

ACTION SHEET

20/080/00022.

Subject Association policy - re Hotels. etc

Acknowledge

For E.S. Committee/Council

For Officer/Committee Action _____

Recorded by Committee Officer / /

Keywords

1. N.A.V
2. Hotels
3. Policy
4. Liquor
5. _____

Date

CITY OF CAULFIELD

-3 SEP 1981

Official Action Officer

Letter No.

ACTION TAKEN OR REQUIRED

LIST FOR BS CTES. $\frac{5}{10}$ *A done 14/9/81*
REPORT TO E.S.C'ORE
done

AFTER ACTION



MUNICIPAL ASSOCIATION OF VICTORIA

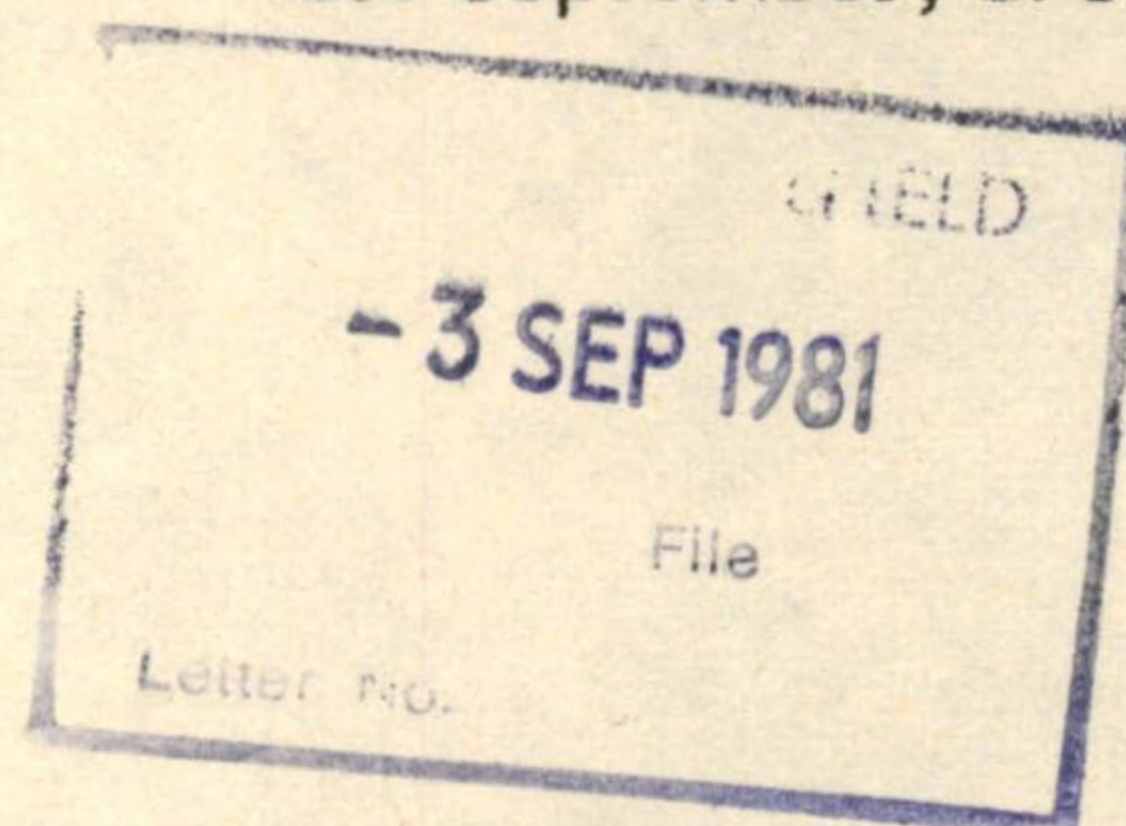
RIGBY HOUSE, 15 QUEENS ROAD, MELBOURNE, VIC., 3004

PHONE 26-4421 (STD CODE 03)

File 48/13/9 H.Cockayne

1st September, 1981.

