurred in the Melbourne city centre and in and around two key streets in the City of Yarra: Gertrude Street, in south-west Fitzroy, and Johnston Street in Collingwood (see Figures 5.6 and 5.7).

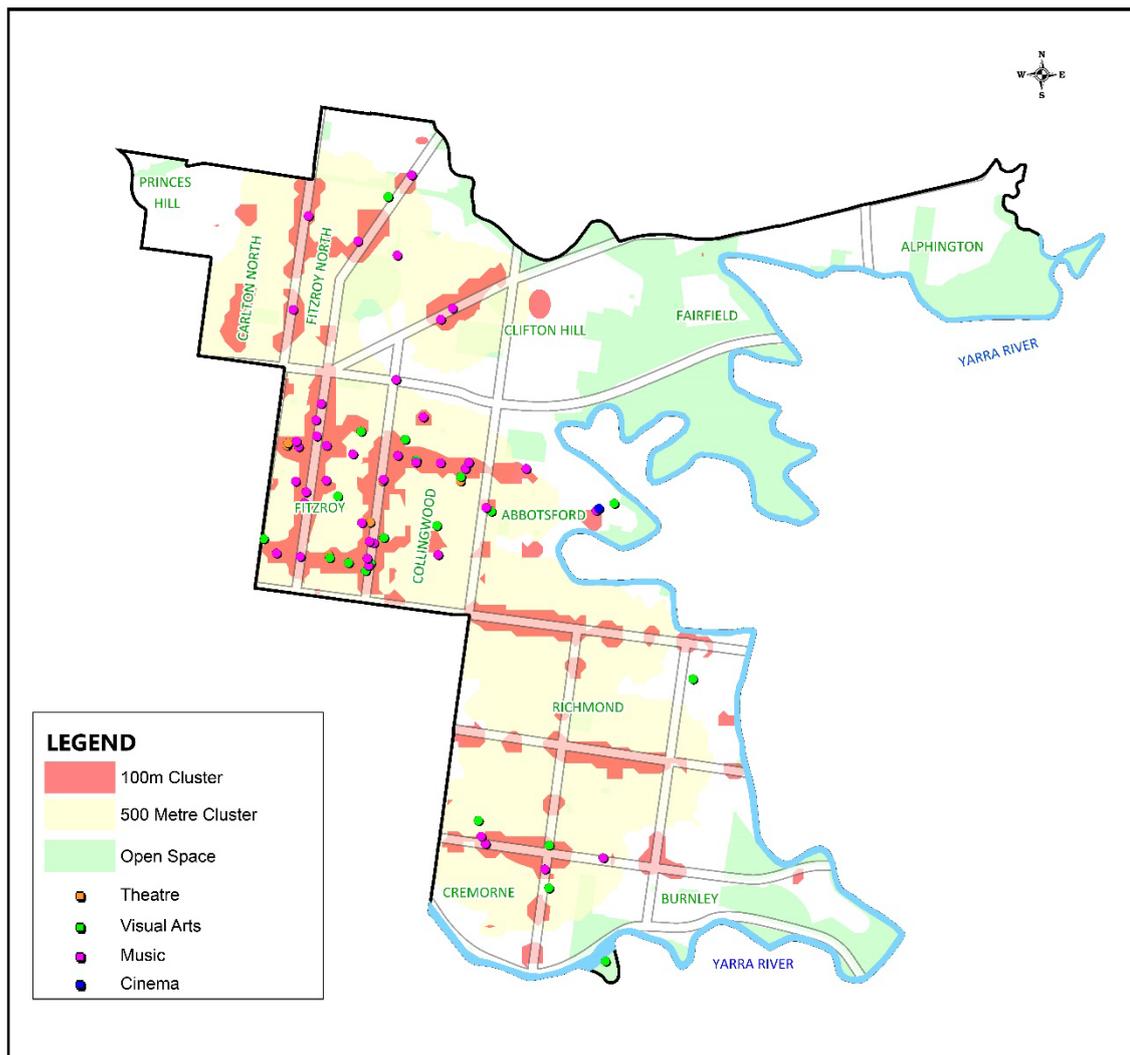


Figure 5-6: Distribution of Indie and Community Arts Activity 2013 - City of Yarra

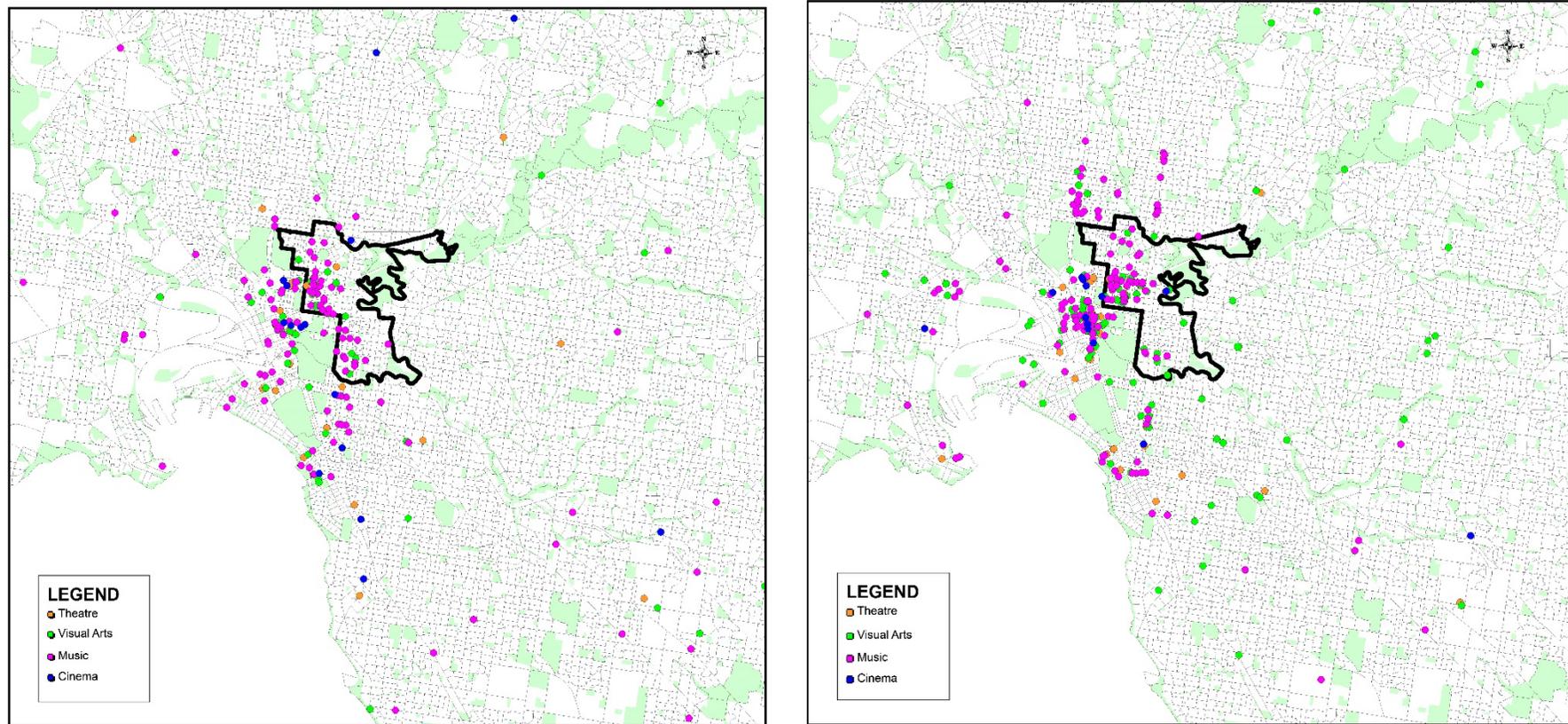


Figure 5-7: The location of indie and community arts activity, Melbourne 1991 (left) and 2013 (right) - data courtesy of Dr Kate Shaw, Sarah Taylor and James Conlan of the Melbourne School of Land and Environment at the University of Melbourne.

