

Licensed premises: Assessing cumulative impact

October 2023

The purpose of this practice note is to:

- 1. Explain cumulative impact in relation to licensed premises in the planning system.**
- 2. Provide guidance on preparing and assessing an application under clause 52.27 of the planning scheme to:**
 - assist a permit applicant when considering and responding to the potential cumulative impact of their proposal**
 - support a council when assessing the cumulative impact of licensed premises as part of a planning permit application.**

Licensed premises land uses likely to require a permit under clause 52.27 include:

- bottle shop
- nightclub
- restricted place of assembly
- food and drink premises including:
 - a tavern
 - a hotel
 - a restaurant
 - a convenience restaurant
 - take-away food premises
- restricted recreation facility
- other premises that may be licensed to sell or consume liquor.

This practice note can assist a council and a permit applicant to identify and address whether the proposal for a new or modified licensed premises is likely to contribute to a cumulative impact within an area. A permit applicant should check if the relevant council has an alternative or an additional set of guidelines or requirements to consider.

This practice note may be used for any planning application that would benefit from its use; however, it should be used for all applications for a new or expanded licensed premises that:

1. will be licensed and open after 11pm; and
2. is in an area where there is a cluster of licensed premises.

Cumulative impact

Cumulative impact refers to both positive and negative impacts that can result from clustering a particular land use or type of land use. Potential cumulative impact from a cluster of licensed premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of venues present, the way they are managed and the capacity of the local area to accommodate those venues.

Negative cumulative impacts can include increased occurrences of:

- nuisance including noise and anti-social behaviour from intoxicated persons
- infrastructure capacity problems including limited availability of transport and car parking for patrons and local residents
- violence and perceived threats to safety
- crime including vandalism, trespass and property damage.

Positive cumulative impact can include:

- the creation of a local 'identity' or status as an entertainment or tourism destination
- enhanced vitality of an area
- economic benefits
- increase in consumer choice
- increased ability to manage impacts, for example by concentrating venues around transport to aid dispersal of patrons.

The clustering of licensed premises may lead to a negative impact even though any given venue in the cluster may be well run and have minimal impact. An area might reach a 'saturation point' where an additional licensed premises or a particular type of licensed premises is likely to impact negatively on the surrounding area. Alternatively, there may be a positive cumulative impact where an additional premises will enhance the character or vibrancy of an area.

Cumulative impact decision guideline

The cumulative impact of licensed premises is referenced in the planning scheme decision guidelines of clause 52.27 (Licensed Premises). The relevant decision guideline requires a council to consider:

The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Although this decision guideline needs to be considered for any application required under clause 52.27, the extent of the assessment should be proportional to the likely impact of the proposal. A modest proposal would not require a detailed analysis, but there are instances where a more robust assessment of cumulative impact is required.

The following guidance can assist:

- a council when assessing the extent that a proposed licensed premises will contribute to an overall cumulative impact within an area.
- a permit applicant to include appropriate measures as part of their proposal to address and manage any identified negative cumulative impact.

What is a cluster?

To determine whether a cluster of licensed premises exists, the following should be considered:

- the number and type of licensed premises in an area
- their distance from the subject land
- whether they can be easily accessed from the subject land.

As a general guide, a cluster would occur where there are:

