Copy to Mayor 6/6/86

Brian Ward & Partners

BARRISTERS AND SOLICITORS

15-17 Bardolph Street, Burwood, Victoria 3125 P.O. Box 9 Burwood 3125

BRIAN D. WARD
MICHAEL D. R. MUIR
GEOFFREY L. REES

Telephone: (03) 299 1333
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Telex: AA 32217 Briwar
DX 12405 Camberwell

OUR REF.: Mr. Darrer:VCP:304/86

YOUR REF.:

4th June, 1986

The Mayor & Councillors
City of Caulfield
Municipal Offices,
Cnr. Hawthorn & Glen Eira Roads,
CAULFIELD 3162

Dear Sirs,

Re: Nicabela's New Railway Hotel

We act for Graeme Richmond whose company Sherwin Hotels Pty. Ltd. is the Licensee of the above premises. Graeme, being an experienced and well respected hotel operator, recognises his responsibility to ensure that the Hotel does not interfere with the harmony of the neighbourhood.

We are writing to you specifically regarding the affairs of residents who live nearby the Hotel. On the basis that we are not precisely clear on where the boundary of your jurisdiction and the City of Malvern lies, we have written an almost identical letter to Malvern Council.

You may be aware that Nicabela's Hotel was confronted with the voiced concerns of a handful of residents towards the end of 1985, about certain noise and nuisance problems associated with the Hotel. Our client examined the matters raised by them and swiftly moved to implement problem solving measures. In simple this evidenced our client's recognition and appreciation of the rights of residents to have their amenity unimpinged upon wherever possible.

For your information the major steps adopted and currently in place are:-

1. All late night Hotel staff park their motor vehicles in Glenferrie Street to keep at a minimum any risk of offensive patrons causing disturbances in this street. This measure was specifically in response to complaints of one or two residents in this street related to noise from departing patrons.

2. Extensive patrolling of nearby streets (including Carnarvon Road, Glenferrie Street and Arthur Street) by professional Security Personnel in particular when patrons are leaving the Hotel in the early hours of the morning.

3. Scheduled and repetitive broadcast announcements over the Hotel's audio system impressing upon patrons that they MUST leave the premises in a quiet and orderly fashion. In these announcements reference is made to the express condition on the Hotel's licence with respect to not disturbing the peace and quiet of the neighbourhood.

Since invoking these measures our client has also seen fit to conduct a survey of the attitude of all nearby residents to the Hotel's operations. Save for one elderly resident, the neighbourhood were unanimous in their acceptance of the Hotel's affairs. The only requests that were voiced were for:-

(a) Improved Street lighting; and
(b) Restricted parking in those residential streets abutting or in the proximity of the Hotel on the south side of Dandenong Road "Resident Only" or "Two Hour Parking" constraints were favourably mooted.

MHRL
TE

Essentially the purpose of this letter is to express to Council our client's firm support in favour of the implementation of the above changes. Graeme Richmond holds the belief having been involved in the Hotel industry for some twenty years, that residential harmony anywhere in the proximity of licensed premises is essential.

We also wish to stress that both our client and ourselves believe that the Council and its officers should be kept informed of our client's attitude and the steps taken by him to ensure that the concerns of the neighbourhood are immediately addressed if a problem arises and that the Hotel continues to operate without any conflict to the surrounding neighbourhood.

We also wish to advise that all residents in the relevant nearby streets have been provided with calling cards and asked to telephone Alef Security Services should they experience any nuisance problems. Alef can then arrange through their radio monitor system to have personnel immediately attend the scene if a problem arises. They have also been requested to contact Mr. Richmond if they are concerned about any aspect of the Hotel's operations.

Finally, we wish to add that in order for our client to be successful in his efforts to maintain a satisfactory amenity, it is essential he be informed of any problem when it arises. Accordingly we request the assistance of your officers in this respect and ask that if any complaint is made in the future or problem is seen to be arising it be brought to the attention of Mr. Richmond or ourselves for resolution as soon as possible.

We trust that the relevant officers whithin your organisation will make appropriate efforts to investigate what is in the best interests of your ratepayers. Our client would be more than happy to meet with you to further elaborate on any of the foregoing should this be at all desired.

4th June, 1986

In the meantime, we thank you in anticipation of your assistance and trust that with proper care on our client's part and the early identification of any areas of concern by your officers the Hotel can continue to be conducted without any interference to the surrounding neighbourhood.

Yours faithfully,

Brian Ward & Partners.

BRIAN WARD & PARTNERS

CITY
OF
CAULFIELD

MAYORAL SUITE

Ref. No.: 20/080/00022-333b
Enquiries to: Mr. B. Boyle
Telephone No.: 524 3322
AUSDOC: DX 32069 CAULFIELD

17th June, 1986.

Brian Ward & Partners,
Barristes & Solicitors,
P.O. Box 9,
BURWOOD 3125

Dear Sirs,

I refer to your recent letter forwarded on behalf of the licensee of Nicabela's new Railway Hotel and note the details of action being taken.

For your clarification, the City of Caulfield's boundary is the Princes Highway (Dandenong Road) and encompasses residences on the south side.

If any complaints are made in respect of the hotel's operation, the licensee will be made aware of same, so that a speedy resolution occurs.

I thank you for your advice and for the thoughts raised by residents during your survey, these are now being examined in detail by the respective Officers of the Council.

Yours sincerely,

M.R. BLAIR, J.P.
MAYOR

City of Caulfield

ACTION SHEET

File Number 20/080/00022

Precis of Subject RE: NIEUWENHUYSEN REFRT

PT A Folio 15

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

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

Date 6.6.86.

Action Officer

ACTION TAKEN OR REQUIRED

File

AFTER ACTION

(RM5)

DEPARTMENT OF INDUSTRY,
TECHNOLOGY AND RESOURCES

All correspondence
to be addressed to —
Director-General, P.O. Box 173,
East Melbourne, 3002, Victoria

Your Reference:

Our Reference:

3rd June, 1986

1/14/32/9

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

CITY OF CAULFIELD
-6 JUN 1986
Officer File
Letter No.

