

IMAP Action 6.3 “Managing Conflict in Activity Centres”

Discussion Paper

31 October 2008

Objective

This paper provides an update on IMAP Action 6.3 is “managing conflicts in Activity Centres.” Some further matters have also become relevant to this topic and are outlined below.

Action 6.3 aims to ensure a consistent approach to managing the night-time economy and the mix of uses in and around activity centres to minimise conflicts between residential, commercial and entertainment uses.

Specifically, the Working Group was asked to prioritise further progress on specific outputs for existing Inner City Entertainment Precincts Taskforce (ICEPT) recommendation 5; *‘develop planning tools to enable councils to effectively manage cumulative impact’* and recommendation 6; *“review of definitions in planning scheme and liquor licensing regulatory frameworks.”*

Updated Policy Analysis: Local Government and the Victorian Alcohol Action Plan (VAAP)

In 2008, the State Government launched the Victorian Alcohol Action Plan (VAAP). The VAAP states that whilst the development of a night-time economy has social and economic benefits, there are increasing concerns around alcohol-related anti-social, dangerous and violent behaviour and its impact on public health and safety, security and public amenity.

Further, the VAAP acknowledges the recent shift to a more diverse, mixed-activities community has presented management challenges. To maintain the liveability of a diverse and vibrant city, there is a need to develop management strategies to minimise the negative impacts of these various activities. This is particularly important given the models for high-density living within Melbourne 2030.

Actions directly relevant to IMAP include:

- (a) the continued implementation of ICEPT recommendations, including progressing the effective management of entertainment precincts to address safety, security and public amenity, in part through the assessment of ‘cumulative impact’ of liquor premises;
- (b) the regulatory framework governing liquor licensing including the introduction of the 2am lockout provisions for licensed premises;
- (c) the moratorium on new liquor licenses beyond 1am until May 2009;
- (d) the review of fees and license types; and
- (e) the introduction of the Liquor Licensing Compliance Directorate.

Whilst the VAAP draws together various State Government departmental responses to addressing these amenity impacts, the role of local government is not strongly identified. Local governments have extensive experience and authority in public health, planning and enforcement, as well as an intimate knowledge of the needs of its local community. Local communities and councils continue to deal directly with many of the impacts that have flowed partly as a result of the increased freedoms of the liquor licensing regime following the liberalisation of liquor control in Victoria more than 10 years ago.

The inclusion of 'cumulative impact' and other decision guidelines under clause 52.27 of the Victoria Planning Provisions provides local government with the theoretical opportunity to manage the alcohol environment and minimise conflict and negative impact on amenity. The issue is how this can be best developed by Councils to ensure an evidenced-based approach to decision-making that will be supported on appeal through VCAT.

Background: ICEPT

The original ICEPT recommendations from the *Final Report to the Minister for Police and Emergency Services, February 2006* were as follows:

Recommendation 5:

Planning Tools to enable councils to effectively manage cumulative impact.

The Department of Sustainability and Environment should amend the Victoria Planning Provisions to introduce performance based decision guidelines to enable councils to effectively manage specific amenity issues that contribute to cumulative impact. Decision guidelines could consider:

- Noise impact, including measures for the management of noise in both licensed premises and new residential development;
- Impact of hours of operation;
- The number of patrons in the entertainment precinct;
- Existing and past trends in type and mix of licensed premises; and
- Proximity of residual uses (actual and planned).

Relevant amendments to State planning policy should be considered to ensure that 'cumulative impact' is recognised as a valid amenity based consideration and that local planning policies stand up in VCAT.

Responsibility: Department of Sustainability and Environment

Recommendation 6:

Review of definitions in planning scheme and liquor licensing regulatory frameworks

Uniform and consistent definitions should be developed and applied to licensed premises under the Victorian Planning Provisions and the Liquor Control Reform Act 1998 to ensure consistency.

Responsibility Department of Sustainability and Environment and Director of Liquor Licensing Victoria.

Summary Update: Recommendation 5

In line with Recommendation 5, DPCD made changes to Clause 52.27 of the Planning Provisions to include decision guidelines that enable councils to assess cumulative impact of licensed premises on the amenity of the area. The decision guidelines were introduced through Amendment VC47 on 17 March, 2008.

