

Town of Claremont

Strategy to Deal with the Impact of Licensed Premises

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Executive Summary

The Town of Claremont faces a number of dilemmas with respect to licensed premises. On one hand, they can be viewed as noisy, troublesome venues that cause disruption to the amenity of the area. On the other, they add to the attractions of Claremont, and add a level of vibrancy to the area.

The Town's Plan for the Future 2006 – 10 identifies a significant number of initiatives and plans to be implemented. Amongst other things, the Councils vision for the Town includes working to:

- Ensure our Town will be accessible and safe.
- Welcome diversity in our community and have a harmonious, enjoyable and active community where our residents will have a strong sense of belonging.
- Encourage the business community to be vibrant, successful, and integrated into the life of the Town.

Recent changes to liquor licensing laws have introduced a less legalistic approach to granting and renewing permits, balanced by a stringent 'public impact assessment' criteria to be addressed by applicants. Two major changes to the types of liquor licenses granted have been made – 'small bars' and 'liquor without a meal' permits. This also means though, that the impact of the new laws is untested.

The Town's centre is undergoing some significant redevelopment, likely to result in an increased residential presence closer to both existing and potential future licensed venues. This can result in an increased number of issues to be dealt with by the Town if not managed properly.

Determination of an overall philosophy by Council in relation to licensed premises will guide exactly what measures are required, but in this case given the overall situation a restrictive regime is not recommended. Indeed, it may well be possible for the Town to differentiate itself from other competing regional centres by adopting a more open and measured approach. The possibility of using the new licensing rules to meet the Towns objectives should be given careful consideration. In particular, the 2003 Claremont Town Centre Study suggested that the Town should seek to encourage mixed-use residential development but carefully manage the 'interrelationship of such uses with non compatible uses such as night clubs' (p iii). One way of encouraging the licensee of existing 'non compatible' premises to redevelop their properties could be through using a 'small bar' license.

The Town's Community Safety and Crime Prevention Plan 2006 also contains a number of recommendations to increase passive surveillance from street areas by encouraging alfresco dining and the like.

Responsibility to control licensed premises rests with a variety of agencies, primarily the Department of Racing, Gaming and Liquor and WA Police Service. While the Town is

not able to directly control approvals for liquor licences, it does have at its disposal a number of mechanisms that could influence outcomes. More importantly, the Town is well placed to monitor their impact so that the current situation does not develop out of control.

It is suggested that the Town base its strategy to deal with the impact of licensed premises on two broad areas of activity, with a number of subsets:

1. Pre approval mechanisms such as including a definition of ‘small bar’ in a future review of the Town’s Local Planning Scheme and where these types of premises might be allowed, requiring noise attenuation measures by both proposed licensed premises and residential developments in areas likely to be affected by liquor licenses, and
2. Post approval mechanisms such as active monitoring of licensed premises and their operation.

A number of other initiatives already underway by the Town are also supported, particularly centralisation of transport hubs in the central shopping area. Better use of information and sharing data, plus information dissemination via existing Working Parties and the like will assist in keeping the situation under reasonable control.

In keeping with the project brief, all of the initiatives suggested can be implemented as part of current activities already in train or underway. This report suggests 23 separate recommendations, and provides a draft Policy for Council to consider.

Recommendations

No	Action	Potential Impact	Difficulty or Cost	Suggested Priority
1	That the Town's Local Planning Scheme be reviewed to include a definition of 'small bar' as a Scheme Amendment (p20)	M	M	H
2	That while the use of 'restaurant' as a 'P' use in the Town Centre zone may be appropriate, retention of existing controls for proposed restaurant uses in commercial areas outside the Town Centre be retained (p21)	M	L	H
3	That as well as normal requirements relating to building design and the like, the Town request liquor licensing applicants for s39 and 40 Certificates to also provide to it the same information that they will have to do so to the Department of Racing, Gaming and Liquor as part of a Public Impact Assessment for a liquor license (p23)	M	L	H
4	That the Alfresco Dining Policy be reviewed to determine if existing conditions are appropriate in terms of encouraging Alfresco dining as recommended by the Community Safety and Crime Prevention Plan (p24)	M	M	M
5	If the Town is of a mind to allow restaurants who have 'liquor without a meal' licenses to extend this to alfresco areas, that it also applies similar conditions to those that will apply to the rest of the restaurant area to ensure that the alfresco area does not become a de facto bar (p25)	H	L	M
6	If the Town decides to continue a requirement to advertise applications for alfresco dining permits, then it is also recommended that it waives its requirement to do so if an application from a restaurant for an alfresco dining permit is also advertised along with the advertising undertaken as part of a Public Impact Assessment for a liquor license application for the adjoining premises (p25)	H	H	M
7	That the Town not support establishment of 'breakout' areas on Town property (p26)	L	L	H
8	That the Town not seek to prohibit smoking in	L	L	L

No	Action	Potential Impact	Difficulty or Cost	Suggested Priority
	alfresco areas at present, but wait and watch developments in other areas (p26)			
9	That as a long term objective, the Town adopt a strategy to centralise public transport at a suitable location in the Town Centre, most likely the Claremont train station (p27).	H	H	L
10	That the list of resources compiled to assist in ‘designing out’ crime as compiled in the Community Safety and Crime Prevention Plan (2006) be added as courtesy information provided by the Town to any application forms or guidelines accompanying planning development approval applications or building licence applications (p28)	M	L	H
11	That the Town investigate amendments to the BCA or its Planning Scheme to require developers and builders to demonstrate application of these principles (p28)	H	M	M
12	<p>That the Town open discussions with the Department of Racing, Gaming and Liquor with a view to imposing a mandatory requirement for applicants to provide acoustic reports and proposed noise attenuation measures in cases where applications or requests for renewal of liquor licenses are made for:</p> <ul style="list-style-type: none"> • Hotels and nightclubs • Small bars • Liquor without a meal permits where the total seating capacity is (say) 120 persons or more • All licensed premises where it is proposed that amplified music is proposed to be played <p>(p28)</p>	H	L	L
13	That the Town consider requiring applicants to provide acoustic consultants reports detailing how they intend to deal with noise protection for proposed new residential developments in proximity to licensed premises (within say 100m) and in the ‘town centre’ zone or 100m of it. (p29)	H	M	H

No	Action	Potential Impact	Difficulty or Cost	Suggested Priority
14	That the Town's Local Laws relating to Thoroughfares, and Local Government Property be amended to reflect the recent changes to the Liquor Control Act (p29/30)	M	M	L
15	That the Town review the application of the new liquor licensing legislation in terms of its own facilities (leased or otherwise) (p30)	M	L	L
16	That membership and composition of the Licensed Premises Community Group be reviewed and amended (p31)	H	L	H
17	That the Licensed Premises Community Group request the Department of Racing Gaming and Liquor to brief it about the changes to legislation and how others may have dealt with issues in a proactive manner (p32)	H	L	H
18	That the Department of Racing, Gaming and Liquor be requested to provide the Town with a copy of licenses it approves and the conditions attached (p32)	H	L	H
19	That the Town request the Department of Racing, Gaming and Liquor to require applicants for liquor licenses in the Town to commit to the Western Accord (p33)	H	L	H
20	That the Town develop a formal inspection regime with respect to licensed premises. (p33)	H	M	H
21	That licensing records be kept by property, with a single file for each property in order to facilitate sharing of information from various parts of the organisation about conditions, applicable permits etc (p35)	H	M	H
22	That consideration be given to placing 'flags' on the Towns Property System for those properties that are subject to a liquor license, and to record what type of license has been granted (p35)	H	L	H
23	That a Policy with Respect to Licensed Premises be adopted (Appendix 5)	H	L	H

Background

The Claremont Town Centre is about to undergo some significant redevelopment. In the short term, existing developments under construction will add a residential component and create a mix of residential and commercial activities. In the middle to long term, rising property values (and rents) are likely to drive owners and tenants to seek intensification of use so as to maintain business viability and comparable returns on investment with competing opportunities.

At the same time, changes to liquor licensing legislation by the WA State Government in May 2007 will also add another dimension. The objective of the changes appears to introduce a more flexible regime in terms of the types of licenses that may be obtained, move away from legalistic approach to licensing, encourage development of a greater number of small licensed venues rather than a small number of large ones, and keep licensing laws up to date with the rest of Australia.

The changes include (amongst other things) removal of the requirement for restaurant patrons to have a meal if consuming liquor, the creation of a new category of licensed premises as a 'small bar', and mandatory training requirements for staff.

A residential presence in the area will create vibrancy and life, as will operation of businesses, restaurants, and entertainment venues over a greater span of hours. However, the potential for more licensed premise coupled with close proximity of residents has the potential to generate issues for the Town.

