CITY OF CAULFIELD

SUBJECT FILE

FILE No. 20/080/00022 — Part A

Opened: 17/12/80

SUBJECT: Liquor Control Act

Liquor, Control, Act,

8733300111A

(1) Folio No.	(2) Referred to	(3) Date Referred	(4) Actioning Officer's Initials	(5) Resubmit Date
1	MIS	17/12	hb	
	p/a.			✓
2	MHL	7-4-81		
	p/a.			✓
	CC	9/9.		
	C.M.	9/9		
	CC	14/9		
	MHL	14/9		
	C.C	25/9		
	MHL	22/10.		
4	C.M.	26.11.82.		
	M.H.L	29.11.82.		
5	cm	17/2/83		
	MHL	17/2/83		
6	CM	18/5/83		
	MHL	19/5/83		
7	cm.	22/7/83		
	DCM	25/7/83		
8	cm	30/9/83		
	MHL	4/10/83		
9	CM	25/10/84		
	MHL	25/10/84		
10	CM	31/1/85		
11	CM	10/4/85		
	MHL	16/4/85		
12	TP	11/6/85		
14	C. M.	25/3/86		
	MHL	25/3/86		
15.	C.M.	6/6/86		
16.	CM	28/7/86.		
	MHL	28/7/86		

(1) Folio No.	(2) Referred to	(3) Date Referred	(4) Actioning Officer's Initials	(5) Resubmit Date
17	MA	10/2/87.		
	MHL	10/2/87		
	TP	10/2/87		
18	TP	22/5/87		
20	CM	4.9.87		
21	CM	8.9.87		
22	CM	14-9-87		
	ES	15-9-87		
	MHL	15/9/87.		
26	CM	30.9.87		
	MHL	30/9/87		
28	MP.	9/6/88		

11083/P0001
29 AA7
3C41B7B0-F3C4-11E9-AE98-C7E1A26EBAA7
ZONE: LEVEL_2
RETURN SEQ: 047027000
V-AJ-018-03-08

FILE COVER INSTRUCTIONS

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CITY OF CAULFIELD

City of Caulfield

ACTION SHEET

File Number 20/086/00022

Precis of Subject Liquor Control / K O'Hare.

PT A Folio 34

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords
1. Deenesh & Co
2.
3.
4.
5.
6.

Date 30/3/89

Action Officer MP

ACTION TAKEN OR REQUIRED

Noted - AR

To note.

DTS.

Noted

FILE.

AFTER ACTION

(RM5)

Devenish & Co.

Barristers and Solicitors
Registered Tax Agents

Chris Cooper LL.B., B.Com.
John Scott-Mackenzie LL.B.
Kerry O'Hare LL.B.
Associates
Darryl Massie LL.B., B.Ec.
Peter Crawford LL.B.

Midway Arcade
145 Whitehorse Road,
P.O. Box 370,
Ringwood, 3134
DX: 38053 Ringwood
Telephone: (03) 879 1711

OUR REF: KO'H:DC
YOUR REF:

The Chief Executive Officer
City of Caulfield,
P.O. Box 42,
CAULFIELD 3162

16th March, 1989



ATTENTION: MR. DOUGLAS AYLEN

Dear Mr. Aylen,

RE: Liquor Control Act 1987

We write to introduce both our firm Devenish & Co., Solicitors of Ringwood and the recent employment of Mr. R.J. Hannah, formerly a Senior Officer in Charge of the Police Liquor Licensing Bureau at the Liquor Licensing Commission, in the hope that at some future date we may be of assistance to your Council.

Mr. Hannah is experienced in carrying out investigations and preparing reports on all facets of licensing law which we believe, on past experience in this field, could be of considerable assistance to both the Council and the Commission.

We are, therefore, prepared to have Mr. Hannah consult with any members of your Council to outline the benefits of his expertise and to further advise you in relation to our firm's involvement in licensing law.

Please feel free to contact either Mr. Hannah or Mr. O'Hare of the abovementioned address.

Yours faithfully,
DEVENISH & CO.

Per:
Enc.

DEVENISH & CO.
BARRISTERS & SOLICITORS

Telephone: (03) 879 1711

KERRY O'HARE

FAX: (03) 879 2789

Midway Arcade,
145 Whitehorse Road,
Ringwood, 3134

The firm of Devenish & Co. Barristers & Solicitors have an established sound practise in licensing law and procedures. It is presently our intention to engage an additional expert in this area and we have secured the services of Chief Inspector R.J. Hannah, formerly the Senior Officer in charge of the Victorian Police Licensing Bureau attached to the Liquor Licensing Commission.