Dear Mr. Aylen,

Thank you for your recent submission commenting on the Nieuwenhuysen Report on the Liquor Control Act.

Your comments have been noted, and will be taken into account by the Government in determining its response to the Report.

Yours sincerely,

CHARLES TUOHEY
Group Manager, Industry Agencies

Contact:

228 Victoria Pde., East Melbourne,
3002, Victoria, Australia
Tel. (03) 418 8200, Telex AA33832
FAX (61-3) 4190770

Contact:

151 Flinders Street, Melbourne, 3000,
Victoria, Australia
Telephone (03) 653 9200
Telex AA36595 FAX 639525

Contact:

140 Bourke Street, Melbourne, 3000,
Victoria, Australia
Telephone (03) 665 0555
Telex AA36595 FAX 639525

Other Offices:
Dandenong
Footscray
Ballarat
Bendigo
Mildura
Shepparton
Traralgon
Wangaratta
London
Tokyo
Frankfurt
Los Angeles

File No 20/080/00022

CITY OF CAULFIELD

MINUTE SHEET

SUBJECT REVIEW OF LIQUOR CONTROL ACT

Committee Meeting held on 5TH MAY 86

Council Meeting held on 20TH MAY 86

ITEM 73. REVIEW OF THE LIQUOR CONTROL ACT MHL 20/080/00022

Consideration of a report by Manager Health and Legislation concerning the Government's review of the Liquor Control Act 1968.

COMMITTEE RECOMMENDATION

That the Minister for Industry, Technology and Resources be advised that the Council fully supports those recommendations of the review of the Liquor Control Act which relate to local amenity, building and health standards.

Referred to	Date Referred	Date Actioned Actioning Officers Initials	ACTION REQUIRED AND TAKEN AFTER MEETING
~~MHL~~	22.5.86		

Chairman and Members,
EXECUTIVE SERVICES COMMITTEE

Mr. Chairman and Gentlemen,

REVIEW OF THE LIQUOR CONTROL ACT

MHL 20/080/00022-123B

1. INTRODUCTION

1.1 In October 1984, the Government announced that a review of the objectives, operation, administration, efficiency and effectiveness of the Liquor Control Act 1968 would be carried out.

1.2 The report has now been completed and issued for public comment up until the 23rd May, 1986.

2. SUMMARY

The review recognises the current role of local government in the areas of local amenity, building and health, and the unnecessary overlap of the Liquor Control Act.

The fact that the Liquor Control Commission does not employ any qualified staff in these areas, yet has legislative responsibility for such matters, is also of particular relevance.

In all of these areas the review refers to the confusion and inefficiencies created to the industry as well as the overall benefit that can be accrued to the industry and the community as a result of having these matters under the control of local government in the same way other types of premises are controlled.

The report has been considered and adopted by the Management Team.

M.H. & L. RECOMMENDATION

That the Minister for Industry, Technology and Resources be advised that the Council fully supports those recommendations of the review of the Liquor Control Act which relate to local amenity, building and health standards.

3. DISCUSSION

3.1 The report is quite extensive, with the three main recommendations being:

(i) To shift the emphasis of policy away from industry regulation to a more logical means of countering alcohol abuse by a minority of the population, including resources for more active enforcement than today of offences that should be retained (and indeed made more severe) under a licencing act, such as serving liquor to underaged persons.

(ii) To abolish the economic aspects of regulation from the Licencing Act as far as possible, especially the objects and consequential sections referring to stability and order and continuous improvement; and in particular

(a) To remove the triad of obligations from hotels; and

(b) To permit other licences, such as restaurants and Retail Bottle Licences to participate in some of the privileges enjoyed by hotels.

(iii) To reform the administration of the Licencing Act in particular by:

(a) Making its processes simple and separating judicial and administrative aspects; and

(b) Freeing the act from economically based restriction, and from problems of overlap and duplication with other authorities, by devolving responsibility to those authorities.

3.1.1 It is the latter recommendation which specifically addresses issues pertinent to local government and proposes that local government have greater involvement in the areas of local amenity, building and health standards.

3.2 LOCAL AMENITY

3.2.1 The report clearly recognises past problems associated with residential amenity issues and refers to the inadequacy of town planning controls over licenced premises (hotels).

This particularly applies in that it is only when such a premises operating prior to 1968 has a physical extension made to the premises, can it be subjected to planning controls. Similarly, changes of operation only, do not require a permit.

3.2.2 It is stated in the report that there is no reason why licenced premises should be treated separately from other land uses.

3.2.3 Amendments to the M.M.P.S. will be required to ensure that proper controls are able to be implemented and recommendations have been made in this regard.

3.2.4 It is recommended:

"That a Town Planning Permit be required for all new licenced premises and for all changes of use or operation of existing premises and that the Licencing Act provide that a Town Planning Permit be a condition precedent to the grant of a licence".

3.3 BUILDING CONTROLS

3.3.1 At present the Liquor Control Act requires any building alterations to be approved by the Liquor Control Commission and the Commission can also require certain structural improvements to be made as is considered necessary.

This conflicts with the requirements of the Building Control Act and its philosophy of being the only Act which should have control over building matters.

3.3.2 This duplication is noted in the review and it is considered that no reason exists to absolve licenced premises from the requirements of building regulations which apply to others. Nor is it possible to see any reasonable grounds for a Liquor Licencing Authority to be a mini world of law on building matters.

3.3.3 It is therefore recommended:

"That all building matters relating to licenced premises should be the concern of Local Government and where appropriate, the Fire Authority and Historic Buildings Council".

3.4 HEALTH STANDARDS

3.4.1 Under the provisions of the Liquor Control Act, the Commission can require appropriate work to be carried out where it is of the opinion that furniture, fittings, accommodation services or amenities are inadequate or unsuitable. Further, it can require the licencee to keep such premises, fixtures and fittings thoroughly cleansed and in a good and sanitary condition.

3.4.2 Again there is an overlapping of the Health Act and the recently introduced Food Act 1985. A number of anomalies under the Food Act are addressed. However the report clearly indicates that a more uniform and effective approach to health standards would be available through Health Surveyors implementing the provisions of the Health Act, and particularly the Food Act.