In recognising what could lie ahead, the objective of this report is to identify what strategies the Town needs to develop that could be implemented to deal with these matters as far as reasonably possible. The Town does not have direct control over liquor licensing matters but ought to put itself in a position to influence outcomes that suit its overall objectives.

Wherever possible, matters that could be incorporated into proposed Strategies have also been identified.

A guiding principal in developing strategies in this instance will be to learn from the experience of others wherever possible, using existing initiatives already in place in the Town and/or which are shortly about to get underway.

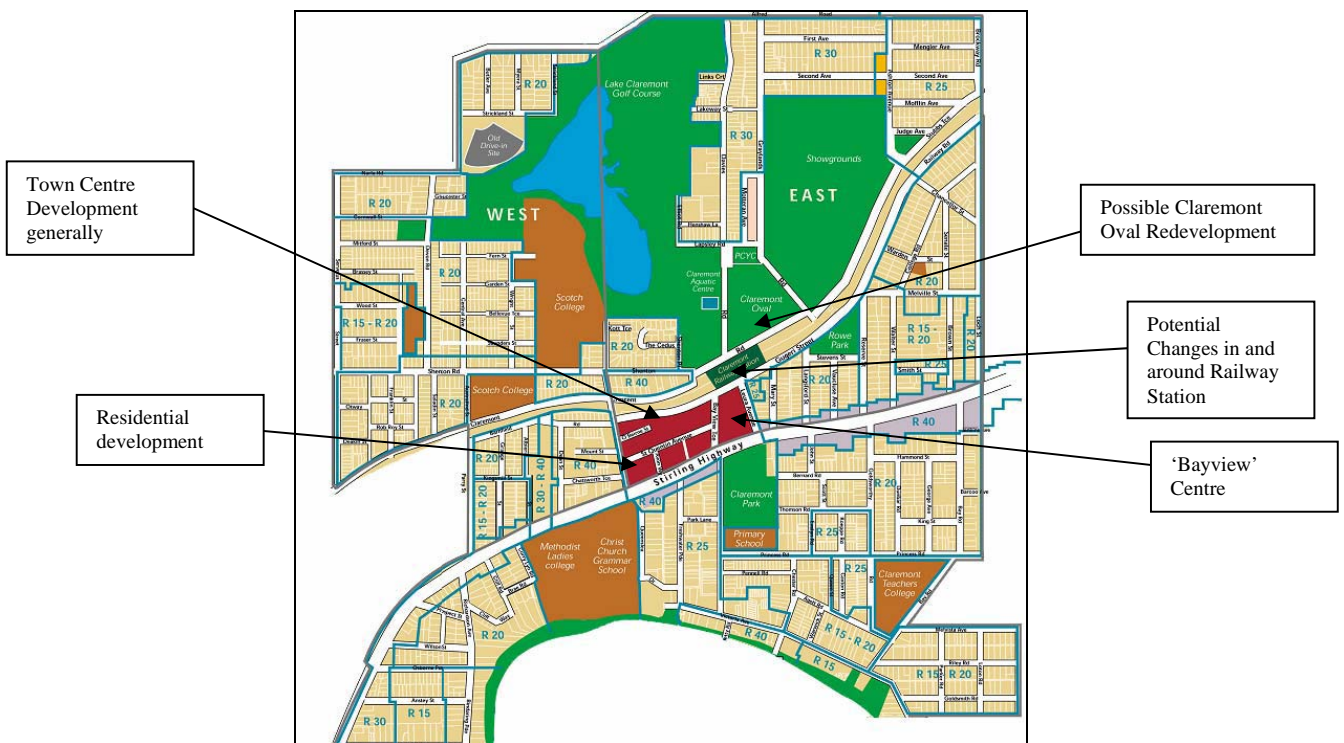
Other local governments have experienced close mixes of residential and commercial or licensed premises in areas such as East Perth, the Perth CBD, Subiaco and Fremantle. There are a wide range of existing ideas that may be used by the Town and which could be included in changes either already underway or which may be of value in pursuing of their own accord.

Town of Claremont – Brief Situation Analysis

At the time of compilation of this Report, the Town was experiencing a number of changes and new initiatives.

The Town has identified that its infrastructure is run down and ‘tired’, and requires significant investment to preserve its place as a premier residential and business environment. Managing liquor licensing initiatives from the perspective of both passive actions as a part of capital works as well as active in terms of how applications are dealt with requires consideration.

The Town’s Plan for the Future identifies a number of major issues that are likely to have an impact. In terms of liquor licensing, these are:



While most issues that relate to licensed premises appear concentrated in and around the Town Centre area, consideration will need to be made of any possible effects from areas zoned appropriately as well as any possible ‘spillover’ from adjoining local government areas.

There are a range of other issues that will divert attention, including development of the former Lakeway drive-in cinema site, the Claremont golf course, and issues relating to the Royal Agricultural Society show grounds.

The Town also appears characterized by a demanding business and residential community who seem to expect a high level of action and support from their local government, notwithstanding the limitations on its jurisdiction and ability to influence matters not under its direct control, in particular crime and behavioural matters.

It is noted that a significant residential component is expected to be added to the area of the Town zoned 'town centre'. Feedback from other local governments that have undergone redevelopment where residential and commercial or other uses are located in close proximity indicates that while new residents enjoy the facilities and amenities, they are also quite ready to complain about the less attractive aspects that also come with inner City living, such as traffic, noise, smell and other impacts.

Areas outside the Town Centre appear unlikely to be significantly adversely affected by licensed premises, although the situation should be monitored in relation to:

- Sporting and yacht clubs
- University taverns
- Premises that may have non conforming use rights such as a restaurant situated in a residential area
- Premises in adjoining local governments

As such, the Town will need to ensure that what it does recognises its legal and jurisdictional limits but maximises its influence over outcomes.

Liquor Licensing in WA

The supply and consumption of alcohol in WA is affected by a range of legislation but in the main is regulated by the Liquor Control Act 1988.

Persons wishing to sell liquor for public consumption must have a license to do so, must be subject to certain conditions, and premises on which it may be consumed are also required to meet certain standards.

In terms of local governments, part of the process to obtain a liquor license or for a change in the use or condition of any premises requires an applicant to obtain 2 certificates from a local government.

These requirements are specified in the Act but are summarised:

- Under s39, that the premises comply with the relevant requirements of:
 - (i) the *Health Act 1911*;
 - (ii) any written law applying to the sewerage or drainage of those premises;
 - (iii) the *Local Government Act 1995*; and
 - (iv) the *Local Government (Miscellaneous Provisions) Act 1960*;
- Under s40, that the proposed use of the premises complies with written Planning laws.

Once a license has been granted, the Department of Racing, Gaming and Liquor is supposed to monitor conditions and may revoke licenses or alter conditions. Local governments are expected to deal with noise or parking matters, and the Police Service with patron behaviour.

In practice, this fragmentation makes it difficult to establish responsibility to deal with any problems and complaints relating to licensed premises. As a result the public tend to view licensed premises and their approval with some apprehension.

There are two opposites to the argument about restricting or allowing licensed premises. On one hand, by restricting licensed premises to a small number of large establishments, where a problem occurs, it arguably tends to be of a bigger magnitude. The restricted numbers of establishments become over used, crowded more often and are more difficult to control in terms of sanitation or noise confinement. Large numbers of intoxicated people arguably contribute to the propensity of patrons to engage in anti social behaviour.

On the other hand, arguably smaller premises are easier to control. Conversely though, it could be argued that most disruption to residents and other persons near licensed premises occurs immediately after closing when patrons are departing the area, and that by spreading this out via a greater number of smaller premises the problem affects a greater number of people.

What is clear is that there is no single correct approach – a badly managed but small licensed premise can create more disruption than a larger one, or the behaviour of a particular group of patrons on isolated occasions can create problems as well.

What the Town needs to do what it reasonably can to reduce the probability of anti social behaviour or other problems, and have in place systems to do what it can to attempt to bring them to a reasonable level of control – a mixture of preventative and reactive mechanisms.

While the Town has at its disposal a number of tools such as its Town Planning Scheme, State legislation that it administers such as the Health Act, Environmental Protection Act, Noise Abatement Regulations and its own local laws, in practice none are capable of entirely dealing with any problems that may emanate from licensed premises, and cooperation of other agencies particularly local Police is necessary.