Prior to taking charge of the Bureau, Mr. Hannah was a Licensing Inspector for a number of years. His extensive experience in conducting complex investigations, preparing reports on which prosecutions could be handled and knowledge of the administration of the Commission will be utilised for the benefit of our clients.

The introduction of the new Liquor Control Act in May, 1988 has undoubtedly created significant legal and community interest, and increasing responsibilities on local government. Under the new Act, Council staff will be required to undertake duties for which they have had little training or experience.

It is our view and, we understand, that of experienced staff at the Liquor Licensing Commission that the combination of the increased number of licences granted and increasing public awareness will lead to a significant increase in the level of complaints from members of the public relating to the conduct of licensed premises. In turn, this increase will lead to a significantly higher level of Council involvement in licensing issues.

It is in this specific area that Mr. Hannah brings great expertise and he would be available to Councils to carry out sensitive and

confidential investigations into licensing applications and provide reports to Councils which can be relied upon to support any Council application in proceedings before the Liquor Licensing Commission. In addition, Mr. Hannah supported by our legal staff would appear before the Commission in these matters on behalf of the Council.

Mr. Hannah is available to provide advice on the following matters:

1. Investigation and preparation of reports or complaints from residents and community interests relating to the general conduct of the licensed premises.

2. Preparation of reports on applications for new licences and variations of existing licences particularly as to how the application affects the community interest.

3. Preparation and lodging of <u>objections</u> to the grant of new licences and the continued operation of existing licences where the community interest is seen to be affected.

4. Provide advice to enable Councils to carry out the range of statutory requirements imposed on Local Government by the Liquor Control Act 1987.

5. Conduct seminars and short courses for Local Government Officers on licensing law.

Our staff would be pleased to give any advice and assistance as to the requirements of the Liquor Control Act and the Liquor Licensing Commission. We are grateful of past co-operation given to us by your Departments of Town Planning, Health and Building.

City of Caulfield

ACTION SHEET

File Number: FILE: MP.
20/080/00022

Precis of Subject: Re: Powers of Delegation

PT A Folio 32

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Date
5/12/88.

Action Officer
MP

STAT P.

ACTION TAKEN OR REQUIRED

Noted

To report to E.S. in Feb.

AFTER ACTION

File

(RM5)

City of Sandringham

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE TOWN CLERK
P.O. BOX 27, SANDRINGHAM, 3191
DX 34108 SANDRINGHAM
FAX: 598 4474
TELEPHONE: 598 8111
ENQUIRIES TO:

Municipal Offices,
Royal Avenue,
Sandringham, 3191

FIELD
-5 DEC 1988
Officer File
Letter No.

Mr D Walmsley
TP:TB:213
c:powerdel.dw

Dear Sir/Madam

30th November 1988

RE: LIQUOR CONTROL ACT 1987
POWERS OF DELEGATION

Council recently considered legal advice concerning the lack of any power for a municipality to delegate its powers under the Liquor Control Act.

Briefly, the Act makes requirements of Councils often within statutory time limits. For a Council to fulfill its responsibilities within these time limits special meetings will often be required as the time limits will not always coincide with Council meetings. In most legislation such as the Local Government Act and the Planning & Environment Act there is a specific power for Councils to delegate but without this, delegation of Liquor Control matters could be considered ultra vires.

A power of delegation is needed not only to facilitate the administrative arrangements under the Act but also to protect the ability of all Council's to make representation on the community interest and to protect the amenity of residential areas.

I have included a copy of this council's letter to the Minister for Industry, Technology & Resources, the Hon Evan Walker and seek your Council's support for an amendment to the Liquor Control Act.

Yours faithfully

G C Barrow
CITY ENGINEER

All Councils
(as addressed)

City of Sandringham

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE TOWN CLERK
P.O. BOX 27, SANDRINGHAM, 3191
DX 34108 SANDRINGHAM
FAX: 598 4474
TELEPHONE: 598 8111
ENQUIRIES TO:
Mr D Walmsley
TP:TB:197
c:powerdel.dw

Municipal Offices,
Royal Avenue,
Sandringham, 3191

Dear Mr Minister

30th November 1988

RE: LIQUOR CONTROL ACT 1987
POWERS OF DELEGATION

I raise a matter of concern Council has regarding the lack of delegation powers under the Liquor Control Act.

