City of Sandringham

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE TOWN CLERK
P.O. BOX 27, SANDRINGHAM, 3191
DX 34108 SANDRINGHAM
TELEPHONE: 598 8111
ENQUIRIES TO:
Mr G Dummett
TPO:TB:249
FAX:598-4474

CITY OF CAULFIELD
18 AUG 1987
Officer File
Letter No.

Municipal Offices,
Royal Avenue,
Sandringham, 3191

14th August 1987

Dear Sir

1987 LIQUOR CONTROL BILL

I again wish to draw your attention to the provisions of the Bill before the Spring Session of State Parliament particularly in view of the Premier's comments on Tuesday 11th July 1987 on the Michael Schildberger Program that the Bill will proceed as there had not been strong objection to it.

It is understood the Bill will come before Parliament next week.

The Bill does not implement the recommendations of the Liquor Control Review adopted in the Government's Response in April this year.

The Council is most concerned about the impact of licensed premises in and adjacent to residential areas, particularly the opportunity to extend trading hours, introduce entertainment and vary premises without prior town planning controls.

Whilst town planning permits will be required for new licensed premises that trade until 11:00pm, no town planning approvals are required for new or existing licensed premises that trade after 11:00pm or that provide entertainment regardless of their location.

Indeed Section 64(5) of the Bill removes all existing town planning controls over any licensed premises that trade after 11:00pm:-

> "S.64(5) Nothing in the relevant planning law restricts or affects the use of premises as licensed premises or authorised premises under an extended hours permit but, 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."

That is, there will be no town planning controls, over the most intrusive uses, and only consultation by the Commission staff with Councils.

Council and local residents lose their current rights of objection and appeal to the Commission under the Bill, will only have rights to make submissions on "community" interest to the Chief Executive Officer.

"Amenity" is not a consideration mentioned anywhere in the Bill.

Extended hours permits may be granted anytime presumably based on local environmental and licensing considerations, therefore the argument for standardised statewide hours is inconsistent with the stated policy objectives.

/2...

Whilst it is desirable to remedy existing problems it is proposed by the Honorable Alan Hunt M.L.C. that liquor licences and permits be deemed to be planning permits subject to appropriate conditions, to establish continuing use rights at the commencement of the Act (refer Mallesons Statement).

This provision would protect existing rights in relation to hours and entertainment whilst enabling the implementation of the Nieuwenhuysen recommendations adopted by the Government in its April statement.

Such uses must be encouraged into appropriate locations so that the lives of residents and the licencees' investments are not put at risk.

Unlike the Hotels Association and the Industry, Local Government was only granted a deputation to the Minister responsible for Liquor Control the Honorable Robert Fordham yesterday, the 13th August 1987.

The Minister has undertaken to look into Councils concerns.

To date the M.A.V. working party has received a most sympathetic hearing from the Opposition Shadow Ministers who are very much aware of Councils' concerns.

It would be most appreciated if you could ensure that the Government and your Local Members of State Parliament are aware of our concerns and that the amenity and rights of residents and Local Government are not eroded.

Yours faithfully

Geoff Barrow

G C Barrow
CITY ENGINEER

All Councils
(as addressed)

enc

MEMORANDUM ON LIQUOR CONTROL BILL

1 **Great** concern has been expressed by and on behalf of councils, residents, the Town and Country Planning Association and the Municipal Association of Victoria concerning the total failure of the Bill to deal with properly or at all the very real amenity and environmental problems being experienced with respect to both extended hours trading and the provision of entertainment during those hours.

2 **If** the Bill is enacted in its present form the position on these issues can be shortly stated as follows :

(a) There is no control whatsoever of any kind concerning the provision of entertainment at licensed premises.

(b) There is provision which requires a licensee to obtain an extended hours permit in order to trade outside ordinary trading hours (Clauses 53 and 64).

(c) The authority which is responsible for the granting of an extended hours permit is the Liquor Licensing Commission.

(d) Whilst an application for such a permit must be advertised (Clause 72) the advertising requirements are clearly inadequate.

(e) The only formal role that any council has in the permit granting process is that the chief executive officer of the Commission must consult with the council before making a recommendation to the Commission on whether or not it would be in the community interest to grant the permit sought (Clause 64(5)).

(f) Any resident or council who or which becomes aware of an

application may make representations to the chief executive officer if any such person or council considers the grant of the permit would not be in the community interest (Clauses 74 and 76).

(g) If the chief executive officer recommends that the grant of the application would be in the community interest (and the other requirements of Clause 77 are met) the Commission must grant the permit sought.

(h) Even if the chief executive officer recommends that the grant of the permit sought would not be in the community interest all that occurs is that a hearing will then take place before the Commission and there is no provision for any resident or council to be heard or represented at such a hearing.

(i) So far as any council or resident is concerned the decision of the Commission is final and may not be the subject of any appeal to the Administrative Appeals Tribunal ("AAT").

(j) Whilst an applicant, licensee, permittee or member of the police force has a right of appeal to the AAT in respect of any licence or BYO permit (Clause 105) it would appear that no person whatever has a right of appeal with respect to an extended hours permit application.

(k) No resident or council has any right to apply to the Commission for the cancellation or suspension of any extended hours permit during the currency of any such permit, this right being limited to the chief executive officer or a licensing inspector (Clause 101). Again if the Commission does cancel or suspend any such permit the permittee would have the right to appeal against this to the AAT but no resident or council would have any role or right to be heard or represented in this regard.

necessary pre-existing use.

(f) In the case of any licensee without pre-existing rights, who wishes to either trade during extended hours or to provide entertainment during those hours he or she will need to obtain the required permit or permits under the LCA.

(g) Any new extended hours and/or entertainment permit or permits will be subject to such conditions as the administering authority thinks fit.

(h) Where it is required and is appropriate one permit only need be sought simultaneously and obtained for both after hours trading and and entertainment.

(i) The council of the municipality within which the licensed premises concerned are located will be the administering authority dealing with the granting or refusal of these permits.

(j) All such permits so deemed or granted will be issued or granted for an unlimited time period.

(k) Each of these permits shall be deemed to be a permit for the purposes of the Planning and Environment Act 1987 and the procedure for the applying for any such permit and all enforcement and other provisions of that Act will be applied with such adaptations as may be necessary.

(l) the Commission will be a referral authority under the Planning and Environment Act for the purposes of such permits.

3 CONCLUSION

It is urged that the Bill in its present form is entirely inadequate and without proper safeguards with respect to both extended hours trading and the provision of entertainment during those hours so that the rights of

Mr K.T. Bennett
City of St. Kilda.
30-7-87.

LOCAL GOVERNMENT PLANNERS ASSOCIATION
PLANNING SUBMISSION RE: LIQUOR CONTROL BILL 1987

BACKGROUND:

1. WHEN THE GOVERNMENT AMENDED THE CURRENT LIQUOR CONTROL ACT IN 1984 THE CITY OF ST KILDA TOGETHER WITH THE SEVEN OTHER INNER METROPOLITAN COUNCILS INCLUDING MELBOURNE AND SOME 20 OTHER COUNCILS MADE STRONG REPRESENTATION TO THE MINISTER REQUESTING THAT CERTAIN SAFEGUARDS BE INCLUDED IN THE LEGISLATION TO PROTECT THE INTERESTS OF RESIDENTS.