3.4.3 It is therefore recommended:

(i) "That the Health Department of Victoria and Councils have sole jurisdiction over health matters pertaining to licenced premises.

(ii) That all licenced premises be required to be registered with Councils and the registration fees paid to Councils.

(iii) That the production of the Certificate of Registration from the relevant Council should be sufficient proof that the premises are adequate from the point of view of health and the production of the Certificate be a condition precedent to the grant or transfer of a licence.

(iv) That the Food Act should ensure that all hotels are subject to the same penalties and powers of enforcement as all other food premises, and in particular that a licencing authority have no jurisdiction over health requirements.

(v) That the extent of the powers of enforcement for health be examined generally to ensure that high standards of health are maintained and if such powers are considered insufficient for licenced premises, legislation to remedy the situation be introduced".

B.F.J. BOYLE
MANAGER HEALTH & LEGISLATION

Ref. No.: 20/080/00022-240B
Enquiries to: Mr. B. Boyle
Telephone No.: 524 3322
AUSDOC: DX 32069 CAULFIELD

21st May, 1986.

The Secretary,
Ministry for Industry,
Technology & Resources,
228 Victoria Parade,
EAST MELBOURNE, 3002.

Dear Sir,

At its meeting on 20th May, 1986 the Council resolved to fully support those recommendations of the review of the Liquor Control Act 1968, which specifically relate to the issues of local amenity, building and health standards.

The Council believes that it is both appropriate and necessary for local government to carry out roles expressed in the recommendations.

The Council welcomes the recommended changes and looks forward to their adoption in full.

Yours sincerely,

DOUGLAS R. AYLEN
CITY MANAGER.

FILE:

20/080/00022

AUSTRALIAN
HOTELS
ASSOCIATION
Victoria Branch

AHA HOUSE, 130-132 FLINDERS STREET,
MELBOURNE, 3000, AUSTRALIA.
TELEPHONES: 654 5066 (5 LINES).
TELEX: AA35238.

30th April 1986

CITY OF CAULFIELD
- 5 MAY 1986
Officer
Letter No.

Please find enclosed a copy of the Australian Hotels Association's summary response to the Review of the Liquor Control Act, 1968. Informed public debate has not taken place on the recommendations made by Dr. Nieuwenhuysen.

The attached brochure is released in an endeavour to encourage reasoned, rational and informed debate on the recommendations. They are not just about civilised drinking in Collins Street, but about the dismantling of an Industry.

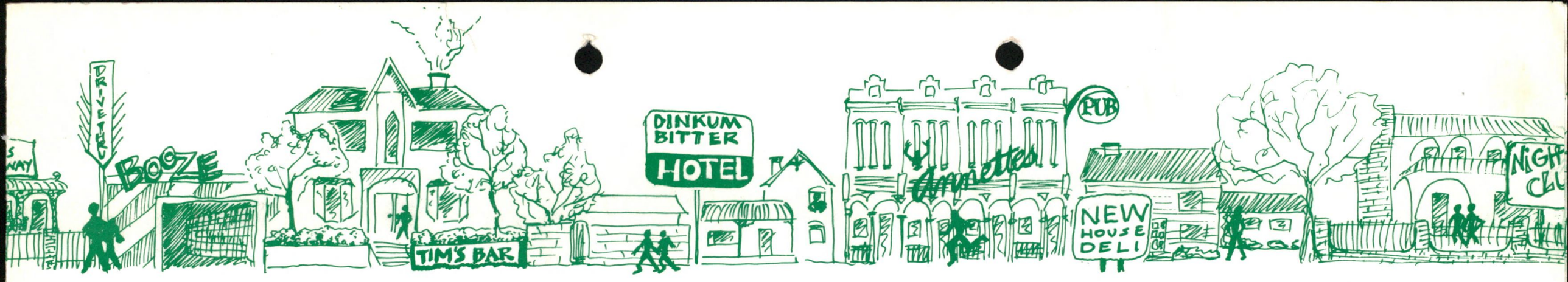
The A.H.A. supports "Evolution and not Revolution" and will be submitting a more detailed response to the Minister by Friday, 23rd May, 1986.

Yours sincerely,

DON LARKIN,
Executive Director.

Encl.

DL:LM



"Hogwash"

Evolution, or Revolution?

Liquor Reform and the Nieuwenhuysen Review: How far do we want to go in Victoria?

IN October, 1984, the Victorian Government asked Toorak academic Dr. John Nieuwenhuysen to head a review into the Liquor Control Act of 1968. The Review was completed on January 31, 1986. The Government has invited interested parties to present their views on the Review by May 23.

No Public Outcry

It should be stated at the outset that the Government did not call for the review because of public outcry about the conditions involved in the Victorian hotel industry. Nor were Victorians knocking on their MPs' doors demanding the right to turn Melbourne into Paris. The Government was specific in its terms of reference for the review; it basically wanted a review of the Liquor Control Act, 1968, relating in particular to the number and type of liquor licences and permits available and the appropriate powers for the licence issuing body.

Government and survey's support no desire for radical change. The industry and public opinion surveys conducted by the review found very strong support for a continuation of most Government policies.

The Government has also stated that "simplistic calls for sweeping deregulation are based on a misunderstanding of the operation and complexities of contemporary mixed economies".

What's it all about?

Dr. John Nieuwenhuysen has described criticisms of his Review as "Hogwash".

While proposing radical changes to the Victorian liquor scene, Dr. Nieuwenhuysen has dismissed major employer and employee critics in his ambit claim.

After being asked by the Government to review the Liquor Control Act, 1968, the Nieuwenhuysen Review has recommended dismantling — not reviewing — the Act.

There are sweeping changes proposed in the Review which go far beyond "civilised coffee and brandy in Collins St."

If accepted intact the Nieuwenhuysen Review will give enormous new powers to local councils and could lead to a five-fold increase in licensed outlets in our suburbs.

The Liquor Control Act, like most social legislation, needs regular updating.

But there is a strong case for evolution, not revolution of the liquor controls in Victoria today.