The Municipal Clerk,
(as addressed)



Dear Sir/Madam,

Association Policy and Action on Amenity Problems Associated with Hotels and Certain Other Licensed Premises in or Adjacent to Residential Areas

1.0 Introduction

A circular has been received from the Municipal Assoc of Victoria advising that

A number of councils have in recent times made representations to the Association concerning the effect of extended night trading hours of hotels and other premises licensed or operating under permits granted under the Liquor Control Act 1968.

The concerns of the councils are mainly in relation to licensed/permit premises located in or close to residential zones or residential areas of non-residential zones. Residents in many instances are complaining to their local councils about the disruptive effect on their peaceful enjoyment of their neighbourhoods as a result of the later trading hours (which are possible on six nights of the week) and the noise and parking problems caused by the later trading hours, particularly when entertainment (pop groups, bands etc.,) is provided at the venues.

The potential for late-night trading and entertainment in hotels and those other premises which were then and are now subject to the Liquor Control Act 1968, was provided by the Liquor Control (Amendment) Act 1980 (Act 9496) whose provisions were mostly proclaimed to operate from 23rd December, 1980. This amendment had the effect of automatically extending the trading hours of the public premises which were subject to the Liquor Control Act, including an extension of the night trading hours.

The Association's Planning Policy Committee was given the task of examining the amenity problems associated with licensed/permit premises and to recommend action which the Association could pursue with a view to facilitating a reduction in the amenity loss to local neighbourhoods as a result of the legislative changes and of decisions on licences and permits handed down by the Liquor Control Commission.

This has resulted in a number of specific recommendations which have

The Planning Policy Committee set up a Working Party to look at the problem in detail. As a result, the Planning Policy Committee made a number of specific recommendations and they have now been adopted by the Association, and are embodied in the enclosed document for your Council's consideration and implementation if deemed appropriate to your municipality.

have been forwarded

In the course of preparing the document, it became obvious as a result of research, and of detailed study of the provisions of the Liquor Control Act 1968 (as amended by Act 9496), that councils and aggrieved residents possess a variety of legal avenues which they might pursue (and which they may not know about) in order to minimise the environmental effect of such granting or renewal.

It therefore seemed appropriate that these legal avenues be summarised for inclusion as part of the recommendations and supporting material with a view to eventual circulation to all councils once the recommendations had been adopted as the Association's own. It is important that these legal avenues be pursued by councils and residents alike, as their use has the potential for significant influence and impact on decisions of the Liquor Control Commission if approached in a carefully planned and prepared manner.

The Association will be pursuing the suggested legislative amendments and ancillary action contained in Part B of the Policy document, with the exception of the suggested amendments to the Melbourne Metropolitan Planning Scheme Ordinance, which will be a matter for each council in the Metropolitan Planning Area to initiate themselves if they so choose, depending on the extent of the subject problem in their own municipalities.

The Association would be pleased to receive comments from councils on the effectiveness of the policy and action information supplied to them, as the Planning Policy Committee will wish to keep a watchful eye on this aspect of neighbourhood amenity. Councils will be kept informed of progress in the Association's representations to Government.

If a sufficient number of Councils indicate support for the proposed M.M.P.S amendments, then further consideration could be given by the M.A.V in respect of promoting these.

Yours faithfully,

I. R. Pawsey
I.R. PAWSEY
Secretary.

Encl.

20/080/0002

MINUTE SHEET

SUBJECT: Liquor + Noise Control. - City of Newton

Acknowledge

FOR: _____ Committee/Council

For Officer/Committee Action under Delegated Authority

Recorded by Committee Officer / / Ref.:

FILE TO:

CAULFIELD

-6 APR 1981

Off. at

File

MHL

Noted BB 7/4/81

ACTION TAKEN OR REQUIRED

(Lengthy reports to be written on Officers Report Sheets)

Keep this section clear
if file is to be
minuted for a Council/
Committee Meeting

AFTER ACTION



MUNICIPAL ASSOCIATION OF VICTORIA

RIGBY HOUSE, 15 QUEENS ROAD, MELBOURNE, VIC., 3004

PHONE 26-4421 (STD CODE 03)

CIRCULAR NO. A24/81

April 2, 1981.

