Effect of suspension of licence.

104. A licensee who sells liquor while his or her licence is suspended, whether under this Division or any other provision of this Act, shall be deemed to sell the liquor without a licence.

Division 9—Appeals

Administrative Appeals Tribunal.

105. A person who is—

(*a*) the applicant for a licence or permit; or

(*b*) the licensee or permittee; or

(*c*) a member of the police force—

may apply to the Administrative Appeals Tribunal for review of a determination of the Commission under this Part—

(*d*) to grant a licence or permit; or

(*e*) to refuse to grant a licence or permit; or

(*f*) to impose a term or condition on a licence or permit; or

(*g*) to vary a licence or permit; or

(*h*) to impose a condition on the transfer of a licence or permit.

PART 4—OBLIGATIONS OF OWNERS, LICENSEES AND PERMITTEES

Owners of licensed premises.

106. A person who is the owner of licensed premises—

(*a*) must register with the Chief Executive Officer his or her name and an address for service within Victoria; and

(*b*) must notify any change of address to the Chief Executive Officer.

Refreshments to be available.

107. The licensee under a licence that authorises the licensee to sell and dispose of liquor for consumption on the licensed premises or on any authorised premises must have available on those premises for purchase and must provide on request refreshments at any time at which liquor is available for sale and disposal.

Penalty: 5 penalty units.

Residents' register.

108. A licensee under a residential licence—

(*a*) must cause to be kept a residents' register in a form approved by the Commission;

(*b*) must cause to be entered in the register in the prescribed manner the prescribed particulars relating to residents of the licensed premises;

(*c*) must keep the register on the licensed premises;

(*d*) must not make or cause or permit to be made in the register any false or misleading entry.

Penalty: 5 penalty units.

Liquor purchases register.

109. (1) A licensee—

(*a*) must cause to be kept a liquor purchases register in a form approved by the Commission; and

(*b*) must cause to be entered in the register in the prescribed manner the prescribed particulars relating to liquor purchased or otherwise acquired by the licensee during the period to which the licence relates in connection with the business carried on under the licence or any extended hours permit relating to the licence; and

(*c*) must cause to be kept all documents that come into the possession of the licensee and relate to a sale or purchase of liquor by the licensee; and

(*d*) must not make or cause or permit to be made in the register any false or misleading entry; and

(*e*) must keep the register and documents referred to in paragraph (*c*) on the licensed premises or another place approved by the Commission.

Penalty: 10 penalty units.

(2) Sub-section (1) does not require any part of the liquor purchases register or any document to be kept after the expiration of seven years after the last date of an entry made in it or the date of the document, as the case requires.

Offence to make incorrect entry in liquor purchases register.

110. A person shall not—

(*a*) make an entry in a liquor purchases register kept under section 109; or

(*b*) omit to make an entry in such a register—

if a fee under this Act calculated according to the entries in the register would be less than the fee that would be calculated if the false entry had not been made or the entry had not been omitted.

Penalty: 20 penalty units.

conditions to which the licence was subject immediately before the commencement of this Part, whether imposed by the repealed Act or the permit.

Permit having effect as BYO restaurant permit.

172. If a permit of a kind specified in Column 1 of an Item in Schedule 3 has effect as a BYO restaurant permit, the permit authorises liquor to be consumed, possessed or controlled in the restaurant to which the permit relates during the times authorised by the permit subject to such terms and conditions as, immediately before the commencement of this Part, applied to the permit.

Transitional provision—dry areas.

173. If, before the commencement of the *Licensing Act* 1928, a local opinion poll had been taken in an electoral district as constituted on 21 October 1920 and a resolution that no licence be granted in that district had been carried, a licence or permit under this Act must not be granted in respect of any premises in that district during the period of two years after the commencement of this section unless the council of the municipality in which those premises are situated has resolved to revoke the resolution and has not resolved to impose some other restriction on the grant of licences or permits under this Act.

Transitional provision—cinema licences.

174. (1) Despite section 60, the Commission may grant a limited licence in respect of premises used primarily as a cinema to a person who is the licensee in respect of those premises and who was the licensee under a theatre licence in repect of those premises immediately before the commencement of this Part.