5.4.2 Costs

Licensed premises and more specifically the behaviours of those who attend these premises, are a source of social harm in Yarra. A number of issues arise in conjunction with licensed premises the most notable being:

Noise

- Noise within entertainment precincts is largely from venues, foot and vehicle traffic, outdoor dining and music. For some residents this noise lowers their sense of amenity and for others it affects their perceptions of safety.
- Council data shows that the noise complaints associated with entertainment venues are common and second only to construction in terms of total numbers received. Complaints are concentrated after 11pm and on weekends.
- Noise from the street is of greatest concern to residents. A total of 23 percent of respondents to a City of Yarra survey raised this as an issue (Yarra City Council 2013). Noise was experienced in the form of people talking, laughing, interacting and from cars. Some people raised noise from neighbours and from specific venues, however concerns in this regard were less frequent.
- Noise on the street and inside venues are intertwined, as venues attract visitors who may make noise on the way in or out of the area. Addressing behaviour management in public places, accessible transport to get people out and better insulation of buildings were some solutions raised by participants in the City of Yarra survey (Yarra City Council 2013).

Anti-social behaviour

- Public urination - Council regularly receives complaints that individuals urinate in public around late trading venues. Also, a Yarra City Council survey asked residents what things they like least about their local area and the most popular response (unprompted) was public urination (28 percent) (Yarra City Council 2013).
- Litter - such as takeaway food wrappers and alcoholic and non-alcoholic beverage containers accumulate on Friday and Saturday nights. When excess litter is evident in nearby residential streets, this affects residents' perceptions of safety and reduces their sense of pride in the local neighbourhood.
- Drunken/Aggressive behaviour - Residents and users of Yarra's night time entertainment precincts commonly reported concerns about disruptive or aggressive

people and drunken behaviour. A desire for users of the night time precincts to be respectful to the local environment, residents, businesses and fellow visitors to the area was a common theme. Some survey respondents felt that this type of behaviour was typically not from locals.

- Exit survey data collected by the City of Yarra confirm residents' perceptions that many users of Yarra's licensed premises are not local residents. To illustrate, over two-thirds of patrons (64.5 percent) were leaving to a postcode (home) that was between 10 and 20 kilometres away from the venue, with a further 10 percent travelling between 20 and 50 kilometres. Only 5 percent of patrons were returning to a postcode within 5 kilometres and just over 10 percent had trips of between 5 and 10 kilometres (Yarra City Council 2013).
- It was commonly noted by survey respondents that disruptive behaviour can occur while patrons wait for transport home. Ways to improve safety suggested by survey respondents included after-hours trains and trams (45 percent) and a temporary night time weekend taxi rank (15 percent). Similarly, Victoria Police suggested that if people could get home quicker after a night out, this would eliminate some anti-social behaviour. In relation to patron dispersal:
 - While public transport options are numerous in Yarra, they currently cease operation at around 1am. However, there are at least 90 businesses that operate beyond 1am. The upcoming 24 hour public transport trial on Friday and Saturday nights commencing on 1 January 2016 for a one year period (Night Network) will provide an opportunity for patrons to get home on public transport throughout the night. The effectiveness of the trial is to be evaluated by Public Transport Victoria.
 - Traders report that late night patrons struggle to find an available taxi and the recent taxi inquiry similarly found that a service shortage exists on Saturday and Sunday morning, between midnight and 2am.
 - Safe taxi ranks have been trialled in Yarra, one in Swan Street and the other in Brunswick Street. Both ranks were positioned close to popular late night venues. The trial found that these ranks were unsuccessful in getting more people home. Key reasons included: limited space for the rank, limited use by patrons particularly in Brunswick Street as venues are spread out, taxi drivers did not use rank, and lack of publicising of the ranks to traders and patrons (Monash University Accident and Research Centre 2009).

Violence

Alcohol-related violence³ is high in Yarra compared with other parts of Melbourne and has been for the past decade (see Figure 5.8 and 5.9).

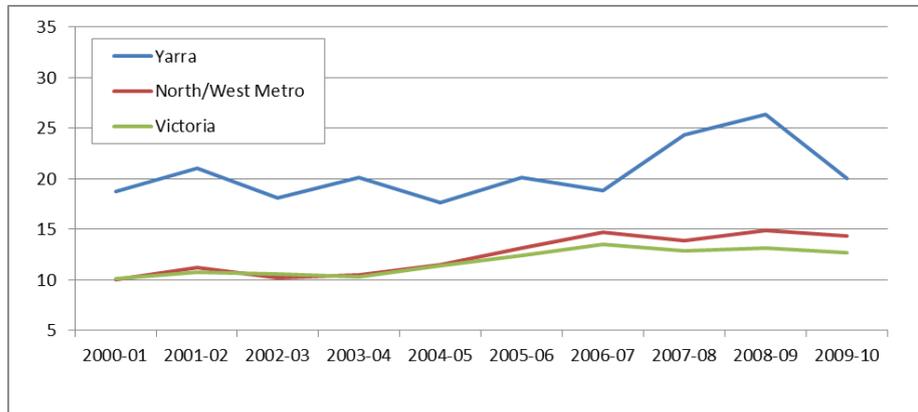


Figure 5-8: Alcohol Related Assaults (rate per 10,000 people aged 15+) 2000-01 to 2009-10 (Adapted from Matthews et al. 2011)

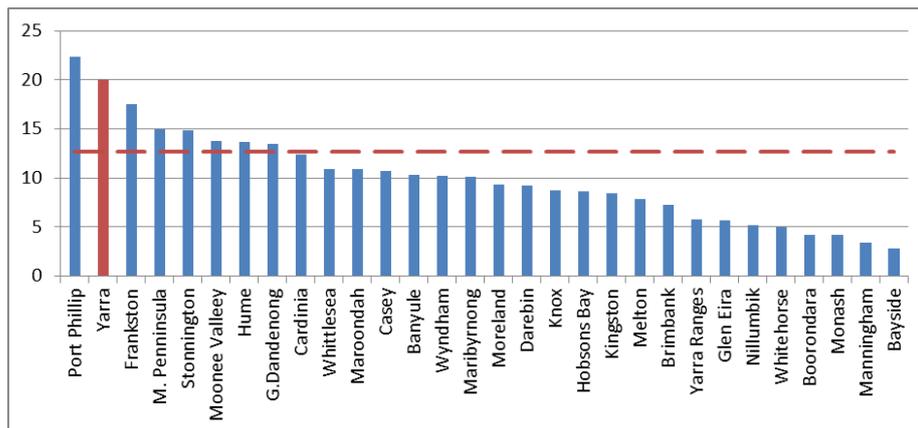


Figure 5-9: Alcohol Related Assaults (rate per 10,000 people aged 15+) – Metropolitan LGAs (Adapted from Matthews et al. 2011)

Data on alcohol-related assaults rates were obtained directly from Victoria Police at the postcode level to investigate in more detail the extent of any alcohol-related issues in the City of Yarra (see Table 5.2.). As at 2011-12, postcode area 3065 (Fitzroy) had the highest rate of assaults in the City (80.5 assaults per 10,000 people aged 15+). High rates were also evident in Collingwood (65.9), Abbotsford (29.6) and Richmond (26.6) (see Figure 5.10). The observed

³ Matthews et al. 2011 use assaults occurring between 8pm and 6am Friday and Saturday nights as a proxy for alcohol related assaults. They report that 65% of assaults occurring during this period were associated with alcohol. Alcohol involvement is noted in incidents at other times but less so (approximately 22.5%).

spatial pattern of assault is generally consistent with the observed distribution of licensed venues in the City.