2. THE COUNCILS INVOLVED ALSO ENGAGED IN A VIGOROUS AND INITIALLY SUCCESSFUL MEDIA CAMPAIGN AGAINST THE PROPOSED CHANGES WITHOUT COMPLEMENTARY LEGISLATION TO PROTECT THE AMENITY OF RESIDENTS LIVING NEXT TO CERTAIN TYPES OF LICENSED PREMISES. WE WERE NOT AGAINST THE EXTENTION OF HOURS AS SUCH BUT WANTED EFFECTIVE PRIOR PLANNING CONTROLS TO ENCOURAGE THE PREMISES TO LOCATE AWAY FROM RESIDENTIAL AREAS AND TO PROTECT RESIDENTS WHERE THIS WAS NOT THE CASE.

3. PROBLEMS HAD ALREADY ARISEN WITH EXISTING CABARET AND HOTELS WHICH HAD CHANGED THEIR MODE OF OPERATION TO DISCO/RESTAURANT/ENTERTAINMENT VENUE AND HAD INCREASED THE FLOOR AREA DEVOTED TO THESE ACTIVITIES - RESIDENTS WERE ALREADY SUFFERING PROBLEMS OF NOISE, PATRON BEHAVIOUR, PARKING AND TRAFFIC WHEN PREMISES WERE REQUIRED TO CLOSE AT 1:00PM AND 3:00PM RESPECTIVELY.

4. COUNCILS ACCEPTED THAT CHANGES TO THE HOURS OF OPERATION WERE BOTH INEVITABLE AND NECESSARY, BUT THEY WANTED THE PROVISION MADE TO EXEMPT INNER METROPOLITAN MUNICIPALITIES FROM EXTENDED HOURS, EXCEPT IN AREAS WHERE SUCH USES WERE APPROPRIATE SUCH AS CENTRAL MELBOURNE AND SOME INDUSTRIAL AND OFFICE ZONES IN OTHER SUBURBS. PLANNING PERMITS WERE REQUESTED AS A PRE-REQUISITE FOR EXTENDED HOURS AND INCREASED TRADING AREAS.

5. AT THIS STAGE THE LEGISLATION PROPOSED TO ALLOW HOTELS TRADE PART 1:00AM BUT NO MENTION WAS MADE OF 3:00AM FOR "HOTELS" OR 7:00AM FOR "CABARETS".

6. THE CAMPAIGN BY THE COUNCILS WAS HAVING ITS IMPACT AND THE REPRESENTATIVES OF THE EIGHT COUNCILS WERE SUMMONED TO MEETING WITH THE MINISTER'S ADVISER. AFTER MUCH BARGAINING WE WERE OFFERED 12:30PM CLOSING FOR ALL HOTELS IN THE INNER METROPOLITAN AREA IF WE WOULD STOP THE CAMPAIGN AGAINST THE LEGISLATION. THE COUNCILS AGREED.

7. WE WERE BETRAYED - SMART POLITICS MAYBE, BUT THE LOSERS WERE NOT JUST THE EIGHT COUNCILS, EVERY MELBOURNE RESIDENT LIVING NEXT TO A HOTEL WITH ENTERTAINMENT OR A CABARET LOST. HOTELS GOT 3:00AM AND CABARETS 7:00AM WITHOUT ANY AMENITY PROTECTION.

- MY RESIDENTS WHO USED TO COUNT ON GETTING TO SLEEP AT 12:30 - 1:00AM ARE NOW WOKEN AT 3:00am BY DRUNKEN REVELRY AND THOSE WHO USED TO BE WOKEN AT 3:00AM ARE NOW CONFRONTED AT 7:00AM OVER THE "VEETIES" AND THE MORNING PAPER WITH BAD LANGUAGE, PEOPLE DEFECATING OR URINATING OR ENGAGING IN SEXUAL ACTIVITIES AROUND THEIR DWELLING.

8. THE CHANGES HAVE BEEN A DISASTER - IT MIGHT BE THAT AUSTRALIANS ARE JUST NOT EDUCATED TO BE SOCIALLY RESPONSIBLE WHEN ENJOYING THEMSELVES - BUT EDUCATION IS A SLOW PROCESS AND IN THE MEANTIME ADEQUATE SAFEGUARDS ARE NECESSARY - THE PROBLEM IS NOT CONFINED TO THE INNER CITY IT EXISTS THROUGHOUT THE METROPOLITAN AREA ON THE PENINSULA AND IN PROVINCIAL CITIES AND COUNTRY TOWNS.

9. LOCAL GOVERNMENT WAS AND IS BEING FORCED TO PICK UP THE COST OF THE STATE GOVERNMENTS CAVE IN TO POWERFUL VESTED INTERESTS IN THE LIQUOR INDUSTRY.

   IT HAS COST MY COUNCIL <u>$50,000 PER YEAR</u> FOR THE LAST THREE YEARS TO TRY AND EFFECTIVELY POLICY A DEFECTIVE PIECE OF LEGISLATION. THE MONEY, TIME AND EFFORT COULD BE WASTED IF THE BILL GOES THROUGH IN ITS PRESENT FORM.

- I COULD GO ABOUT THE ALLEGATIONS OF ORGANISED CRIME, THE ACTIONS OF SOME SECTIONS OF POLICE FORCE TO THWART COUNCIL AT THE LIQUOR CONTROL COMMISSION, OF PRIVATE ARMIES EMPLOYED BY HOTELS, OF THE NEED FOR ENQUIRY AGENTS TO FIND OUT JUST WHAT DOES GO ON AT SOME PREMISES, AND HOW THE CURRENT LEGISLATION IS BEING BREACHED (AT TIMES ITS LIKE AN INTELLIGENCE OPERATION).

THE SAME STORY COULD BE TOLD FOR SOUTH MELBOURNE, HEIDELBERG, BENDIGO AND MANY OTHER PLACES THROUGHOUT THE STATE. PRAHRAN SPENT OVER $100,000 ON ONE OBJECTION HEARING AND NOW EMPLOYS AN OFFICER WHOSE SOLE DUTY IS INSPECTIONS OF LICENSED AND ENTERTAINMENT

PREMISES.

SANDRINGHAM HAS SPENT $70,000 IN TWO CASES.

SOUTH MELBOURNE, MELBOURNE, KEW, FITZROY, HEIDELBERG, CROYDON AND OTHERS HAVE SPENT SIMILAR AMOUNTS.

IT IS MONEY SPENT TO PROTECT OUR RESIDENTS FROM DISTURBANCES ALLOWED BY INADEQUATE STATE GOVERNMENT LEGISLATION.

10. THE PROBLEM IS NOT ONE OF RESTRICTIVE ATTITUDES IT IS A PROBLEM OF LAND USE ALCOHOL, GOOD TIME ENTERTAINMENT LARGE NUMBERS OF PEOPLE AND RESIDENTIAL PEACE AND QUIET JUST DON'T MIX - CONTROL AND SEPARATION IS NECESSARY. VENUES FOR SUCH USE BELONG IN THE CENTRAL CITY, IN REGIONAL SHOPPING CENTRES, DISTRICT CENTRES, SOME SURURBAN INDUSTRIAL AND COMMERCIAL AREAS. THE FRENCH AND WEST GERMANS AND THE SWISS WHO ARE SUPPOSED TO BE FAR MORE SOPHISTICATED THAN AUSTRALIANS WON'T ALLOW SUCH VENUES WITHIN A 1KM OF RESIDENTIAL AREAS.