(2) A limited licence granted under this section may not be transferred, varied on the application of the licensee or removed.

Transitional provision—owner's obligations.

175. Despite its repeal, section 89 of the repealed Act continues to have effect until the expiration of the period of two years after the commencement of this Part as if a reference in that section to provisions of Part IV of the repealed Act included a reference to this Act.

Transitional provision—apportionment of licence fee.

176. Despite their repeal, sections 157 and 158 of the repealed Act continue to have effect until the expiration of the period of two years after the commencement of this Part as if—

(*a*) a reference to a licensed hotelkeeper who holds a hotelkeeper's licence were a reference to a licensee under a hotelkeeper's licence having effect as a residential licence or a general licence; and

(*b*) a reference to the Commission were a reference to the Commission within the meaning of this Act.

PART 9—AMENDMENT OF PLANNING ACTS

Amendment of *Planning and Environment Act* 1987.

177. (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".

Amendment of *Town and Country Planning Act* 1961.

178. (1) After Part II of the *Town and Country Planning Act* 1961 insert—

"PART IIA—LIQUOR MATTERS"

Liquor Licensing Commission to consider certain applications.

"52D. (1) The responsible authority must refer to the Liquor Licensing Commission each application lodged with it for a permit that relates to the use of any premises primarily for a purpose in respect of which a licence or permit may be sought under the *Liquor Control Act* 1987.

(2) The Minister must refer to the Liquor Licensing Commission each application for a permit of a kind referred to in sub-section (1) that is lodged with the Minister as responsible authority or is referred to the Minister under this section.

(3) The Liquor Licensing Commission must, within the prescribed period, recommend to the Minister—

(*a*) that the permit be granted; or

(*b*) that the permit be granted subject to the conditions specified by the Commission; or

(*c*) that the permit not be granted.

(4) If—

(*a*) the Liquor Licensing Commission fails to make a recommendation within the prescribed period; or

(*b*) the Minister does not accept a recommendation of the Liquor Licensing Commission—

the Minister must consult with the Minister administering the *Liquor Control Act* 1987 in relation to the matter.

(5) If the Minister is the responsible authority, the Minister, after considering the recommendations (if any) of the Liquor Licensing Commission, and after consulting, where required, with the Minister administering the *Liquor Control Act* 1987, may determine the application.

(6) If the Minister is not the responsible authority, the Minister, after considering the recommendations (if any) of the Liquor Licensing Commission, and after consulting, where required, with the Minister administering the *Liquor Control Act* 1987, shall in writing direct the responsible authority—

(*a*) that it may grant the permit; or

(*b*) that it may grant the permit but only if the permit is granted subject to the conditions specified by the Minister; or

(*c*) that it must not grant the permit.

(7) Section 58 (1B), (5), (6), (7), (8) and (9) with all necessary modifications applies to any application or permit affected by this section as if—

(*a*) a reference to "the terms of any delegation" were a reference to this section; and

(*b*) any reference to the "council" or the "municipality" were a reference to the responsible authority.

(8) If—

(*a*) the Minister refuses to grant a permit or imposes or intends to impose a condition on the recommendation of the Liquor Licensing Commission; and

(*b*) a person appeals against the refusal of the permit or the imposition or intended imposition of the conditions—

the Minister and the Commission shall be the respondents of the appeal.

(9) If—

(*a*) a responsible authority (not being the Minister) refuses to grant a permit or imposes or intends to impose a condition at the direction of the Minister under this section and on the recommendation of the Liquor Licensing Commission; and

(*b*) a person appeals against the refusal of the permit or the imposition or intended imposition of the condition—

the Minister, the responsible authority and the Commission shall be the respondents to the appeal.

(10) If a direction referred to in sub-section (9) is given on the recommendation of the Liquor Licensing Commission, the Minister may join the Commission as a respondent to the appeal.".

(2) After section 19 (1) of the *Town and Country Planning Act* 1961 insert—

"(2) 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 recommended that the permit be granted; or

(*b*) to grant such a permit if the Commission recommended that the permit not be granted; or

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

(3) In section 19 (2) of the *Town and Country Planning Act* 1961, for "Planning Appeals Board" substitute "Administrative Appeals Tribunal".