Table 5-2: Alcohol Related Assault by Postcode (2011-12)

Post Code	Suburbs	Alcohol Related Assaults			
		Assaults	Per 100 sq.km	Per Licence	per 10,000 aged 15+
3065	Fitzroy	67	48.7	3.3	80.5
3066	Collingwood	37	29.2	2.5	65.9
3121	Richmond	62	9.9	4.2	26.6
3067	Abbotsford	13	7.5	5.3	29.6
3068	Fitzroy North, Clifton Hill	21	4.9	4.5	14.1
3054	N. Carlton, Princes Hill	7	3.0	7.3	9.5
3078	Fairfield, Alphington	4	0.6	2.3	4.6

Source: Victoria Police, direct data request 2013

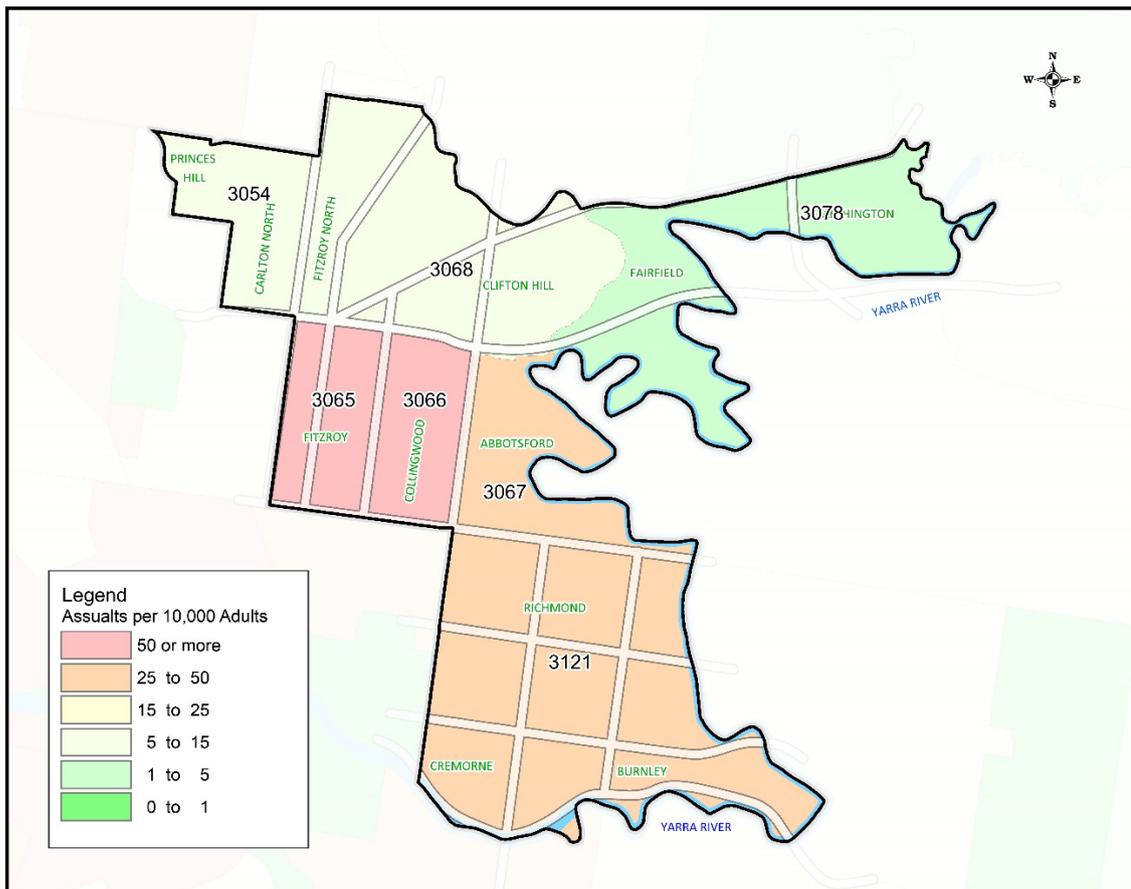


Figure 5-10: Alcohol Related Assaults in City of Yarra

Notwithstanding the above, given the intensity of night time activity in Yarra, the extent of anti-social behaviour and violence is lower than might be expected. To illustrate, Figure 5.11 shows the number of venues open in selected inner City LGAs and the number of ambulance attendances over an average weekend. As can be seen, although Yarra has more late night venues than Port Phillip, the amount of weekend ambulance attendances was lower in comparison.

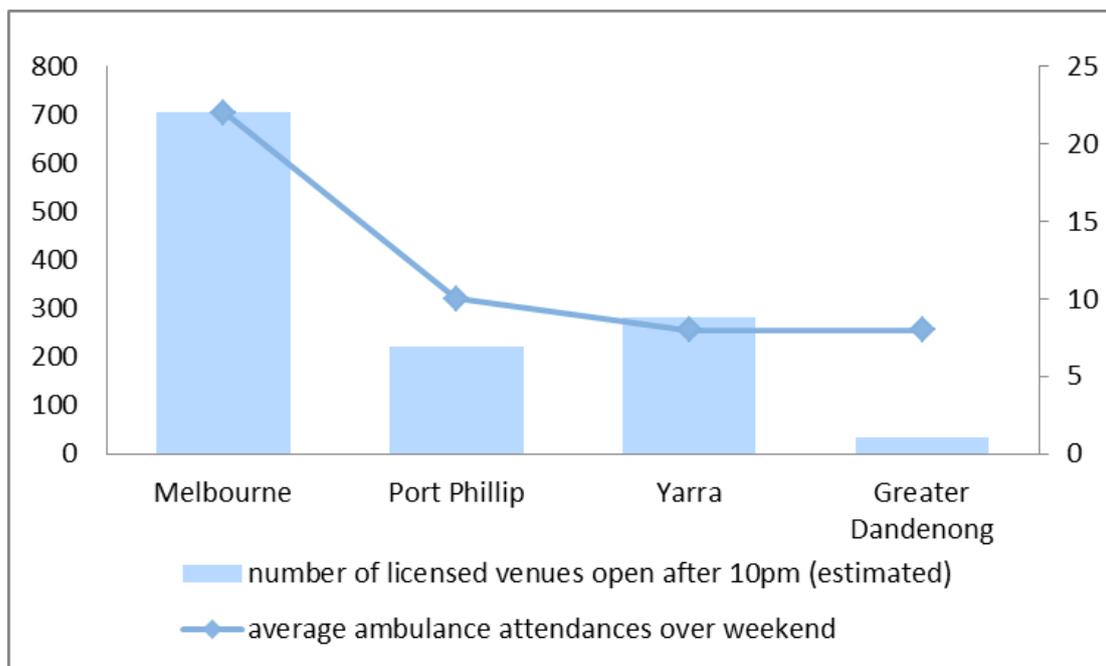


Figure 5-11: Ambulance alcohol-related attendances on Friday and Saturday nights 2011-2012 in Metro Melbourne Municipalities (Sources Turning Point and VCGLR)

5.4.3 Perceptions of safety

Notwithstanding issues relating to alcohol related violence, the majority of Yarra’s residents feel safe in public areas at night. To illustrate, as part of the City of Yarra annual customer satisfaction survey, residents were asked to indicate on a scale of one to ten the extent to which they feel safe in public areas by day and night (less than 5 being unsafe, 5-7 being neutral to somewhat safe, and 8-10 being very safe). The mean scores in 2015 were 8.8 for the day and 7.2 at night. Only 0.9% of residents reported feeling unsafe during the day and 9.6% reported feeling unsafe at night.