11. THE STATE GOVERNMENT DID KEEP ONE PROMISE THOUGH - IT DID CARRY OUT AN INQUIRY INTO THE LIQUOR INDUSTRY IN VICTORIA AND RESULT WAS THE NIEUWENHUYSEN REPORT. DESPITE ITS EARLIER REBUFF, LOCAL GOVERNMENT AGAIN CO-OPERATED WITH THE STATE GOVERNMENT - ONE FORMER COUNCILLOR FROM ST KILDA ACTUALLY ADVISED DR NIEUWENHUYSEN ON THE PROBLEMS OF LOCAL GOVERNMENT AND SHOWED HIM FIRST HAND WHAT THE PROBLEMS WERE LIKE IN OUR CITY. DR NIEUWENHUYSEN HAS DONE HIS JOB WELL, THE STATE GOVERNMENT HAS NOT. ONCE AGAIN LOCAL GOVERNMENT HAS BEEN BETRAYED. EXISTING SAFEGUARDS HAVE BEEN REMOVED, SITUATIONS HAVE BEEN LEFT AMBIGUOUS AND ADEQUATE AMENITY CONTROL NOT INTRODUCED.

IT MAY BE TIME TO TAKE THE FIGHT DIRECTLY TO THE GOVERNMENT. PERHAPS I SHOULD RECOMMEND TO MY COUNCIL THAT WE OBTAIN THE SERVICES OF A HEAVY ROCK BAND REPUTED TO DO UNMENTIONABLE THINGS ON STAGE TO PLAY OUTSIDE THE HOUSE OF THE RESPONSIBLE MINISTER OR PERHAPS THOSE OF THE MEMBERS OF CABINET ON ALTERNATE NIGHTS UNTIL THE LEGISLATION IS CHANGED.

CONCERNS ABOUT 1987 LIQUOR CONTROL BILL

1. IT DOES NOT SATISFY THE GOVERNMENT'S RESPONSE STATEMENT AND THE ADOPTED NIEUWENHUYSEN RECOMMENDATION.

2. IT DOES NOT CONTAIN EFFECTIVE TOWN PLANNING (PRIOR) AMENITY PROVISIONS:-

2.1 - IT DOES NOT SPECIFY "AMENITY" AS A MATTER

- IN THE OBJECTIVES OF THE BILL (S 5)
- IN THE MATTERS TO BE CONSIDERED BY THE C.E.O. (S 71, 74, 75 & 76) AND COMMISSION (S 78 & 79) IN DECIDING AN APPLICATION.
- AS A GROUND OF OBJECTION (S 76)
- AS A GROUND OF REFUSAL (S 78 & 79)
- AS A GROUND FOR REVOCATION (S 101)

BUT RELIES ON THE MORE GENERAL UNDEFINED TERM "COMMUNITY INTERESTS" (S 74).

2.2 - IT DOES NOT MENTION "ENTERTAINMENT" AS A MATTER TO BE

- CONSIDERED IN DISTINGUISHING BETWEEN LICENCE TYPES.
- TO BE CONSIDERED OR DETAILED IN AN APPLICATION.
- TO BE A GROUND OF OBJECTION OR REFUSAL.
- TO BE PREFERRED IN CERTAIN ESTABLISHMENTS AND LOCALITIES.
- TO BE REQUIRED TO SATISFY E.P.A. REQUIREMENTS.

RATHER "ENTERTAINMENT" IS IMPLICITLY ASSUMED TO BE PART OF "THE FOOD - LIQUOR - ENTERTAINMENT USE" OF LICENSED PREMISES.

THE REALITY IS THAT WHENEVER ANYTHING APART FROM LIMITED BACKGROUND ENTERTAINMENT IS PROVIDED - THERE IS A BASIC CHANGE IN USE AND ACTIVITY PATTERNS.

- INTERNALLY - FOOD AND DINING GENERALLY GET DISPLACED, PATRON NUMBERS ARE HIGHER, NOISE/MUSIC LEVELS INCREASE, DOOR CHARGES - FEES ARE MADE, PUBLIC BUILDINGS/HEALTH REQUIREMENTS MUST BE SATISFIED, FEWER ENTRANCES/EXITS, INCREASED ADVERTISING, DANCING, STAGES, MORE INTROVERTED LAYOUTS, LIGHTING, AND PATRONS TEND TO ARRIVE LATER BY CAR AND STAY UNTIL CLOSE (NORMALLY AFTER MIDNIGHT) AND DEPART IN A NOISY FASHION EN-MASS AFTER CLOSING TIME WITH A HIGH INCIDENCE OF EXUBERANT/ROWDY BEHAVIOUR.

THE BILL MAKES NO MENTION OF "ENTERTAINMENT" AND INDEED IT COULD WELL BE ARGUED IT HAS NO JURISDICTION TO CONTROL IT. (IT ONLY STATES THAT AN ENTERTAINMENT VENUE MAY HOLD AN ON-LICENCES).

FURTHER, MOST ENTERTAINMENT VENUES HOLD EXTENDED HOURS PERMITS OVER WHICH THERE WILL BE NO TOWN PLANNING CONTROL.

THE INDUSTRY ITSELF DISTINGUISHES BETWEEN "VENUES FOR ENTERTAINMENT" AND FOOD, JUST AS THE PLANNING SCHEME DOES WITH RESTAURANTS, PLACES OF ASSEMBLY, CABARETS AND CAFES.

2.3 - IT REMOVES PLANNING CONTROLS OVER NEW AND EXISTING EXTENDED HOURS PREMISES, CONTRARY TO OTHER RECOMMENDATIONS

- THE HOURS OF TRADING ARE THE MOST CRITICAL AND SENSITIVE AMENITY ASPECT.
- EXTENDED HOURS PERMITS MAY BE FOR ANY TIME AT ALL.
- NO DISTINCTION IS MADE FOR LOCALITY.
- COUNCIL IS ONLY "CONSULTED" WITH NO APPARENT RIGHTS OF OBJECTION AND APPEAL. RESIDENTS ARE NOT MENTIONED BUT PRESUMABLY RETAIN THEIR SUBMISSION ROLE.
- HOURS OF TRADING OF OTHER LAND USES ARE SUBJECT TO PLANNING CONTROL.
- THE REMOVAL OF PLANNING CONTROLS COULD AFFECT OTHER ASPECTS SUCH AS PATRON NUMBER, PARKING, AMENITY NOISE CONTROLS, ENTERTAINMENT LIMITS, AND SO ON.

3. <u>EXISTING USE RIGHTS ARE RETAINED IN TOTALITY:</u>

THAT IS - CURRENT PROBLEMS WILL PERPETUATED.

- EXISTING PREMISES MAY BE ABLE TO INCLUDE ENTERTAINMENT AT WILL.

- IN MANY INSTANCES THESE RIGHTS MAY BE UNDEFINED.

4. - VARIATIONS - WHILST APPROVAL WILL BE REQUIRED FOR ALTERATIONS THIS SHOULD SPECIFICALLY INCLUDE PRIOR APPROVAL FOR BUILDING ALTERATIONS AS WELL AS LICENCE CONDITIONS, NOT JUST EXTENTIONS.

- <u>VARIATION DEFINITIONS SHOULD INCLUDE CONVERSION OF RESIDENTIAL SPACE AND BAR TO LOUNGES, AND ENTERTAINMENT</u> IF NOT DONE AS A SEPARATE PERMIT.

- APPLICATIONS - SHOULD ONLY BE LODGED AT THE COMMISSION OR COUNCIL OR AUTHORITY OFFICE AND TIME LIMITS MUST COINCIDE WITH TIME LIMITS ON RELEVANT STATUTE NOT 30 DAY LIMIT.

- AFFECTED PROPERTY OWNERS AND OCCUPIERS SHOULD BE NOTIFIED, CERTAINLY IN RESIDENTIAL CASES.

5. AN ANNUAL RENEWAL WILL MAKE IT DIFFICULT TO ENFORCE REQUIREMENT.

6. TOWN PLANNING APPLICATIONS REFERRED TO THE COMMISSION SHOULD ONLY BE ABLE TO BE OBJECTED TO ON CONDITIONS REQUESTED, NOT DIRECTED TO GRANT A PERMIT.