PART 10—AMENDMENT OF OTHER ACTS

Repeal of *Liquor Control Act* 1968.

179. The *Liquor Control Act* 1968 is repealed.

Amendment of *Food Act* 1984.

180. (1) In section 3 (5) of the *Food Act* 1984, paragraph (*b*) is repealed.

(2) Despite sub-section (1) of this section, section 3 (5) (*b*) of the *Food Act* 1984 continues to have effect until the expiration of the period of two years after the commencement of this section in relation to food premises that are in licensed premises under a licence having effect, by reason of Part 8, as a residential licence or a general licence.

(3) The *Food Act* 1984 is amended as follows:

(*a*) In section 39 sub-section (4) is repealed;

(*b*) For section 58 substitute—

Liquor Licensing Commission to be notified of certain matters.

"58. (1) If the Chief General Manager or a council makes an order under section 19 in respect of premises in respect of which a licence or permit under the *Liquor Control Act* 1987 is in force, the Chief General Manager or the council, as the case requires, shall notify the Liquor Licensing Commission of the making of the order.

(2) If a person who is the holder of a licence or permit referred to in sub-section (1) is charged with an offence against this Act of which he or she is found guilty or to which he or she pleads guilty and in respect of which a conviction is not recorded, the Chief General Manager or the council which caused proceedings to be instituted for the offence shall notify the Liquor Licensing Commission of the result of the proceedings.".

Amendment of *Audit Act* 1958.

181. In section 8 (2) of the *Audit Act* 1958, for "Secretary of the Liquor Control Commission" substitute "Chief Executive Officer of the Liquor Licensing Commission".

Amendment of other Acts.

182. (1) In section 33 of the *Auction Sales Act* 1958 for "licensed victualler's licence" substitute "licence under the *Liquor Control Act* 1987".

(2) In section 7 of the *Drugs, Poisons and Controlled Substances Act* 1981 for "*Liquour Control Act* 1968" substitute "*Liquor Control Act* 1987".

(3) In section 52 of the *Estates Agents Act* 1980 for sub-section (8) substitute—

"(8) This section does not apply to or in relation to the sale of any business in connection with which a licence or permit is in force under the *Liquor Control Act* 1987 and which the purchaser could not lawfully carry on without a licence under that Act.".

(4) In section 37 (3) of the *Fundraising Appeals Act* 1984, for paragraph (*n*) substitute—

"(*n*) any licensed premises or authorised premises within the meaning of the *Liquor Control Act* 1987;".

(5) In section 6 (2) (*e*) of the *Geelong Performing Arts Centre Trust Act* 1980 for "licence, permit or authority under the *Liquor Control Act* 1968" substitute "licence or permit or extended hours permit under the *Liquor Control Act* 1987".

(6) In the *Health Act* 1958—

(*a*) in section 3 in the definition of "Boarding-house" for "the licensed premises of a licensed hotelkeeper" subsitute "licensed premises within the meaning of the *Liquor Control Act* 1987"; and

(*b*) in section 3 in the definition of "Common lodging-house" for "the licensed premises of a licensed hotelkeeper" substitute "licensed premises within the meaning of the *Liquor Control Act* 1987"; and

(*c*) in section 3 in the definition of "House", for "licensed hotelkeepers' premises" substitute "licensed premises within the meaning of the *Liquor Control Act* 1987"; and

(*d*) in section 3 in paragraph (*a*) of the definition of "Household insecticide" for " or the *Liquor Control Act* 1968" substitute "or in licensed premises within the meaning of the *Liquor Control Act* 1987"; and

(*e*) in section 3, omit the definition of "Licensed hotelkeeper"; and

GOVERNMENT RESPONSE 29/4/87

N.B. IN CONFLICT WITH BILL.

6.4.3. The Government has also accepted the Review's recommendation that licensees will have the choice of selecting their own trading hours within the approved licence and permit hours. This will enable licensees to adjust their trading hours to suit the wider range of hours which the general public requires of different licensed premises in different areas of Victoria.