In May 2015, Council undertook a randomised household survey titled *Planning for the Future* to understand community values and preferences for population growth, housing development, open space, commercial activities, safety and transport in the municipality. The survey included the following question:

Is there a specific location that comes to mind in YARRA where you feel unsafe AT NIGHT?

No

Yes (please state address or place):

Why do you feel unsafe at this location?

The data generated by the survey were used to further explore locations where Yarra residents feel unsafe at night and the reasons why. In total 57% respondents reported that there are areas where they feel unsafe at night in Yarra.

Respondents living in different parts of Yarra were more or less likely to report that there is a place in Yarra where they feel unsafe at night. Approximately 70% of respondents living in Richmond Central, Richmond South and Abbotsford reported that there are places where they feel unsafe at night and the figure for North Richmond was 76%. The results for North Richmond and Abbotsford are heavily influenced by concerns regarding drug related activity around Victoria Street.

The 477 respondents who reported that there are areas where they feel unsafe were asked to nominate where they feel unsafe and why. A wide variety of places were nominated, with a small percentage nominating within Yarra's late night entertainment strips, as outlined below.

- Victoria Street (41%).
- Areas near Public Housing (9%).
- Public Open space, in particular areas along the Yarra River and Merri Creek (6%).
- Yarra's late night entertainment strips (6%).
- Train Stations (2%).

5.4.4 Net benefit

The NTE of City of Yarra generates notable benefits and harms for the local community. A recent assessment of the benefits and costs of the NTE indicates that there is likely a net benefit, but that existing negative impacts impose notable cost on the local community (see Table 5.3).

Table 5-3: Benefit Cost Ratio – Yarra's Night Time Economy

	Benefit	Cost	Benefit Cost Ratio
Employment	2,967	957 Jobs	3.1:1
Economic Output	\$333.1 Million	\$120.1 Million	2.8:1
Wages and Salaries	\$96.2 Million	\$60.2 Million	1.6:1
Value Added	\$150.5 Million	\$75.5 Million	2.0:1

Source: REMPLAN (2013)

Strategies to improve the safety, vibrancy and functionality of the local night time entertainment precinct were explored with residents and traders as part of the *Planning for Our Night-Time Economy* project. The research found that the most popular potential strategies were:

- Residents: more public safety personnel, later tram or train services (till 2:30am), more bins, safe taxi rank and more lighting.
- Traders: toilets, police, venues provide parking, taxi rank, mix of business and more lighting.

There was also notable support among those surveyed by Yarra City Council to diversify the range of night time activities available for people, and in particular to ensure that a range of no-alcohol activities/events are available. Representatives of the Yarra Liquor Forum likewise agreed that visitors would appreciate different activities at night aside from drinking. Some comments made by residents include:

Need to shrink night time economy from venue-based, more supermarkets, libraries, diverse activities at night.

A gentler but still lively form of night life encouraged. This will attract a diversity of people to the area, not just those that descend into the area between 11pm and 4am.

If there was more performance art then people would be occupied/socialise through other means.

Preserve the spirit of Fitzroy! Live music is integral!

More non-drinking options at night.

5.5 Summary

- The number and density of liquor outlets has increased in City of Yarra in the past decade and is among the highest of all LGAs in Victoria.

- Licensed venues make an important contribution to Yarra's night time economy and enhance the overall liveability and appeal of the area.
- However, licensed venues are also associated with a number of social harms. These arise in conjunction with noise, litter and anti-social behaviour, including violence.
- Objective data confirm that the level of alcohol-related violence in Yarra is elevated relative to the metropolitan average. This reflects the high level of visitation to the City's licensed premises by non-residents.
- Local residents and other stakeholders including local police, suggest that after 1am, transport options for venue patrons can be limited, potentially exacerbating issues relating to anti-social behaviour.
- Local residents and other stakeholders are keen to see the range of late night activities on offer broadened, in particular to include more activities and events which are alcohol free.
- Although there is a clear sense among local residents and other stakeholders that improvements could be made, residents and visitors to Yarra typically report feeling safe in the City at night.

6 Strategic context

The strategic context is relevant to the emerging policy on the locations and management of entertainment precincts and licensed premises in the City of Yarra.

6.1 The existing offer

Yarra has a strong night time economy, long established entertainment precincts and almost 800 licensed premises. The premises span the spectrum from relatively isolated, small capacity, early closing, boutique premises with negligible off site amenity implications to clusters of larger, higher capacity venues and hotels where alcohol consumption is a primary purpose, the entertainment offer is often live and loud and the amenity impact on the nearby residential areas has been the source of constant tension.

It is upon this foundation that the following strategic considerations will have an influence and which a local policy must have regard.

6.2 Hospitality and entertainment in the inner city

The central city and the inner city municipalities are recognised as the principal focus and home of the metropolitan area's highly diverse hospitality and entertainment offer. Each municipality and each area or precinct within it has its own character. Collectively these areas offer a highly accessible synergy, choice and attraction to local residents, other Melburnians, visitors and tourists. Yarra is a fundamental part of and major contributor to hospitality and entertainment in the inner city. The social and business investment in that sector gives the City an inertia, springboard and potential for ongoing growth and development that is not necessarily directly linked to other measures of growth.

The City sits at the fringe of Melbourne's principal sports and entertainment precinct on the axis of Swan Street and Punt Road. It offers a range of complementary attractions to the large crowds that are drawn throughout the year, by day and night to premier events staged on the edge of the city.

6.3 Entertainment and activity centres

The strategic planning policy context favours the activity centres of the City as the preferred location for the concentration and growth of hospitality and entertainment facilities. The policy context also emphasises the diversification and mixture of uses and increasingly the growth of higher densities of residential development. It follows that the potential for conflict

between late night activities with off-site amenity impacts and proximate residential areas is likely to increase as these ‘melting pots’ of diverse uses consolidate.

A parallel theme, that has marked the character, role and function of some of Yarra’s activity centres, has been the emerging dominance of entertainment and hospitality uses at the expense of other mixtures of uses ordinarily associated with an activity centre.

Predominantly, entertainment precincts and strips are established.

6.4 The role of structure planning and a strategic land use approach

Structure planning for activity centres is an ongoing responsibility of Council and one where further priority and attention is required to guide the preferred appropriate locations for growth and consolidation of hospitality and entertainment uses. This would clarify where growth and investment in this sector should be encouraged and supported or discouraged because of emerging cumulative impacts on proximate communities.

By way of example, the *Swancom* VCAT⁴ decision concluded that the Swan Street precinct was already at or close to saturation, in terms of late night entertainment venues, based upon the existing levels of amenity and existing known impacts. However in reaching that view the Tribunal did not seek to suggest the area was ‘saturated’ across all forms of licensed premises.

6.5 Growth, diversification and change

The Council Plan recognises that the foreseeable future of the City will be marked by continued change and growth in population and business, cultural diversification and a continuing shift from a manufacturing to service and knowledge based economy; the implications of this change will be greater demand, as well as more diverse and innovative offers in the entertainment and hospitality sectors. There ought to be a preparedness to respond, and where appropriate facilitate, the change in the type and choice of facilities and services sought and offered.

6.6 Yarra’s land use and built environment

The City’s historic development, distinctive and diverse building stock and the built environment containing many mixed-use areas provide unusual opportunities, and on occasions, a blurring of boundaries between types of land uses in a form not typically found outside the Melbourne Capital City region. This is a context in which new, creative and

⁴ *Swancom Pty Ltd v Yarra City Council [2009] VCAT 923*

potentially innovative residential, mixed use and fledgling business activities might establish when the conditions are right. In these areas licensed premises might be an acceptable feature, provided the surrounding amenity is entirely respected.