The Act came into effect in March this year providing a new system of administration and application procedures. The Act has an increased dependence upon local government in determining the adequacy of applications and likely effects on the amenity of areas within their municipalities. It provides procedures for Council to express their view which are all dependent upon strict time limitations. Significantly the Act relies upon "The Council" forming views and making representations to the Liquor Licensing Commission.

Under most legislation (e.g. Planning and Environmental Act 1987; Local Government Act) specific provision is made to enable Councils to delegate its powers, responsibilities and functions to its officers by way of Council resolution and usually a deed authorising the terms of delegation.

Council's legal advice is that no such provision is made under the Liquor Control Act. The only exception being the Act's consequential amendment of the Planning & Environment Act (S.55A).

The effect therefore is that all matters requiring action by a Council must be done by the Council itself and will require if need be special meetings of Council. This affects a number of sections of the Act but most importantly Council's power and responsibility to make representations to the Liquor Licensing Commission on the community interest (S.74). Given the time restrictions under the Act within which Councils must act, the lack of delegation power jeopardizes the ability of all Councils to make representations on behalf of the community interest and to protect the amenity of residential areas.

/2...

It is respectfully suggested that a way to remedy this is by an urgent amendment to the Act to provide a power of delegation and provide for more realistic time limits. I also refer you to the Municipal Association of Victoria submissions to your predecessor which raised other areas of concern about the Act and the necessity for its amendment to overcome the drafting errors, omissions and, with hindsight the administrative and procedural problems being experienced by local government.

Council raises this matter with you on a constructive basis to improve the working of the legislation and to overcome the deficiencies that are now apparent. This seems opportune given your Government's recent introduction of the Liquor Control (Amendment) Bill to Parliament which could address this and any other procedural or minor amendments to the Act.

Yours faithfully

G C Barrow
CITY ENGINEER

Hon E Walker MLC
Minister for Industry, Technology & Resources
DX 21
MELBOURNE

copy to: Shadow Minister for Industry, Technology & Resources
Hon Marie Tehan MLC
Parliament House
MELBOURNE

The Hon David Evans MLC
National Party Spokesman on Industry, Technology & Resources
Box 447
WANGARATTA 3677

Local State Members

File MP

City of Caulfield

ACTION SHEET

File Number 20/080/00022

Precis of Subject Re; Co-Ordinating Council

PT A Folio 31

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

1. _____
2. _____
3. _____
4. _____
5. _____
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Date 22/11/88

Action Officer

Leo

ACTION TAKEN OR REQUIRED

E Hotel 23/11

AFTER ACTION

SRO File

(RM5)

LEGISLATIVE COUNCIL

PARLIAMENT HOUSE
MELBOURNE, VIC. 3002

TELEPHONE 651 8911

CITY OF CAULFIELD
22 NOV 1988
Officer
File
Letter No.

16th November, 1988.

Mr. D. Aylen,
City Manager,
City of Caulfield,
Hawthorn Road,
Caulfield 3162.

Dear Mr. Aylen,

You may be interested to read the attached letter which I have received from the Minister for Industry, Technology and Resources.

The question I asked arose out of a request by the City of Sandringham to the Hon. Robert Fordman in April last.

I hope that the contents of the letter are satisfactory to you and that a consensus may be reached on the appointment of a suitable representative for Local Government.

Yours sincerely,

Geoffrey P. Connard MLC,
Member for Higinbotham Province.

SUITE 2, MEDIBANK BUILDING, 42 STATION ROAD, CHELTENHAM, 3192. TELEPHONE: 584 3036

MINISTER FOR
INDUSTRY, TECHNOLOGY
AND RESOURCES

228 VICTORIA PDE, EAST MELB. VIC. 3002
P.O. BOX 173, E. MELBOURNE 3002, AUSTRALIA
TELEX AA151746 FAX 61-3-4198496
TELEPHONE (03) 412 8333

F0593 B

15 NOV 1988

The Hon. Geoffrey P Connard, MLC
Member for Higginbotham Province
Parliament House
MELBOURNE Vic 3002

Dear Mr Connard

In the Adjournment Debate in the Legislative Council on the 31st October 1988 you raised the issue of a Municipal representative on the Co-Ordinating Council which is to be established under the Liquor Control Act 1987.