Clause 52.27 now states that when deciding on an application to use land to sell or consume liquor, *“the responsible authority must consider, as appropriate:*

- *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 surrounding area; and*
- *The cumulative impact of any existing and the proposed liquor licence, the hours of operation and number of patrons, on the amenity of the area.”*

The IMAP Implementation Committee identified that there is no definition of cumulative impact, or how it would be specifically applied through the statutory planning processes. The IMAP Implementation Committee prioritised the development of cumulative impact planning tool to manage cumulative impact in a consistent manner across the IMAP region.

It is important to note the original February 2006 ICEPT Final Report also included the following:

Whilst the Local Planning Policy Framework provides councils with a mechanism by which they can *technically manage the cumulative impact of licensed premises*, the *identification of appropriate benchmarks* by which cumulative impact can be managed remains a key challenge. Councils therefore require a specific planning tool that enables them to *identify benchmarks by which cumulative impact can be measured...* It is *critical that adequate data is available to assess the impact of additional premises*, extended licences and mixed venues uses *on a particular area* and on a case-by-case basis.
[emphasis added]

The Working Group considers that the development of a ‘planning tool to manage cumulative impact’ is in fact the final step, which follows from a process of locating and analysing relevant data and identifying and setting decision-making criteria.

Defining Cumulative Impact?

Whilst there is no set definition, Cumulative Impact; the density or ‘bunching’ of licensed premises, is increasingly being identified as associated with or resulting in impacts on the local community, including impacts on amenity. A comprehensive examination of the impact of liquor outlet density on neighbourhood amenity found respondents who live closer to liquor outlets were more likely to report problems with

drunkenness and property damage in their neighbourhood.¹ There is substantial research literature that highlights a positive association between alcohol outlet density and rates of violence.² However, this relationship is complex, dependent on the nature of outlet types, the management of premises, the characteristics of suburbs and mobility of populations.

The implication of recent research suggests that it is unlikely that there would be the development of a sound, simple mathematical calculation or formula to forecast the cumulative impact of licensed premises on public safety and amenity in the near future. VCAT is also unlikely to support such an approach. The inclusion of 'cumulative impact' in the Planning Scheme provides Local Government with the opportunity examine what is happening now in their local late night entertainment precincts, to measure the impacts and decide what an acceptable alcohol environment will look like.

Once this precinct strategic statement is developed, Councils can begin to manage the impacts and attempt to assess and mitigate further impacts that may result from additional outlets into the local precinct. The Working Group recommends that each Council undertakes a series of actions to manage licensed premises and the impacts of alcohol. This work is required before a statutory planning tool can be finalised. To achieve this outcome, the Working Group recommends the four Councils adopt the following approach:

Proposed approach to assessing Cumulative Impact

Action 1: Mapping the local alcohol environment through appropriate data sources

Firstly, councils should determine how the cumulation of licensed premises and the sale and consumption of alcohol currently impacts on the amenity of the local area. This requires the identification of appropriate indicators from datasets and mapping the of local alcohol environment within the precinct to better understand what effects this complex interrelationship between licensed premises and amenity. As identified in the original February 2006 ICEPT report, the effectiveness of the alcohol environment profile is dependant on a range of datasets being available at the local level. Some of this information sits with Council, whilst other data is held by various agencies and departments. ICLEI Oceania, through the Cities for Safe and Healthy Communities Program, is currently undertaking work with the Cities of Port Phillip and Melbourne in this area and this may represent an opportunity to establish a uniform data collection framework for obtaining, analysing and monitoring information across Councils.

Indicators to be considered, mapped and analysed as part of the Precinct Profile include:

- Relevant land use zoning, including proximity to residential areas (current and planned);
- Number and type of licensed premises, maximum capacity and trading hours;
- Access to public transport, taxi services and car parking;
- Relevant pedestrian traffic and mobility patterns;
- Complaint history within the precinct (Council, Consumer Affairs Victoria, Police);
- Public realm behaviour (including alcohol-related violence, offensive and nuisance behaviours);

¹ Donnelly et al, (2006) *Liquor concentrations and alcohol-related neighbourhood problems*, Sydney: New South Wales Bureau of Crime Statistics and Research in Roche, et al, (2008) *Young People and Alcohol: the role of Cultural Influences* DrinkWise Australia, p. 166.