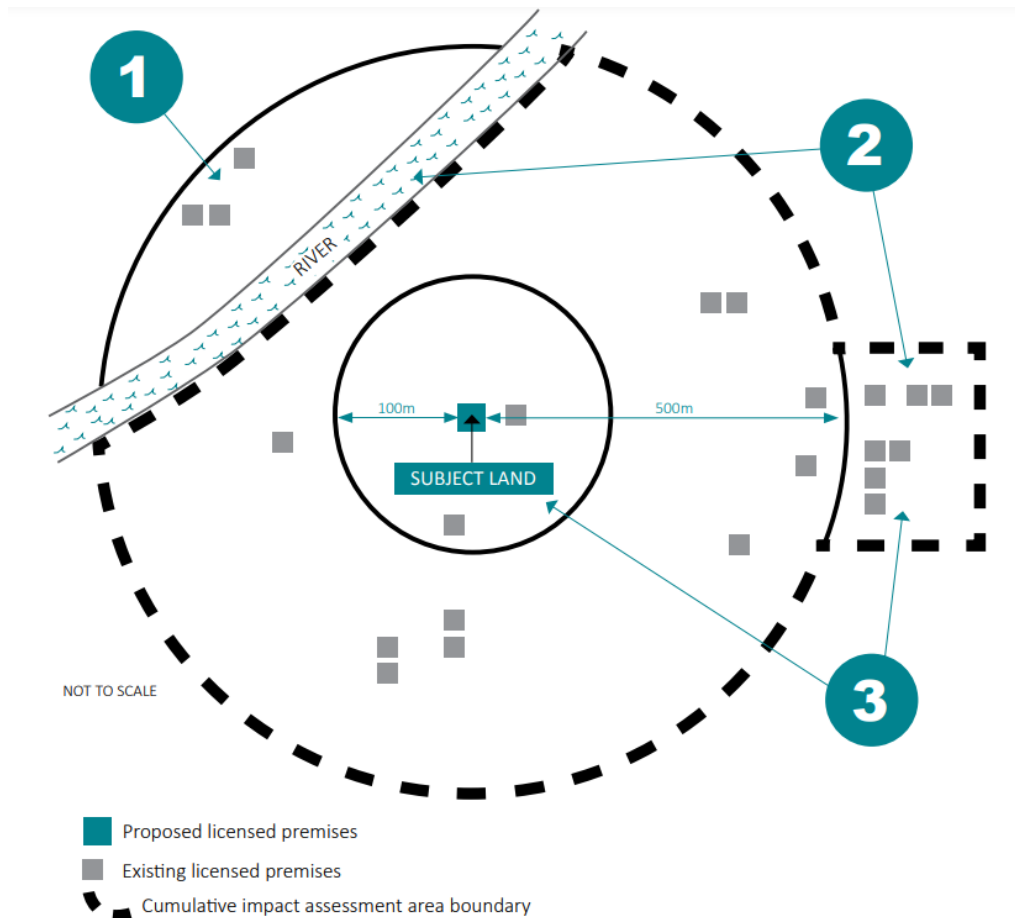
- three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or
- 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.

The diagram below provides an example of how to determine whether a cluster exists.

What is the cumulative impact assessment area?

The area to be included in a cumulative impact assessment should be all land within a 500 metre radius of the proposed venue, unless there is another logical boundary that takes into account relevant features – these might include a major impassable physical barrier (for example, a freeway or watercourse) or another nearby cluster of licensed premises.

Example of a cumulative impact assessment area



Key:

1. IMPASSABLE PHYSICAL BARRIERS

These licensed premises are separated from the subject land by an impassable river, so should not be used when determining the cumulative impact assessment area.

2. CUMULATIVE IMPACT ASSESSMENT AREA

The area to be included in a cumulative impact assessment would normally be all land within a 500m radius of the subject land, however in this example the area has been modified to take into account:

- an impassable river
- a nearby cluster of licensed premises that are clearly relevant when assessing cumulative impact.

3. CLUSTER

In this example there is a cluster because, including the proposed premises, there are:

- three licensed premises within a 100m radius of the subject land, and
- 20 licensed premises in the cumulative impact assessment area.

Preparing the application

This section is for permit applicants.

An applicant should consult with the relevant council for a full list of information to be submitted with a planning application. The information required by council may include most or all of the items described in the checklist below and the cumulative impact assessment in the following section.

The checklist is a guide and should not be considered a rigid set of requirements. The information required to be submitted with an application will vary depending on the individual characteristics of the proposed licensed premises and the area in which it is proposed to operate. Individual characteristics include the type of use, operating hours and venue capacity.

An applicant should consult with council early in the process of preparing an application to seek information about local policy, planning and zoning provisions and the level of detail that should be provided in the application.

Checklist of information to be submitted with an application for a planning permit

Seating ratios: What is the ratio of seating to standing?

Premises that provide little or no seating are associated with excessive alcohol consumption and potential for increased violence. Patrons from these venues are therefore more likely to have an adverse impact on the surrounding area.

Meals: Are meals served or is food available?

Venues that serve food or meals, are shown to be less at risk of excessive alcohol consumption. This does not include venues that only serve basic snacks.

Management: How will the venue manage patrons entering and leaving the venue, including security and queuing?

Management of patrons entering and leaving a venue can have a significant impact on the amenity of the area due to potential patron noise, anti-social behaviour and public disturbance. Other management issues are assessed as part of an application for a liquor licence rather than the planning permit process.

Music: Will the proposal feature background, live or recorded music?

The way music is played and the hours it is played can influence the type and number of patrons attending the venue. It can also influence the level and type of alcohol consumption and has potential to impact on local amenity.

Capacity and hours: What is the proposed capacity and what are the operating hours?

Proposed capacity levels and operating hours may add to existing cumulative impact problems in the area, due to large number of patrons exiting onto the street at closing time.

Transport and car parking: What type of transport and car parking is provided?

The availability of transport for use by patrons to and from the venue can impact on the amenity of the surrounding area. There may be additional amenity issues resulting from patrons waiting for a taxi or travelling on foot.