I will be making recommendations to the Governor-in-Council for appointments to this Council in the very near future based on nominations received from a wide range of organisations as specified in the Act.

I am pleased to advise that I am recommending to the Governor-in-Council that the person to be appointed to the Council, with the special knowledge of matters affecting residential amenities, should be a local government representative. The person recommended for appointment will be from nominations received from the Municipal Association of Victoria and the Metropolitan Municipal Association.

I would hope to announce the appointments to the Council in the very near future.

Yours sincerely

EVAN WALKER, MLC
Minister for Industry, Technology and Resources

City of Caulfield

ACTION SHEET

FILE: MP.
File Number
20/080/00022

Precis of Subject Re: Notice of Motion

PT ...A... Folio 30

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords
1. _____
2. _____
3. _____
4. _____
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6. _____

Date
15/11/88.

Action Officer

TP

ACTION TAKEN OR REQUIRED

Noted AR

AFTER ACTION

file.

(RM5)

CEO

LEGISLATIVE COUNCIL

PARLIAMENT HOUSE, MELBOURNE, VIC. 3002 Ph. 057 21 3710 TELEPHONE 651 8911

DAVID M EVANS MLC

Electorate Office
Faithful Street
P O Box 447
WANGARATTA 3677

10th November 1988

The Town Clerk
City of Caulfield
P.O. Box 42
CAULFIELD Vic 3162

CITY OF CA...
15 NOV 1988
Officer File
Letter No.

Dear Sir,

LIQUOR CONTROL ACT (1987).

The Liquor Control Act (1987) has made substantial changes to the licensing of premises and the sale and availability of alcohol. A number of persons and organisations, including Municipal Councils, have expressed concerns at the operation of certain of it's provisions.

The National Party believes that it would be reasonable to initiate a debate in the Parliament of Victoria, which in effect would give the Parliament an opportunity to review the current operations of the new Act, discuss deficiencies, and suggest where amendments might take place.

For that reason, I have moved the following Notice of Motion:

"This House expresses it's concern at the operation of the Liquor Control Act (1987), and believes that there is an urgent need for clarification, review and amendment."

I would anticipate that this Notice of Motion will be debated in the Autumn Session of Parliament, and I write now to your Council to invite comment.

The Minister for Industry, Technology and Resources, Hon. Evan Walker, who administers the Liquor Control Act, is Leader of the Government in the Legislative Council, and it is therefore appropriate to debate the issue in that forum.

Some amendments to the Liquor Control Act are due to be tabled in Parliament shortly, but they do not address all the issues.

Your comments will be greatly appreciated.

Yours sincerely,

David M. Evans MLC
National Party Spokesman on Industry, Technology and Resources.

City of Caulfield

ACTION SHEET

Precis of Subject Re: New Issues

File Number

20/050/00022

PT A Folio 28

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

1. _____
2. _____
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Date

9/6/88

Action Officer

MP

ACTION TAKEN OR REQUIRED

Dated AR.

AFTER ACTION

LIQUOR LICENSING
COMMISSION

8th June, 1988

Mr. D.R. Aylen
City Manager
City of Caulfield
P.O. Box 42
SOUTH CAULFIELD 3162

CITY OF CAULFIELD
-9 JUN 1988
Officer File
Letter No.

ATTENTION: TOWN PLANNER

Dear Sir/Madam,

The Liquor Control Act 1987 was proclaimed on the 3rd of May, 1988, replacing the 1968 Act. The new Liquor Act amended the Planning and Environment Act to establish the Liquor Licensing Commission as the referral authority for any question arising under a planning scheme in respect of premises for which a liquor permit or licence may be sought.

In order to carry out its responsibilities as a referral authority, the Commission has appointed two town planners to its staff. They are John Bruce and David Kirkland who can be contacted by telephone on (03) 4126637 or (03) 4126636 respectively.

John and David are available to advise on, and work through with you, problems or questions arising from planning schemes, particularly as they apply to licensed premises.

Several issues which are causing concern to Council planners have already been identified.

The first relates to whether "development only" applications need be referred to the Commission. Sections 55A(1) and (2) of the Planning and Environment Act refer to "... the use ..." of premises or land. If an application involves only development, (i.e. buildings and works) then it need not be referred. Applications involving use and development, change of use or new uses must all be referred pursuant to Section 55.