A number of changes to liquor licensing legislation in Western Australia were introduced in May 2007:

1. The way liquor licenses are granted:

- a. Administration - the Director General of the Department of Racing, Gaming and Liquor is the person responsible for administering the *Liquor Control Act*. The Director General may delegate responsibility within the Department to ensure there is a greater emphasis on conciliation and mediation when determining applications and disciplinary matters.
- b. Liquor Commission – the Liquor Licensing Court is replaced with a Commission consisting of a chairperson and not less than three other members. This appears to introducing be a less legalistic approach to licensing. Appeals from the Commission to the WA Supreme Court are only allowable on matters of law.
- c. Public Interest Test – under s38 of the *Liquor Control Act* a test is to be applied to assist the liquor licensing authority in determining if granting the license would be in the public interest. The licensing authority may have regard, but is not limited to, the following factors:
 - the harm, or ill-health that may be caused to people, or any group of people due to the use of liquor;
 - the impact on the amenity of the locality within which the licensed premises, or proposed licensed premises, are to be situated;
 - whether offence, annoyance, disturbance or inconvenience might be caused to people who reside, or work in the vicinity of the licensed premises, or proposed licensed premises; and
 - any other matter stipulated in the Liquor Control Regulations 1988.

The public interest test will apply to the grant or removal of a licence; extended trading permits for on-going hours and liquor without a meal

permits; and any other application considered appropriate by the Director of Liquor Licensing.

A Guide to Public Interest Tests issued by the Office of Racing, Gaming and Liquor is attached as Appendix 1. In the context of the Town of Claremont, the impact on the amenity of the locality and persons who work or reside in the vicinity of licensed (or proposed) premises are likely to be those matters that require careful consideration and establishment of initiatives to minimise possible impacts.

Applicants are expected to address matters required by a Public Impact Test when making their application to the Department. Appendix 1 lists this in some detail, and the extent and type of information will vary depending on the type of license sought, the facility that is proposed, and the area where it is to be situated. In terms of the possible impact on amenity, amongst other things this is to include:

- Details of consultations with local government about the proposed premises and the impact on amenity; including information about how those consultations have been taken into account in establishing a business plan.
- The location of all existing licensed premises within the locality in which the proposed premises is to be located (i.e. outlet density information)
- The nature of existing services provided by licensed premises within the locality of the proposed premises.
- The nature and type of facilities to be provided at the proposed premises (including a floor plan and premises layout information) and any aspects of the proposal which distinguish the proposed premises from others in the locality. In this respect, it is suggested that applicants should when contemplating premises design, consider the principles of Crime Prevention through Environmental Design (CPTED) available from the WA Planning Commission, the WA Office of Crime Prevention, and the Australian Institute of Criminology.
- Other amenity issues, both positive and negative, in respect of the locality of the proposed premises, such as:
 - access to, and diversity of, services and facilities in the area;
 - the public transport facilities (including taxi services) that would be available to patrons or of any transport facilities proposed to be provided by the applicant for patrons transport;
 - parking facilities in the locality;

- contribution to the streetscape and atmosphere of the area;
- noise and anti-social activities in the locality; and
- the impact of the premises on potential vandalism, litter, criminal acts (especially violent crimes including domestic violence), which may include improvements in the passive and active security of the area.
- Any positive cultural, recreational, employment or tourism benefits for the community; and
- A map depicting the locality of the proposed licensed premises and a written description of the physical and geographic nature of the area.

In addition, the applicant must also deal with the requirements of s38(4)(c) which deals with offence, annoyance, disturbance or inconvenience and in particular:

- Whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the proposed licensed premises;
- A Business Management Plan detailing the proposed business to be conducted and identifying any proposals and strategies that the applicant intends to implement in order to address high risk factors, potential harms, and any offence, annoyance or disturbance associated with the grant of the application.

The guidelines issued by the Department suggest some examples of the strategies that might be implemented which will obviously depend on the type and scale of the premises but could include:

- engagement of licensed crowd controllers and installation of a CCTV camera system;
- the provision of food;
- liquor to be provided by table service only;
- limitation on the types of liquor available and the types of containers;
- restricted advertising of liquor promotions;
- installation of noise limiters on all amplification equipment;
- types of entertainment being provided;
- furniture and premises layout and design;
- lighting in and around the proposed premises;
- noise attenuation of the building; and
- maximum accommodation numbers.

In lodging an application, in addition to submitting the PIA submission and supporting documentation, the applicant will also be required to:

- i. Undertake a letter drop to residents and businesses within a 200m radius of the proposed premises, giving notice of the application and the intended manner of trade. This notice must be delivered on the first day of the advertising period and clearly identify the last date by which objections may be lodged with the liquor licensing authority.

In the case of hotels, taverns, small bars, nightclubs, liquor stores, restaurants, clubs, producers and some special facility licences the advertising period will be 28 days.

- ii. Serve notice of the application and intended manner of trade on all schools and educational institutions; hospitals; hospices; aged care facilities; any drug and alcohol treatment centres; any short term accommodation or refuges for young people; child care centres; churches; any local government authority; any local police stations, which may be situated in the specified locality of the proposed premises.

This notice must be served on the first day of the advertising period, clearly identify the last date by which objections may be lodged with the liquor licensing authority and specify an address, within the locality, at which the applicant's PIA submissions may be inspected by interested persons.

- iii. Applications in respect of hotels, taverns, nightclubs, liquor stores, small bars, restaurants, clubs, producers and some special facility licences are to be advertised in *The West Australian* newspaper and on the site of the premises for a 28 day period.

Applications in respect of club restricted licences, wholesalers and some special facility licences are to be advertised on the site of the premises for a 14 day period or such other period as determined by the licensing authority.

- iv. Make a copy of the PIA submission available for public inspection at the address that has been identified in the letter drop and notice served to the parties in point 2 and 3 above.
- v. Lodge a copy of the House Management Policy, Code of Conduct, and Management Plan, with the application.

Applications in respect of variations of licence conditions and extended trading permits may also be subject to a PIA.

2. Changes to types of licences

- a) Sunday Trading for Metropolitan Liquor Stores - all liquor stores in the Perth metropolitan region may also open on Sundays between 10am - 10pm, unless conditions on a specific licence state otherwise.
- b) Small Bar Licence - is a new type of hotel licence that permits the licensee to sell and supply liquor for consumption on premises only, to no more than 120 patrons at any one time. A small bar is permitted to trade during the same general trading hours as a hotel licence, but the sale of packaged liquor is prohibited. Small bar licensees will also have the same right as hotel licensees to apply for extended trading permits to seek permission to trade during longer hours. Applicants for a small bar licence will have to demonstrate that their application meets public interest test criteria and comply with Local Government Planning requirements.
- c) Liquor without a meal permits for restaurants - restaurant licensees can apply to apply to serve liquor without a meal to 100 per cent of their patrons as opposed to previous conditions which only allowed licensees to serve liquor without a meal to 20 per cent of their customers.

The ability for restaurant licensees to serve liquor to 100 per cent of their patrons is not an automatic right. Licensees will have to apply to the licensing authority for an extended trading permit to do so. The applications must also be advertised within the licensees' local community.

If granted a permit, a licensee will have to operate within conditions designed to ensure the focus of the business is for the sale and supply of meals for consumption by patrons on the premises.

Note that any unconsumed portion of liquor that is purchased ancillary to a meal can be removed from the licensed premises by the purchaser. This is to allow customers not to feel obligated to consume all of the liquor that they purchase during their meal. Patrons cannot remove unopened liquor from a restaurant.

To ensure that the primary focus of a restaurant is the sale and supply of meals, conditions could include:

- Its kitchen to be open at all times that liquor is sold, and that the full menu is available;
- Liquor may only be consumed by patrons while seated at a table or a fixed structure used as a table;
- The sale of liquor can only be to patrons seated at tables by restaurant staff only;

- The restaurant must always be set up and presented for dining – tables and fittings must not be removed or relocated in order to create function areas or dance floors;
- It cannot be promoted or advertised as anything other than a restaurant.

A permit can be authorised for a maximum period of five years, and can be cancelled immediately if the licensing authority determines the permit is no longer in the public interest, or the licensee is found in breach of the conditions of the permit.

3. Security and Enforcement Provisions

- a. Enforcement -
 - i. The Director of Liquor Licensing, on receiving an application by the Commissioner of Police, may ban a person from being employed at a licensed venue, or from entering any licensed premises.
 - ii. Any person who is refused entry to, or has been removed from a licensed premise, will be required to vacate the immediate proximity of the venue, including the car park.
 - iii. By making the failure to vacate the proximity of a premises an offence, Police will be able to take immediate action and issue an infringement notice to an offender. Police will also be empowered to issue a 'move on' notice which requires the person to move beyond a specified distance within a certain time.
 - b. Security and Surveillance -
 - i. There is a requirement for all licensees to maintain an incident register to be available for inspection at any time.
 - ii. The authority of a local liquor accord has been enhanced by permitting the licensing authority to impose, vary or cancel any conditions on any licence at the written request of the parties to a liquor accord.
 - iii. The licensing authority will also be able to impose, vary or cancel any conditions on any licence at its own volition or at the request of a licensee.
 - iv. Changes to rules about crowd controllers to remove patrons from a licensed premises only when written permission has been granted by the licensee, which can be withdrawn at any stage. Crowd Controllers are also now recognised as employees of the licensee and are liable for offences under the Act.
 - c. Drunkenness - a person is 'drunk' if:
 - i. They are on a licensed or regulated premises; and,
 - ii. Their speech, balance, co-ordination or behaviour appears to be noticeably impaired; and
 - iii. It is reasonable in the circumstances to believe that their impairment results from the consumption of liquor.
-

The onus of proof that a person wasn't drunk lies with the person charged with the offence.