The Municipal Clerk
(As addressed)

Dear Sir/Madam,

All councils have recently been circularised by the City of Newtown seeking support for proposals to amend the Liquor Control Act and the Environment Protection (Noise Control) Act in relation to noise from licensed clubs and hotels in residential areas.

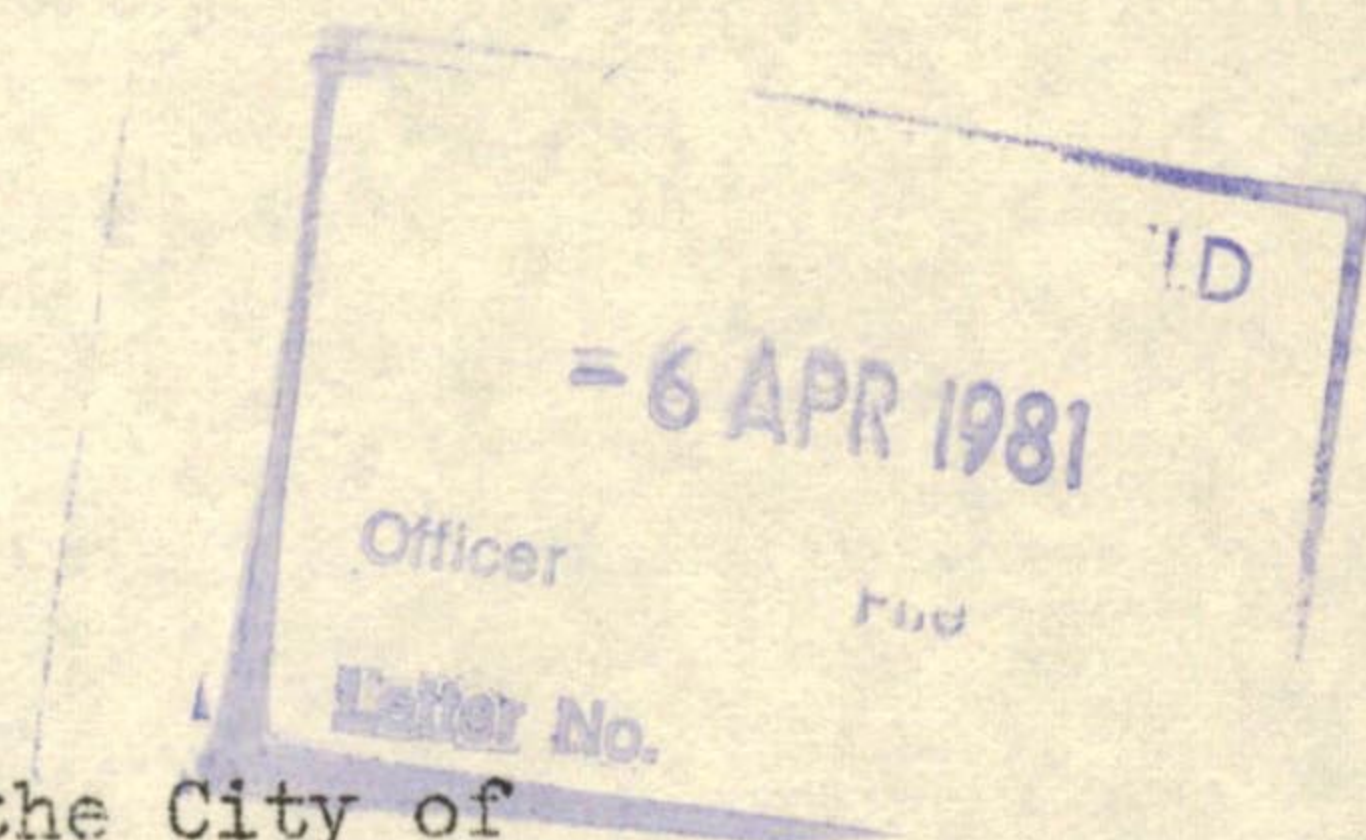
These proposals and other respective matters have been under consideration by the Association and will be examined by the Association's Planning Policy Committee in the near future.

