



Victorian Commission for Gambling and Liquor Regulation

Liquor licensing fact sheet

Maximum patron capacity

The Victorian Commission for Liquor and Gambling Regulation (VCGLR) has a maximum patron capacity policy that guides how patron capacity is determined for a liquor licence.

Maximum patron capacity is the maximum number of patrons allowed on a licensed premises at any one time. This is to prevent overcrowding inside the venue and to minimise impacts on local amenity. Patron capacity may be used to calculate the annual licence fee payable by each licensee.

Applicants will be required to provide specific documentation in order for the VCGLR to determine and endorse maximum patron capacity for a premises.

Under the *Liquor Control Reform Act 1998* the VCGLR can set a maximum patron capacity as a condition of a liquor licence. This is enforceable, and penalties apply for licensees who do not comply.

Which licences have a maximum patron capacity?

Maximum patron capacity will be endorsed in respect of applications for the following new licences:

- general
- on-premises
- restaurant and cafe
- late night (on-premises and general)
- full club
- restricted club.

Some existing licences may also be endorsed with maximum patron capacities.

Maximum patron capacities may also be required on some major event licences where appropriate.

What documents need to be provided?

One of the following three documents is required in order to determine the maximum patron capacity:

- the most recently issued planning permit which contains a maximum patron capacity or
- a copy of an occupancy permit showing a prescribed patron capacity or
- a report from a registered building surveyor that states:
 - the area in square metres available to the public for the whole of the internal premises (excluding toilets, passageways and the like) and (if applicable) for any external areas such as courtyards or decks and
 - the number of patrons that may be accommodated on the internal premises and (if applicable) on any external areas of the premises based on a ratio of one person per 0.75 square metres and
 - the number of patrons that may be accommodated based on the Building Code of Australia. Please ensure that the report displays the building surveyor registration number.

Note: The VCGLR may request a building report from a registered building surveyor showing a calculation based on a ratio of one person per 0.75 square metres if the VCGLR considers that the capacity provided in the planning or occupancy permit is inaccurate or inappropriate.

Restaurant and cafe licences

For restaurant and cafe licences, tables and chairs must be available for at least 75 per cent of patrons. For example, if the licence states that maximum patron capacity is 100 patrons then there must be tables and chairs available for at least 75 patrons. Likewise, if there are tables and chairs available for only 50 patrons, a maximum of 66 patrons may be legally accommodated on the premises.

External areas

The overall maximum patron capacity for a licensed area is generally no larger than the maximum capacity allowed for the internal area of the premises.

This is to prevent overcrowding, sanitation and fire safety risks associated with patrons moving from outdoor to indoor areas, for example, to get a drink, to exit the premises or if it rains.

In some circumstances, the VCGLR may consider increasing the overall maximum patron capacity to allow for external areas.

Applicants with external licensed areas who wish to apply for this increase can submit a building report from a registered building surveyor demonstrating that fire safety and sanitation arrangements for the additional patrons will meet the requirements of the Building Code of Australia.

Features of an external area that may support an increase to the overall maximum patron capacity include:

- an external area that is large compared to the internal area, such as a large beer garden
- effective weather proofing
- separate entrances and exits
- separate facilities such as bars and toilets.

Function and accommodation areas

Function and accommodation areas may be excluded from the overall maximum patron capacity, and may be given their own separate capacity limits.

Patron capacity for specific areas

In addition to the overall maximum patron capacity for the licensed area, the VCGLR may set separate patron capacities on specific areas within a licensed area, such as:

- balconies
- terraces and courtyards
- beer gardens.

Patron capacities allocated for specific areas are calculated in accordance with the methods listed above, as well as amenity considerations.

While the VCGLR considers amenity as part of the patron number calculation, the relevant local council also retains responsibility for managing issues of amenity in each council region.

How do capacities on a liquor licence relate to other patron limits?

It is a condition of a licence that the maximum patron capacity specified on the liquor licence must not be exceeded. The VCGLR will make every effort to ensure that the maximum patron capacity is the same or lower than the limit prescribed on the planning or occupancy permit. However, the building owner is responsible for ensuring that building occupants comply with all regulatory and other requirements.

This publication avoids the use of legal language. Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation. Authorised by the Victorian Government.