7. LACK OF CLEAR RIGHTS OF OBJECTION TO THE COMMISSION AND TO BE HEARD BY THE COMMISSION C.F. THE C.E.O. FOR COUNCILS AND RESIDENTS.

THE APPLICANT/LICENCEE HAS RIGHTS TO BE HEARD BY THE C.E.O. BY THE COMMISSION AND BY THE A.A.T.

8. THE DIFFERENCE OF THE M.P.E. TO LIQUOR CONTROL TO ALLOW IT TO TAKE PRECEDENCE ON THIS MATTER IT IS BASED ON A FUNDAMENTAL MISCONCEPTION ABOUT ROLES.

THAT THE REVIEW WENT TO GREAT LENGTHS TO ANALYSE AND REMEDY AND WAS APPARENTLY ACCEPTED IN THE GOVERNMENT RESPONSE STATEMENT.

TOWN PLANNING IS CONCERNED WITH THE INTERACTION OF LAND USES AND CONSEQUENT DEVELOPMENT AND AMENITY (IN ITS BROADEN SENSE).

LIQUOR CONTROL IS ABOUT THE DEVELOPMENT OF THE LIQUOR/HOSPITALITY/TOURIST INDUSTRY AND ALCOHOL ABUSE AND MISUSE (RE COMPOSITION/FUNCTION OF CONSULTATIVE COUNCIL).

TOWN PLANNING IS BY DEFINITION CONCERNED ABOUT HOW LICENSED PREMISES AFFECT THEIR LOCAL ENVIRONMENT.

LIQUOR CONTROLS AND REMEDIAL HEALTH ACT "NUISANCE", PROSECUTIONS ARE FOCUSED ON THE LICENSED AREA OF THE PREMISES THEMSELVES.

IT IS THIS VERY DIFFERENCE IN PERSPECTIVE THAT, WITH RESPECT FOR THE GOOD EFFORTS BY THE COMMISSION, THAT MAKE TOWN PLANNING - PARTICULARLY AT THE LOCAL GOVERNMENT LEVEL AN ESSENTIAL PREREQUISITE FOR THE GRANT AND VARIATION OF LIQUOR LICENCES, EXTENDED HOURS PERMITS PROVISION OF ENTERTAINMENT AND ALTERATIONS.

LOCAL GOVERNMENT, THE M.P.E. AND THE INDUSTRY MUST PROVIDE EFFECTIVE GUIDELINES TO ENCOURAGE LATE TRADING, ENTERTAINMENT AND LARGE PREMISES INTO SUITABLE LOCATIONS, AND TO DISCOURAGE THEM FROM INAPPROPRIATE AREAS BEFORE THEY ESTABLISH.

THIS IS AS IMPORTANT TO THE INDUSTRY AS IT IS TO RESIDENTS, IT IS COMMON SENSE.

CHANGES TO THE ACT

1. IN GENERAL TERMS WE ENDORSE WHAT IS PROPOSED BY THE M.A.V. (M.M.A.) THE COUNCILS AND CITY OF MELBOURNE.

2. WE NOTE THERE SEEMS TO BE GENERAL CONSENSUS ABOUT NEW PREMISES AND ORDINARY HOURS OF TRADING.

3. TO AVOID DELAYS TO THE IMPLEMENTATION OF THE REVIEW, (AND CONSISTENT WITH THE REVIEW RECOMMENDATIONS) THE M.M.P.S. AND T.C.P. ACT BE AMENDED BY LEGISLATION UNDER THE CURRENT LIQUOR CONTROL BILL.

4. THESE AMENDMENTS INCLUDE -

"That definitions of licensed premises in planning schemes be amended so that they describe the use of premises, rather than being tied to definitions contained in a licensing Act."

THAT SUCH DEFINITION INCLUDE DISTINCTIONS OF "EXTENDED HOURS" AND "ENTERTAINMENT" BEING A PREDOMINANT OR SIGNIFICANT ACTIVITY FOR WHICH AN ENTRANCE OR A COMPREHENSIVE FEE IS CHARGED.

5. "That a town planning permit be required for all new licensed premises and for all changes of use or operation of existing premises; and that a licensing act provide that a town planning permit be a condition precedent to the grant of a licence or permit". NIEUWENHUYSEN

THIS SHOULD INCLUDE BOTH EXTENDED HOURS, ENTERTAINMENT, VARIATIONS AND DEVELOPMENT APPLICATIONS.

6. "That licensed premises be made subject to the same amenity controls of all other industry types;

and

That these controls be enforced in a manner which is as equitable, efficient and inexpensive as possible." NIEUWENHUYSEN.

IF IT IS DONE THROUGH PLANNING - THE CONDITIONS OF USE AND DEVELOPMENT ARE DETERMINED FIRST.

COMPLIANCE IF BREACH OF CONDITIONS, RATHER THAN REMOVAL OF LICENCE.

THE NEW PLANNING & ENVIRONMENT BILL IMPROVED THESE REQUIREMENTS.

CLEAR AMENITY REQUIREMENTS FOR RESIDENTIALLY SITUATED PREMISES MUST BE SPECIFIED.

"That comprehensive amenity considerations be introduced into the licence permit application, approval and any renewal system whether at the Local Government level." - NIEUWENHUYSEN.

LOGICALLY THIS SHOULD BE DONE AT THE TOWN PLANNING STAGE AND WILL INCLUDE BASIC CONSIDERATIONS SUCH AS

- ZONING (LOCATION IN <u>OR ADJACENT TO</u> RESIDENTIAL ZONES)
- SURROUNDING LAND USES
- ACCESS
- SCALE OF DEVELOPMENT
- SITE
- SERVICES

AND MORE PARTICULARLY

- SITE AND INTERNAL LAYOUTS
- NUMBER OF PATRONS
- HOURS OF TRADING/ACTIVITY PATTERNS

- ACCESS ROUTES
- PROVISION OF ENTERTAINMENT/FOOD
- PACKAGED LIQUOR SALES
- APPEARANCE OF THE PREMISES
- PRIVACY/NOISE/SMELL/AMENITY REQUIREMENT FOR NEIGHBOURS
- RESIDENTIAL ACCOMMODATION
-
- ADVERTISING
- LANDSCAPING AND BUFFING

THESE ARE PROPERLY LOCAL PLANNING CONSIDERATIONS.

THEY SHOULD NOT REQUIRE A DAYS OBJECTION HEARINGS TO ESTABLISH THE CHARACTER OF A LOCALITY, RATHER IT SHOULD BE SELF EVIDENT AND CONSISTENT WITH THE LOCAL AUTHORIT'S PLAN FOR THE AREA.

8. "That maximum ordinary trading hours be determined by a licensing Act and all other extended hours by permit subject to planning approval." — NIEUWENHUYSEN

   "That trading hours for Sunday and Good Friday or other public holidays be standardised under an on-licence and extensions to such hours require a town planning permit." - NIEUWENHUYSEN.

9. IN RELATION TO EXISTING PREMISES IT IS DESIRABLE TO ACHIEVE CONSISTENCY AND CERTAINTY BETWEEN THE ACTS.

   IT IS ESSENTIAL THAT ANY PREMISES THAT CURRENTLY DO NOT SATISFY THEIR TOWN PLANNING PERMIT OR LICENCE REQUIREMENTS BE REMEDIED.

   IT IS THEREFORE ACCEPTED THAT

   "That existing trading hour arrangements of current licencees be protected, though not at the expense of any provisions necessary to ensure residential amenity in particular cases."