7 Policy changes and justifications

7.1 Policy application

The revised policy has been amended to clearly state that it applies to all applications where a permit is required pursuant to clause 52.27 of the Yarra Planning Scheme.

7.2 Policy basis

There is a diverse range of licensed premises in Yarra (approximately 700 throughout the municipality). The proper role for a land use planning policy is to provide guidance on where different types of licensed premises should be located and how they should be managed. This allows the propensity for anti-social behaviour, harm and negative impacts on the reasonable amenity of other sensitive land uses to be minimised.

The principal strategic choice to be made is whether a local licensed premises policy should seek to restrict and prescribe locations where particular types of premises will be permitted or whether it should enable and encourage diversity and growth provided that on-site and off-site amenity considerations have been effectively addressed.

The consultation conducted as part of Council's Night Time Economy Strategy and the broader strategic context suggest that for Yarra, from an economic and social perspective, an enabling rather than overly arbitrary and restrictive policy approach is preferred.

The Policy Basis in the revised policy has been updated to acknowledge the economic and social benefits that licensed premises provide in the City of Yarra. It has also been revised to specifically state that the policy seeks to manage potential amenity impacts between licensed venues and other land uses.

7.3 Objectives

In recognition of larger venues potentially having more significant amenity impacts, the objectives in the policy have been updated to reflect the need to effectively manage the size of licensed premises, in addition to the location and hours. A new objective relating to encouraging best practice venue design and operation has also been included, reflecting the revised policy which includes a new section on venue design. Two other objectives (one relating to traffic and parking, and another relating to active street frontages) have been removed as other parts of the planning scheme are more appropriate for considering these matters.

7.4 Location and Access

The purposes, provisions and decision guidelines of state planning provisions and local planning policy addressing licensed premises are primarily directed at the protection of amenity.

Almost invariably each reference in the planning scheme to amenity and the acceptability of a licensed premises application is in the context of the surrounding area and the amenity to be reasonably expected in Yarra. Living in Yarra entails expectations of:

- Sense of constant activity, 'hustle, bustle' and movement throughout the day and evening.
- Congestion on some roads and footpaths at various times of the day.
- Pockets of late night activity.
- Closer settlement, more intense living and greater proximity and awareness of neighbours.
- Greater awareness of commercial and industrial activity in or proximate to neighbourhoods.
- Demand for and difficulty finding parking.
- More people, not necessary locals, walking and cycling through the local streets during the day and evening.
- The background sounds of traffic and fixed rail public transport.

This amenity context makes it difficult to justify the current local planning policy on licensed premises, which strongly discourages new licensed premises being established in all residential zones (including the Mixed Use Zone). This selective and uniform policy position does not appropriately account for the opportunities presented by the amenity, land use and built environment context. Additionally, since the introduction of the existing licensed premises policy, the Mixed Use Zone provisions have changed and new land uses (including food and drink premises and shops) which are commonly associated with the serving or selling of alcohol are now as-of-right (subject to not exceeding maximum floor area requirements). The Mixed Use Zone therefore allows for a range of land uses, many of which could reasonably be accompanied by the serving of alcohol if amenity considerations can be appropriately managed through measures such as limiting patron numbers and licensed hours.

The existing policy does not provide adequate guidance for preferred locations for types of venues that can have the most amenity impacts. Patron numbers is a useful indicator for identifying venues that could potentially have higher amenity impacts (both on-site and off-site). In particular, it is necessary to ensure that the impacts associated with large volumes of people leaving a venue can be managed through ensuring that larger scale venues are located where infrastructure such as public toilets and public transport is in place.

Late Night Precincts

The revised policy identifies preferred locations for larger venues with over 200 patrons as these have the potential to cause significant amenity impacts. The specification of over 200 patrons is based on Practice Note 61 titled *Licensed premises: Assessing cumulative impact* (June 2015) which states that licensed premises with a patron capacity of over 200 people may pose a greater risk of alcohol-related harm and result in a negative cumulative impact. The preferred locations for these larger venues are classified as Late Night Precincts in the revised policy. The Late Night Precincts are outlined in the revised policy and these areas are considered to be the existing core entertainment precincts in Yarra. By concentrating larger venues within these areas their collective impacts can be better managed and assessed.

Commercial Zones

Overall, there are greater opportunities to establish licensed premises in the commercial zones. The most restricted locations are within the residential zones (notwithstanding, currently 12% of licensed premises in Yarra are located within a residential zone). Venues which have larger capacities (exceeding 200 patrons) are strongly encouraged to locate in identified Late Night Precincts (which are in commercial zones) in the revised policy.

Residential Zones (including the Mixed Use Zone)

Smaller licensed premises, with limited hours, where alcohol is a secondary consideration and where the amenity attributes of the use are principally determined by the primary use present opportunities to be considered across the municipality, including appropriate locations in the Mixed Use Zone. Within the residential areas of the City there are a number of neighbourhood and small local centres offering convenience service to the immediate community which are not necessarily zoned for a business purpose. The revised policy allows limited access to alcohol to be considered in the Mixed Use Zone provided the established amenity can be assured. The revised policy does however stipulate that licensed premises should not be located in other residential zones.

7.5 Venue Design

The existing policy does not address venue design or make reference to the *Design Guidelines for Licensed Venues* (Department of Justice 2009) and does not provide guidance for when smoking areas should be provided for on-site.

The revised policy includes a new section titled Venue Design, addressing the incorporation of safe design principles, smoking areas, queuing and waste management.

The need to consider the safe design principles outlined in the *Design Guidelines for Licensed Venues* will ensure that applications (where applicable as outlined in the additional application requirements section of the revised policy) consider the physical environment both internal and external to the venue, recognising that design can have a pivotal role in influencing the behaviour of patrons, and what occurs outside of premises. This has the potential to minimise anti-social behaviour, reduce negative amenity impacts, and assist in creating safer licensed venues.

The inclusion of policy that specifies when smoking areas should be provided on-site (excludes restaurants, cafés and packaged liquor outlets) will minimise the need for patrons to smoke on footpaths outside of venues. This is particularly important for maintaining clear spaces on footpaths and for managing footpath trading.

The revised policy strengthens expectations around appropriate areas for queueing of patrons, along with the location and noise treatments for waste management.

7.6 Hours of Operation

The existing policy addresses trading hours through considering associated potential impacts upon the amenity of the surrounding area. A similar approach is taken in the revised policy, where the assessment takes into consideration:

- The proposed use and licence type.
- The zoning of the surrounding land.
- The location of the premises, location of car parking and availability of public transport and taxi ranks.
- The nature of surrounding uses and their hours of operation.
- Potential noise emissions from the premises.
- The potential impact of patrons arriving and departing the premises.

The existing policy discourages licensed premises within 30 metres of a residential area providing for the sale and consumption of liquor after 11pm unless there would not be an adverse impact upon amenity. A similar provision discourages the sale and consumption of alcohol past 1am in business or industrial zones. Both have been retained in the revised policy.

While the existing policy discourages licensed premises in residential zones, there are examples of where these exist and have been approved. In revising the existing policy, there is an opportunity to strengthen expectations around acceptable hours for licensed premises in residential zones.

Additionally, the existing policy does not address preferred hours for when the sale and consumption of liquor should commence, or for packaged liquor outlets, outdoor areas, deliveries and waste collection.