Yours faithfully,

I. R. PAWSEY.

Secretary.

B. Whelan/gb
48-13-9



20/080/00022

Mr. B. Boyle

524-3254

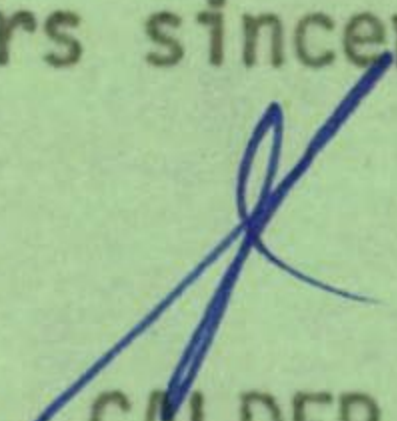
Mr. J.D. Backwell,
Town Clerk,
City of Newtown,
P.O. Box 843,
GEELONG. VIC. 3220.

Dear Sir,

The Council at its meeting held on the 10th February, 1981, considered your Council's comments regarding noise from licensed clubs and hotels in residential areas.

After giving the matter due consideration the Council resolved to advise the City of Newtown that it considers the current controls under the Liquor Control Act to be satisfactory for the purpose of policing hours of opening. Also that the proposed amendment to the Environment Protection Act should be widened to incorporate all venues (other than residential) capable of producing entertainment noise.

Yours sincerely,


G.K. CALDER
CITY MANAGER

12th February, 1981.

504000V00082

Mr. B. Boyle

824-3254

Mr. J.D. Backwell,
Town Clerk,
City of Newtown,
P.O. Box 843,
Belconnen, ACT 2620.

Dear Sir,

The Council at its meeting held on the 10th February, 1981, considered your Council's comments regarding noise from licensed clubs and hotels in residential areas.

After giving the matter due consideration the Council resolved to advise the City of Newtown that it considers the current controls under the Liquor Control Act to be satisfactory for the purpose of protecting noise of the community. As to the proposed amendments to the Environment Protection Act 1970, it is to be incorporated all venues (other than licensed premises) capable of producing entertainment noise.

Yours sincerely,

E.K. CALDER
CITY MANAGER

12th February, 1981.

Mr. Chairman, Lady and Gentlemen,

NOISE FROM LICENSED CLUBS AND HOTELS IN RESIDENTIAL AREAS.

1. Introduction.

The City of Newtown has forwarded a copy of a report dealing with the above matter, from which specific recommendations have been adopted. (refer to attached copies).

These recommendations have been forwarded to the Municipal Association of Victoria.

The City of Newtown is seeking the Council's support in respect of these recommendations.

2. Comment.

- 2.1 Whilst it is true that licensed clubs can operate seven days per week, with the initial application for a license, the details pertaining to the application must be placed upon a notice on the site for 28 days, and during that same period, advertised in a newspaper circulating in the area.

Recent amendments to the Act require a copy of the application to be forwarded to the Town Clerk or Shire Secretary of the respective municipality.

- 2.2 Grounds for objection to a licence include:-

"that the quiet of the place in which such premises are situate will be disturbed if the licence is granted."

- 2.3 The statement that residents cannot object to the renewal of a licence on noise grounds is not strictly correct, as the Commission may allow any grounds for objection if they wish.

- 2.4 In fact, every licence renewed has specific reference printed upon the licence to the need for the licensee to ensure that noise problems do not occur.

- 2.5 With the recent amendments made to the Liquor Control Act, extending licensing hours it would seem highly doubtful that the Government would reverse the situation immediately thereafter.