6.5. Extended Hours Permits

6.5.1. The Government supports the Review's recommendations that an extension of hours beyond licensed hours should be the subject of an extended hours permit. This will require the prior provision of a planning permit.

Not in Bill

6.5.2. The adoption of the proposal to require a planning permit reflects the Government's concern about residential amenity problems which are sometimes associated with late night trading.

6.6 A new Liquor Commission

6.6.1. The Government believes that the present Liquor Control Commission has successfully undertaken a very difficult task, given the limitations and problems of the present Liquor Control Act. Consistent with the major changes which have occurred in the industry and the desire to simplify the licensing system, the Government proposes to introduce a new licensing authority to be called the "Liquor Licensing Commission".

6.6.2. The new body will operate as a statutory body with a Commissioner of Liquor Licensing, and provision for appointment of up to two Assistant Commissioners. The Commissioner will be required to be a legal practitioner of not less than five years standing.

6.6.3. The Commission will have an administrative arm, through which a Chief Executive Officer will be responsible for receiving and processing all licence and permit applications, and applications for the transfer, removal and surrender of liquor licences. The Commission will also be required to continue to assess and collect licence and permit fees.

Ref. No.: 20/080/00022-574B
Enquiries to: Ms C. Wilson
Telephone No.: 524 3227
AUSDOC: DX 32069 CAULFIELD

18th March, 1987.

Mr G.C. Barrow,
City Engineer,
City of Sandringham,
DX 34108 SANDRINGHAM.

Dear Mr Barrow,

REVIEW OF LIQUOR CONTROL ACT

I refer to your letter of 6th February 1987 regarding the above matter and wish to advise that Council at its meeting of 17th March 1987 resolved to advise you as follows.

Council has supported the recommendation of the Nieuwenhuysen Review to the Liquor Control Act which relates to local amenity, building and health standards and advised the appropriate Minister of this report when the Review was released for comment.

Yours sincerely,

DOUGLAS R. AYLEN
CITY MANAGER

File No 20/080/00022

CITY OF CAULFIELD

MINUTE SHEET

SUBJECT Liquor Control Act: Amenity Controls

Committee Meeting held on 3rd March 1987

Council Meeting held on 17th March 1987

(Attached Minute Here)

Referred To	Date Referred	Date Actioned Actioning Officers Initials	ACTION REQUIRED AND TAKEN AFTER MEETING
T.P.			

ITEM 25. LIQUOR CONTROL ACT
Amenity Controls TP 20/080/00022

The City of Sandringham has written to Council requesting support for a submission to the Government in relation to amenity aspects of hotel operations.

The Council has sought a commitment from the Victorian Government to implement the following recommendations of the Nieuwenhuysen Report in conjunction with any reform of the liquor laws:

1. That a Town Planning permit is required for all new licensed premises and for all changes of use or operations of existing premises.

2. That 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.

Sandringham Council has submitted that the current procedure of objection to the renewal of licences each year and the subsequent hearings by the Liquor Control Commission are costly and do not offer immediate or effective relief to residents who suffer loss of amenity from living adjacent to hotels. It is pointed out that whilst there is effective Town Planning control over hours of operation of milk bars and service stations, there is no such control over hotels.

As the Cabinet is likely to consider the amenity aspects of liquor control this month, Council's support in approaching local members and relevant Ministers is sought.

TOWN PLANNER'S COMMENT

Council considered a report on the Nieuwenhuysen review of the Liquor Control Act in May, 1986. This review recognised the current role of local government in the areas of local amenity, building and health and the benefits of having hotels under similar controls to other types of premises. The review clearly recognised problems with residential amenity issues and refers to the inadequacy of Town Planning controls over licenced premises.

ITEM 25. (Cont'd.)

Council resolved to fully support the recommendations of the review which relate to local amenity, building and health standards. The Ministry for Industry, Technology and Resources was advised of this resolution and it is not considered necessary to reconfirm this advice.

M.H. & L. RECOMMENDATION

That the City of Sandringham be advised that Council has supported the recommendations of the review of the Liquor Control Act which relate to local amenity building and health standards and has advised the appropriate Minister of this support when the review was released for comment.