Hierarchy of hours based on zoning

The revised policy represents an improved hierarchy for hours based on the zoning of the land. Having regard to earlier discussions on the nature of licensed premises and amenity, the revised policy includes various preferred hours for the sale and consumption of liquor based on location and zoning, in a hierarchal manner as follows:

- Commercial and industrial zones - 1am (as per existing)
- Mixed Use Zone or within 30m of a residential area - 11pm (as per existing)
- Residential zones (other than the Mixed Use Zone) - 8pm (new in the revised policy)

While the revised policy states that licensed premises should not be located residential zones, (other than the Mixed Use Zone) there may be some instances where the limited supply of alcohol would be appropriate. Outlining preferred hours of up to 8pm for residential zones (other than the Mixed Use Zone) strengthens expectations around residential amenity and is consistent with clause 22.01 of the Yarra Planning Scheme - Discretionary Uses in the Residential 1 Zone. This clause specifies that hours of operation for non-residential uses should be limited to 8am to 8pm (except for convenience shop) to ensure that residential amenity is not adversely affected by non-residential uses. Overall, the revised policy provides improved guidance for licensed premises in the residential zones to better reflect the zoning provisions.

The revised policy also includes additional matters for consideration when examining what impact licensed hours will have (to be considered in combination with zoning and other parts

of the policy). These include the licence type, the availability of public transport (and whether access is through residential areas), the availability of taxi ranks, and any associated cumulative impacts. The type of licence is a key consideration in knowing how the venue will operate and what conditions it will need to operate under (for example a restaurant and café licence requires there to be tables and chairs available for at least 75 per cent of patrons attending the premises at any one time). The availability of public transport and taxi ranks are relevant considerations as there is a need to ensure that there is sufficient infrastructure in place for when patrons leave a venue. Transport infrastructure plays an important role in facilitating patron dispersal from licenced premises and mitigating anti-social behaviour including violence and other forms of negative cumulative impacts. While public transport options are numerous in Yarra, these typically cease operation at around 1am and at times patrons find it difficult to locate a taxi. The current 24 hour public transport trial on Friday and Saturday nights (Night Network) which commenced on 1 January 2016 for a one year period is providing additional late night transport options for patrons. The effectiveness of the trial is to be evaluated by Public Transport Victoria.

Sale and consumption of liquor commencement

The existing policy does not provide any guidance relating to preferred hours for the sale and consumption of liquor to commence. Ordinary trading hours for most licence types commence at 7am and in many instances this is applied for by default at the planning permit stage. The revised policy specifies that the sale and consumption of liquor should not commence before 9am (all licence types including packaged liquor). This provides a more reasonable buffer between the closure of late night premises and the sale and consumption of alcohol commencing at other venues.

Packaged liquor outlets

The Yarra planning scheme requires a planning permit for all packaged liquor outlets, pursuant to Clause 52.27. A shop, or bottle shop as they are more familiarly known are a Section 1 use in the Commercial Zone 1 (CZ1), and also in the Mixed Use Zone (MUZ) if the floor area is less than 150sqm. Bottle shops are a discretionary use in Commercial Zone 2 (CZ2) and the Mixed Use Zone (MUZ) if the floor area is more than 150sqm. A bottle shop is a prohibited use under other residential zones. The existing policy has not been updated to reflect the planning permit requirement for packaged liquor and therefore does not provide any policy guidance in this area.

Because of the existing high level of access to alcohol in Yarra there is limited justification for differentiating between applications for packaged liquor outlets on the basis of location

alone. The more relevant consideration from a harm minimisation perspective is to control hours for when alcohol can be sold.

‘Preloading’ which is the purchase and consumption of alcohol before venturing out is not a matter that a land use planning control can materially influence. However, the ability to purchase packaged liquor for the purpose of consumption in the public domain as patrons move between licensed premises (side-loading) can be discouraged. A practical way of addressing this issue is to ensure that packaged liquor outlets in entertainment precincts are closed by 11pm, which aligns with the ordinary trading hours for a packaged liquor licence. Impacts can also be reduced by ensuring that packaged liquor outlets are not selling alcohol before 9am as this prevents potential ongoing drinking in the public domain after late night venues are closed.

Outdoor areas

The existing policy is silent on on-site outdoor areas (such as smoking areas), representing a significant policy gap. The revised policy provides preferred licensed hours relating to outdoor areas of no later than 10pm, unless the amenity of the area will not be adversely affected. This will strengthen the ability to outline preferred hours where amenity concerns such as noise are evident, or alternatively ensure that appropriate acoustic treatments are to be implemented. Preferred licensed hours relating to outdoor areas of no later than 10pm has had regard to the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (‘SEPP N-1’). Within SEPP N-1 noise limits are prescribed for the ‘day’, ‘evening’, and ‘night’ periods. The greatest amenity protection is expected in the ‘night’ period which commences at 10pm.

Deliveries and waste collection

Deliveries and waste collection is principally an acoustic issue and can be addressed by careful consideration of where and when on-site storage is undertaken, the acoustic treatment of any bottle crushing devices and the regulation of collection times. Accordingly, the revised policy specifies that waste management and storage should be provided for on-site and that noise enclosures should be used if bottle crushers are utilised. It also specifies that deliveries to and waste collection from a licensed premises should only occur between 7am and 10pm. As outlined above in relation to outdoor areas, 10pm is consistent with the expectation of greater amenity protection in the ‘night’ period as outlined in SEPP N-1. Additionally, within SEPP N-1, the ‘day’ period commences at 7am which is when increased noise levels are anticipated and considered more appropriate.

7.7 Patron Numbers

Patron numbers have a range of implications for on-site and off-site amenity. The existing policy requires consideration of the safe and amenable operating capacity of the premises and that the number of patrons does not adversely affect the amenity of the surrounding area. The revised policy strengthens the consideration of the safe and amenable operating capacity through specifying that any assessment regarding maximum patrons should refer to the VCGLR Liquor Licensing Fact Sheet relating to maximum patron capacity as a starting basis. The revised policy also includes consideration of the strategic and physical context of the site and cumulative impacts, reflecting the important link between patron numbers and location and safety.

7.8 Noise

Minor amendments have been made to this part of the revised policy. Reference has been made to sleep disturbance criteria and relevant Australian Standards (in addition to State Environmental Protection Policy) as well as the need for licensed premises to be designed and managed in accordance with an acoustic report, in instances where this is required.

7.9 Application to amend an existing planning permit

The current policy does not specifically address amendments to existing planning permits. The revised policy sets out clear guidance for what to consider in the case of applications that seek to vary or extend an existing planning permit. These include complaints, contraventions of existing conditions and the adequacy of existing conditions.

7.10 Application requirements

Not all planning applications need to be accompanied by the same information as licenced premises vary greatly in terms of type, management complexity and the potential to negatively impact upon amenity.

A significant change in the revised policy is specifying application requirements that are only required for certain types of applications, in addition to standard minimum requirements for all applications. Clearly defining application requirements and ensuring that these are relevant to the type and scale of the proposal is beneficial for both applicants and officers assessing planning applications. Careful consideration has been given to the standard minimum requirements to ensure that adequate information about the proposal will be sought in the event that additional application requirements are not required.

Standard information that is required for all applications in the revised policy is similar to that outlined in the existing policy. Additional standard requirements to be shown on site and floor plans include greater detail of nearby land uses, parking, transport services, red-line licensed areas, floor area calculations, lighting, speakers, CCTV, dance floors and performance areas. The written submission requirements for all applications has been amended to include a more detailed description of the proposal, waste management details, bottle crusher details, delivery times, and the assessment of off-site impacts and ways they will be managed and mitigated.

7.11 Additional application requirements

Noise and Amenity Action Plan

Noise emitted from premises is one of the primary areas of conflict with licensed premises. A Noise and Amenity Action Plan (NAAP) is a tool to enable operators of licensed premises and Council to manage any potential unreasonable impacts of particular licensed premises. The existing local policy requires a NAAP and the relevant provisions detail the features and requirements of such a plan. This is an important feature of the effective management of licensed premises and is also a requirement in the revised local policy for the types of venues that may have significant impacts.