- d. Approved Managers on Premises - it will now be mandatory for an Approved Manager to be present on all licensed premises during trading hours. The Director of Liquor Licensing will also have the discretion to waive or modify the requirement for an approved manager to be present on licensed premises at all times, if a licence's individual circumstances warrant it such as licence type, the location of the venue and the manner in which liquor is supplied to the public.

4. Mandatory Industry Training

- a. Overall - Any person engaged in the sale, supply and service of liquor on licensed premises must complete responsible service of alcohol training. All licensees and approved managers must undergo training in Western Australia's liquor laws as well as responsible service of alcohol training.

Bar staff are required to undertake an approved course in responsible service of alcohol, which is expected to include CD and web-based training provisions.

Licensees are required to maintain and make available to an inspector a register that contains each staff member's details including a copy of their training certificate. Staff members who were employed at licensed premises before 7th May, 2007 will have a period of 12 months to complete the mandatory training requirements. Staff employed after 7th May, 2007 will have four weeks from commencing their employment to complete the mandatory training requirements.

- b. Body corporates and clubs – where a licensee is a body corporate or a club, at least one company director or member of the management committee is required to undertake training in liquor laws and responsible service of alcohol. That person could also become the primary or principal 'Approved Manager'. Supervisory staff and bar staff will be required to undertake the training as explained above.
- c. Occasional licences - the licensee, approved manager and any person engaged in the sale, supply and service of liquor will be required to undertake an approved course in the responsible service of alcohol depending on the size and nature of the event.

The Director of Liquor Licensing has the discretion to waive this requirement and determine the level of training required on a case-by-case basis.

5. Other Reforms

- a. Communities - the licensing authority may impose, vary or remove restrictions on any licence at the written request of a liquor accord, or on its

own motivation. The Governor of Western Australia, on the recommendation of the Minister for Racing and Gaming, may create and impose restrictions on the supply, possession and consumption of liquor in any community in the State. The Minister can make recommendations to the Governor if satisfied that they are in the public interest, and only after consulting the Commissioner of Police, each local government authority within the region subject to the proposed restrictions, and any other person the Minister considers appropriate to consult.

- b. Special Events Provisions - the Minister for Racing and Gaming may declare an event a 'special event' which provides the Director of Liquor Licensing wide discretion when considering Extended Trading Permit (ETP) applications for licensed premises that are directly affected by the event.
- c. Provision of Drinking Water - all licensees will be required to provide potable drinking water for patrons to consume on the premises free of charge during trading hours.

The possible impacts of the changes are unknown, and are largely in response to matters that do not directly affect the Town of Claremont. However, it is considered that there are a significant number of positive aspects that the Town should consider favourably while at the same time monitoring developments.

Issues Affecting Development of a Strategy

While arguably licensing controls may have been relaxed somewhat, the requirements of the Department of Racing, Gaming and Liquor in terms of application of public interest tests and other new measures appear to strike a reasonable balance. Over the long term it is not unreasonable to expect a significant improvement in reducing the negative impact liquor can have on some communities.

Licensed premises in the Town of Claremont do not appear to have had a significantly negative impact in comparison with other communities. Most appear to be reasonably well managed, and the Town is active in terms of monitoring patron numbers and behaviour.

As such, it is not considered that the Town should adopt a restrictive or combative approach to liquor license applications. There are several outlets that the Town may wish to encourage redevelopment or moving the business towards a different focus, but in general providing the situation continues to be reasonably well managed, it is considered that there is no need for restrictive measures (in as much as the Town is able to in relation to licensed premises).

Recommendations need to be focussed on matters that the Town is able to influence in a practical manner.

The Town already has a number of initiatives in place to help manage the impact of licensed premises. Many are interrelated and complement each other – it is important not to consider one aspect or facet in isolation. Similarly, it is pointless to introduce a requirement if the resources required to implement it do not exist or it requires an inordinate amount of attention in relation to other matters confronting the Town.

In general, it is considered that the impact of the new liquor licensing legislation can be best dealt with by using existing initiatives that the Town already has in place or underway. They appear to have worked well and the existing licensed premises within the area appear to pose less problems than those elsewhere. Other initiatives could be introduced over time depending on results.

A description of what is already in place and suggested changes is as follows.

Town Planning Scheme 3

As required under the Town Planning and Development Act 1928 (now the Planning and Development Act 2005), the Town of Claremont has a district planning scheme that prescribes what types of activities may be undertaken on various land parcels within the Town. It sets out certain zones within the Town and specifies various purposes to which land in those zones may be used for, with and without specific approval.

In general, the Scheme will need amendment to recognise the new liquor licensing requirements. In particular, amendments to deal with applications for a 'small bar' as

defined by the Liquor Control Act 1988 and Regulations 1989 will be necessary, particularly as the current Scheme only recognises 'Hotel' and 'Tavern' at present. Section 40 of the Liquor Control Act requires a local government to issue a certificate that the zoning for the area in which a liquor licence is sought allow that type of use, and the Town will not be able to issue s40 certificates for 'small bars' until it is amended.

This is a common problem with many local government Schemes and while the WA Planning Commission has suggested that application of clauses of the Model Scheme Text (see WAPC Bulletin 85, Sept 2007) will overcome the problem, this is not the case with Claremont's Scheme. Clause 14(5) states:

"If a particular use is not mentioned in the list of Use Classes in Table No. 1 or is not included in the general terms of any of the Use Classes that use shall be deemed to be prohibited"

In terms of seeking an absolute prohibition or restriction on the number of licensed premises using zoning controls or Planning Policy, note that there are a significant number of restrictions and controls placed on local governments in preparation of what are now known as 'local planning schemes' under Part 5 of the Planning and Development Act 2005. Part 9 of that Act also allows the Minister for Planning to direct a local government to amend its Scheme for consistency with a Region Scheme.

In general, modifications to a Scheme require approval of the Minister. The Town may wish to seek advice on this issue, and while it will depend on the merits of a proposal, any proposed amendments to the Towns Local Scheme that seek to unduly restrict the types of licensed premises that the new liquor control legislation is seeking to encourage may well be refused.

However, given the recommendations of the Town's Community Safety Plan and the Town Centre Review (see comments below) it appears logical that the Town would want to encourage a number of lower impact licensed premises in its district.

Arguably, management of licensed premises and their potential effect is not the Town's responsibility. It is considered that the Town should not become involved in attempting to regulate how many licensed premises should be allowed or exactly where they should be located. There are a significant number of factors that may also affect this outcome:

- Market forces such as customer numbers and levels, competition from other areas, and the desire of landlords and tenants generally to maximise returns from assets such as property will determine viability of outlets and their maximum number
- The Licensing legislation in itself will create a number of barriers to entry such as the cost to comply with licensing regulations, including registers, staff training, and management plans

- Exactly how individual premises are managed and how patrons conduct themselves
- Actions of other regulatory bodies
- The overall approach used will send a signal to the business community as to the attractiveness of Claremont as a place to invest

At the same time though, the Town will be expected to comment on, and issue section 40 compliance certificates for applications that may be made to establish licensed premises. Residents and businesses in the vicinity of 'nuisance' licensed premises will expect the Town to take issue on their behalf.

It is considered that on one hand, the Town should not raise expectations that it is able to control issues that it cannot but on the other, should have in place mechanisms that at least allow it to influence the operation of licensed premises. The existing Licensed Premises Working Party provides a platform for this level of influence, and comments about its use and operation to actively monitor the situation are made below.

A Claremont Town Centre Plan was prepared in February 2004 by Taylor Burrell Barnett Town Planning and Design in association with Halpern Glick Maunsell, Plan E and Overman Zuideveld. It recommended a number of changes to the current Scheme in relation to the Town Centre. The recommendations have not been formally included in the Scheme but appear to have been used to guide development in the Town Centre, such as the recently approved Clough and Multiplex projects.

Whilst done in an earlier context and without the knowledge of future changes to liquor licensing legislation, in terms of land use principles the Study recommended that mixed use residential uses be encouraged in the core, but seek to carefully manage the inter-relationship between 'non-compatible' uses such as nightclubs. This study recommended that the zoning table for land uses within the Town Centre be modified so that Hotel/Tavern become a 'X' use (ie prohibited) as opposed to the current 'SA' and that restaurant become a 'P' use (is permitted) as opposed to the current 'AA' (may be approved if not detrimental to the amenity of the area).