   IN THIS CONTEXT, THE SUGGESTION THAT WHERE PREMISES ARE NOT SUBJECT TO PERMITS AT THE TIME THE BILL BECOMES LAW, THEN EXISTING LIQUOR LICENCES AND PERMITS BE DEEMED TO ESTABLISH RIGHTS AS TOWN PLANNING PERMITS SUBJECT TO STANDARD CONDITIONS.

PREMISES WITHOUT LATE PERMITS AND ENTERTAINMENT WOULD THEN HAVE TO MAKE TOWN PLANNING AND LIQUOR APPLICATIONS FOR SUCH CHANGES.

PREMISES WITH ESTABLISHED TRADING OPERATIONS COULD CONTINUE, PROVIDED THEY WERE OPERATING WITHIN THE TERMS OF THEIR LICENCES AND ANY TOWN PLANNING PERMITS.

THIS WOULD BE CONSISTENT WITH THE THRUST OF THE NEW PLANNING & ENVIRONMENT ACT, AND NOT TAKE AWAY CURRENT RIGHTS.

IT WOULD HOWEVER BE ESSENTIAL THAT E.P.AL NOISE LIMITS BE GAZETTED AND MADE PART OF STANDARD CONDITIONS TO AT LEAST ALLEVIATE ONE PART OF THE CURRENT NUISANCES.

10. LOCAL GOVERNMENT AND RESIDENTS UNDER TOWN PLANNING WOULD ONLY BE INTERESTED IN THE NORMAL TOWN PLANNING ASPECTS OF LICENSED PREMISES - NOT THE POLICE/COMMISSION CONCERNS ABOUT BEHAVIOUR, FITNESS OF APPLICANT, FEES, AND SO ON.

11. AMENDMENT OF THE ACTS IS ESSENTIAL TO ENSURE THAT SIGNIFICANT INTERNAL ALTERATIONS TO LICENSED PREMISES - CONVERSION OF RESIDENTIAL TO BAR OR TO LOUNGE OR TO ENTERTAINMENT IS PROPERLY ASSESSED PRIOR TO DEVELOPMENT.

12. AREAS WHERE COUNCILS AND THE COMMUNITY HAVE DETERMINED THEY DO NOT WANT LICENSED PREMISES SHOULD BE ABLE TO RETAIN THEIR STATUS.

13. THERE MUST BE EFFECTIVE ENFORCEMENT OF LICENCES AND TOWN PLANNING PERMITS.

IF AMENITY IS MADE SUBJECT TO A PERMIT CONDITION IT IS EASIER TO ENFORCE, THAN A GENERAL CONDITION OF A LICENCE.

14. COUNCILS, RESIDENTS AND FREEHOLD OWNERS SHOULD RETAIN THEIR SPECIFIED RIGHTS TO OBJECT AND BE HEARD BY THE COMMISSION AND APPEAL.

IF WE ARE AFFECTED WE MUST RETAIN OUR RIGHTS.

LOCAL GOVERNMENT (AND RESIDENTS) HAVE CARRIED A VERY HIGH BURDEN IN RECENT AMENITY OBJECTION HEARINGS.

IF AMENITY CONCERNS ARE RETAINED UNDER THE LIQUOR ACT, WE MUST RETAIN OUR RIGHTS.

15. WHILST THIS SHOULD BE IMPLEMENTED THOUGH THE PLANNING SCHEMES AND ACT, IF IT CANNOT BE ACHIEVED THEN PLANNING PERMITS COULD BE DEEMED AND REQUIRED UNDER THE CURRENT LIQUOR BILL.

AMENITY CONTROLS MUST BE IN PLACE FOR THE SAKE OF THE INDUSTRY, RESIDENTS AND COUNCILS, BEFORE THE LIQUOR LAWS ARE CHANGED.

CITY OF SANDRINGHAM.
30.7.81.

THE LIQUOR LAW REVIEW

MY NAME IS CARMEN WATSON, FROM THE CITY OF SANDRINGHAM. I AM HERE TONIGHT FIRSTLY AS A COUNCILLOR WHOSE RESIDENTS HAVE EXPERIENCED SERIOUS AMENITY PROBLEMS, AND IN SOME CASES TRAGIC DISTURBANCES TO THEIR LIVES AS A RESULT OF 4 DIFFERENT LICENCEES OVER AN EIGHT YEAR PERIOD.

AND SECONDLY AS A COUNCILLOR ON BEHALF OF SOME 50 COUNCILS THAT HAVE STRONGLY SUPPORTED THE REQUEST TO THE STATE GOVERNMENT TO HONOR FOUR QUITE STRAIGHT FORWARD, REASONABLE AND COMMONSENSE COMMITMENTS.

THE COUNCILS SEEK A COMMITMENT FROM THE VICTORIAN GOVERNMENT TO IMPLEMENT THE FOLLOWING RECOMMENDATIONS OF THE NIEUWENHYSEN REPORT IN CONJUNCTION WITH ANY REFORM OF THE LIQUOR LAWS.

1. THAT A TOWN PLANNING PERMIT BE REQUIRED FOR ALL NEW LICENSED PREMISES AND FOR ALL CHANGES OF USE OR OPERATION OF EXISTING PREMISES.

2. A TOWN PLANNING PERMIT BE A CONDITION PRECEDENT TO THE GRANTING OF A LICENCE OR PERMIT.

3. THAT EXTENDED HOURS BY PERMIT BE SUBJECT TO PLANNING APPROVAL.

4. THAT ADDITIONAL RESOURCES BE DEVOTED TO DEALING WITH RESIDENTIAL AMENITY PROBLEMS.

THE STATE GOVERNMENTS OWN RESPONSE DOCUMENT IN APRIL THIS YEAR QUITE CLEARLY STATES THE GOVERNMENT ADOPTED THESE PROPOSITIONS WHEN FORMING THE REPORT.

HOWEVER, THE ACTUAL BILL BEFORE THE PARLIAMENT AND IN SUBSEQUENT DISCUSSIONS WITH OFFICERS OF THE MINISTRY OF INDUSTRY, TECHNOLOGY AND RESOURCES THIS IS NOT THE CASE.

WE ARE ADVISED 'THE MINISTERS THINKING HAS CHANGED'.

IN TURN THE ATTORNEY GENERAL AND MINISTER FOR PLANNING AND THE ENVIRONMENT HAS ADVISED THEIR VIEW IS:-

- THAT THEY WILL ONLY AMEND THE PLANNING CONTROLS IF REQUIRED TO DO SO BY THE OTHER MINISTRY.

IN SHORT WHAT WE HAVE BEEN GIVEN IS:-

- GREATER FLEXIBILITY FOR THE PROVISION OF FOOD, LIQUOR AND ENTERTAINMENT.

- THE LICENSING REQUIREMENTS HAVE BEEN SIMPLIFIED ADMINISTRATIVELY.

- THE NEW 7 TIER LICENCE SYSTEM WILL ALLOW TRADING FOR ORDINARY HOURS 7.00 A.M. TO 11.00 P.M. IN MOST CASES AND FOR ANYTIME AT THE DISCRETION OF THE COMMISSION UNDER EXTENDED HOURS PERMITS.

- THE GENERAL REQUIREMENT THAT ALL NEW LICENSED PREMISES WILL REQUIRE PRIOR PLANNING PERMITS WHICH MUST BE REFERRED TO THE COMMISSION.

HOWEVER, THIS HAS BEEN DONE BY:-

- REMOVING OUR RIGHTS TO OBJECT TO - AND BE HEARD - BY THE COMMISSION IN RESPECT OF NEW APPLICATIONS, VARIATIONS, TRANSFERS AS WELL AS THE RIGHT TO INITIATE OBJECTION PROCEEDINGS WHERE A LICENCE IS CAUSING SERIOUS DETRIMENT TO LOCAL RESIDENTS.