The location and availability of car parking can impact the dispersal patterns and behaviour of patrons. Car parks with poor lighting or natural surveillance may place patrons at a high risk of violence.

Assessing the cumulative impact

This section is for councils and permit applicants.

The following matters should be considered when assessing the cumulative impact of licensed premises:

1. Planning policy context
2. Surrounding land use mix and amenity
3. The mix of licensed premises
4. Transport and dispersal
5. Impact mitigation.

Each element is covered in detail in the following sections. They include background information explaining how the topic is relevant and a series of questions to guide the assessment of a planning application.

An applicant should answer each relevant question as part of the application to demonstrate that a proposed cumulative impact is either reasonable or can be appropriately managed. A council should also answer each question as part of their assessment process. If a question is not relevant, a brief explanation should be provided.

The level of detail required for each response should be proportional to the potential impact and cumulative impact the proposed venue may have. For example, an application for a smaller venue with limited or no potential to contribute to a cumulative impact will not require a detailed response. Conversely, a permit application for a larger venue that has potential for greater impact should be accompanied with a detailed study or report prepared by a suitably qualified person that explains how any cumulative impact will be managed or mitigated. An applicant can consult with the relevant council for a full list of information to be submitted with a planning application.

1. Planning policy context

State and local policy, zoning and other planning scheme provisions can provide guidance about appropriate and preferred amenity and land use outcomes for an area. These provisions may relate to the role of an activity centre, mix of uses in an area and appropriate locations for entertainment uses. They may also inform assessments about reasonable amenity for a particular area.

Existing context

- What are the policy, zoning and other planning scheme provisions that are relevant to the surrounding area?
- What amenity, land use and other planning outcomes do these provisions encourage?

Assessment

- Is the proposal consistent with the planning outcomes encouraged in the policy, zoning and other planning scheme provisions for the area?

2. Surrounding land use mix and amenity

Existing amenity levels provide a basis to assess the potential cumulative impact of a proposal, but the assessment should also weigh this against the planning policy context.

The mix of land uses is important in determining the existing amenity level of an area. For example, a mix of entertainment and other uses can lead to an area being perceived as an entertainment or tourism destination. However, the location of sensitive uses, such as houses, schools or community and medical facilities, can increase amenity expectations for an area.

A diversity of uses and activities can add to the vibrancy and amenity of an area. An environment with diversity of uses and activities may help mitigate potential harms and reduce unreasonable negative cumulative impact. Late night uses that do not focus on serving alcohol provide alternative activities for visitors, resulting in better patron behaviour in an area.

Data to determine existing licensed premises' impacts can be sourced from the council complaints database and site observations.

Existing context

- Does the subject land adjoin sensitive uses?
- What is the relationship between licensed premises and other uses in the area?
- What are the local crime statistics related to licensed premises?
- Are there other premises open after 11pm?
- What is the existing level of amenity in the area?
- What are the reasonable amenity expectations in the area?

Assessment

- Will the proposal significantly increase the number of patrons near sensitive uses at any time?
- Given the location and planning policy context, will the proposal generate amenity impacts beyond what is reasonable?

3. The mix of licensed premises

The mix of licensed premises in an area can influence potential cumulative impacts. For example, an area with a mix of restaurants, cinemas and small bars may have fewer impacts than an area with primarily large bars and nightclubs.

Late-night trading hours for licensed premises have been associated with increased anti-social behaviour including violence. Licensed premises open after 11pm are considered a greater risk to the surrounding area. Reduced trading hours may therefore reduce the risks of late-night alcohol-related incidents.

Licensed premises with a patron capacity over 200 may pose a greater risk of alcohol-related incidents and result in a negative cumulative impact.

A packaged liquor outlet located within the surrounding area provides an opportunity for patrons to purchase and consume alcohol before, in between or after entering licensed premises. These activities, particularly in excessive quantities, can increase the likelihood of anti-social behaviour and public disturbances.

Existing context

- What is the mix of licensed premises in the area?
- Do any licensed premises cater for more than 200 patrons?
- How many and what type of licensed premises (especially high-capacity venues and packaged liquor outlets) operate after 11pm?
- Do licensed premises commonly operate at capacity and is queuing outside common?
- Do many licensed premises in the area show a high ratio of standing to seating?
- Are there any local laws regulating consumption of liquor in public spaces?
- Is there any evidence of problems apparent in the area, such as property damage or littering, that may be attributed to alcohol related incidences?
- Are complaints (for example, to council or Victoria Police) about licensed premises already being generated in the area?
- Are there any known enforcement proceedings against licensed premises in the surrounding area?