ITEM 25. LIQUOR CONTROL ACT
Amenity Controls TP 20/080/00022

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As the Cabinet is likely to consider the amenity aspects of liquor control this month, Council's support in approaching local members and relevant Ministers is sought.

COMMITTEE DECISION

That the City of Sandringham be advised that Council has supported the recommendations of the review of the Liquor Control Act which relate to local amenity building and health standards and has advised the appropriate Minister of this support when the review was released for comment.

20/080/00022 1

Dear Records, Please hte on Liquor Control Act
To Cindy

CITY OF SANDRINGHAM
1917

Liquor Control Act Review
the URGENT Need for Amenity Controls

THE PREMIER AND CABINET

PARLIAMENT HOUSE

MELBOURNE 3002

SUMMARY

The City of Sandringham seeks to draw to your attention the desperate need for proper amenity controls in conjunction with any reform of Victorian Liquor Laws.

The City makes this representation after careful review of the Niewenhuysen Report and following local experience with very serious amenity problems associated with licensed premises in residential areas.

The Council seeks a commitment from the Victorian Government to implement the following recommendations of the Nieuwenhuysen 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 operations 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 following submission details the reasons for the above action and highlights the need for proper amenity protection with reference to two case studies in the City of Sandringham.

THE NIEUWENHUYSEN REPORT

In the 1986 Review of the Liquor Control Act (Nieuwenhuysen Report) it is stated:-

> *"One of the most striking features of submissions to the Review was the intensity and volume of complaints received from many Councils and residents about the problem of local and residential amenity."* *Page 526*

"Late trading permits from after 10 or 11 p.m. have been the source of major problems to residential amenity". *P.527*

> *"Dr. Grant noted ...the continuous nightly disturbances which are experienced by residents in the immediate (less than ½ km) neighbourhood of some licensed premises. The number, type and time of day/night of these disturbances has significantly increased over recent years as the nature of activities in licensed premises has changed and operating hours are longer".*
> *(Municipal Association of Victoria Submission)* *P.527*

"Only 30 per cent of Victorians agree that "hotels should be able to stay open past midnight around the weekend" while 59 per cent disagree. Further 66 per cent agree that regulations controlling hotels and discos should be stricter in residential than non residential areas". (The Reviews public opinion survey) *P.530*

"I recommend adoption of the principle that licensed premises be made subject to the same amenity controls as all other industry types and that these controls be enforced in a manner which is as equitable, efficient and inexpensive as possible". P.554

"I recommend 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 providing that a town planning permit be a condition precedent to the grant of a licence or permit". P.556

THE CURRENT SITUATION

New licenced premises must all obtain permits for land use and development.

Many older hotels, cabarets and licensed premises trade without planning controls and are situated without parking and proper access in or adjacent to residential areas.

Changes to the Liquor Legislation has generally resulted in extended hours and provision of entertainment with little regard for the situation of the premises.

When the M.M.B.W. as the Metropolitan Planning Authority sought to introduce planning controls over "extended hours" hotels in 1982, the A.H.A. was successful in dissuading the M.M.B.W. and Minister for Town Planning from persisting with the proposed planning controls.

This has resulted in the serious situation where licences and permits are granted for the provision of entertainment at cabarets and hotels with late evening trading permits near residential areas.

It is only after the premises have commenced trading, after the proprietor has invested his money in the venture, that the amenity impacts of the operations are promptly assessed.

If Residents, Councils, Police and E.P.A. are unable to persuade the licencee to modify their operations, they can only object to the annual renewal of the licence/permit.

Such objections are understandably extremely expensive if a licence or permit is put in jeopardy in any way. They are also extremely time consuming and may frequently be delayed for over a year on legal grounds.

More over, the question as to whether the premises should have such extended or intensified operations is not addressed, rather it is a matter of the manner in which the premises or the operations can be modified without prejudicing the likelihood and investment of the licencee.

THE QUESTION OF WHETHER LICENSED PREMISES SHOULD BE PERMITTED TO TRADE OF A LATE EVENING WITH ENTERTAINMENT MUST BE DECIDED BEFORE SUCH ACTIVITIES COMMENCE, NOT AFTERWARDS.