WE NOW ONLY HAVE THE RIGHT TO COMPLAIN AND GIVE EVIDENCE - NOT TO INITIATE AND BE HEARD IN RESPECT OF AN OBJECTION.

- THE CURRENT AMENITY CONTROLS PROVISION OVER LATE TRADING PERMITS HAVE BEEN REPLACED BY TWO GROUNDS.

- THAT THE APPLICANT IS NOT FIT TO HOLD THE PERMIT.

- THAT THE GRANTING OF A PERMIT IS NOT IN THE 'COMMUNITY INTEREST'.

THERE IS NO MENTION OF AMENITY OF NEARBY RESIDENTS - ANYWHERE IN THE BILL - AND CERTAINLY NOT IN THE OBJECTIVES.

THE BILL DOES NOT INTEND TO CONTROL THE PROVISION OF ENTERTAINMENT OR TO TIE NOISE LEVELS TO THE E.P.A. POLICY.

THE BILL DOES NOT OF ITSELF AMEND THE PLANNING SCHEME TO ENSURE EFFECTIVE COMPLEMENTARY PLANNING CONTROLS.

THE BILL QUITE CLEARLY STATES THAT "NOTHING IN THE RELEVANT PLANNING LAW WILL RESTRICT OR AFFECT THE USE OF LICENSED PREMISES OPERATING UNDER AN EXTENDED HOURS PERMIT" ONLY THAT COUNCILS WILL HAVE TO BE CONSULTED BEFORE A PERMIT ISSUES.

- EXISTING PREMISES WILL RETAIN THEIR CURRENT RIGHTS AND NOTHING IS PROPOSED TO FIX CURRENT PROBLEMS.

SANDRINGHAM COUNCIL IS NOT OPPOSED TO THE CONSUMPTION OF ALCOHOL, TO THE PROVISION OF ENTERTAINMENT OR TO THE RIGHTS OF PREMISES TO TRADE 24 HOURS PER DAY BUT ONLY IN THE RIGHT SITUATIONS.

QUITE CLEARLY THIS SHOULD NOT BE IN OR ADJACENT TO RESIDENTIAL AREAS.

WHY WE ARE CONCERNED AT SANDRINGHAM.

- THREE OF THE FOUR HOTELS IN SANDRINGHAM ARE IN RESIDENTIAL AREAS, OR HAVE ACCESS TO RESIDENTIAL STREETS.
- EACH WILL HAVE AN EXTENDED HOURS PERMIT.
- ALL OF THESE HOTELS CAN ACCOMMODATE OVER 650 PERSONS.
- AND WE ALSO HAVE A NUMBER OF OTHER LICENCED PREMISES IN OR ADJACENT TO RESIDENTIAL AREAS.

SANDRINGHAM HAS SPENT IN THE ORDER OF $70,000 ON LEGAL FEES IN TWO LIQUOR LICENCE OBJECTION CASES AND ONLY SUCCEEDED AFTER SOME TWO YEARS OF SERIOUS DISTRESS. HOWEVER, I MUST STRESS IT IS NOT SIMPLY A MATTER OF AN ERRANT OR DELINQUENT LICENCEE.

OUR PROBLEMS IN HAMPTON HAVE INVOLVED TWO SEPARATE LATE TRADING ENTERTAINMENT PREMISES, WITH FOUR SEPARATE LICENCEES OVER A PERIOD OF SOME EIGHT YEARS IN ONE CASE - AND TWO YEARS IN THE OTHER. THREE OF THE LICENCEES HAVE GONE ON TO RUN OTHER LICENCED PREMISES ELSEWHERE.

INDEED IT IS ALSO INTERESTING TO NOTE THAT IN THE EARLY 1950'S FILES, THERE ARE SIMILAR COMPLAINTS ABOUT "THE HIBISCUS CABARET" AT THE HAMPTON HOTEL.

INDEED, IT IS NOT JUST SANDRINGHAM, IN THE LAST MONTH AT THE LIQUOR CONTROL COMMISSION - COUNCILS OF KEW, CROYDON, ST. KILDA, SANDRINGHAM AND SOUTH MELBOURNE HAVE ALL APPEARED IN RELATION TO AMENITY PROBLEMS.

SOME 50 COUNCILS HAVE STRONGLY SUPPORTED SANDRINGHAM COUNCIL'S SUBMISSION TO PROVIDE EFFECTIVE - PRIOR - PLANNING CONTROLS OVER NEW AND EXISTING LICENCED PREMISES.

THIS YEAR THERE WERE SOME 85 OPPOSED RENEWALS OF 1986 LICENCES AND PERMITS BEFORE THE COMMISSION (SOME LEGAL AND SOME POLICE MATTERS AS WELL AS AMENITY).

IT IS NOT JUST A MATTER OF DISCUSSION, NOTIFICATION OR ANTICIPATION. THE CURRENT SYSTEM IS CLEARLY INADEQUATE.

THE ACOUSTIC NUISANCE IS THE EASIEST TO FIX. IT IS THE WIDER BEHAVIORAL PROBLEMS AND AMENITY PROBLEMS ASSOCIATED WITH A FUNDAMENTALLY INCOMPATIBLE USE THAT ARE THE PROBLEMS.

LICENCEES HAVE BOASTED - "YOU SET IT UP - YOU GET COMPLAINTS - YOU SORT THEM OUT - YOU HAVE AN ENTERTAINMENT PUB".

THE PROBLEM IS WIDESPREAD AND WILL GET WORSE UNLESS PROPER CONTROLS ARE INTRODUCED.

LONG STANDING RESIDENTS SHOULD NOT BE PLACED AT THE WHIM OF A LICENCEE, AND FORCED AT GREAT EXPENSE TO FIGHT FOR YEARS TO RETAIN THEIR AMENITY.

- THEY SHOULD BE ABLE TO SLEEP INSIDE THEIR HOMES AFTER 10.00 P.M. (11:00PM)
- THEY SHOULD NOT HEAR MUSIC IN THEIR HOMES
- THEY SHOULD NOT HAVE DRUNKEN PATRONS SHOUTING AND FIGHTING IN THEIR FRONT GARDENS, NIGHT AFTER NIGHT AFTER MIDNIGHT.
- THEY SHOULD NOT HAVE BOTTLES THROWN ON ROOFS AT 1.00 AND 2.00 A.M.
- THEY SHOULD NOT HAVE FENCES RIPPED DOWN TO BE USED IN FIGHTS.
- THEY SHOULD NOT HAVE THEIR GARDENS USED AS URINALS NIGHT AFTER NIGHT.
- THEY SHOULD NOT HAVE TO CLEAN UP VOMIT FROM THEIR DRIVEWAYS, LETTERBOXES AND FOOTPATHS.

- THEY SHOULD NOT HAVE TO CALL POLICE OR THE HOTEL ON A REGULAR BASIS.
- THEY SHOULD NOT HAVE TO LEAVE THEIR BEDROOMS ON THURSDAY TO SATURDAY NIGHTS TO GET SLEEP BEFORE 2.00 A.M.
- THEY SHOULD NOT HAVE TO SLEEP WHEN THEY GET HOME FROM WORK BECAUSE OF THE LATE NIGHT EVENING DISTURBANCES.
- THEY SHOULD NOT HAVE TO WAIT FOR THE LAST WHEELLIE OR DRUNKEN GOODBYE BEFORE RETURNING TO SLEEP AFTER 2.00 A.M.
- THEY SHOULD NOT HAVE TO READ THE PUBLIC NOTICES EVERY DAY TO MAKE SURE THAT THE HOTEL HAS NOT LODGED AN APPLICATION FOR AN EXTENDED HOURS PERMIT.