Assessment

- Does the proposal contribute to the diversity of activities and vibrancy in the area?
- Will the proposal reinforce any existing or create any new impacts arising from the mix of uses in the area?

4. Transport and dispersal

Whether patrons leaving or moving between licensed premises are likely to pass through areas with sensitive uses is an important consideration.

How patrons leave the licensed premises at closing time can have a significant impact on the amenity of an area. Consider how patrons will leave the area and the routes they will take, including the location and availability of taxi ranks, car parks and public transport services. The quality and frequency of services is a factor because it will influence the length and time that patrons spend in an area. Patrons generally maintain better behaviour when they are not delayed in travelling home.

A concentration of high-risk licensed premises closing at similar times may lead to difficulties in safe and orderly patron dispersal. This can be addressed by staggering the operating hours because there will be fewer people on the street trying to leave the area at one time.

Existing context

- Do closing hours between venues coincide closely or is there a spread of closing hours?

- Is there a high number of patrons on the streets after 11pm?
- What public transport is available to patrons leaving the licensed premises at closing time?
- Are taxi ranks conveniently available to patrons leaving the licensed premises at closing time?
- Is car parking available and where is it located?
- How do people disperse from the area after leaving a licensed premises?
- Is the movement of patrons through the area known to be an existing problem?
- Are there any identified issues with accessing public transport such as frequency or capacity of services?

Assessment

- Is the proposed licensed premises' location or characteristics such as operating hours likely to contribute to any problems for patron dispersal?
- Will the proposal reinforce any existing or create any new impacts arising from licensed premises closing times and patron dispersal within the area?

5. Impact mitigation

A proposal may include impact mitigation measures to reduce a potential negative cumulative impact. These measures can include:

- providing patron transport or parking
- layout and design of buildings and any new public space in accordance with good urban design and safe design principles
- involving licensed premises in a liquor accord or forum
- providing public toilets and rubbish facilities in the area
- reducing operating hours of the venue
- limiting outdoor seating and reducing patron numbers after 11pm
- improving venue management measures.

A venue incorporating good urban design and safe design principles is more likely to successfully manage potential amenity impacts from venue patrons on an area, improve perceptions of safety and provide a positive cumulative impact.

Existing context

- Are there sufficient public amenities available for patron use, including toilets and rubbish disposal?
- Are there any relevant public safety or enforcement initiatives in the area?
- Has the area been developed according to principles of good urban design and safe design?

Assessment

- Will the proposal provide mitigation measures to address any negative cumulative

impacts?

- Can any identified negative cumulative impact be satisfactorily reduced by changes to the proposal?

Final cumulative impact assessment

This section is for councils.

Having regard to the assessment elements in the previous section, use the following questions to complete your assessment:

QUESTION 1: Is the proposal likely to increase or create a cumulative impact in the area?

YES: The proposal is likely to increase or create a **positive** cumulative impact. Council is likely to consider a positive cumulative impact favourably.

NO: The proposal will not increase or create a cumulative impact.

YES: The proposal is likely to increase or create a **negative** cumulative impact. If the proposal is likely to increase or create a **negative** cumulative impact, continue to Question 2.

QUESTION 2: Is the likely negative cumulative impact reasonable or unreasonable?

REASONABLE

Although the proposal creates a negative cumulative impact, the impact may still be reasonable if it is minor and balanced against:

- other planning considerations for the area, such as a local policy that identifies the area as a council's preferred location for night-time entertainment uses, or
- other positive aspects of the proposal, such as exceptional building design, exceptional use of mitigation measures, or if the proposal also creates a positive cumulative impact that outweighs a negative cumulative impact.

UNREASONABLE

QUESTION 3: Can the negative cumulative impact be reduced and adequately managed through additional mitigation measures?

YES: If the negative cumulative impact is unreasonable and if adequate additional mitigation measures are included as part of the application, the proposal may still be considered to be **acceptable**.

NO: If satisfactory mitigation measures cannot be incorporated as part of the proposal, the negative cumulative impact is likely to be considered as **unacceptable** because the area will not adequately cope with an additional licensed premises of this type.

Other planning considerations

Cumulative impact is one of many planning matters that a council must consider when assessing a planning application. A positive or favourable cumulative impact does not guarantee that a planning permit will be issued.

Further information

Information about liquor licences can be found on the Liquor Control Victoria webpage at vic.gov.au/liquor-licensing.

Data to determine the impacts of existing licensed premises impacts can be sourced from council complaints databases and site observations.

Information about safe design principles can be found in the *Safer Design Guidelines for Victoria* (Department of Sustainability and Environment, 2005) available at planning.vic.gov.au.

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