WHO SHOULD RESOLVE WHETHER A HOTEL SHOULD BE ABLE TO HAVE ENTERTAINMENT, AND TIMES AND OCCASIONS ON WHICH THE ENTERTAINMENT SHOULD BE PERMITTED ? BASICALLY, IT SHOULD BE THE COUNCIL. AS THE PROBLEMS ARE ESSENTIALLY OF PLANNING. THE MAIN ISSUE BEING THE AMENITY OF LOCAL RESIDENTS

The review of the Liquor Act arrived at the same conclusion as the public, most Councils, the M.A.V., the E.P.A. and most residents who live near licensed premises.

PLANNING PRINCIPLES

A planning scheme provides the framework for achieving the community's (as represented by State and Local Government) objectives and policies. It enables control of land use and development in the planning area.

Any change in use which can affect the amenity of a nearby area should be subject to planning control.

Such is not the case as existing Hotels can trade to whatever extended hours allowed by the Commission without the need to obtain a planning permit.

> *"Consequently there are still no town planning controls over hotels with existing late permit or those wishing to obtain late permits. The extension of trading hours allowed in 1984 is likely to worsen the problem".*
>
> *Nieuwenhuysen Report* *P. 534, 535*

Without effective amenity protection, the current licensing system quite apart from any extensions of trading hours, causes serious and intolerable levels of disturbance to many residents.

Local Government has demonstrated over many years its capability to responsibly administer planning schemes which cover a vast variety of uses and development including the establishment of new licensed premises.

<u>It is essential that both new and existing uses relating to licensed premises be subject to proper amenity control under a planning scheme</u>

TWO CASE STUDIES IN SANDRINGHAM

CASE 1: "JOSEPHINE NITESPOT" 17 BEACH ROAD, HAMPTON

In 1979 the "TROIKA" "Cabaret/Restaurant" Converted to "Josephines Discotheque" for 150 persons with 14 parking spaces with trading until 3.00 a.m. on 4 nights per week and 1.00 am on the remaining evenings.

September, 1979	Council received its first complaints of noise and over crowding and takes the matter up with the licencees.
April, 1980	The problem is still occurring. Two seventy year old neighbours are in serious nervous and physical ill-health because of the nuisance. Two months later they are forced to sell their home because of the late evening disturbance.
November, 1980	Council and residents supported by the E.P.A. object to renewal of licence, Police also object to renewal.
July, 1981	Objection hearing results in 10.00 am restaurant licence being revoked, but 3.00 am cabaret licence retained. Licencees disqualified from holding licences and licence is transferred. Objection hearing costs Council $17,000 in legal fees.
1983	Previous "Josephines" Licencees again hold cabaret licences elsewhere.

September, 1984	*Licencee's son murdered in premises and licence transferred to persons who had to transfer from a hotel where they had received objections to that licence.*
October, 1984	*Premises altered without permits, late evening tourist buses and music disturb residents.*
November, 1984	*Objections to licence again but deferred on basis of undertakings.*
April, 1985	*Objections adjourned on basis of undertakings.*
March, 1986	*Licencee goes bankrupt.*
April 1986	*New proprietor takes over and again modifies premises without permit and again complaints from residents.*
May-June, 1986	*Noise and behaviour complaints from residents.*
July, 1986	*Live Bands.*
September, 1986	*Two "Pub Crawl" buses arrive after midnight to disgorge and pickup intoxicated tourists.*
October, 1986	*"Exotic and Erotic" entertainment provided in these residentially situated premises.*
November, 1986	*Residents still complain to Licencee about disturbances and seek Council support for objection to renewal.*
	Residents and Council object to renewal of the Cabaret on basis of disturbance to amenity of nearby residential area and non compliance with terms of licence and undertakings.

SUMMARY

The Council spent over $17,000 on legal costs to have its objection sustained, but the premises are still operating and causing nuisance to residents. The original licencees are still operating albiet at other premises. The residents continue to be disturbed.