- 2.6 Enforcement of the Liquor Control Act is carried out through liquor control inspectors and members of the police force.

To have municipal officers involved in enforcing the hours of operation of only for one type of licence and then, only when that premises is situated in a "residential zone", would only create confusion to all concerned.

- 2.7 The matter of defining what is meant by "residential zone" would also need to be clarified.
- 2.8 Municipal officers do have the power to take proceedings under the Environment Protection Act in relation to noise matters occurring in residential premises, but then so can police.
- 2.9 With respect to the proposed amendments to the Environment Protection Act, in relation to entertainment noise from licensed clubs and hotels, the proposal is too restrictive, in that it does not refer to other venues that cause entertainment noise problems.
- 2.10 The E.P.A. is endeavouring to create amending legislation in respect of entertainment noise emanating from premises other than residential premises.

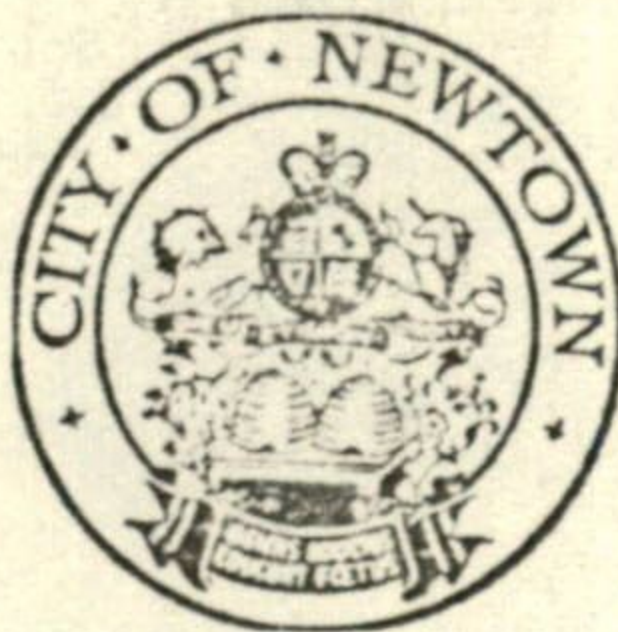
When enacted this should overcome the type of problems being experienced.

RECOMMENDATION.