232 VICTORIA PARADE EAST MELBOURNE 3002
TELEPHONE (03) 4126666 FACSIMILE (03) 4161107
GPO BOX 4304 MELBOURNE 3001

If you have any doubts as to whether a town planning application should be referred to the Commission, please discuss it with John or David.

Section 55A(4) of the Planning and Environment Act requires a responsible authority to decide an application within 30 days of receiving it, unless the Liquor Licensing Commission gives an extension. If you have difficulties in complying with this provision of the Planning and Environment Act, please seek an extension of time when you refer the application.

For your information I have enclosed with this letter a copy of the amendment to the Planning and Environment Act, made by the Liquor Control Act.

The new Liquor Control Act is an exciting and challenging government initiative and we at the Liquor Licensing Commission look forward to working closely with you to achieve the objectives of the Act.

Yours sincerely,

Erik B. Hopkinson
CHIEF EXECUTIVE OFFICER

PART 9—AMENDMENT OF PLANNING ACTS

Amendment of *Planning and Environment Act* 1987.

176. (1) After section 55 of the *Planning and Environment Act* 1987 insert—

Liquor Licensing Commission.

"55A. (1) The Liquor Licensing Commission under the *Liquor Control Act* 1987 is the referral authority with respect to any question that arises under a planning scheme relating to the use of premises primarily for a purpose in respect of which a licence or permit may be sought under the *Liquor Control Act* 1987.

(2) A responsible authority must give a copy of each application for a permit authorising the use of any land or premises for a purpose referred to in sub-section (1) to the Liquor Licensing Commission without delay unless the applicant satisfies the responsible authority that the Liquor Licensing Commission has—

(*a*) considered the proposal for which the application is made within the past three months; and

(*b*) stated in writing that it does not object to the granting of the permit for the proposal.

(3) The Liquor Licensing Commission may, within the prescribed period after receiving the copy of the application, notify the responsible authority in writing that it needs more information.

(4) The responsible authority must decide on the application within 30 days, or such longer period as the Liquor Licensing Commission allows, after the responsible authority receives the application.".

(2) After section 82 of the *Planning and Environment Act* 1987 insert—

Appeal by Liquor Licensing Commission.

"82A. The Liquor Licensing Commission under the *Liquor Control Act* 1987 may appeal to the Planning Appeals Board against a decision of a responsible authority—

(*a*) to refuse to grant a permit relating to the use of premises primarily for a purpose in respect of which a licence or permit may be sought under that Act if the Commission told the responsible authority that it did not object to the grant of the permit; or

(*b*) to grant such a permit if the Commission objected to the grant; or

(*c*) to grant such a permit subject to conditions that were not specified by the Commission.".

(3) In section 99A of the *Planning and Environment Act* 1987, for "Planning Appeals Board" substitute "Administrative Appeals Tribunal".

Division 5—Grant, Variation, Transfer and Removal of Licences and Permits

Application for grant of licence or BYO restaurant permit.

63. (1) A person who is—

(*a*) a natural person of or over the age of 18 years; or

(*b*) a body corporate—

and is not disqualified under this Act or a corresponding previous enactment from holding a licence or permit under this Act or that enactment may apply to the Commission for the grant of a licence or a BYO restaurant permit.

(2) An application must be in a form approved by the Commission and—

(*a*) if the application is made by a natural person, signed by that person; or

(*b*) if the application is made by a body corporate, under seal or, if the body corporate does not have a seal, signed by not less than two directors of the body corporate or, if there is only one director, by that director.

(3) The application must specify—

(*a*) whether the application is for a licence or a BYO restaurant permit; and

(*b*) if the application is for a licence—the type of licence sought; and

(*c*) any terms or conditions sought in relation to the licence or permit; and

(*d*) the name, address and date and place of birth—

(i) if the application is made by a natural person—of that person; or

(ii) if the application is made by a body corporate—of each director, secretary, manager and executive officer of the body corporate; and

(*e*) if the applicant is a proprietary company—the name and address of, and the number of shares in the company held by, each member of the company; and

(*f*) if the applicant is a body corporate—the date and place of incorporation of the body corporate and the address of its registered office or, if it is not incorporated in Australia, the address of its chief office in Australia; and

(*g*) the address of the premises or proposed premises in respect of which the licence or permit is sought; and

(*h*) such other matters as are prescribed or are determined by Order of the Governor in Council.