² Livingston, Chikritzhs and Room, the density of alcohol outlets to reduce alcohol related problems.

- Relevant property damage and vandalism;
- Alcohol-related ambulance attendances;
- Bottle and waste litter;

Action 2: Create a strategic statement for the alcohol precinct

Council would then decide on what an acceptable and balanced alcohol-environment for the activity centre or precinct is. Council would then set benchmarks, based on the systematically collected, valid indicators to define this strategic position. This would then be incorporated into the Precinct Profile. This work would increase the focus of Council on the late night economy, identify areas with further opportunity for late night businesses or areas that are saturated. The process of developing a strategic statement for the precinct could then inform a range of Council strategies, including the Municipal Strategic Statement, Municipal Public Health Plan, Community Safety Plans, and enforcement plans or be incorporated as part of a structure planning process. A single-issue specific, place management approach may be appropriate to achieve this end.

Action 3: Whole of Organisation response to managing the impacts

Council's would need to adopt a whole of organisation approach to implement the strategic statement, and advocate for resources and responses that lie outside of the scope of local government. A whole of organisation approach to managing the impact of alcohol is required for Council to be effective in reducing and addressing the negative impacts on amenity arising from the accumulation of licensed premises.

Action 4: Apply Cumulative Impact Assessments

Once the preceding steps have been undertaken, a specific "planning tool" can be effectively implemented for the assessment of new applications through statutory planning processes. The Precinct Profile would be provided to new liquor licence applicants, who would be consider the Precinct Profile to determine what mitigating measures can be undertaken to minimise the impacts

The Cumulative Impact Assessment checklist could then be used by Council decision-makers to determine whether there will be a detrimental cumulative impact on amenity as a result of the additional liquor premises. An example of the Cumulative Impact Assessment checklist is to be provided. The detail of this tool, including its scope, how it will operate and how it will be implemented within Council requires further work by the Working Group.

The Working Group does not support the introduction of the CIA without appropriate data identification and research at the precinct level or without a cross-organisational approach. Assessing cumulative impact should not be seen a role solely for Statutory Planning, nor should introducing better measures for managing the cumulative impacts of alcohol outlets be withheld for fear of failure at VCAT.

Action 5: Strengthening the Model

VCAT is considered likely to disregard any planning tool simply based on mathematical approaches. The CIA is intended to assist in the management of the negative impacts that may flow from additional licensed premises within a particular activity centre or precinct. It is already current practice for local government to endorse alcohol management plans for venues, or to include a list of conditions for the operation of the

venue on the planning permit. The CIA is intended to properly inform the development of such alcohol management plans, to ensure they are appropriate and also to assist Councils in determining whether or not to support the application. Whilst the inclusion of precinct profiles into the MSS and amendment of local licensed premises policies to better reflect this approach would ultimately add weight to the model, it is not essential for this to be in place for Councils to commence work on managing alcohol-related impacts in a systematic, transparent and rational way. VCAT will have better regard for such an evidenced-based approach, than for any mathematical 'saturation' approach.

Recommendation 6

Recommendation 6 states *"Uniform and consistent definitions should be developed and applied to licensed premises under the Victorian Planning Provisions and the Liquor Control Reform Act 1998 to ensure consistency."* Further work needs to be undertaken through the Working Group to identify ways to improve coordination, ensuring consistency and greater efficiencies between the two regulatory processes. The issue is that ambiguity continues to exist between the definitions amongst the two statutory regimes. Until the two regimes are brought into alignment, this ambiguity will continue.

With the impending Consumer Affairs review of the regulations that prescribe fees payable for the eight different types of liquor licence in 2009, Councils can pro-actively develop recommendations to amend licence typology to better reflect the categorisation of such venues through the planning provisions. The Working Group will continue to work on this aspect.