What Industry Wants

The Review undertook an industry survey which found that most people supported the present legislative system, although there were criticisms of specific aspects of the laws and administration. They said the present liquor laws should be concerned with:

- The promotion of a stable and ordered liquor control industry (77%)
- The orderly improvement and development of facilities and arrangements for the supply of accommodation, meals and liquor (65%)
- The control of the sale, disposal and consumption of alcohol (77%).

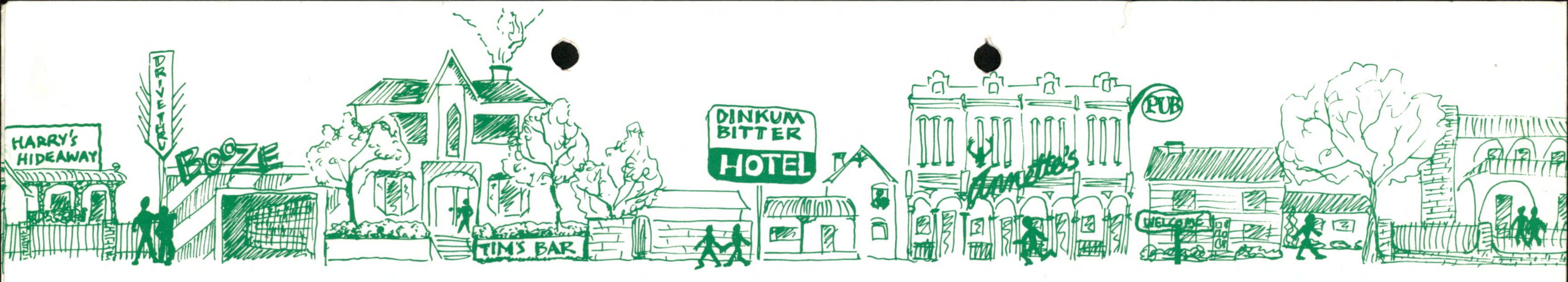
What the Public Wants!

The Review also shows that:

- Fewer or no change in the number of places where liquor can be drunk (85%) or sold for take away (90%)
- People under 18 should not be able to buy or be served liquor (93%).
- Hotels, restaurants and other licensed premises should be required through State Government regulations to maintain a specified standard of health and hygiene (95%) and furnishings and fittings (92%).
- Places like city cinemas to be unable to serve alcohol (42%).
- Liquor should not be served in restaurants without a meal (64%).

Nieuwenhuysen reacts

Despite the terms of reference and the above responses he has been completely dismissive about any public criticisms made of the review. He has attacked both the major employer representative — the Australian Hotels Association — and the major employee body — the Liquor Trades Union — in a highly emotional and defensive way — describing the response as "self interested hogwash". Is this constructive, leading to rational debate on a significant economic and social issue?



Evolution or

Why Drastic Structural Change?

The Australian Hotels' Association does agree with Dr. Nieuwenhuysen when he states that "no society or economy can progress if rules are to be forever unaltered". There have been considerable reforms that have taken place in the Victorian liquor industry over the past twenty years. It is blatantly obvious to every Victorian that the State's hotels have changed enormously for the better between 1966 and 1986. But it has become increasingly obvious that Dr. Nieuwenhuysen is determined that the industry's rules today be completely overturned. **Responding to a lack of public outcry or demand, Dr. Nieuwenhuysen has jumped completely on the "deregulation cart" and is refusing to slow down.**

Mr. Wilcox, QC, carried out a detailed study of Victorian hotels during his poker machines inquiry for the Victorian Government in 1983. In stark contrast to Dr. Nieuwenhuysen, Mr. Wilcox was highly complimentary about what he found. Mr. Wilcox said: **"Physical improvement to hotel premises and increased competence in hotel staff has caused a return to the concept of a hotel as an ordinary part of the social fabric of the community, a place of recreation, entertainment and functions, a place of respectability where men could freely bring their families including their children.**



South Melbourne

There are 31 hotels and 43 other licensed premises in South Melbourne. It has 379 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for an additional 75 hotel bar style outlets and if the existing other licensed outlets (43) were to make the same conversion, instead of 31 hotels there would be 149 hotel style premises in the City of South Melbourne.

Brighton

There are 7 hotels and 7 other licensed premises. It has 151 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for an additional 30 hotel bar style outlets and if the existing other licensed outlets (7) were to make the same conversion, instead of 7 hotels there could be 44 hotel style premises in Brighton.

Box Hill

There are no hotels but 12 licensed outlets. It has 207 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for an additional 41 hotel bar style outlets and if the 12 existing licences made the same conversion, instead of no hotels there could be 53 hotel style premises in Box Hill.

Brunswick

There are 21 hotels and 28 other licensed premises. It has 159 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for an additional 30 hotel bar style outlets and if the 28 other licences made the same conversion, instead of 21 hotels, there could be 79 hotel style premises in Brunswick.

Camberwell

There is 1 hotel and 7 other licensed outlets. It has 402 premises registered under the Food Act. Assuming 20% of those obtained a licence and the other 7 licences made the same conversion, there is the capacity for an additional 87 hotel bar style outlets and instead of 1 hotel, there is the capacity for 88 hotel style premises in Camberwell.

"My Overall Impression is that the Standard of Victorian Hotels is Excellent"

"The most striking feature of Victorian hotels which I noticed was the large number of meals they serviced. I believe that in the inspections I undertook, both formal and informal, I acquired a sufficient knowledge of the Victorian hotel industry to enable me to make the comments I have made", Mr. Wilcox wrote in his report to the Government.

The report totally ignores that there are merits in the existing system and that Victoria has the best small hotels and restaurants in Australia.

Cost of Implementation

The report does not do a cost/benefit analysis of what the financial consequences would be to the Victorian taxpayer and to the industry. There is a strong case to suggest that the recommendations could lead to higher State taxation as a result of increased cost of policing additional outlets, a possible reduction in payroll tax etc. Local Government and Council rates may have to use to cover the interest costs of permit applications, legal assistance and additional inspections.

The Question of

"The public should be free to choose . . . that is the intention of the report's recommendations". Dr. Nieuwenhuysen, Age 10/4.