8A

POST SCRIPT - JANUARY 1987

17 BEACH ROAD, HAMPTON

November/December 1986	The licencee removes all fittings from the premises after midnight over 3 evenings and vacated the premises.
December 1986	The L.C.C. staff inspect the premises and consider them unsatisfactory.
	Owner advises the L.C.C. that he intends to resume the licence.
January 1987	Owner places property on the market and seeks to sell it as a restaurant.

CASE 2: "HAMPTON HOTEL" 56 BEACH ROAD, HAMPTON

April, 1985	Prospective licencees discuss with Council staff possible change to Hotel format. Advised and agreed major entertainment and late evening trading would be incompatible with residential situation of hotel. Three page letter by Council confirming discussions.
September, 1985	At licence transfer, licencee agrees to protect residential amenity, and states entertainment will "not be loud but relaxing" and with mainly "food" format, because of the "tranquility" of Hampton.
November, 1985	Discotheque installed in rear Saloon bar. Serious noise problems to residents who complain to Hotel. Hotel applies for "Sunday Bar Trading" permit.
December, 1985	Hotel applies for Extension to Sunday evening trading to 11.30 pm. Entertainment continues to cause problems on 4 evenings per week. Hotel also gets two 3.00 a.m. special occasion permits.
January, 1986	Complaints by Council and 77 residents to Liquor Control Commission about current operations.
15th Jan, 1986	Council requests abatement and compliances with amenity condition licence.
January, 1986	Hotel engages armed guards with dogs to patrol streets to overcome behaviour problems.

February, 1986	Council with E.P.A. serves Health Act Nuisance Notice and asks Liquor control Commission to take action. Health Act Notice ignored. Council requests L.C.C. to revoke after 10.00 p.m. permits.
March, 1986	Health Act action adjourned on undertakings. Hotel's own acoustic consultant describe problem as "massive". Residents complain of continuing noise and behaviour problems.
April, 1986	Supervisor of L.C.C. seeks revocation of after 10.00 p.m. permits. Applications for extensions of trading hours and revocation adjourned.
June, 1986	August listing for case opposed by Hotel as premature.
July, 1986	Police also seek revocation for breaches of L.C.C. Act.
August, 1986	Hearing adjourned twice, for further particulars, then time to answer them.
September, 1986	Revocation hearing again adjourned at request of Hotel's QC because of denial of natural justice because Health Act and Police charges are still outstanding. Threat to obtain Writs for denial of natural justice unless revocation hearing against hotel is not adjourned. Adjournment granted until after cases heard (Est. March/April, 1987 hearing)

October, 1986	*Police charges dismissed on legal technicalities.*
November, 1986	*Health Act prosecution adjourned because Hotel's QC was not available for case and Hotel would be denied natural justice if case proceeds.*
	Objections to renewal of Hotel licence lodged by Police, Residents and Council.
	Hotel threatens Writ of prohibition if case proceeds, but agrees to plead guilty if case is not heard before planning appeal is determined.

SUMMARY

Despite the support of Council, E.P.A. and the Police the disturbance continues over a year after it commenced and the licencee uses legal tactics to frustrate hearings into revocation of the licence/permits.

POST SCRIPT - JANUARY 1987

HAMPTON HOTEL 56 BEACH ROAD, HAMPTON

10-22 December 1986	Hotel lodges late appeal and seeks adjournment on basis of one resident's complaint about lack of notice. Planning Appeals Board proceeds with case hearing strong evidence of complaints from residents. On second day Hotel obtains a Supreme Court injunction that delays the hearing for half a day. The Hotel's acoustic expert testifies the Hotel has not complied with Health Act undertakings to reduce music noise and that continuing problem is serious in absence of works. The Hotel's town planning witness describes the situation as "unacceptable". Hotel is unable to extend hearing time to conclude appeal. Hearing is adjourned uncompleted to March 1987. During hearing Mr Hooper invites Board to resume in January 1987 and expresses view that L.C.C. could hear matter in January 1987 in view of the Health Act agreement.
16 December 1986	At the L.C.C. call-over, the Hotel asked for referral to the March callover. The residents, Police, Licensing Supervisor and Council all asked for an early hearing. The Commission set it down for two weeks after 5th January 1987.
19 December 1986	The Hotel obtained an order in the Supreme Court restraining the Police and the L.C.C. from hearing both the revocation and the objections to the renewal until after the Town Planning Appeal and all outstanding Health and Police matters were resolved. The Hotel's solicitors claim their legal representatives and consultants were not available in January and rely on the outstanding Health Act and Police matters to argue a denial of natural justice if hearing proceeds.
23 December 1986	The Hotel serves the order on the Police & Commission, but not the Council or residents as it is not a party to the action. The exhibits to the affidavit are lodged at the solicitor's office which then closes for the renovations and the legal vacation. The L.C.C. removes the hearings from their lists.
January 1987) February 1987)	The music and behaviour nuisances continue.

