

52.28 GAMING

52.28-1 Restricted area - no permit required

No permit is required to install and use a gaming machine in a restricted area if that area does not exceed 25 per cent of the gross floor area of the premises where liquor may be consumed.

The gross floor area where liquor may be consumed does not include bedrooms, external drinking and dining areas, service areas, kitchens, area behind bars, storage areas, administrative areas, lifts, stairs, ramps, escalators, corridors, hallways, lobbies, service ducts, plant rooms and toilets.

52.28-2 Restricted area - no permit required - strip shopping centres

Despite clause 52.28-1, if a restricted area is located in a hotel or club in a strip shopping centre –

- (aa) specified in clause 52.28-6(aa) or
- (ab) to which clause 52.28-6(ab) applies-

no permit is required to install or use a gaming machine in a restricted area provided all of the following requirements are met.

- (a) If the hotel or club existed on 19 December 1997:
 - (i) the floor area of the restricted area must not exceed 25 per cent of the gross floor area of the premises where liquor may be consumed as at 16 June 1998, and
 - (ii) the restricted area must be located on the land used as a hotel or club on 16 June 1998.
- (b) If the hotel or club existed on 19 December 1997 and
 - (i) if a permit to use or develop alterations and extensions to that hotel or club is in force on 16 June 1998 in relation only to the whole or part of the land used as a hotel or club on 19 December 1997, and
 - (ii) if a residential licence, general (class 1) licence or club licence (whether full or restricted) under sections 46, 47 or 48, respectively, of the Liquor Control Act 1987 has been granted on or before 16 June 1998 or a determination to grant such a licence has been made on or before 16 June 1998 in relation to those alterations and extensions:
 - (iii) the floor area of the restricted area must not exceed 25 per cent of a combination of the gross floor area of the premises where liquor may be consumed as at 16 June 1998 and any increase to that gross floor area approved in or under the permit at 16 June 1998, and
 - (iv) the restricted area must be located on the land used as a hotel or club on 16 June 1998.
- (c) If the hotel or club existed on 19 December 1997 and
 - (i) if a permit to use or develop alterations and extensions to that hotel or club is in force on 16 June 1998 in relation to the whole or part of the land used as a hotel or club on 19 December 1997 together with adjoining land not used as a hotel or club on 19 December 1997; and
 - (ii) if a residential licence, general (class 1) licence or club licence (whether full or restricted) under sections 46, 47 or 48, respectively, of the Liquor Control Act 1987 has been granted on or before 16 June 1998 or a determination to grant

such a licence has been made on or before 16 June 1998 in relation to those alterations and extensions:

- (iii) the floor area of the restricted area must not exceed 25 per cent of a combination of the gross floor area of the premises where liquor may be consumed as at 16 June 1998 and any increase to that gross floor area approved in or under the permit at 16 June 1998, and
 - (iv) the restricted area must be located on the land being a combination of the land used as a hotel or club on 16 June 1998 and the land to which that permit relates.
- (d) If the use as a hotel or club started after 19 December 1997 and is land to which clause 52.28-6(b) applies:
- (i) the floor area of the restricted area must not exceed 25 per cent of the proposed gross floor area of the premises where liquor may be consumed approved in or under the permit in force at 16 June 1998, and
 - (ii) the restricted area must be located on the land to which the permit in force at 16 June 1998 for the hotel or club relates.
- (e) If the use as a hotel or club started after 19 December 1997 and is land to which clause 52.28-6(c) applies:
- (i) the floor area of the restricted area must not exceed 25 per cent of the proposed gross floor area of the premises where liquor may be consumed approved in or under a permit in force at 16 June 1998 for the re-building of the former hotel or club, and
 - (ii) the restricted area must be located on the land to which the permit in force at 16 June 1998 for the hotel or club relates.

In this clause, 'gross floor area of the premises where liquor may be consumed' excludes the same floor areas excluded from the expression 'gross floor area where liquor may be consumed' in clause 52.28-1.