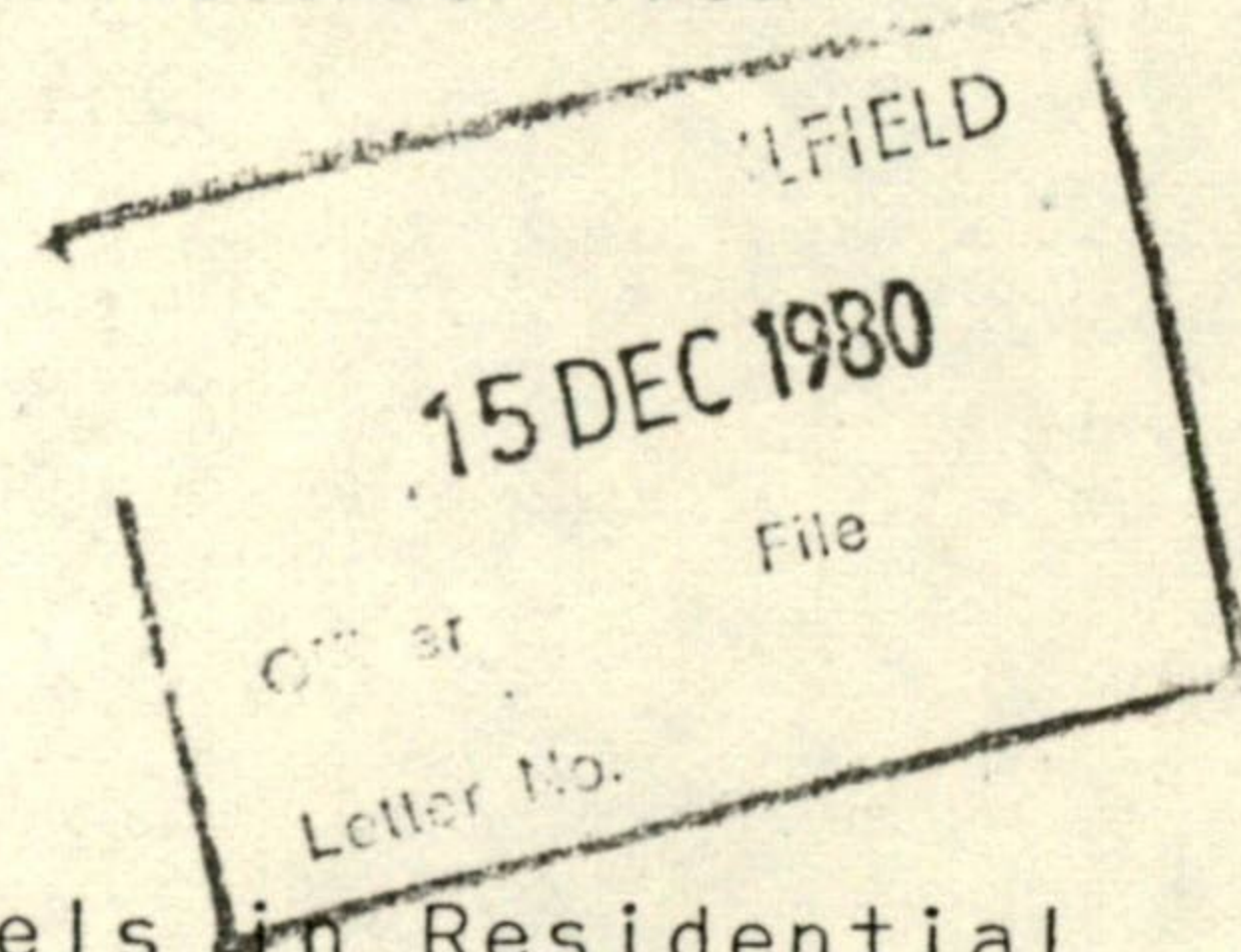
That the City of Newtown be advised that :-

1. the avenues of control existing under the Liquor Control Act are considered to be satisfactory for the purpose of policing hours of opening.
2. that the proposed amendment to the Environment Protection Act should be widened to incorporate all venues (other than residential) capable of producing entertainment noise.

B. BOYLE,
MANAGER, INSPECTION SERVICES.



11th December 1980



Town Clerk/Shire Secretary
(As Addressed)

Dear Sir,

Re: Noise from Licensed Clubs and Hotels in Residential Zones

Enclosed is a copy of a report prepared by Cr. J. Laidlaw of this Council dealing with licensed clubs and hotels located in residential zones.

Cr. Laidlaw has examined some of the problems caused by such clubs and hotels and has recommended a number of amendments to the Liquor Control Act and the Environment Protection (Noise Control) Act with the object of reducing noise nuisance caused by patrons and loud music especially at unreasonable times.

My Council has examined the report and supports Cr. Laidlaw's recommendations.

The recommendations are:-

Proposed Amendments to

1. Liquor Control Act

- * to provide that buildings of licensed clubs in residential zones be free of club members and guests by midnight on any night.
- * Council officers to be empowered to inspect and proceed against licensed clubs in residential zones that fail to comply with the prescribed times.
- * penalties for non-compliance be not more than \$400 and \$100 for each day the offence continues.
- * that liquor not be sold or disposed of on licensed club premises in residential zones on Sundays.

