

## IMAP Implementation Committee

### Briefing Paper

#### Action 6.3 Managing Conflicts in Activity Centres - Definitions

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#### BACKGROUND

1. This project has a history dating back to 2009. The original report to the IMAP Implementation Committee was prepared by Bruce Phillips at the City of Yarra. The Executive Officer then provided a follow up report in 2011 (as the Project Team had disbanded) on work undertaken to address the cumulative effect of liquor licenses across the IMAP region.
2. Neither report addressed the outstanding action associated with this project regarding the variation in definitions between the planning legislation and liquor licensing legislation. This outstanding action proposed the preparation of a formal submission to the Secretary of the Department of Justice or the Department Secretary at DELWP.
3. The IMAP Implementation Committee has raised this matter on a number of occasions. The IMAP Executive Forum considered background to this Action at their meeting on 2 November 2017. They noted:
  - There are a lot of issues around applications for small cafes which become bars at night
  - It is a challenging issue, tension in the community results, and all Councils would have some involvement with this.
  - Is this an issue for the joint Councils or for individual submissions?
  - Better definitions would enable us to properly manage this issue.
4. The IMAP Executive Forum resolved **that the City of Yarra, with support from City of Stonnington, prepare a project brief to explore what would be the outcome of a submission to the State Government.**

#### DISCUSSION

5. The Background papers to this project were forwarded to Erika Russell, Senior Planner (Community Health and Safety) at City of Yarra for comment. Her response is as follows:

“A lot has changed since all this started. In terms of some initial comments/thoughts:

- a. Our opinion is that there may be little purpose in submitting something at this time when we are still waiting for the outcomes of the Liquor Control Reform Act 1998 (LCRA) review.
- b. Submissions by Councils most likely touched on Definitions (including licence categories, and LCRA and P&E Act Definitions including those that relate to amenity and harm minimisation).
- c. Yarra’s (and possibly others) submission to the LCRA review have raised concerns in regards to Restaurant and Café licence compliance. The conditions relating to a Restaurant and Café licence (relating to the 75% seating requirement and predominant activity being the serving of meals for consumption on the premises at all times) are

difficult to enforce and it appears that non-compliance is frequent. This ties in with the Definition concerns. Submissions would have also covered licence types and the need for these to be clearer and more reflective of what they are for.

- d. Councils would also have put in submissions to the Smart Planning review (due 24 November) which proposes potential changes to when Council would consider 52.27 (which essentially may limit Council's involvement for licenced premises in Commercial zones under certain circumstances, though these are not clear). It is likely that many Councils would be looking at use vs. sale and consumption of alcohol permit triggers (and what land use terms are now in section 1 where there could be value in these being part of section 2 e.g. tavern). This is also connected to Definitions, although less directly.
- e. Many of the concerns raised by the IMAP Executive Forum relate to enforcement (in addition to needing improved standard licensing conditions for this licence type). VCGLR/Police are aware of compliance issues for Restaurant and Café licence holders. The VCGLR have visited restaurants and cafes recently in Yarra to remind venues of their licensing obligations - and presumably elsewhere.
- f. Also Councils should not be issuing planning permits for venues seeking a Restaurant and Café licence type outside 11.00pm (ordinary hours) as good practice. Ensuring appropriate conditions on planning permits is also key (and in City of Melbourne, where there are more planning exemptions, the liquor referral process is in place).
- g. Changes that have occurred since the original IMAP paper was written in 2009:
  - i. Tavern, hotel etc. section 1 is in use now. (There are no Business zones now; they are now called Commercial zones. Quite a few Business zones were condensed into two Commercial zones.)
  - ii. Licence categories have changed (now restaurant and café, and late night categories are in place)
  - iii. Packaged liquor now needs a planning permit
  - iv. VCGLR/Police referral authorities are now included in the planning process (VCGLR is the determining authority) for post 1.00am applications
  - v. An increase in patrons is a planning permit trigger
  - vi. It is clear that 52.27 applies to amendments to permits.
- h. It would be our recommendation that the IMAP Councils don't do anything at this stage until after the outcome of the LCRA review is known. (They are incrementally releasing findings and recommendations from early next year). They are definitely reviewing the relationship between liquor licencing and planning so it may be premature to submit something else at this stage. "

6. This recommendation has been supported by staff at the City of Stonnington.

## RECOMMENDATION

7. That the IMAP Implementation Committee resolves to:

- a. Note this update on the process of reform of the legislation; and
- b. defer consideration of further submissions on the liquor licensing and planning Definitions until the outcome of the Liquor Control Reform Act 1998 (LCRA) review and Smart Planning review is known.