52.28-3 Restricted area - permit required

A permit is required to install or use a gaming machine in a restricted area if the requirement is not met and the installation and use of one or more gaming machines is not otherwise permitted under the scheme.

This requirement applies even if gaming is ancillary to another use of the land.

No permit may be granted if the restricted area is in a hotel or club in a strip shopping centre-

- (a) specified in clause 52.28-6(aa) or
- (b) to which clause 52.28-6(ab) applies.

52.28-4 Unrestricted area - no permit required

No permit is required to install and use a gaming machine in an unrestricted area.

52.28-5 Gaming machines - prohibited in shopping complexes

Despite clauses 52.28-1 to 52.28-4 (inclusive), land described in the schedule to this clause must not be used for gaming and no gaming machine may be installed or used in any building on the land.

This does not apply to a part of the land in relation to which a permit granted to install or use a gaming machine in a restricted area is in force on 20 December 1995.

52.28-6 Gaming machines - prohibited in strip shopping centres

This clause does not apply in the municipal districts of Cardinia Shire, Delatite Shire and Golden Plains Shire.

Despite clauses 52.28-1, 52.28-3 and 52.28-4, no gaming machine may be used or installed in any building on land in a strip shopping centre –

- (aa) specified in the schedule to this clause, or
- (ab) in a municipal district in respect of which no strip shopping centre is specified in the schedule to this clause.

This does not apply to any of the following:

- (a) Land used as a hotel or club on 19 December 1997.
- (b) Land not used as a hotel or club on 19 December 1997 in relation to which:
 - (i) a permit to use or develop a hotel or club has been granted and is in force on 16 June 1998 and
 - (ii) a residential licence, general (class 1) licence or club licence (whether full or restricted) under sections 46, 47 or 48, respectively, of the Liquor Control Act 1987 has been granted on or before 16 June 1998 or a determination to grant such a licence has been made on or before 16 June 1998.

Despite the definition of ‘hotel’ and ‘club’ in clause 52.28-7:

- (A) no premises are deemed to fall outside the definition of ‘hotel’ in clause 52.28-6(b)(i) by virtue only of the fact that a residential licence or general (class 1) licence under sections 46 or 47, respectively, of the Liquor Control Act 1987 has not been granted in respect of the premises at the date the permit was granted, and
 - (B) no premises are deemed to fall outside the definition of ‘club’ in clause 52.28-6(b)(i) by virtue only of the fact that a club licence (whether full or restricted) under section 48 of the Liquor Control Act 1987 has not been granted in respect of the premises at the date the permit was granted.
- (c) Land not used as a hotel or club on 19 December 1997 if:
 - (i) the land was lawfully used as a hotel or club before 19 December 1997, and
 - (ii) all or part of the hotel or club was destroyed by fire between 1 September 1992 and 16 June 1998.
 - (d) Land in relation to which a permit granted to install or use a gaming machine in a restricted area is in force on 19 December 1997.

52.28-7 Definitions

In this clause and in clause 19.02:

“**club**” means land used by members of a club or group, or by members’ guests, for religious or cultural activities, entertainment or meetings, and in respect of which a club licence (whether full or restricted) under section 48 of the Liquor Control Act 1987 is in force.

“**hotel**” means land used to:

- sell liquor for consumption on and off the premises, in respect of which a general (class 1) licence under section 47 of the Liquor Control Act 1987 is in force, or
- provide accommodation in serviced rooms for persons away from their normal place of residence, in respect of which a residential licence under section 46 of the Liquor Control Act 1987 is in force.

“**strip shopping centre**” means an area:

- zoned for business use, and
- consisting of at least two separate buildings on at least two separate and adjoining lots, and
- in which a significant proportion of the buildings are shops, and
- in which a significant proportion of the lots abut a road accessible to the public generally,

but does not include the Capital City Zone in the Melbourne Planning Scheme.