The requirement for when a NAAP must be provided with an application and what needs to be included in a NAAP has been modified in the revised policy. The revised policy specifies that the requirement for a NAAP does not apply to an application associated with a restaurant (including a café) or packaged liquor outlet as these are unlikely to have significant amenity impacts and can be appropriately managed through the standard application requirements. New items to be addressed in a NAAP include the management and dispersal of patrons, large group bookings, smoking areas, external queues, and the movement and exit of patrons. The location and details of other licensed premises, waste management, potential noise sources and measures to address noise sources have been moved from a NAAP requirement to a standard application requirement in the revised policy (i.e. they will need to be addressed in all applications). Details relating to the provision of music, and procedures to be undertaken by staff in the event of complaints have been retained as NAAP requirements as per the existing policy.

Acoustic Report

The revised policy specifies that the requirement for an acoustic report does not apply to an application associated with a packaged liquor outlet (any hours) or to a restaurant (including a

café) where the preferred hours of operation are met as these are unlikely to have significant amenity impacts and can be appropriately managed through the standard application requirements. Where required, an acoustic report will need to be prepared by a suitably qualified and experienced acoustic consultant identifying noise sources and methods to be undertaken to control noise emissions to within State Environment Protection Policy (SEPP) No.1 – Control of Noise from Commerce Industry and Trade and SEPP No.2 – Control of music noise from public premises or any other requirement.

Design Guidelines for Licensed Venues

The existing policy does not address venue design or make reference to the *Design Guidelines for Licensed Venues* (Department of Justice 2009). The revised policy includes a new section titled Venue Design and requires certain applications to be accompanied by a report demonstrating how each of the design elements of the *Design Guidelines for Licensed Venues* have been addressed.

The need to consider the safe design principles outlined in the *Design Guidelines for Licensed Venues* will ensure that applications consider the physical environment both internal and external to the venue. This has the potential to minimise anti-social behaviour, reduce negative amenity impacts, and assist in creating safer licensed venues. Matters considered in the guidelines relate to:

- Entries, exits and queuing,
- Footpaths, laneways, car parks and public spaces,
- Patron activity areas,
- Toilets,
- Outdoor drinking, dining and smoking areas,
- Common areas.

The revised policy specifies that this requirement does not apply to applications associated with restaurants (including cafés) or packaged liquor outlets as the standard application requirements are adequate for these types of venues.

Cumulative Impact Assessment

The existing policy does not address cumulative impacts or outline requirements for when a cumulative impact assessment is required. To provide guidance about the concept of cumulative impact in relation to licensed premises, the Victorian Government released

Practice Note 61 titled *Licensed premises: Assessing cumulative impact* in March 2011 (updated in June 2015).

The cumulative impact of licenced venues refers to both positive and negative impacts that can result from venues being clustered within close proximity of each other. The potential cumulative impact from a cluster of licensed premises will vary between locations and will depend on the number of licensed venues and the characteristics of the venues. In some cases a 'saturation point' may be reached where an additional licensed premises may impact negatively on the surrounding area. Alternatively, new venues can result in a positive cumulative impact where an additional premises will enhance the character or vibrancy of an area.

The revised policy states that applications for a planning permit to operate a licensed premises in Yarra should be accompanied by a cumulative impact assessment being either:

- An assessment against Practice Note 61: Licensed Premises: Assessing Cumulative Impact where the site is identified as being within a "cluster"; or
- A statement explaining why a cumulative impact assessment as provided for in Planning Practice Note 61 is not required having regard to those sections of the Practice Note titled - "When to use the guidelines" and "What is a cluster?"

The majority of the City of Yarra is located within a cluster of licensed premises as defined by Practice Note 61. Notwithstanding, some venue types have limited potential to contribute to a cumulative impact, even where the premises would be located within a cluster. Examples are venues where food is the primary focus and packaged liquor outlets that do not operate late at night or early in the morning.

The revised policy specifies that the requirement for a cumulative impact assessment does not apply to an application associated with a restaurant (including a café) (any hours) or to a packaged liquor outlet where the preferred hours of operation are met. The preparation and assessment of cumulative impacts is a detailed task. Ensuring that cumulative impact assessment requirements are relevant to the scale and potential impact of a proposal is particularly beneficial for both applicants and officers assessing planning applications.

7.12 Policy Reference

The revised policy removes one redundant existing reference and includes the following new reference documents:

- Yarra City Council (2015) Licensed Premises Policy - Background Document

- Department of Environment, Land, Water and Planning (2015) Practice Note 61 - Licensed premises: Assessing cumulative impact
- Department of Justice (2009) Design Guidelines for Licensed Venues
- Victorian Commission for Gambling and Liquor Regulation (2012) Liquor Licensing Fact Sheet - Maximum Patron Capacity
- Department of Health (2012) Reducing the alcohol and drug toll: Victoria's plan 2013-2017
- Inner City Entertainment Precincts Taskforce (2005) 'A good night for all' - options for improving safety and amenity in inner city entertainment precincts
- Yarra City Council (2013) Yarra Health Plan 2013-2017

8 Revised local policy

A recommended revised local policy on licensed premises has been developed as outlined below.

22.09 LICENSED PREMISES

This policy applies to all applications where a permit is required pursuant to clause 52.27 of the Yarra Planning Scheme.

22.09-1 Policy Basis

The City has over 700 licensed premises. The majority of these premises are in commercially zoned areas. However, a large number of licensed premises are also in residential areas or are adjacent to residential areas. Licensed premises within retail and commercial areas have generally developed in clusters. This incidence has increased over the past decade through changes in land use patterns across the City.

Licensed premises contribute to the vibrancy and economic strength of the municipality, providing diverse opportunities for social interaction, artistic and cultural activity including live music, food and entertainment, as well as supporting other primary functions.

However, considerable tensions have developed between licensed premises and residential and other commercial land uses. These tensions relate to impacts on the amenity of the area, including noise, patron behaviour off the premises and waste management. This policy seeks to manage potential amenity impacts between licensed venues and other land uses.

22.09-2 Objectives

- To effectively manage the location, size, operation and hours of licensed premises, in order to protect the amenity of nearby properties and areas.
- To encourage best practice venue design and venue operation for licensed premises.

22.09-3 Policy

It is policy that:

22.09-3.1 Location and Access

Licensed premises with a capacity of more than 200 persons be located in the following Late Night Precincts:

- Swan Street west of Church Street
- Bridge Road west of Burnley Street
- Victoria Street west of Burnley Street
- Smith Street between Gertrude Street and Alexandra Parade
- Brunswick Street between Gertrude Street and Alexandra Parade
- Gertrude Street between Smith Street and Nicholson Street
- Johnston Street between Nicholson Street (Fitzroy) and Hoddle Street

Licensed premises be located such that:

- They are not located in Residential zones (other than a Mixed Use Zone).
- There are appropriate opportunities to manage or buffer potential amenity impacts of (but

not limited to) patron noise, ingress and egress of patrons, queuing of patrons, smoking areas for patrons, and dispersal of patrons from the site.

- There is opportunity for a high level of public safety and surveillance of patrons as they enter and leave the premises.
- The premises would not result in an unreasonable cumulative impact on the amenity of the surrounding area.

22.09-3.2 Venue design

- The layout and design of new licensed premises incorporate safe design principles as detailed in the *Design Guidelines for Licensed Venues* (Department of Justice 2009).
- Licensed premises, other than a restaurant (including a café) or packaged liquor outlet, provide a smoking area on-site for patrons which is available while the venue is operating, unless an on-site smoking area is impractical or it would result in an unreasonable amenity impact on the surrounding area.
- The entry and exits points of a licensed premise and the areas for queuing of patrons be provided away from sensitive land uses.
- Waste management and storage occur on-site including the provision of noise enclosures if bottle crushers are utilised.