THESE FURTHER POINTS CAN PERHAPS ILLUSTRATE OUR CONCERNS.

WITH THE HAMPTON HOTEL, THE LICENCEE EXERCISED HIS RIGHTS UNDER HIS LICENCE AND HE CAUSED HELL FOR TWO YEARS TO NEARBY RESIDENTS, HE COST THE COUNCIL SOME $50,000 IN LEGAL FEES AND A FURTHER $600,000 IS OWED TO OTHER PARTIES INCLUDING SOME $100,000 TO HIS OWN SOLICITORS. AT THE END THE HOTEL IS ABOUT TO RESUME TRADING ON A FOOD FORMAT WITH NO ENTERTAINMENT (APART FROM A PIANO BAR) AND REDUCED HOURS. - A HIGH COST INDEED.

HOWEVER IN THE CASE OF THE BEAUMARIS HOTEL, THE RED BLUFF HOTEL AND THE OLD DIGEREDOO LICENCED RESTAURANT, THE PREMISES HAVE UP GRADED AND CHANGED FORMAT AFTER EXTENSIVE LOCAL COMMUNITY DISCUSSION, OBJECTIONS, COUNCIL APPROVALS AND APPEALS - BUT BEFORE THE ALTERATIONS WERE MADE AND FORMAT CHANGED, ALBEIT WITH SOME DELAY TO THE HOTEL, BUT WITHOUT DETRIMENT TO THE NEIGHBORHOOD - CERTAINLY WITHOUT $50,000 LEGAL COSTS - BUT WITH STRONG AMENITY CONTROLS.

- THESE CONTROLS WILL NOW BE CARRIED THROUGH INTO THE LIQUOR LICENCES AND WITH CERTAINTY AND SECURITY FOR THE VERY HIGH INVESTMENT BY THE LICENCEES.

THIS IS SIMPLY COMMONSENSE - CALLED 'TOWN PLANNING'

THE SOLUTION SHOULD BE PLANNED, NOT RELIANCE ON REMEDIAL ENFORCEMENT.

THE COUNCILS DO NOT WANT TO TAKE ON LIQUOR CONTROL COMMISSION RESPONSIBILITIES FOR STRICTLY LICENSING MATTERS - OR POLICE RESPONSIBILITIES FOR DEALING WITH OFFENSIVE BEHAVIOUR - BUT WITH EXTENDED TRADING HOURS AND ENTERTAINMENT AND 300 - 400 CARS LEAVING EN MASSE AFTER MIDNIGHT 3 - 5 NIGHTS PER WEEK, - LICENSED PREMISES HAVE A GREATER IMPACT ON NEIGHBOURHOOD AMENITY.

UNDER THE CURRENT LIQUOR CONTROL ACT, THE COMMISSION HAS HAD SOME DIFFICULTY IN EXTENDING THEIR REQUIREMENTS TO LOCAL AMENITY IMPACTS, TO DEAL WITH THE INTER RELATIONSHIP BETWEEN LAND USES RATHERN THAN THE OPERATIONS OF LICENSED PREMISES AS SUCH.

COUNCILS TOWN PLANNING CONTROLS HAVE BEEN DEVELOPED SPECIFICALLY FOR THIS PURPOSE.

SINCE 1947 AND 1968 THE STATE GOVERNMENT HAS GIVEN PRIMARY RESPONSIBILITY FOR DETERMINING LOCAL AMENITY ISSUES TO COUNCILS. PROVISION OF ENTERTAINMENT AND EXTENDED HOURS IS A LOCAL AMENITY ISSUE - AS ILLUSTRATED BY THE DISTURBANCE TO OUR RESIDENTS INSIDE THEIR HOMES OF AN EVENING.

INDEED, THE PROPOSED EXTENDED HOURS SYSTEM IN THE ABSENCE OF LOCAL PLANNING CONTROLS IS THE ADMINISTRATIVE ALTERNATIVE THE GOVERNMENTS OWN REVIEW DID NOT FAVOUR.

WHAT DO WE WANT

1. THE OBJECTIVES OF THE ACT TO INCLUDE AMENITY CONSIDERATIONS.

2. THAT THERE IS TO BE LOCAL GOVERNMENT REPRESENTATION ON THE LIQUOR CONSULTATIVE COUNCIL.

3. THAT PLANNING PERMITS BE REQUIRED BEFORE THE GRANTING OF ANY NEW LIQUOR LICENCE FOR NEW PREMISES (ACCEPTED BY THE GOVERNMENT).

4. THAT PLANNING PERMITS BE REQUIRED FOR THE GRANTING OF VARIATIONS ANI NEW EXTENDED HOURS PERMITS. (ACCEPTED BY THE MINISTER IN RESPONSE - BUT NOT IN THE BILL BEFORE PARLIAMENT).

5. THE PROVISION OF ENTERTAINMENT IN ALL LICENSED PREMISES BE SPECIFIEI IN THE BILL AS A MATTER THAT REQUIRED CONSENT AND PLANNING PERMISSION AND NOT BE APPROVED UNLESS THERE IS COMPLIANCE WITH THE ENVIRONMENT PROTECTION AUTHORITY REQUIREMENTS.

6. THAT INTERNAL AND EXTERNAL ALTERATIONS TO BUILDINGS INVOLVING CONVERSION OR EXTENSIONS TO EXISTING PUBLIC FLOOR AREAS BE THE SUBJECT OF PRIOR PLANTING, BUILDING, HEALTH AND LIQUOR APPROVAL.

7. THAT MATTERS TO BE CONSIDERED BY THE CHIEF EXECUTIVE OFFICER, THE COMMISSION AND THE ADMINISTRATIVE APPEALS TRIBUNAL IN APPLICATION AND ENFORCEMENT PROCEDURES INCLUDE THE AMENITY OR PEACE AND QUIET O THE LOCALITY.

8. THAT RESIDENT AND COUNCILS RIGHTS OF OBJECTIONS AND TO BE HEARD BY THE COMMISSION BE RETAINED WHERE THE APPLICATION IS FOR AN EXTENDED HOURS PERMIT, OR ENTERTAINMENT IN RESIDENTIAL AREAS.

9. THE MELBOURNE METROPOLITAN PLANNING SCHEME BE AMENDED ALONG THE LINES RECOMMENDED BY DR NIEWENHUYSEN

   I.E. - TO MAKE THE LAND USE DEFINITIONS REFLECT THE ACTUAL USE RATHER THAN THE LICENCE HELD

   - TO BE SUBJECT TO THE SAME AMENITY CONDITIONS AS OTHER LAND USES

   - INTRODUCE PROVISIONS ALONG THE LINES RECOMMENDED BY THE REVIEW AND ADOPTED BY THE GOVERNMENT TO REQUIRE TOWN PLANNING PERMITS FOR EXISTING LICENSED PREMISES WITH EXTENDED HOURS OR ENTERTAINMENT.

   - TO ENCOURAGE LATE TRADING AND ENTERTAINMENT AWAY FROM RESIDENTIAL AREAS.

10. TO ENSURE IT HAPPENS THE M.M.P.S. BE AMENDED BY THE LEGISLATION BEFORE PARLIAMENT.

    (WE MUST NOT GET THE CURRENT CHANGES WITHOUT THE AMENITY CONTROLS UPON WHICH THE REVIEW AND THE BILL WAS PROMISED)

11. THERE BE NO OBJECTION TO THE TOWN PLANNING APPLICATIONS REFERRED TO THE LIQUOR CONTROL COMMISSION FOR COMMENT BUT NOT DETERMINATION.