Hampton Hotel noisier but residents quieter

by Duffy

The Hampton Hotel is still in trouble over noise coming from it, but the residents in the area seem to be getting used to the new look 'nuisance hotel'.

The recent hearing by the Liquor Control Commission into an application by the Police Licensing Inspectors to have the Hotel's late evening trading permits revoked has been adjourned to a date to be fixed.

The hearing, which lasted one and a half days, consisted entirely of legal arguments as to whether the case should proceed. The hearing was adjourned to enable outstanding prosecution for alleged offences to be dealt with by the Magistrates' Court, before the Commission proceeded to hear a request for revocation.

The Council has an outstanding prosecution against the nominee of the hotel, Susan Stewart, for contravention of the Health Act. This matter has been listed for hearing in November whilst the Police actions against the Hotel have been listed for October, 1986.

Hotel blues

Hampton Hotel is still in the hot seat over noise complaints with various court and planning actions pending. However, the residents we spoke too this week seemed to have calmed down somewhat since the furore first flared last year. There are still a few who are unhappy and can't get to sleep, but on the whole most have learnt to live with it.

Even so, surely it is the right of homeowners to have a reasonable level of quiteness in their own home? If there is only one complaint about noise from the Hotel then something should be done to make it quieter.

'Noisy revellers' draw complaint

by DENISE GADD

USED condoms in gardens, empty stubbies on the nature strip and noisy revellers disturbing the peace in the early hours of the morning are upsetting residents of Orlando St. Hampton.

The problems are alleged to stem from Josephines By The Beach, a disco in Beach Rd. which gets into full swing on Thursdays, Fridays and Saturdays until 3 a.m.

Friday, when the disco runs an exotic and erotic night which includes a lingerie parade and a $100 prize for the best erotic outfit, is particularly busy.

Mr Graeme Disney, who lives next door, told The Advertiser on some occasions the "melody, tune and DJ" were clearly audible in his home.

At other times he could hear the bass thumping through the walls.

The present operators have been running Josephines since May.

Mr Disney said he had rung them many times to complain and while they were always very apologetic, the noise problem had not improved.

"I don't want to see them close down but I believe they should insulate the place properly so we can't hear anything in our homes, or they should relocate," said Mr Disney.

He said he was hoping to call a meeting with the proprietors and nearby residents to see if they could settle the problems amicably.

The proprietors have tried to stir patrons' consciences by putting up large signs on the front door urging them to be quiet when entering and leaving the premises.

This is not the first time that Mr Disney's peace has been shattered by the disco.

About 18 months ago he had to move his son out of his bedroom because he could not sleep through the noise.

Mr Disney said the residents of Orlando St. had a real problem.

"One man told me he finds used condoms on his path and empty stubbies and cans all over the nature strip," he said.

"Then there are the noisy revellers who come out of the place at 3 a.m. I've seen people pull up early in the evening, get some beer out of the boot and sit and drink it before going in.

Mr Disney said he would much rather settle the matter privately with the proprietors rather than before the Liquor Control Commission by opposing the operator's liquor licence.

Sandringham Council has received a number of lett complaint relating to the and has decided to suppo move by the residents to to a renewal of the liquor li on the following grounds.

- The applicant has fail comply with the condition licence by allowing noise t turb the peace and quiet neighborhood.
- The premises in qu are not suitable maintain
- The applicant is not and proper person to h licence.

If the residents decide n object, council will rais issue with the operators a Liquor Control Commiss try and seek a resoluti negotiation.

● BELOW: THE signs are but according to residents, not taking any notice.