(4) If a change occurs in the particulars specified in the application in accordance with sub-section (3) (*d*) or (*e*) or in an address referred to in sub-section (3) (*f*), the applicant must, within 14 days after the change occurs, give to the Registrar notice in writing signed by the applicant or, if the applicant is a body corporate, by a director of the body corporate specifying particulars of the change.

(5) The application must be accompanied by—

(*a*) copies of plans of the premises to which the application relates showing to the satisfaction of the Commission the area or proposed area of the licensed premises; and

(*b*) either—

(i) a copy of a permit issued under the relevant planning law or, in the case of a vehicle, vessel or aircraft, a permit, licence or other authority issued under any relevant law permitting the premises to which the application relates to be used as licensed premises; or

(ii) an application, in accordance with the relevant planning law or other law, for such a permit, licence or other authority, together with any fee payable in respect of the application; or

(iii) evidence to the satisfaction of the Commission that such a use is otherwise authorised under the relevant planning law or other law; and

(*c*) a certificate from the Metropolitan Fire Brigade or the Country Fire Authority specifying its requirements if the premises to which the application relates were to be licensed premises; and

(*d*) either—

(i) copies of any relevant certificates of registration or reports required under the *Health Act* 1958 relating to the use of the premises to which the application relates as licensed premises; and

(ii) applications in accordance with that Act for those certificates, together with any fees payable in respect of the applications; and

(*e*) if the applicant is not the owner of the premises to which the application relates—evidence to the satisfaction of the Commission of—

(i) the applicant's right to occupy the premises; and

(*f*) particulars of any conviction of the applicant or, if the applicant is a body corporate, of any director, secretary, managing director or executive officer of the body corporate for an offence under this Act or any corresponding previous enactment or any law of any other place relating to liquor licensing; and

(*k*) the fee prescribed for applications of that kind; and

(*l*) a statement giving all available particulars to enable the Commission to estimate—

(i) in the case of an application for a producer's or distributor's licence (other than a licence for a vigneron)—the probable extent of the annual sales of liquor under the licence; and

(ii) in the case of an application for any other licence (except a producer's or distributor's licence granted to a vigneron)—the probable extent of the annual purchases of liquor for sale and disposal under the licence.

(6) If the Commission requests an applicant for a licence or permit to give any other information, the applicant must comply with the request.

Application for grant of extended hours permit.

64. (1) A person who—

(*a*) applies to the Commission under section 63 for a licence; or

(ii) the owner's consent to the granting of the licence or permit; and

(*f*) if any building work is proposed to be carried out on the premises to which the application relates—

(i) evidence to the satisfaction of the Commission that any necessary permits or authorities for that work are likely to be granted; or

(ii) applications in accordance with the relevant planning law or any other law for those permits or authorities, together with any fees payable in respect of the applications; and

(*g*) if the applicant is a body corporate—a copy of the certificate of incorporation; and

(*h*) if the applicant proposes to carry on business under a business name—a copy of the certificate of registration of the business name; and

(*i*) if the application is for a club licence—a copy of the rules of the club and evidence to the satisfaction of the Commission of the authority of the applicant to make the application on behalf of the members of the club; and

(*b*) is a licensee—

may apply to the Commission for an extended hours permit in respect of the licensed premises or any authorised premises.

(2) The application must be in a form approved by the Commission and must specify particulars of—

(*a*) the periods in respect of which the extended hours permit is sought; and

(*b*) the purposes for which the permit is sought; and

(*c*) the premises in respect of which the permit is sought; and

(*d*) any terms or conditions sought in relation to the permit; and

(*e*) such other matters as are prescribed or are determined by Order of the Governor in Council.

(3) The application must be accompanied by—

(*a*) copies of plans to the satisfaction of the Commission of the premises to which the application relates; and

(*b*) the prescribed fee.

(4) If the Commission requests an applicant for an extended hours permit to give any other information, the applicant must comply with the request.

(5) Before an extended hours permit is granted, the Chief Executive Officer must consult with the council of the municipality within which the licensed premises or authorised premises are situated.

(6) In considering an application under this section, the Commission must have regard to—

(*a*) any matter raised by the council of the municipality within which the licensed premises or authorised premises are, or are to be, situated; and

(*b*) the impact on the amenity of the community.

Application for variation.

65. (1) A licensee, permittee, licensing inspector or the Chief Executive Officer may apply to the Commission for the variation of a licence or permit or extended hours permit by—

(*a*) the amendment or revocation of a term or condition; or

(*b*) the addition of a term or condition.