On the basis that change is not being made for change's sake — despite Dr. Nieuwenhuysen's liking for deregulation — it is important to establish just what increased benefits would flow from the Nieuwenhuysen recommendations for the public.

As at June 30, 1985, there were 3,567 licences in existence. They were divided as follows: Hotels, 1,429; RBLs (licensed groceries) 775; WLMs (wholesale liquor merchants) 111; Licensed restaurants, 427; Licensed clubs, 555; and Other licences, 270.

In addition these extra licences, totalling 4,475, were issued under the Liquor Control Act as at June 30, 1985: BYO restaurants, 2,101; Unlicensed clubs, 1,673; Public hall, 127; Restricted club, 525; Inclusive charge permits, 49.

As well approximately 40,000 permits a year were being issued as "special occasion" permits

The Nieuwenhuysen Review contains these proposals in relation to licensed outlets:

a. The only conditions before obtaining a liquor licence for on and off premises consumption would be to have a town planning permit for the premises and that the applicant be a fit and suitable person according to the Police.

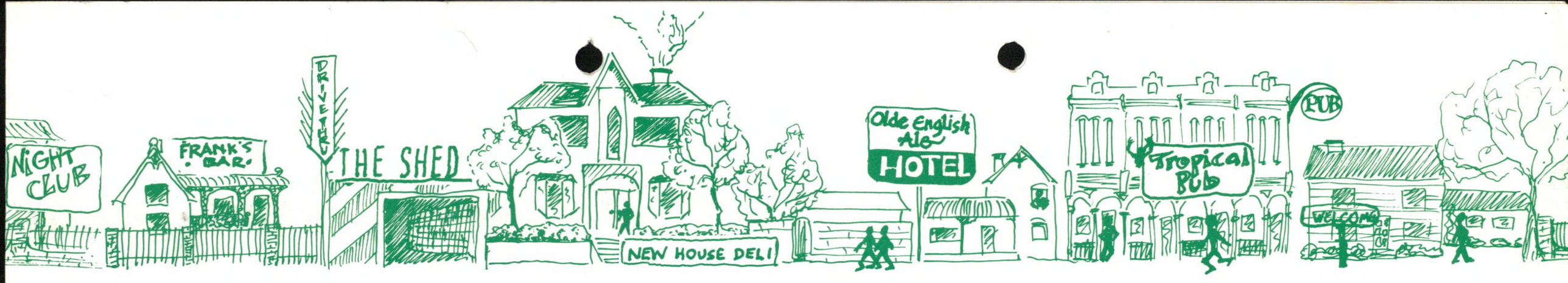
b. Any restaurant (including BYOs and unlicensed cafes, delicatessens, and food selling premises) would upon the same criteria be entitled to a licence.

c. All licensed premises — hotels, restaurants, licensed grocers, vignerons, clubs, cabarets etc. — should be able if they desire, subject to a planning permit, to sell liquor 24 hours a day.

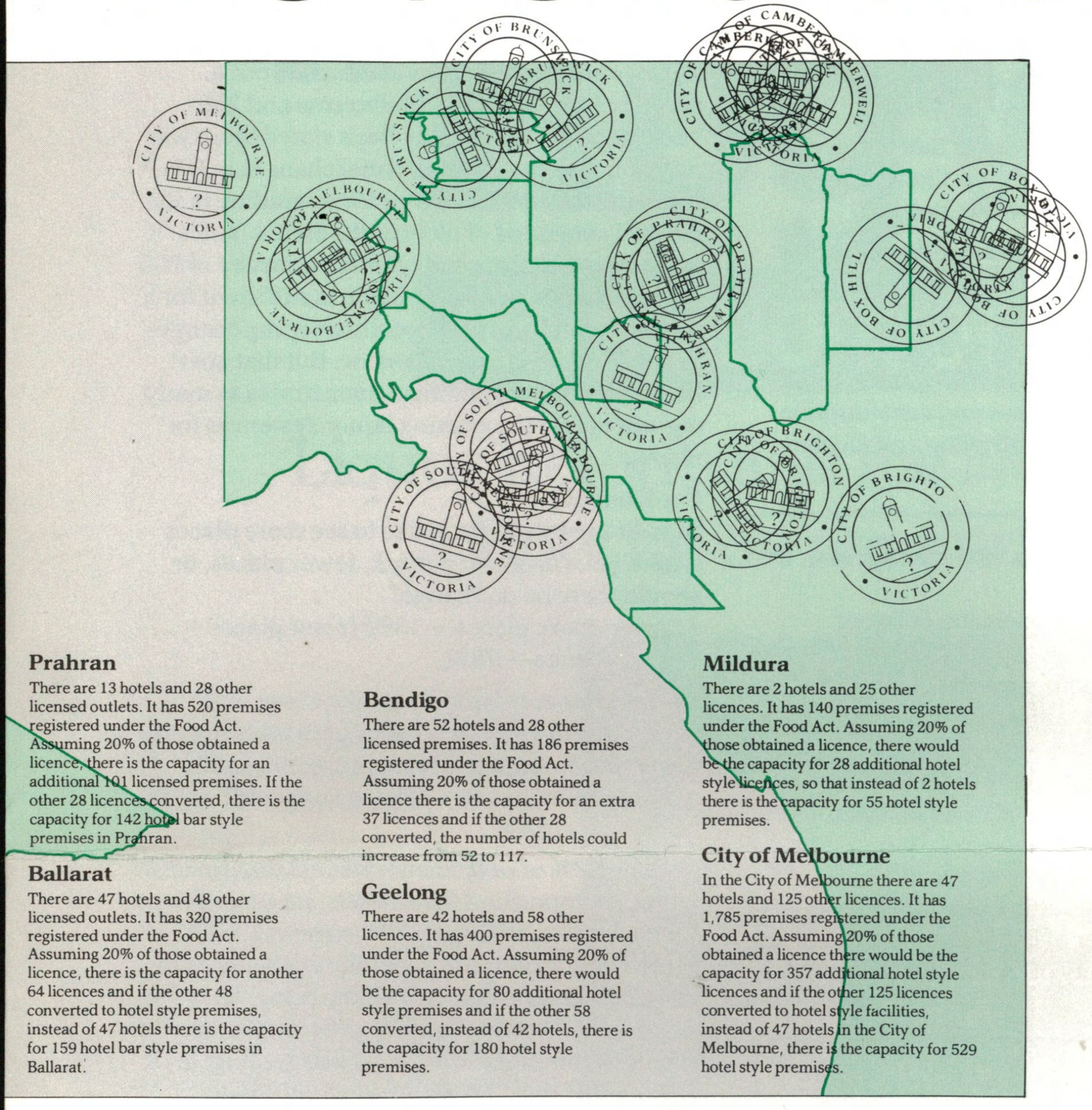
d. That licensed clubs be allowed to become the equivalent of hotels for trading purposes.