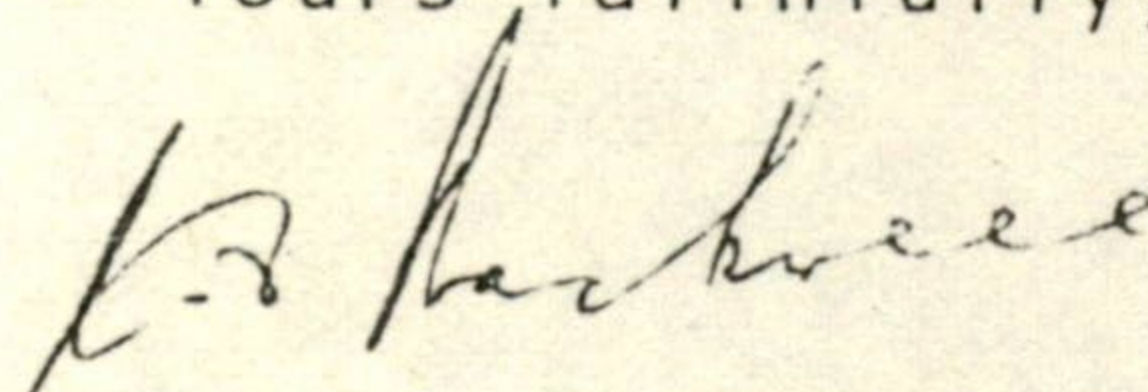
N.B. the above proposals refer to licensed clubs.

2. Environment Protection (Noise Control) Act

- * that an offence shall be deemed committed where unreasonable noise whether live or recorded is emitted by any musical instrument or amplified speaker from any hotel or licensed club premises to the detriment of any person in a residential zone, and that for the purpose of this proposal noise shall be deemed to be unreasonable having regard to the time place and other circumstances of the musical instrument or amplified speaker.
- * municipal officers be empowered to proceed against hotels and licensed clubs that fail to comply with the foregoing requirements.
- * penalties for non-compliance be not more than \$400 and \$100 for each day the offence continues.

The Council is forwarding similar details to the Municipal Association of Victoria for its opinion and approval, and seeks the support of your Council.

Yours faithfully,



J.D. BACKWELL
TOWN CLERK.

Enc:

REPORT BY CR. J. LAIDLAW ON REASONS WHY AMENDMENTS SHOULD BE
MADE TO THE LIQUOR CONTROL ACT AND THE ENVIRONMENT PROTECTION
(NOISE CONTROL) ACT

The Liquor Control Act was set up to establish controls over licensed premises, mainly hotels and clubs. Under this Act, the normal closing hour of hotels is 10 p.m., while most hotels that provide entertainment get a late licence to remain open till 11.30 p.m. Under this Act licensed clubs are allowed under Section 38 to sell and dispose of liquor on club premises to any club member or guest, or to any person employed in the club at any time on any day except Sunday, Good Friday and Anzac Day. On Sundays licensed clubs are allowed to sell liquor between the hours of 12 noon and 2.30 p.m. and 4.30 and 6.30 p.m., Sunday afternoons. Licensed clubs can also open between 4 p.m. & 10 p.m. on Sundays if they provide a meal. This section also states that liquor can be sold at any time to an inmate of the club. The Act defines an inmate as amongst other things, a person employed in the licensed premises. Under this Act, licensed clubs can remain open 24 hours a day, 7 days a week, although liquor is not allowed to be disposed of on club premises after midnight Saturday night.

If people living around hotels and clubs experience problems from excessive noise from amplified music, the main avenue open to them is to object to the licence of the hotel or club being renewed. The licences have to be renewed each year and the Liquor Control Commission has the power to remove a licence on the grounds of excessive noise.

However, in practice, the Commission usually only removes the licence of the hotel or club for a short period of time, perhaps 3 or 4 days. After that the licensed premises can continue as usual. A licensing inspector can also restrict the hours of a hotel with a late licence back to 10 p.m. until the noise situation is rectified, however the same situation does not appear to apply to clubs.