(2) An application under sub-section (1) must—

(*a*) be in a form approved by the Commission; and

(*b*) be signed by the applicant or, if the applicant is a body corporate, be under seal or, if the body corporate does not have a seal, be signed by not less than two directors of the body corporate or, if there is only one director, by that director; and

(*c*) state the name and address of the applicant; and

(*d*) state the address of the premises to which the application relates; and

(*e*) give details of the variation sought; and

(*f*) if the applicant is the licensee or permittee, be accompanied by either—

(i) a copy of a permit issued under the relevant planning law or in the case of a vehicle, vessel or aircraft, a permit, licence or other authority issued under any relevant law permitting any proposed variation to the use of premises to which the application relates; or

(ii) an application, in accordance with the relevant planning law or other law, for such a permit, licence or authority, together with any fee payable in respect of the application; or

(iii) evidence to the satisfaction of the Commission that the variation is permitted or otherwise authorised under the relevant planning law or other law; and

City of Caulfield

ACTION SHEET

Precis of Subject Re: Current Planning Issues

File Number 20/080/0002Z

PT A Folio 27

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Date 2/5/08

Action Officer

ACTION TAKEN OR REQUIRED

FILE

HOME

AFTER ACTION

(RM5)

MUNICIPAL ASSOCIATION OF VICTORIA

Address all correspondence to the Secretary
468 ST. KILDA ROAD, MELBOURNE 3004
P.O. BOX 7082, 416 ST. KILDA ROAD, MELBOURNE, 3004
Dial for Local Govt. News (03) 11636

PHONE: 267 5266
DX 30569 SOUTH MELBOURNE
FAX: (03) 267 8310

File 84/449 1459P

19th April 1988

FAXED 21/4 &
LETTER POSTED CJ.

Dear Minister,

Thank you for attending our luncheon and brief meeting on 7th April 1988, to discuss current planning issues.

For your information, please find enclosed a copy of a memorandum on the issues discussed, and general recommendations to ensure that further progress is maintained.

1. **Residential Development Provisions**

   It was acknowledged that you were awaiting the recommendations of the Task Force prior to making further comment but we appreciated the discussion.

2. **Review of the Relationship in Sharing Responsible Authority Status between the Minister and Local Government**

   We were pleased that you considered that a study on this issue, to be arranged by the MAV, would be beneficial to both State and local government. The MAV will accept your invitation to consult with senior officers of the Ministry for Planning and Environment for further information and assistance. We are about to engage Mr. John Grant to undertake the study.

3. **Planning Fees**

   You indicated that you would give further consideration to a percentage based fee structure for developments ranging between $500,000 to $4m. The MAV is awaiting council responses to a survey on proposed planning fees.

4. **Definition of Social and Economic Effects**

   It was agreed that the Ministry for Planning and Environment establish a formal working party comprising local government representatives to consider this matter. Also, that the MAV is currently working on the project and will contact relevant officers of the Ministry for further advice.

5. **Liquor Control Act 1987**

   We felt that discussions with you on this issue indicated a probable misunderstanding regarding the request of local government.

Previously, and during the debate of the Liquor Control Bill the MAV advocated a strong position against the merits of the Liquor Licensing Commission as a planning authority. It also considered that local councils, by virtue of amendments to planning schemes, be responsible for granting permits for entertainment and late trading. These positions proved to be unsuccessful as the previous Minister the Hon. J. Kennan, considered these issues to be the responsibility of the Liquor Licensing Commission.

Now the MAV accepts this position and it is not proposing amendments to the Liquor Control Act, 1987. Rather the MAV requests a firm commitment from the Ministry for Planning and Environment to assist with the consideration of pressing planning issues relating to licensed premises.

There are fundamental inconsistencies between the requirements under the Liquor Control Act and the Planning and Environment Act. Of greatest concern is that the Liquor Control Act assumes that every use and development requires a planning permit to be issued prior to a liquor licence or permit being granted.

More specifically, for the grant, variation, transfer, and removal of licences and permits, clauses 63(5) and 65(2) indicate that an application must be accompanied by one of the following:

(a) A copy of a permit issued under the relevant planning law, or in the case of a vehicle, vessel, or aircraft, a permit, licence, or other authority issued under any relevant law permitting any proposed variation to the use of premises to which the application relates; or

(b) An application, in accordance with the relevant planning law or other law, for such a permit, licence or authority, together with any fee payable in respect of the application; or

(c) Evidence to the satisfaction of the Commission that the variation is permitted or otherwise under the relevant planning law or other law.