22.09-3.3 Hours of Operation

- Licensed premises in a residential zone (other than a Mixed Use Zone) not provide for the sale and consumption of liquor beyond 8pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.
- Licensed premises in a Mixed Use Zone or within 30 metres of a residential zone not provide for the sale and consumption of liquor beyond 11pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.
- Licensed premises in a commercial or industrial zone not provide for the sale and consumption of liquor beyond 1am, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.
- Packaged liquor outlets not provide for the sale of liquor after 11pm.
- For outdoor areas, including smoking areas, rooftops and open courtyards, the sale and consumption of liquor not occur after 10pm, unless the responsible authority is satisfied that it will not adversely affect the amenity of the area.
- Licensed premises (including packaged liquor outlets) not commence the sale and consumption of liquor before 9am.
- Deliveries to and waste collection from a licensed premises only occur between 7am and 10pm.
- Assessment of the impact of the hours of operation on the amenity of the surrounding area must consider:
 - The proposed use and licence type.
 - The zoning of surrounding land.
 - The location of the premises, location of car parking and availability of public transport and taxi ranks.
 - The nature of surrounding uses and hours of operation.
 - Potential noise emissions from the premises.
 - The impact of patrons arriving and leaving the premises, including:

- for venues operating after 10pm, whether access from the licensed premises to public transport is likely to be through a residential area; and
- any cumulative impact on the amenity of the area.

22.09-3.4 Patron Numbers

- The number of patrons not exceed the safe and amenable operating capacity of the premises. As a starting basis, any assessment regarding the maximum number of patrons that can be physically accommodated within a venue should be based on the *VCGLR Liquor Licensing Fact Sheet – Maximum Patron Capacity* (2012).
- The number of patrons reflects the strategic and physical context of the site and will not adversely affect the amenity of the surrounding area, including by any unreasonable cumulative impact.

22.09-3.5 Noise

- The operation of licensed premises have minimal impact on the amenity of the area, in relation to noise.
- Noise emissions from licensed premises comply with the standards specified in the State Environmental Protection Policy or any other requirement such as accepted sleep disturbance criteria or relevant Australian Standards.
- On-site noise attenuation measures be considered for licensed premises where amenity impacts on the surrounding area may result from the proposed activities. A licensed premises must be designed and managed in accordance with an acoustic report approved by the responsible authority, where required.

22.09-3.6 Noise and Amenity Action Plan (NAAP)

- Licensed premises be managed in accordance with a NAAP approved by the responsible authority, where required.

22.09-3.7 Application to amend an existing permit

In the case of applications to vary or extend an existing permit for a licensed premises, the following will be considered in addition to the above:

- Any relevant information regarding the operation of the premises including complaints received by relevant authorities such as the Council, Victoria Police, and the Victorian Commission for Gambling and Liquor Regulation.
- Any contravention of a condition of the existing permit or liquor licence.
- The adequacy of the conditions on the existing permit regulating the venue design, hours of operation, patron numbers, and noise and amenity impacts.

22.09-4 Application requirements

Permit applications must be accompanied by the following information:

22.09-4.1 Plans

A site analysis plan detailing:

- The proximity of the licensed premises to residential properties and other sensitive land uses, including details of doors, windows and open space areas on all residential properties in close proximity to the site.

- The nature and location of uses surrounding the proposed licensed premises, including the type of licensed premises in the area, the hours of operation and patron numbers.
- The location of off street car parks within the locality of the subject site, including the nature of any time restrictions.
- The location and hours of operation of any transport services including rail, tram, bus and taxis.

Site and floor plans detailing:

- Existing floor plans of all levels of the building(s) and outdoor areas on the site.
- Proposed floor plans of all levels of the building(s) and outdoor areas on the site including a calculation of floor areas in square metres, the use and patron capacity of all areas to be licensed, waste storage area, security lighting and any amplification or speaker system. If applicable, the location of queuing areas, CCTV surveillance, areas where live performance is to occur, and dance floor areas.
- A 'red-line plan' showing the public areas where alcohol will be sold and consumed. For packaged liquor, a 'red-line plan' is required showing where alcohol will be displayed for sale and where it will be sold.

22.09-4.2 Written Submission

- A description of the proposed use(s), the type of licence(s) sought, hours of operation, provision and hours of food service, seating ratios and the type of music and/or entertainment to be offered.
- An assessment by a building surveyor detailing the patron capacity of the licensed premises where an application proposes an increase in patron numbers or a new licence.
- Details of waste management (including storage and hours of collection for general rubbish and bottles associated with the licensed premise), bottle crushers, and delivery times associated with the licensed premise.
- An assessment of all potential off-site impacts including identification of ways in which such impacts will be managed and mitigated.
- Where relevant, the views of the Victoria Police.

22.09-5 Additional application requirements

Permit applications must be accompanied by the following information, where required:

22.09-5.1 Noise and Amenity Action Plan (NAAP)

A NAAP detailing the following information:

- Procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of Council or the Victorian Commission for Gambling and Liquor Regulation.
- The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed.
- The management of large group bookings.
- The management of smoking areas (particularly where liquor may not be allowed to be sold and consumed within the smoking area after a particular time).
- The management of external queues.
- How the movement and exit of patrons is to be managed, particularly where there is a

requirement to close different sections of the venue at different times.

- Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
- Any other measures to be undertaken to ensure minimal amenity impacts from the licensed premises.

The requirement for a NAAP does not apply to a permit application for a restaurant (including a café) or a packaged liquor outlet.

22.09-5.2 Acoustic Report

An acoustic report by a suitably qualified and experienced acoustic consultant identifying all noise sources and methods to be undertaken to control noise emissions to within *State Environment Protection Policy (SEPP) No.1 – Control of Noise from Commerce Industry and Trade* and *SEPP No.2 – Control of music noise from public premises* or any other requirement such as accepted sleep disturbance criteria or relevant Australian Standards.

The requirement for an acoustic report does not apply to a permit application for a packaged liquor outlet (any hours) or a restaurant (including a café) where the preferred hours of operation are met.

22.09-5.3 Design Guidelines for Licensed Venues

A report demonstrating how each of the design elements of the *Design Guidelines for Licensed Venues* have been addressed in the layout, development and management plans for the premises.

The requirement for a report addressing the design elements of the *Design Guidelines for Licensed Venues* does not apply to a permit application for a restaurant (including a café) or a packaged liquor outlet.

22.09-5.4 Cumulative Impact Assessment

A cumulative impact assessment, being either:

- An assessment against *Practice Note 61: Licensed Premises: Assessing Cumulative Impact* where the site is identified within a “cluster” of licensed premises; or
- A statement explaining why a cumulative impact assessment is not required having regard to those sections of *Practice Note 61: Licensed Premises: Assessing Cumulative Impact* titled “When to use the guidelines” and “What is a cluster?”

The requirement for a cumulative impact assessment does not apply to a permit application for a restaurant (including a café) (any hours) or a packaged liquor outlet where the preferred hours of operation are met.

22.09-6 Policy Reference

Public Place (2015) Licensed Premises Policy - Background Document

Department of Environment, Land, Water and Planning (2015) Practice Note 61 - Licensed premises: Assessing cumulative impact

Department of Justice (2009) Design Guidelines for Licensed Venues

Victorian Commission for Gambling and Liquor Regulation (2012) Liquor Licensing Fact Sheet - Maximum Patron Capacity

Department of Health (2012) Reducing the alcohol and drug toll: Victoria’s plan 2013-2017

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