e. That unlicensed clubs and permit clubs should easily become licensed.

f. That caterers be allowed to have a roving hotel type licence.



Revolution?



Prahran
There are 13 hotels and 28 other licensed outlets. It has 520 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for an additional 101 licensed premises. If the other 28 licences converted, there is the capacity for 142 hotel bar style premises in Prahran.

Ballarat
There are 47 hotels and 48 other licensed outlets. It has 320 premises registered under the Food Act. Assuming 20% of those obtained a licence, there is the capacity for another 64 licences and if the other 48 converted to hotel style premises, instead of 47 hotels there is the capacity for 159 hotel bar style premises in Ballarat.

Bendigo
There are 52 hotels and 28 other licensed premises. It has 186 premises registered under the Food Act. Assuming 20% of those obtained a licence there is the capacity for an extra 37 licences and if the other 28 converted, the number of hotels could increase from 52 to 117.

Geelong
There are 42 hotels and 58 other licences. It has 400 premises registered under the Food Act. Assuming 20% of those obtained a licence, there would be the capacity for 80 additional hotel style premises and if the other 58 converted, instead of 42 hotels, there is the capacity for 180 hotel style premises.

Mildura
There are 2 hotels and 25 other licences. It has 140 premises registered under the Food Act. Assuming 20% of those obtained a licence, there would be the capacity for 28 additional hotel style licences, so that instead of 2 hotels there is the capacity for 55 hotel style premises.

City of Melbourne
In the City of Melbourne there are 47 hotels and 125 other licences. It has 1,785 premises registered under the Food Act. Assuming 20% of those obtained a licence there would be the capacity for 357 additional hotel style licences and if the other 125 licences converted to hotel style facilities, instead of 47 hotels in the City of Melbourne, there is the capacity for 529 hotel style premises.

Increased Outlets

A major question for public consideration is what additional outlets will be available if these recommendations are accepted?

The Review takes the attitude that there will be small and gradual change. But this is contrary to a number of the major proposals including (i) licences be obtained readily by administrative action (ii) there be no grounds of objection other than on the grounds of good character and (iii) the licensing authority have no discretion to refuse the grant of licences.

This means that, except for a town planning permit, there is no reason why any person of good character currently holding a licence or liquor permit cannot apply for a hotel-type licence. There is no conceptual reason why milk bars, take-away food premises, delicatessens, corner stores, and petrol stations should not be eligible for a general licence which would permit trading as an hotel.

While the Nieuwenhuysen Review says licences should not be available to milk bars, corner stores, and petrol stations, its general recommendations would allow it to happen.

Any proposed change in the State's liquor laws would have to detail very carefully the exact type of premises which would be eligible for licences.

Under the review proposals all existing outlets (3,567) would be eligible to act in the same manner as hotels subject only to obtaining a town planning permit. The temptation to convert to an hotel could be irresistable for many existing licensees. This means that conceptually there would be an additional 2,136 hotel-type outlets created out of the existing licences alone (compared to 1429 hotels today).

As well, there are 4,475 permit holders who, according to the Nieuwenhuysen Review, would be encouraged to obtain a hotel-type licence which would enable their premises to operate as a bar and to sell take-away liquor. **This conceptually would mean that the number of Victorian hotels and clubs could jump from 2,000 to around 10,000.** They would be comprised of the 3,567 existing outlets, the 4,475 permit holders and 2,000 food outlets who would be encouraged to get permits. **Do Victorians really want or need a five-fold increase?**

New Suburban Council Controls

The Nieuwenhuysen Review is proposing a major shift away from permit and planning control by the Liquor Control Commission to permit and planning control by suburban councils.

The major town planning proposals in the Review are (i) Town planning controls should apply to all licensed premises and for all changes of use or operation of existing premises (ii) That the Licensing Act provide a town planning permit be a condition precedent to the grant of a licence or permit (iii) That hours of trade for licensed premises after 11pm at night or before 7am in the morning be subject to obtaining a town planning permit.

One Bureaucracy to be Replaced With Numerous Bureaucracies?

This means that all licences in Victoria except licensed restaurants would need to apply to their local council for a town planning permit. If they failed to receive this they would need to go to Town Planning Appeals. Remember that in the case of Brighton or South Melbourne Councils this would mean that at least triple the number of licensed premises could be pressing their councils to give them an hotel licence.

If all permit power moves to the councils then the Liquor Control Commission would be downgraded, the administrative procedures handed over to the Department of Technology, Industry and Commerce, and responsibility for health and building handed over to local council departments.

Responsibility for matters involved in the other 16 Acts of Parliament which look after the liquor industry would presumably be looked after by relevant Government and council departments. **One bureaucracy, in other words, would be replaced by dozens.**

The Australian Hotels' Association does not state that the Liquor Control Commission as it exists is a perfect institution. But the AHA does strongly believe that throwing open the whole operation of licensing in Victoria to local Government creates infinitely more problems of management, equity, and fairness than it resolves.

The AHA does feel that there are many arguments for maintaining the overall authority of the Liquor Control Commission although we acknowledge it needs to be streamlined! The Commission has an unequalled knowledge of the liquor industry in Victoria, the Liquor Control Act lays down Commission guide-lines, the Commission provides uniformity of approach which would not be a feature of multi-council decisions, the Commission is not subject to local political pressures which would often determine the length of a local councillor's term.