The problem is that a planning permit is not always required, such as for premises established prior to the planning scheme, and additional uses of the premises not covered in the initial permit. The definition of 'hotel' as described in planning schemes is too broad, and does not reflect the changing use of the premises.

Because the planning scheme does not consider a variety of licensed premises, many hotels with changes in the Liquor Control Act 1968 were granted automatic privileges of trading until 11:00pm. Other recent trends accommodated in so called 'hotels' included live bands, discotheques, restaurants and bistros, with a substantial increase in patronage. Indeed, these factors have caused an impact on the environment which was not envisaged when, and if, the original permit was obtained.

In addition, the validity of existing use rights to many licensed premises must be questioned, given the substantial changes made within the hotel industry over the last 20 years.

The MAV urgently requests a formal meeting with senior officers within your Ministry to consider these planning issues which are creating significant amenity problems in the environment, and will continue to cause problems in administering the Liquor Control Act.

It would be appreciated if officers of your Ministry contacted Ms. Judita Mieldazys or myself to consider an appropriate time to meet.

We will keep you informed about the progress of matters raised in this letter.

Yours faithfully,

ROB BARFUS,
Chief Executive/Secretary.

The Hon. Tom Roper, MP
Minister for Planning and Environment
DX 21
MELBOURNE

Encl.

1503P

(General Information)

TO PROSPECTIVE LICENSEES

YOUR LOCAL COUNCIL AND YOUR COMMUNITY

The purpose of this brochure is to help you understand local government's statutory responsibilities towards the establishment and maintenance of licensed premises.

Your council is very interested in helping you establish your operation and to ensure that its use and any further developments are undertaken in accordance with proper planning, building, health and environmental standards.

The only people to benefit from this exercise are you, your patrons, and your community. So it is important that you contact your council for any new development, building alterations or changes in your use of premises and, in return, you will receive expert service and advice.

The following information describes the purpose of your council's various departments and how they will assist you with your application. If you require further information do not hesitate to contact your local council which is there to help you.

TOWN PLANNING

Before you can obtain a liquor licence or permit you will be required to provide either a copy of a planning permit, (permitting the proposed variation to the use of the premises), an application in accordance with the relevant planning law or evidence to the satisfaction of the Liquor Licensing Commission that the variation is permitted or otherwise authorised under relevant planning law.

It is necessary to contact your council's planning department when you decide to build a new premises, make alterations to an existing premises or decide to change the use of the premises to incorporate other activities.

In most instances you will be required to lodge a planning application which the council will determine whether or not the site you have chosen, or the proposed activity, or alteration, is appropriate for the area. The wrong activity in the wrong place is the cause of most community annoyance with licensed premises and subsequent prosecution by the council. So it is best to avoid expensive legal battles in the first instance.

If your development requires a liquor licence or permit, the council, under the Planning and Environment Act, will refer the application for a town planning permit to the Liquor Licensing Commission. This means that your application will be sent to the Commission for comment and then returned to the council who will issue or refuse the planning permit. In most cases councils will separately require a town planning permit application to be advertised to neighbouring properties.

If you are aggrieved by council's refusal of the application, you have the opportunity to lodge an appeal with the Administrative Appeals Tribunal. Your council will assist you with the necessary procedures.

It is important that you are aware of the time period it takes to lodge a planning application and receive a decision.

For any developments or alterations, your planning applications will need to be accompanied by copies of plans, drawn to scale and dimensioned showing the layout of the development site and any new alterations. Your council will advise you regarding the need for building permits and health inspections.

The council exercises its duty to ensure that the amenity of its municipal area is protected. If you do not comply to the conditions on your planning permit, or contravene landuse conditions on liquor permit or licence, your council can undertake various enforcement procedures which will include either a warning, on the spot infringement notice, prosecution for breach, or issue a Supreme Court injunction. Owners and occupiers of premises must ensure that licensed premises, at all times, fully comply with conditions on any approval particularly town planning permits, liquor permits and licences and Environment Protection Standards. These procedures are expensive in terms of legal expenses and reputation. As an approval may include conditions to protect the amenity of an area you should ensure that noise levels within and outside your premises are maintained as specified in your permit or otherwise at a satisfactory level.