In addition, the Town's Community Safety and Crime Prevention Plan of May 2006 (see also comments below) recommended that the Town encourage a mix of types of licensed premises within the area 'with perhaps 2 or 3 venues that attract older people'.

As such, it is recommended that the Scheme be amended to include a definition of 'small bar'. Council will need to decide as a matter of good planning principles as to exactly where it would be prepared to allow 'small bars', but given the recommendations from the above studies it is suggested that this could be:

- Confined to the Town Centre area only, given the potential impact on residential uses in close proximity in other commercial areas outside the Town Centre

- Used as part of measures to encourage redevelopment of any existing non-compatible uses such as the existing nightclub or to reduce the size of the Claremont Hotel (if seen as a problem).

Furthermore, in terms of ‘restaurant’ use, the suggested change to a ‘P’ use may need to be reviewed in light of the changes to the liquor licensing legislation and the potential for restaurants to obtain ‘liquor without a meal’ permits. It is recommended that while the use of ‘restaurant’ as a ‘P’ use in the Town Centre zone may be appropriate, retention of existing controls for proposed restaurant uses in commercial areas outside the Town Centre be retained.

The required changes could be made as an amendment to the Town’s existing Scheme or as part of a wider review. A wider review, which appears well overdue will take a number of years to complete.

An amendment would take less time but will not address the ‘big picture’ of the overall age of the Scheme. It is beyond the scope of this report to recommend which direction is the most appropriate as it will also depend on other demands on the Towns resources.

Whichever approach is used, the Scheme will be need to be reviewed or amended to take into account the broadened provisions of liquor licensing legislation. As well as the Town Centre issues to be addressed, additional matters could be:

- To ensure that the definitions applied in relation to exactly what activities may be carried on reflect the new liquor licensing regime, in particular ‘restaurants’ (which in many cases have liquor licenses at present but which may wish to extend them to ‘liquor without a meal’ permits to take advantage of new rules), whether or not a separate definition is required for ‘café’, and ‘fast food outlet’;
- Whether in some instances allowable uses in areas that have a ‘recreation’ or ‘higher education’ zoning might be to permit the sale and/or consumption of liquor to cater for sporting clubs or universities;

Community Safety and Crime Prevention Plan

Adopted in May 2006, this document recommends a number of broad initiatives. While it is difficult for the Town to directly control behavioural issues such as crime, graffiti or anti social behaviour, in adopting the Plan the Town is demonstrating that it is doing what it can reasonably do to influence positive outcomes and deal with those issues that it can influence or control.

In relation to liquor licensing, the Plan suggests encouraging a mix of types of licensed premises within the town centre that attract a mix of people, particularly older patrons. In itself, this would add support to the changes to liquor licensing legislation such as allowing small bar establishments or allowing restaurant patrons to drink without having to also buy a meal.

The other elements of the Plan that relate to liquor licensing in relation to alfresco dining, street patrols etc are dealt with below.

Information Requirements from Applicants for s39 and 40 Certificates

In general, it is recommended that as well as normal requirements relating to building design and the like, the Town request liquor licensing applicants to provide the information that they will have to do so to the Department of Racing, Gaming and Liquor as part of a Public Impact Assessment for a liquor license as part of the process to allow it to issue the required certificates.

Appendices 1 – 3 detail requirements that the Department of Racing, Gaming and Liquor requires addressing, but to which the Town could add the following:

- Floor area and numbers of people proposed to be catered for on the premises in compliance with the Health (Public Buildings) Regulations 1992
- Noise Abatement and attenuation measures proposed to control of music and noise coming from the venue as well as the provision of air conditioning details to remove the need for open doors which may contribute to noise transfer or any other matter required under the Environmental Protection (Noise) Regulations 1997
- Parking provision in compliance with the town planning scheme provisions
- Details on proposed location and details of signage
- Details of use of Council property or footpaths sought as part of any alfresco dining application (see below as well)
- Commitment to the Western Accord and to attend meetings of the Licensed Premises Working party if a liquor license is eventually approved. While the Town is not able to make this a condition of approval, attendance or otherwise by the Licensee could assist the Town if it needs to make a case to revoke a license or change conditions in the event of future problems.

Alfresco dining

The Community Safety and Crime Prevention Plan recommends allowing alfresco dining to encourage passive surveillance of public areas (note that this can be from private as well as public spaces). Council Policy DS25 provides for use of footpaths and areas under the Towns care control and management for alfresco dining, subject to conditions, including acceptance by nearby residents and operation being restricted to 7.30am to 8.30pm if within 100m of a residential zone.

While the Town has a current budget for \$5,300 for income from alfresco licensing fees, only one license was issued for 2007. There is clearly more than one in the Town at

present. While this indicates operators may be trading illegally, many probably have an expectation of a renewal notice being sent by the Town before expiry. Recommendations with respect to records and data systems are made later in this report.

It is recommended that the alfresco dining Policy be reviewed to determine:

- If existing conditions are appropriate in terms of encouraging Alfresco dining as recommended by the Community Safety and Crime Prevention Plan. The following comments are noted:
 - Each new application is required to be approved by Council itself, and authority to transfer or renew a license is delegated to the Town's Principal Environmental Health Officer but a proposed refusal must be determined by Council. In terms of encouraging alfresco dining, the approval process is considered to be too onerous and inefficient in relation to the relatively small amount of license fee income and the Town's objectives. If an application clearly complies with the requirements of the Policy then the CEO should be given delegated authority to approve applications under s5.42 of the Local Government Act (who may then delegate this power to any other employee under s 5.44).
 - The Policy does not deal with s9.1 – 9.9 of the Local Government Act, which allows a person whose application under a local law has been refused or permit revoked the opportunity to appeal to Council or (where the decision is made by Council) for review by the State Administrative Tribunal.
 - Similarly, the 'approval procedure' as detailed under part 4 of the Policy could be reviewed. It is considered that a trial period is unnecessary, but to balance this the CEO (or designate) be given delegated authority to suspend alfresco permits until a breach has been rectified or revoke licenses of those who have on the (say) third occasion of a breach of the conditions of the permit while noting that the affected party has the right to appeal to Council under s9.1 of the Act.
 - The advertising requirements seem onerous and it is questionable as to whether or not they produce any meaningful feedback.
- While not addressed by the current Policy, if the Town will also allow 'liquor without a meal' in alfresco areas (see also comments below regarding the Town's 'Activities in Thoroughfares and Public Places' local law)
- If any alfresco license conditions need to be varied to reduce operating times to ensure compliance with the Policy as a result of approval of residential development within the Town Centre area, or conversely if the present 8.30pm limit within 100m of a residential area is appropriate in terms of providing passive surveillance of footpath areas.
- If alfresco areas could be eventually added to 'small bar' licensed areas.

On balance, given the above points it is considered that in the case of restaurants, there is no reason why an alfresco dining area on a thoroughfare under the Town's care, control and management should not operate in the same manner as the adjoining premises.

However, given the residential development occurring in the Town, and for reasons of public amenity generally, it is recommended that the Town not allow areas of adjoining footpaths and the like to be added to licensed premises where the use is for a small bar, hotel or nightclub. This is in effect ‘street drinking’, and would have a negative effect overall.

If the Town is of a mind to allow restaurants who have ‘liquor without a meal’ licenses to extend this to alfresco areas, then it is recommended that it also applies similar conditions to those that will apply to the rest of the restaurant area to ensure that the alfresco area does not become a de facto bar. This will require liaison with the applicant and the Department of Racing, Gaming and Liquor but conditions likely to be imposed in the balance of the restaurant that could also apply to the alfresco area should include:

- The restaurant kitchen to be open at all times that liquor is sold to patrons in the alfresco area, and that the full menu is available;
- Liquor may only be consumed by patrons while seated at a table or a fixed structure used as a table;
- The sale of liquor can only be to patrons seated at tables by restaurant staff only;
- The alfresco area while in operation must always be set up and presented for dining – tables and fittings must not be removed or relocated in order to create ‘talk’ spaces, function areas or dance floors;
- The alfresco area cannot be promoted or advertised as anything other than being part of a restaurant.

If the Town decides to continue a requirement to advertise applications for alfresco dining permits, then it is also recommended that it waives its requirement to do so if an application from a restaurant for an alfresco dining permit is also advertised along with the advertising undertaken as part of a Public Impact Assessment for a liquor license application for the adjoining premises.