12. THAT WHERE THERE ARE NO CURRENT TOWN PLANNING PERMIT OR CONTROLS - THE CURRENT LIQUOR LICENCE AND PERMITS OF EXISTING LICENSED PREMISES BE DEEMED TO HAVE A TOWN PLANNING PERMIT, FOR THE PURPOSE OF ESTABLISHING CONTINUING USE RIGHTS AT THE COMMENCEMENT OF THE NEW LAW.

13. IN THE EVENT THE GOVERNMENT IS NOT PREPARED TO IMPLEMENT THE PLANNING CONTROL BY LEGISLATION (AND IT IS CERTAIN THEY WILL BE OPPOSED BY THE AUSTRALIAN HOTELIERS ASSOCIATION) THEN THE CURRENT LIQUOR CONTROL BILL BE AMENDED TO INCLUDE THE REQUIRED DEFINITIONS AND PROCEDURES TO ENABLE A PRIOR TOWN PLANNING PERMIT DETERMINATION BY COUNCIL AS THE LOCAL RESPONSIBLE AUTHORITY BEFORE ANY PERMIT ISSUES, WITH RIGHTS OF OBJECTION, APPEAL AND ENFORCEMENT UNDER THE TOWN & COUNTRY PLANNING ACT (OR THE NEW PLANNING & ENVIRONMENT ACT).

14. THAT THE MINISTRY FOR PLANNING & ENVIRONMENT PREPARE PROPER PLANNING GUIDELINES FOR THE ESTABLISHMENT AND LOCATION OF LICENSED LATE TRADING AND ENTERTAINMENT PREMISES FOR THE GUIDANCE OF LOCAL GOVERNMENT AND THE INDUSTRY.

15. AT THE VERY LEAST THE E.P.A. ENTERTAINMENT NOISE POLICY BE ADOPTED TO ENSURE THAT THE MOST INTRUSIVE YET EASIEST TO REMEDY ASPECTS OF THE CURRENT PROBLEMS CAN BE IMMEDIATELY OVERCOME.

16. THAT "DRY AREAS" BE ALLOWED TO RETAIN THEIR STATUS IF THEY WISH TO.

17. THAT THE BILL NOT PROCEED IN ITS PRESENT FORM.

[M.M.A. Fax No. c/- (03) 5349105]

FAX MESSAGE

ATTENTION: Mr D. Aylen, City Manager, City of Caulfield
FAX 03 523 0339

FROM: Ms Wendy Smith,
General Manager, Metropolitan Municipal Association

DOCUMENT: Letter re Liquor Control Bill
Press Release re Brothels
Press Release re Liquor Control Bill

OUR REFERENCE: - -

DATE: 18 Aug 87

TIME:

NO. OF PAGES: 4
(Including this page)

MHL

Do you agree?
Comments please

☆ cm 19/8

NOTES: Generally agree.
The Bill appears to give planning control to the new (Liquor) Licensing Commission
Report will be presented to next E/S

MMA Metropolitan Municipal Association
132 Carlisle Street, St. Kilda, Phone: (03) 534 9087, 534 6332 Postal Address: P.O. Box 376, St. Kilda, 3182. Fax: (03) 534 9105

MMA

18th August, 1987.

All Member C.E.O.'s / Town Clerks.

All Member Councils.

As Addressed.

M.M.A urgently requests your Council to immediately Lobby the Local Member of Parliament to oppose the new Liquor Control Bill, which is being debated today at it's second reading.

Local Government must:

1. have the power to object to an extended hours permit or to an increase in entertainment

2. have input into conditions for a liquor licence

3. have the opportunity for refusal of an annual licence

4. have control over hours of operation and control of land use

Your Council must seek to have the Liquor Control Bill amended to provide Local Government as the sole determinant on matters of land use relating to licenced premises.

Yours sincerely,

Wendy Smith
GENERAL MANAGER.

Metropolitan Municipal Association
132 Carlisle Street, St. Kilda, 3182. Telephone: (03) 534 9087, (03) 534 6332 Fax: (03) 534 9105
Postal Address: P.O. Box 376, St. Kilda, 3182

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
PHONE: 267 5266
DX 30569 SOUTH MELBOURNE
FAX No: 267 8310

1029P

CITY OF CAULFIELD
-6 AUG 1987
Officer File

LIQUOR CONTROL WORKING PARTY

Meeting Monday 27th July, 1987 at 12.30 pm.

PRESENT:

Cr. Dahan (chair), Mr. R. Cooper M.P., Mr. V. Heffernan M.P., Mr. I. Murray, Ms. S. Insabella, Cr. C. Watson, Mr. G. Dummett, Mr. C. Tuohey, Mr. R. Holland, Mr. B. Whelan, Cr. D. Habicht, Ms. D. Moody, Ms. J. Monk, Mr. H Parsons, Ms. J. Mieldazys (4 RMIT Students)

1. APOLOGIES

The Hon. A. Hunt, MLC
Mr. D. Haywood, MP
Cr. Laidlaw
Mr. B. Croad
Mr. J. Mc Inerney

2. MINUTES OF MEETING 15TH JULY 1987

Ms. J. Mieldazys indicated that there was some confusion at the last meeting regarding the interpretation of a 'deemed' permit and its effects on existing use rights. This problem could be rectified following further discussion with Mr. I. Murray from Mallesons, Steven, Jacques.

3. Submission to the Department of Industry, Technology and Resources

Ms. J. Mieldazys briefly outlined the structure of the second report and distributed copies of the draft for further comment.

Mr. G. Dummett raised a query with Mr. C. Tuohey regarding 'on-premises licence' which included entertainment as the primary purpose. It was noted that most of the larger hotels would be required to obtain a 'residential licence', the primary purpose of which is to provide accommodation. This creates concern as entertainment is not even considered an activity.

Mr. Tuohey indicated that activities are not specified in the Bill as they are under review. It was noted that the Minister for Industry, Technology and Resources has not made a final decision regarding the Bill and submissions are still being received. The submission will be sent to all Ministers and shadow Ministers.

4. Public Forum 30th July 1987

Mr Parsons advised that the purpose of the forum was to bring people together who have had problems to demonstrate to Members of Parliament that hotel establishments can be an amentiy worry. The format of the meeting and the proposed key speakers were discussed. (A copy of the program is enclosed for your information). Mr. Tuohey indicated that although he will open the meeting, he is also committed elsewhere and will not be engaged in panel discussions.

Cr. C. Watson indicated that she will discuss the government's response document and what it did not achieve in the Bill. Her views at the forum will also reflect the human side and the Sandringham experience. Consideration will also be given to what happens after the forum.

5. Amendments to the Liquor Control Bill 1987

Mr. V. Heffernan M.P. indicated that there was a need to consider a restriction of time limits on permits. Mr. I. Robins disagreed with the proposition.

Mr. I. Murray distributed a letter based on decisions made at the last meeting with respect to amending the legislation. Briefly, it was stated that existing hotels with late entertainment have existing use rights. These hotels would be given a deemed permit. Although this appears simple, there are complications in fitting this amendment into the machinery of the legislation.

It could be assumed that if there was after hours entertainment, then logically the hotel had extended trading. It was understood that permits for the extended hours were annually renewable.

However, if permits under the present legislation are annually renewable to sell or supply liquor after hours, then there can be no existing use right.

Thus, after hours trading will be required to have an annual permit subject to normal controls including revocation and prosecution. The deemed permit would require prescribed conditions to make sure that the licensee is aware of his conditions and to impose compliance with conditions.

New licensed premises will be required to obtain an extended hours and entertainment permit. A planning permit will also be obtained in this situation which should cover a number of conditions relating to noise and traffic issues.