The Victorian Liquor Industry and Jobs

There is already considerable disagreement between the Nieuwenhuysen Review on one hand and the Wilcox Inquiry, the AHA, and the Liquor Trades Union over employment levels in the hotel industry and the effect of the Report on future employment. The Review relies primarily on Australian Bureau of Statistics (ABS) figures which have total employment in hotels in 1985 at 21,828. However these figures do not take into account owner operators, family labor, contract labor and some part time employees as well as the large residential hotel employees. Mr. Wilcox, in his poker machine inquiry Report, said he believed "a figure of about 38,000 as a more realistic estimate of the total employment in the Victorian hotel industry".

The AHA believes that the Review means there would be a drop in employment levels because (i) most RBLs and BYOs are family operated and usually employ little outside labour (ii) small gains for existing licensed restaurants would only mean existing staff being utilised more fully (iii) licensed clubs and restricted clubs rely heavily on voluntary labour (iv) there would quite possibly be a cumulative loss to hotel business which would include a loss of jobs in that area not picked up in any other section of the liquor industry.

Effect on Tourism

The AHA disputes the Report's claims that its recommendations would have a beneficial effect on tourism. Last year 330,000 overseas tourists visited Victoria, there were over 2 million interstate tourists, but the major tourists were from within the State and have been estimated at some 11 million. It is the intrastate and interstate tourist that the small hotels serve well. In particular the contribution of the country hotels in providing accommodation, food and entertainment to this large segment of the tourism industry is largely ignored. Small hotels provide up to 6,000,000 rooms per year.

Policing

The Review notes additional police will be necessary if its proposals are implemented. No estimate of cost or numbers are given. The police are currently well under strength and have difficulty policing current outlets thus increased small outlets will increase social problems as has occurred overseas — France, Finland and Sweden!

Increased Outlets and Drunkenness

Established research has shown that increased liquor outlets and availability is likely to lead to increased anti-social behaviour, not less.

The Nieuwenhuysen Review itself admits that the "literature reviews by Dr. D.I. Smith in 1983 are the most comprehensive and up-to-date summary of studies examining the possible relationships between the number and type of outlets for alcohol purchases and consumption and levels of alcohol consumption and alcohol abuse".

Based largely on studies in the United States, Dr. Smith said:
(a) the introduction or extension of liquor licences for off-premises sales by grocery stores or supermarkets possibly results in increased consumption of wine and more convictions for drunkenness.
(b) There is some evidence of a positive relationship between the number of liquor stores and consumption of spirits, wine, and alcohol-related problems.
(c) there may be a tentative relationship between the number of licences for on-premises drinking and a variety of indices for the use and abuse of alcohol.

The Nieuwenhuysen Review states that Dr. Smith's results cannot be compared with Victoria and that "there is an almost total lack of relevant Australian research on the number of liquor outlets and alcohol consumption and abuse".

However the National Standing Committee on Alcohol in Australia has been quite willing to back Dr. Smith's findings. A recent report by the committee adopted Dr. Smith's basic conclusions and recommended that there be no further liberalisation of laws affecting alcohol availability without first considering the effects it would have on the health and welfare of Australians. The report expressed the opinion that an increase in sales of liquor from grocery stores and supermarkets was associated with increased alcohol consumption by women. It also proposed that there should be licensing laws which relate any increased licence availability to real population growth and that the existing number of licences be reviewed where population decreases.

The Review and Public Opinion

The Nieuwenhuysen Review carried out a survey of 450 people in Melbourne and 250 elsewhere. As has already been stated there was no public outcry for substantial changes in the licensing laws in Victoria or for upgrading in the current standards of most of the State's hotels. It must be seriously asked whether a survey of 700 people in a State of four million is sufficient for a Review which proposes such sweeping changes as the Nieuwenhuysen Review. But that apart, the Review's own polling demonstrates as many arguments for the existing liquor system as for change.

For Example
In your area would you like to see more places where you can go for a drink, fewer places, or should there be no change?
Answer: more places — 13%; fewer places — 7%; no change — 78%.

And in your area would you like to see more places where you can buy liquor to take away, fewer places, or should there be no change?
Answer: more places — 9%; fewer places — 7%; no change — 83%.

As well, 57% of people interviewed disagreed with the proposition that "hotels are generally shabby places, with only 19% agreeing; 64% agreed that "hotels are generally good places to go with friends" with 16% disagreeing; 39% agreed that "hotels generally provide good music and entertainment" with 27% disagreeing; and 70% agreed that "hotels are generally good places to go for a meal" with 13% disagreeing.

When people in the industry were asked whether the Liquor Control Act or liquor legislation should be concerned with the control of the sale, disposal, and consumption of alcohol 77% were in favour and 13% against, 65% said the Act should be concerned with the orderly improvement and development of facilities and arrangements for the supply of accommodation, meals, and liquor (with 21% against) and 77% said the Act should be concerned with the promotion of a stable and ordered industry (with 11% against).

Piece of the Cake

Despite claims to the contrary there is no doubt that the hotel industry "cake" has been available to an increasing number of Victorians over the years. There has been a 25% increase in the number of licences made available for licensed premises since the incorporation of the 1968 Liquor Control Act.

So, how far do **you** really want to go in Victoria?

Authorised by: Australian Hotels Association, Victo Branch

City of Caulfield

ACTION SHEET

File Number 20/080/00022.

Precis of Subject REVIEW.

PT A Folio 14

Acknowledge

For _____ Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

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

Date

25.3.86.

Action Officer

ACTION TAKEN OR REQUIRED

To show to CM on return if interested

AFTER ACTION

(RM5)

DEPARTMENT OF INDUSTRY,
TECHNOLOGY AND RESOURCES

228 Victoria Pde, East Melbourne,
Victoria 3002 Australia
P.O. Box 173, East Melb. 3002
Tel (03) 418 8200 Telex AA 33832

The Town Clerk/Shire Secretary
(as addressed)

19th March 1986

OF CAULFIELD
25 MAR 1986
Officer File
Letter No.