‘Breakout’ Areas on Town Property – under the WA Tobacco Products Control Regulations 2006, there is a general prohibition on smoking in enclosed public places. To deal with this, some licensed premises have established ‘breakout’ areas where smokers may also consume liquor. In some cases, due to property configurations, licensees seek to establish these areas on footpaths or adjoining public property.

While it is not possible for the Town to prevent persons smoking in unenclosed public places, there are two reasons why it may wish to control this type of behaviour:

1. Patrons temporarily leaving licensed premises in order to smoke may also try to take drinks onto streets and public places; and
2. Areas used by smokers tend to be littered with ash and/or cigarette butts.

In general, it is recommended that the Town not support establishment of ‘breakout’ areas on Town property as this encourages the appearance of street drinking and the spill over of patrons from licensed premises into public areas, as well as creating litter and unsavoury stale cigarette odour.

While outside the scope of this report, as an observation smokers outside licensed establishments can still create a nuisance without engaging in street drinking. In these cases, a pragmatic approach to smoking in public areas should be considered. While smoking is not a habit which the Town should encourage if persistent problems are caused by ash and/or discarded cigarette butts in public areas, then licensees should be encouraged to place ashtrays and clean these areas, or encourage smokers to do so in areas that while possibly also public, may have less of an impact.

Some local authorities are in the process of introducing amendments to local laws or to introduce a condition of alfresco dining permits that smoking not be permitted. There are a considerable number of issues here; not the least of which is enforcement of the provision. This is a new and relatively difficult area to deal with and as such it is recommended that the Town not seek to prohibit smoking in alfresco areas at present, but wait and watch developments in other areas.

Street Patrols

The Community Safety and Crime Prevention Plan made a recommendation to introduce a service to ensure that intoxicated people do not wander the streets.

Other local governments have provided security patrols, which tend to be aimed at assuring community confidence. The benefits versus costs need careful consideration - Council funded patrols also have the effect of increased resident expectations in relation to law and order issues and will tend to have a ‘drawing in’ effect on the Town into issues that it is not equipped or resourced to deal with.

In addition, the Town does not have the power to detain persons or enforce a provision that intoxicated persons do not wander streets, which are Police matters.

To provide a 24 hour a day, 7 day per week service, a minimum of 5 patrol persons are required, the cost of which would be approximately \$425,000 pa plus any ‘one off’ costs such as communication systems.

A full examination of the positives and negatives of this matter is beyond the scope of this report and without exhaustively dealing with the positives and negatives, if introduced a street patrol service is likely to be more effective where a set of clear objectives are established. In relation to Claremont if introduced, this could entail:

- Times of operation restricted to those of greatest demand and the area restricted to ‘hotspots’, probably limited to the town centre area. This could reduce the cost.
- Simply maintaining a street presence to discourage intoxicated persons from creating a disturbance;

- Directing persons to areas where parking or public transport is available;
- Calling Police if required;
- Monitoring damage to Council property and infrastructure;
- Monitoring compliance with alfresco license conditions;
- Monitoring noise levels;
- Providing regular reports to meetings of the Western Accord and the Town's Licensed Premises Community Group; and
- Observing possible breaches of liquor license conditions and reporting them to the Department of Racing, Gaming and Liquor.

As this stage, it is not clear if such a service is warranted in either the wider Claremont area or the Town centre in terms of licensed premises and the situation should be monitored. If considered appropriate, this issue could be considered as part of a wider area promotion scheme (see later in this report).

In the meantime though, some ongoing monitoring of licensed premises is required and the results recording and reported to the Town's Licensed Premises Community Group. Further comment on this is also made later in this report.

Centralised Transport Hub

The Community Safety and Crime Prevention Plan recommended provision of adequate transport able to be accessed from a single, centralized position in the town centre.

From the point of view of licensed premises being able to direct patrons to public transport, and encouraging them not to linger in the area, this is a logical thing to support.

However, public transport and routes used are not directly under the Towns control. It is noted that while reasonably well provided in relation to other parts of the Perth metropolitan area, public transport in Claremont is not provided from a single, centralized position – buses use Stirling Highway on the southern end of Claremont town centre, the Claremont Train station is at the northern end, and a (subsidized by existing licensed premises) secure taxi rank is in Bay View Terrace (north end). Council and privately owned parking is dispersed throughout the area.

While this is an issue not easily resolved, it is recommended that as a long term objective, the Town adopt a strategy to centralise public transport at a suitable location in the Town Centre, most likely the Claremont train station. This could be undertaken if and when the area around the station is redeveloped to include bus/taxi spaces and could be complemented by:

- Re-routing all bus services to the area to 'loop into' the Station from Stirling Highway
- Providing very well lit, clearly delineated and maintained pedestrian routes to the Station

- Publicising these routes via street signs such as a ‘transport trail’ series of markers, posters in licensed premises or any others
- Promotional initiatives such as free bus/train tickets to patrons or diners
- Close liaison with Railway Police to ensure a presence at the Station and monitoring of the bus and taxi areas during busy periods

Further comment about this is made later in the report.

Building Design and Noise Attenuation

An initiative suggested by the Community Safety and Crime Prevention Plan was that buildings be designed to reduce incidence of crime wherever possible. The Plan gave links to resources and web sites that explain a number of design principals and ideas suggested which should be applied generally to buildings that may be subject to incidence of crime, especially buildings used for commercial purposes. While beyond the scope of this report, it appears that the Town has not implemented this recommendation.

In the short term, it is recommended that the list of resources compiled to assist in ‘designing out’ crime as compiled in the Community Safety and Crime Prevention Plan be at least added as courtesy information to any application forms or guidelines accompanying planning development approval applications or building licence applications. In the longer term, it is recommended that the Town investigate amendments to the BCA or its Planning Scheme to require developers and builders to demonstrate application of these principles. This would be of interest to the wider community as well as Town residents.

In terms of licensed premises, there is also benefit in looking at both the premises where noise may emanate from, and those in close proximity. Current noise abatement legislation rightly places the onus of responsibility on the source of noise to reduce or contain it. This should continue. However, the precise position in terms of any noise containment measures that might be imposed as part of a liquor license application is unclear. While a building may comply with the requirements of s39 of the Liquor Control Act, noise attenuation measures do not appear to be currently included in the matters to be addressed, and which Agency might impose them, before a license can be granted.

The Department of Racing, Gaming and Liquor has wide discretion to impose conditions and as such it is recommended that the Town open discussions with the Department with a view to imposing a mandatory requirement for applicants to provide acoustic reports and proposed noise attenuation measures in cases where applications or requests for renewal of liquor licenses are made for:

- Hotels and nightclubs
- Small bars
- Liquor without a meal permits where the total seating capacity is (say) 120 persons or more

- All licensed premises where it is proposed that amplified music is proposed to be played

With respect to licensed premises, problems typically occur with respect to noise from patron, kitchen or servicing (deliveries and rubbish removal), air conditioning units, ventilation or extractor fans, rubbish compactor or disposal units. The noise may not exceed prescribed limits; however this will not stop nearby residents complaining to the Town, and consuming time and effort pursuing issues.

It is therefore recommended that the Town consider requiring applicants to provide acoustic consultants reports detailing how they intend to deal with noise protection for proposed new residential developments in proximity to licensed premises (within say 100m) and in the 'town centre' zone or 100m of it. While this will primarily involve insulation between individual tenancies within a development, possible strategies such as thickened glass and walls, floors and ceilings will logically provide some measure of protection from external noise as well.

It is far easier to impose these requirements 'up front' than to attempt to deal with complaints (justified or not) after developments have been completed and occupied by permanent residents. The experience of other local governments in East Perth and Subi Centro indicates that new residents tend to have a low tolerance level of the noise produced in typical commercial areas and any measures the Town can impose now to deal with noise generally, not simply from licensed premises, will stand it in good stead for the future.

This may need to be subject to detailed consideration but while increasing construction costs, as a strategy in the long term will help to prevent a large number of complaints from being made in the first place.

Local laws relating to Activities on Thoroughfares and Public Places, and Local Government Property Local Law

These local laws of the Town prescribe what activities are permissible in streets, thoroughfares and the Town's property. In relation to liquor licensing, in essence they provide that a person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare or when on local government property unless permitted under the Liquor Licensing Act 1988 or under another written law; or the person is doing so in accordance with a permit. This does not apply where the liquor is in a sealed container.

The Liquor Licensing Act has now been amended to allow patrons to take with them any unconsumed portion of liquor that is purchased ancillary to a meal. This is to allow customers not to feel obligated to consume all of the liquor that they purchase during their meal. Patrons cannot remove unopened liquor from a restaurant. While the local laws are subject to the Act and would be over ridden by them, both may need amendment to deal ensure that there is no confusion in regard to 'sealed containers'. A duly authorised Council representative will only be able to determine if an unopened container

of liquor was purchased ancillary to a meal by asking the person concerned or by closely observing the individual concerned.

Whilst this may seem problematic, in practice it is rare for local government staff or representatives to become greatly involved as any problems usually arise where the persons concerned are intoxicated and are best dealt with by Police who are properly trained to do so. As such, it is recommended that requirements regarding 'sealed containers' be removed from the Local Law. Provisions regarding consumption of liquor on thoroughfares would still apply.

The 'property' local law also provides that a person who is under the influence of liquor may not enter or remain on local government property. Again, in practice it is rare for local government representatives to become involved and this provision is typically enforced by Police, but in any event it would be wise to change to the definition of 'drunk' to reflect the Liquor Control Act provisions.

Sporting Clubs

In order for a sporting club to obtain a liquor license, the requirements of the Liquor Control Act must still be adhered to, including s39 and 40. The Town's Local Government Property Local Law allows it to impose conditions and the like for leases and users of Council property.

In relation to sporting clubs and licensed premises, action required would not be as high a priority as other areas but it is recommended that the Town review the application of the new legislation in terms of its own facilities (leased or otherwise) with a view to:

- Deciding if its Scheme will allow a liquor license on property zoned 'recreation' as this may affect sporting clubs that may sell liquor to patrons or other members,
- Drawing attention to Clubs as to new licensing law requirements, in particular requirements in relation to responsible service of alcohol,
- Deciding if needs to impose any particular requirements in relation to casual users of hired facilities and liquor licences,
- Deciding if it wishes to impose any particular requirements as 'landlord' in terms of times of day/week for liquor licenses,
- Consider circumstances under which it might seek to have license revoked,
- Setting an example in terms of designing out crime and noise attenuation modifications needed to building premises.

Liaison Meetings

The Town hosts a number of useful community groups and liaison meetings such as:

- Town Safety Committee
- Claremont Business Liaison Committee
- Licensed Premises Community Group

The Licensed Premises Community Group (LPCG) is well placed to monitor the impact of licensed premises post establishment. As with all Committees, this Group is likely to be effective if it has useful information and is comprised of persons or representatives with some responsibility and authority. It will need to be actively managed in order to be successful.

Similarly, information required from each representative should be collected and circulated in meeting agendas at least a week before the meeting to allow attendees to read it and make informed comments. Minutes should clearly state who is responsible to take action about a particular issue, and the outcomes followed up for reporting to a future meeting. Membership should be comprised of persons who are able to make a practical contribution.

The following representatives and roles are recommended:

Organisation	Representative	Role and Comments
Licensed premises	Licensee	The meeting should be 'two way', so that licensees be given the opportunity to make positive suggestions to improve the amenity of the area as well as hear suggestions to improve operation of their businesses.
WA Police Service	OIC of Claremont Police Station	Report statistics in relation to: <ol style="list-style-type: none"> 1. 'Move on' orders issued 2. Intoxicated persons wandering streets 3. Trends evident from licensed premises events registers 4. Complaints about anti social behaviour emanating from licensed premises
Public Transport Authority	<ol style="list-style-type: none"> 1. Railway Police 2. Transport Planning section 	<ol style="list-style-type: none"> 1. Use of Claremont Station, issues observed 2. Statistics about patronage of buses, taxis in area and ideas to improve 3. Redevelopment of Station and/or bus routes
Town of Claremont	<ol style="list-style-type: none"> 1. Health 2. Ranger services 3. Infrastructure 	<ol style="list-style-type: none"> 1. In the absence of any other willing to do so, the Town will have to provide administrative support in terms of venues (although this should be rotated), agendas, minutes and action lists. 2. Results of premise inspections in terms of overcrowding, noise complaints, suggested attenuation measures. 3. Parking issues 4. Area maintenance issues, lighting, footpath or proposed road improvement works 5. Dissemination of information and ideas 6. Report concerns and trends to Council for

		possible applications to vary, cancel or revoke licences to DRGL.
Department of Racing, Gaming and Liquor	Licensing Policy Branch representative	<ol style="list-style-type: none"> 1. Ideas from other areas that may have had a positive impact 2. New licenses issued in the area (who should then be invited to attend meetings) 3. Trends observed for Claremont and comparisons with other areas 4. Results of inspections of licensed premises

If it considers it to be of benefit, it is recommended that the LPCG request the Department of Racing Gaming and Liquor to brief it about the changes to legislation and how others may have dealt with issues in a proactive manner. It will also give the LPCG the opportunity to provide feedback on the application of the new laws.

It is also recommended that the Department of Racing, Gaming and Liquor be requested to provide the Town with a copy of applications it has approved and in particular the conditions attached. While the Town is not able to enforce those conditions, it may be in a position to report any breaches, and as such assist in preventing major problems. The information should be kept in the relevant file for the property concerned.

In general, it is recommended that the LPCG be as open as possible in its proceedings - there is no reason why issues related to specific premises cannot be discussed.

Trends or issues that may be of interest could be referred to the other liaison groups listed above.

The Western Accord

The Western Accord commenced in October 1997 as an agreed Code of Practice involving all local licensed premises operators, the Western Australian Police Service, the Towns of Cambridge, Claremont, Cottesloe, Mosman Park, and Vincent, the City of Nedlands, the Shires of Peppermint Grove and Subiaco, the Department of Health, Western Australia, Liquor Licensing Division representatives, other relevant agencies and the community. Its establishment was the first step towards the implementation of a code of conduct for licensed premises within the Western Accord.

The purpose of a Code of Practice is to establish a range of positive and effective community-based harm reduction strategies aimed at reducing crime and violence stemming from the excessive consumption of alcohol within the western suburbs. Harm reduction strategies include measures that reduce the impact on local residents of activities on licensed premises (such as temporary increases in venue density).

A representative of the Town regularly attends Western Accord meetings. Continued participation is recommended as it will allow the exchange of ideas and information of benefit to both the Town and other participants.

It is also recommended that the Town request the Department of Racing, Gaming and Liquor to require applicants for liquor licenses in the Town to commit to the Western Accord.

Periodic Inspections

It is recommended that the Town develop a formal inspection regime with respect to licensed premises. The Town currently undertakes an annual inspection of premises listed under the Health (Public Buildings) Regulations 1992 and random counts for over crowding.

Issues to look for will generally be compliance with building codes, permit, license or approval conditions set down by the Town. This should include those imposed by all areas of operation of the Town - Planning, Building and Health, Rangers plus observations about any conditions imposed by the Department of Racing, Gaming and Liquor that the Town may be aware of.

The frequency of inspection should relate to the intensity of the business and the potential for problems. It should also vary by time of day but coincide with periods of greatest activity. Frequency should be stepped up where past breaches have occurred or complaints received. The time of day for inspection should coincide with busiest periods. Unfortunately, this will almost always be after normal working hours and will most certainly be resented by licensees.

Inspections should cover as many separate issues as possible and as a minimum, any conditions relating to food premises, public buildings (over crowding, fire escapes, sanitary requirements, etc) and alfresco dining permits should be dealt with in a single inspection.

In itself, this requires developing and refinement over time, but the basis for an inspection regime could be:

Type of Licensed Premise	Suggested frequency of regular inspection	Issues to look for
Nightclub	Monthly	<ul style="list-style-type: none"> • Compliance with planning, building and health permit or license conditions • Patron numbers exceeding licensed limit. • Street drinking. • Is there any litter, broken glass, or other rubbish emanating from the premises apparent in the vicinity? • Ineffective noise abatement measures – doors propped open, windows or vents opened, cooling systems turned off.
Tavern/Hotel	Monthly	
Small Bar	Every 2 months	
Restaurant – Liquor Without a Meal	Every 2 months	
Restaurant – ‘normal’ liquor license	Quarterly	

Other licensed premises – sporting clubs, university taverns	Bi annually	<ul style="list-style-type: none"> • Patrons not seated in ‘liquor without a meal’ restaurants, tables removed or pushed aside in alfresco areas. • Adequate access through alfresco areas by members of the public <p>Issues that the Town cannot itself enforce but when undertaking inspections, should record observations about:</p> <ul style="list-style-type: none"> • Has a restaurant area has been inadvertently turned into a ‘small bar’ by patrons? • Availability of free water for patrons • ‘Approved Managers’ on the premises • Register of training undertaken by Bar staff • Register of incidents maintained by licensee • Any concerns about apparently drunk patrons continuing to be served alcohol • Behaviour of patrons at closing times or when leaving the area
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Awareness amongst licensees of the mere fact that the Town will undertake inspections will assist in raising compliance levels. The Town should be as open as possible about the types of things it will look for – even making available its checklists or circulating them via meetings of the Licensed Premises Working Party.

Prior to inspection, Town staff will need to familiarise themselves with any license or permit conditions. Comments in relation to the need for centralised record keeping are made below.