REVIEW OF THE LIQUOR CONTROL ACT, 1968

... I enclose for your information a copy of the Main Themes of the Review of the Liquor Control Act.

Additional copies of the Main Themes, or of the actual report and its Appendix, may be purchased at the Victorian Government Bookshop, 41 St. Andrews Place, East Melbourne.

Any comments you may wish to make on the report should be made in accordance with the public notice which will appear in the press in the next day or two.

Yours sincerely,

Charles Tuohey

CHARLES TUOHEY
Group Manager, Industry Agencies

7028(F1)

VICTORIA 150

File No 20/080/00022

CITY OF CAULFIELD

M I N U T E S H E E T

SUBJECT NICABELA'S RAILWAY HOTEL

Committee Meeting held on 8.10.85

Council Meeting held on 15.10.85

(Attached Minute Here)

ITEM 7 NICABELA'S RAILWAY HOTEL, MALVERN 20/080/00022

In July this year a number of residents from Glenferrie and Arthur Streets, North Caulfield forwarded a letter to the Liquor Control Commission with copies to the City of Malvern, Caulfield Police, Chief Licencing Inspector, and to this Council, objecting to the nuisance being caused by patrons of Nicabela's Hotel on Sunday and Monday mornings.

On the 25th July advice was received from the Liquor Control Commission that the Chief Supervisor of Licensed Premises had served a notice on the proprietor of the hotel that an application for revocation or suspension of the late night trading permit for the hotel was to be made.

The residents concerned were advised that the application and the hearing date was set for the 12th August. According to the L.C.C. the hearing has been adjourned to a date to be fixed following negotiations between the hotel, L.C.C. and a representative of the residents.

Referred to	Date Referred	Date Actioned Actioning Officers Initials	ACTION REQUIRED AND TAKEN AFTER MEETING
R/A			

The licencee undertook to carry out a number of actions including the hiring of security personnel to patrol the surrounding area and the parking of staff cars in the nearby streets to ensure proper parking and orderly departures.

These actions are currently being utilized and are being monitored by the Liquor Control Commission, police and residents.

If the situation does not improve to the satisfaction of the residents and the Liquor Control Commission then the adjourned hearing will be brought on.

COMMITTEE RECOMMENDATION

That this advice be noted.

LEGISLATIVE ASSEMBLY OF VICTORIA

With the Compliments

of

Ted Tanner M.P.

Member for Caulfield

MHL.

12 AUG 1985

POSTAL ADDRESS:
BOX 4304, G.P.O.
MELBOURNE, VIC. 3001

TELEPHONE 418 1211

LIQUOR CONTROL COMMISSION
232 VICTORIA PARADE
EAST MELBOURNE

JCK:RPM

July 25, 1985

FILE: 20/080/00022.

Mr. Tanner M.P.
Electorate Office
680A Glenhuntly Road
Caulfield, Vic. 3162

Dear Mr. Tanner

I acknowleedge receipt of your letter dated July 10, 1985, regarding complaints you received from local residents, of anti-social behaviour by patrons of Nicabela's Railway Hotel, Malvern.

The Commission caused enquiries to be made by the Chief Supervisor of Licensed Premises following earlier complaints from local residents.

As a result of these enquiries, the Chief Supervisor of Licensed Premises has instituted proceedings under the provisions of the Liquor Control Act for revocation or suspension of the permits held by this hotel.

For your information I am enclosing a copy of the notice issued to the licensee in respect of these proceedings.

The complainants will be notified of the time and date for the hearing of this matter.

Yours sincerely

J. C. Kohn.

J. C. Kohn
Deputy Secretary

Enc:

See also
01/122

Adjourned to a date to be fixed
Security people down side streets
staff parking in side streets
one of the objectors - a solicitor represented at the hearing

Liquor Control Act 1968

NOTICE OF APPLICATION FOR REVOCATION OR SUSPENSION OF PERMITS GRANTED PURSUANT TO SECTION 26(2) OF THE LIQUOR CONTROL ACT 1968.

Premises known as: NICABELA'S NEW RAILWAY HOTEL (1911416)

Situate at: 641 DANDENONG ROAD, MALVERN 3144

To: Sherwin Hotels Pty. Ltd.
Graeme James RICHMOND
responsible as licensee.

the holder of an Hotelkeeper's licence and of permits authorising the consumption of liquor:-

(i) with or ancillary to a bona fide meal between the hours of ten in the evening and one in the following morning on any day other than a Sunday or Good Friday but including the hour of twelve midnight to one in the morning on Sunday:

(ii) between the hours of twelve noon and four in the afternoon and between the hours of six in the evening and half-past eleven in the evening on a Sunday ..... for consumption with a bona fide meal; and

(iii) with or ancillary to entertainment between the hours of twelve midnight on any day except Sunday or Good Friday and three in the following morning including Sunday morning.

I, the undersigned, being the Chief Supervisor of Licensed Premises, duly appointed pursuant to Section 20 of the Liquor Control Act, will apply to the Liquor Control Commission for the revocation or suspension of the aforementioned permits on the ground that you have not complied with the provisions of the said permits or of the Liquor Control Act 1968.

PARTICULARS

(i) That the behaviour of patrons of the said hotel when departing from the said licensed premises habitually and unduly disturb the quiet of the neighbourhood, in which such premises are situate, in particular Glenferrie Road and Railway Place, Malvern, by urinating on walls, vomiting, leaving empty liquor bottles, breaking of windows and using foul language.

(2) That the behaviour of patrons of the said hotel departing from the said licensed premises habitually and unduly disturbs the quiet of the neighbourhood in which such premises are situate, in particular, in Glenferrie Street and Arthur Street, North Caulfield, by yelling, screaming and singing in the said streets, revving car engines with noisy acceleration and braking of motor vehicles, noisy car radios, urinating on gardens, tresspassing on private property and acts of vandalism.

The application will be determined on the 12th day of August 1985 at 10:30 in the forenoon at the Liquor Control Commission, 232 Victoria Parade, East Melbourne.

Dated at East Melbourne this 24th day of July 1985.

J. B. CURRIE
Chief Supervisor of Licensed Premises

Copies: Owners
L.I. MALVERN (COPY)