It is suggested that some types of inspections be made with 2 staff members. In particular checks for over crowding will benefit if counts are made by 2 persons and the results are disputed by the licensee. Other tactical matters like the use of a digital camera to record observations, and high visibility ‘Town of Claremont Health Inspection’ vests will increase impact.

At least one joint inspection per year of selected or problematic premises should be undertaken jointly with Department of Racing, Gaming and Liquor staff and/or Police. The results should be presented to the Licensed Premises Working Party.

The burden of inspections will most likely fall on Town Health staff. However, staff from Building, Planning and Rangers should also accompany them on inspections, and over time may build up the necessary expertise to undertake lower level inspections without the need to be accompanied by a Health Surveyor.

Recording Information

It will be important to ensure that good records are kept that so that any trends can be monitored and give the Town reasonable prospects to convince the Department if it believes any changes to license conditions, either generally or in relation to particular properties should be pursued.

The Town contains a relatively small number of properties. Local government services tend to be property related, and while beyond the scope of this report, establishment and maintenance of a primarily property based records system should not be beyond its capability. The basis of a sound information system for local government operations typically revolve around property based records that can be shared between various sections of the Town’s administration rather than each keeping their own records by subject.

It is recommended that as a rule records be kept by property, with a single file for each property. This will facilitate sharing of information from various parts of the organisation about conditions, applicable permits etc. Maintenance of an adequate inspection regime in the absence of this system will be more difficult.

It is noted that the Town is in the process of commissioning a new IT system. As well as normal permit and license issuing modules, in relation to liquor licenses, it is recommended that consideration be given to place various ‘flags’ on those properties that are subject to a liquor license, and record what type of license has been granted.

Similarly, building license conditions relating to noise containment or attenuation measures could also be listed, as could other matters like alfresco dining permits and conditions.

The system should have an expiry or ‘bring up’ facility so that staff can log required future actions before they become urgent. This would then allow the Town to generate renewal notices an alfresco permit or generate a list of issues to be examined at a future inspection.

It would also be useful to flag those properties that may fall within the Town Centre zone by use so that investigations into the impact of a possible special area rate or service charge for security measures or area promotion can be readily assessed, or that particular uses (eg residential) could be excluded. It will also make formulation of inspection regimes far easier to pull together.

In addition, to allow future assessment of licensed premises, it would be useful if properties could be displayed spatially showing (say) licenses by type. A suggested impact ‘order’ could be:

Nightclub, Hotel or Tavern	High
Small Bar	Medium
Restaurant ‘Liquor Without a Meal’	Medium

License	
Restaurant, sporting club	Low

Area Promotion or Tourism Precinct

The Town could consider establishing the Town Centre as a tourism precinct. The practical effect of this is that retail outlets may allowed by the WA Department of Employment and Consumer Protection (DOCEP) to open from 8.00am to 7.00pm Monday to Thursday, 8.00am – 9.00pm Friday, 8.00am to 5.00pm Saturday and 12 noon to 6.00pm on Sunday.

In terms of licensed premises, this may have a limited effect, as the DRGL takes into account if the area is a tourism precinct and may adjust opening hours for the licensed premise accordingly.

Other local governments have used their ability to levy Special Area Rates under s6.37 of the Local Government Act to fund promotion of commercial areas that may be fragmented by multiple ownership. The success of these schemes vary, and implementation is undertaken either directly by the local government or the funds are donated to the business community via a specially formed association or company.

Clearly, strong support from the local business community is required before implementation of an additional rates. As tenants inevitably pay Council rates as part of their lease agreements, care should be taken to ensure their support is also gauged as well as property owners.

In terms of licensed premises, if the Town does decide to attempt to reduce the number of ‘large’ establishments in its Town Centre (as recommended by the 2003 Town Centre Study) or encourage establishments that may appeal to older clientele (as recommended by the Community Safety and Crime Prevention Plan) which could be one way of differentiating Claremont from other regional centres, with promotion via the proceeds of the Special Area Rate.

There are only 121 properties in the Town Centre zone, with a total Gross Rental Value of just over \$14M. In order to set up an area promotion scheme that could compete against other similar types such as ‘Pro Subi’, it is considered that a sum of at least \$180,000 or an average of \$1500 per rateable property (on top of other rates and charges) would be required.

This charge is relatively high and would not be likely to be favourably received. Unless the Town has strong support from the business community, and the political will, and/or the means to subsidise an area promotion scheme, the relatively small number would seem to fall short of a critical mass required.

In terms of controlling or monitoring liquor licensing, this issue would have little effect unless the Town decided to use the new laws as a means to differentiate Claremont from other areas. However, given the difficulty of getting acceptance of such a scheme and the

likely resistance, it is recommended that the Town not implement this initiative in relation to liquor licensing, but consider it for the longer term while gauging interest via the liaison committees listed above.

Parking Issues

In relation to licensed premises, the propensity for patrons to cause annoyance to residents in the vicinity when arriving or leaving car parks in the area can be significant and a difficult issue to resolve. This mainly occurs immediately after closing times, and is often late at night on a 'rest' day (ie weekend) which further exacerbates the frustration caused to residents. Patrons do not necessarily have to be disorderly or intoxicated; often the noise factor alone of farewells, car horns, engines etc is enough to create annoyance. This type of behaviour is almost impossible to control by the Town.

On one hand, good planning principles would dictate that parking areas be provided on the edge of commercial areas so that the need for cars to enter shopping areas dominated by pedestrians is minimised.

On the other, adjoining areas in the town of Claremont tend to be residential. Parking areas tend to be built at grade (ie ground level) and the Town's own car park off Leura Avenue is possibly a good example of this.

It was noted earlier in this Report that other studies recommend provision of adequate transport able to be accessed from a single, centralized position in the town centre. In terms of licensed premises, this would also be effective in terms of drawing patrons away from residential areas and would seem logical and should be supported. It would also make it easier for licensees to refer patrons to a single point.

Any relocation or centralisation of parking facilities could only be logically accommodated around the Claremont Train station.

It is recommended that this situation should be monitored. A number of initiatives should be implemented including requiring residential buildings in the vicinity of car parks to have noise protection measures built in at the time of construction, as well as consideration of patron noise issues in car park design.

While peripheral to liquor licensing matters, with the influx of residents into commercial areas of the Town, demand for concessions for residents and their visitors with respect to parking restrictions may arise. If considered necessary, consideration could be given by the town to a residents and visitors permit scheme. The parameters would depend on exactly what concessions could be given. It is recommended that this simply be noted at this stage and monitored.

Conclusions

Compared to others, the Town does not appear to have major difficulties with licensed premises at present. If properly managed and monitored, there is no reason to believe that the situation with respect to new licensing laws will change this.

Liquor licensing is not directly controllable by the Town, but it is able to exert some influence. Providing the measures suggested in the new liquor licensing legislation in terms of management plans, staff training and public impact assessments and other measures are fully implemented by the Department of Racing, Gaming and Liquor, it is considered that the Town does not need to consider major restrictive control measures via its Scheme.

As such, this Strategy is centred around seizing the opportunities that changes to liquor licensing provides in terms of potentially differentiating commercial, business and entertainment areas of Claremont from other competing regional centres, as well as their use in working towards achieving the aims of the Town's Crime and Safety Plan aimed at introducing a variety of licensed premises in the Town Centre, and the objectives of the Town Centre Review in encouraging redevelopment of potentially non compatible uses such as nightclubs.

In terms of 'liquor without a meal' permits for restaurants, again providing the premises are properly managed and do not drift into becoming small bars, there is no reason to object to extension of liquor licenses.

In doing so though, introduction of a well managed and appropriately resourced monitoring regime is necessary to ensure the undesirable aspects of licensed premises operations do not significantly adversely affect the amenity of the area. This should be coupled with other measures such as installation of noise abatement measures on premises that emit noise, as well as noise attenuation to ensure residential properties in and close by the Town Centre Zone in particular are insulated from noise as well.

There are a number of other peripheral issues relating to parking, public transport, record keeping, and the like that while not directly related to licensed premises, can also have an impact and should also be dealt with.

Appendices

1. Department of Racing, Gaming and Liquor - Public Interest Assessments
2. Department of Racing, Gaming and Liquor - Small Bar Application Kit
3. Department of Racing, Gaming and Liquor - Liquor Without a Meal Application Form
4. Other Local Government Policies regarding Alfresco Dining and 'Breakout' Areas
5. Proposed Policy for the Town of Claremont Licensed Premises Strategy
6. Other Local Government Policies regarding Extended Trading Permits
7. Other Local Government Policies regarding Town Planning Schemes and Liquor Licensing
8. Other Local Government Policies regarding Crime Prevention and Graffiti
9. Other Local Government Policies regarding Parking and Cash in Lieu