People living close to hotels in residential areas know that the hotel customers will depart at 11.30 p.m. However, the situation with licensed clubs is totally different. Under the Act, people living near clubs could theoretically experience noise problems from departing club members, guests, staff and their vehicles at early hours of the morning every day of the week. Residents cannot object to the renewal of a club licence on these grounds.

Another Act which has some provisions relating to noise from music is the Environment Protection (Noise Control) Act Section 48. This Act provides penalties of up to \$400 for unreasonable noise from musical instruments or speakers, and \$100 a day for each day the offence continues. However, this Act only applies to noise coming from private residences, so it cannot be applied to licensed premises. Under this Act, proceedings can be taken by police or council officers. In practice, the Act fails because each considers it the other's responsibility to enforce.

The argument is often put forward that people who bought homes near hotels or clubs that were already in operation should have known what to expect. This argument is unsound for the following reasons:

Many hotels were originally built in residential areas to draw on local trade before there were any such things as planning controls. Clubs were established in residential areas when the present rights of objection and appeal under the Town & Country Planning Act did not exist. Many people would have bought their homes when 6 o'clock closing was in operation, without any expectation that the Liquor Control Act would extend ordinary hotel hours to 10 p.m. and those hotels with a late licence to 11.30 p.m. It appears that the late licence hours will be extended to 1.00 a.m.

Liquor interests are now pressing for normal hotel opening on Sundays as well. It is only in very recent times that amplified music has become a problem. No individual or group should be legally able to inflict such noise on people living around them. Few, if any purchasers of houses close to licensed premises were, or are aware of the lack of protection the law affords them.

I consider that the situation that exists with regard to licensed premises whether hotels or clubs is totally inequitable to people living in residential areas. The Liquor Control Act and the Environment Protection Act as they currently stand do not provide protection of the residential amenity that people in residential zones have a right to enjoy.

While I fully support more civilised closing hours for licensed premises, I think that the privilege of having a licence must go hand in hand with a responsible attitude towards residents living in the area.

I stress most strongly that I am concerned about licensed premises only as they affect people in residential areas. The amendments I propose would not apply for example, to hotels and clubs in city areas or other appropriate zones, or to clubs such as football clubs, which are not located in residential zones.

I do not wish to take away the rights that residents have to object to the renewal of licences of hotels and clubs. I see the amendments I am moving as additional protection to residents from possible excessive noise and disturbance late at night from licensed premises. I have recommended the enforcing of my proposed amendments by municipal officers because I think that the police have more urgent priorities at the times when problems are more likely to be experienced. Municipal officers already have the power to proceed against offenders under the present Environment Protection (Noise Control) Act, and these proposed amendments would place little extra burden on them.

As regards midnight closing, which I propose for clubs in residential zones, this still gives licensed clubs a later closing advantage over hotels with late licences. With respect to selling or disposing of liquor on Sundays in licensed clubs in residential areas, I think that Sunday provides a relatively peaceful environment, and that this is part of the normal amenity of a residential area. Residents should not be subjected to amplified music, bands or announcements on Sundays, as they are at present until 10p.m.

If the Council approves these proposed amendments, I would like to see them forwarded to the Municipal Association of Victoria for their opinion and approval, as a first step in obtaining amendments of these Acts. I would also like this Council to write to all other Councils in Victoria, enclosing a copy of this report for their opinions and approval. Another avenue for amendment to Acts of Parliament is the Victorian Law Reform Commission, and if Council approves these proposed amendments, I would like the Council to write to Sir John Minogue, Chairman of the Law Reform Commission of Victoria, enclosing a copy of this report and proposed amendments.

Cr. J.F. Laidlaw.

MINUTE SHEET (1)

20/080/00022

SUBJECT: Noise from Licensed Clubs + Hotels in Residential Areas

Acknowledge

FOR: _____ Committee/Council

For Officer/Committee Action under Delegated Authority

Recorded by Committee Officer / / Ref.:

FILE TO:

ACTION TAKEN OR REQUIRED
(Lengthy reports to be written on Officers Report Sheets)

CITY OF C

15 DEC 1980

Officer

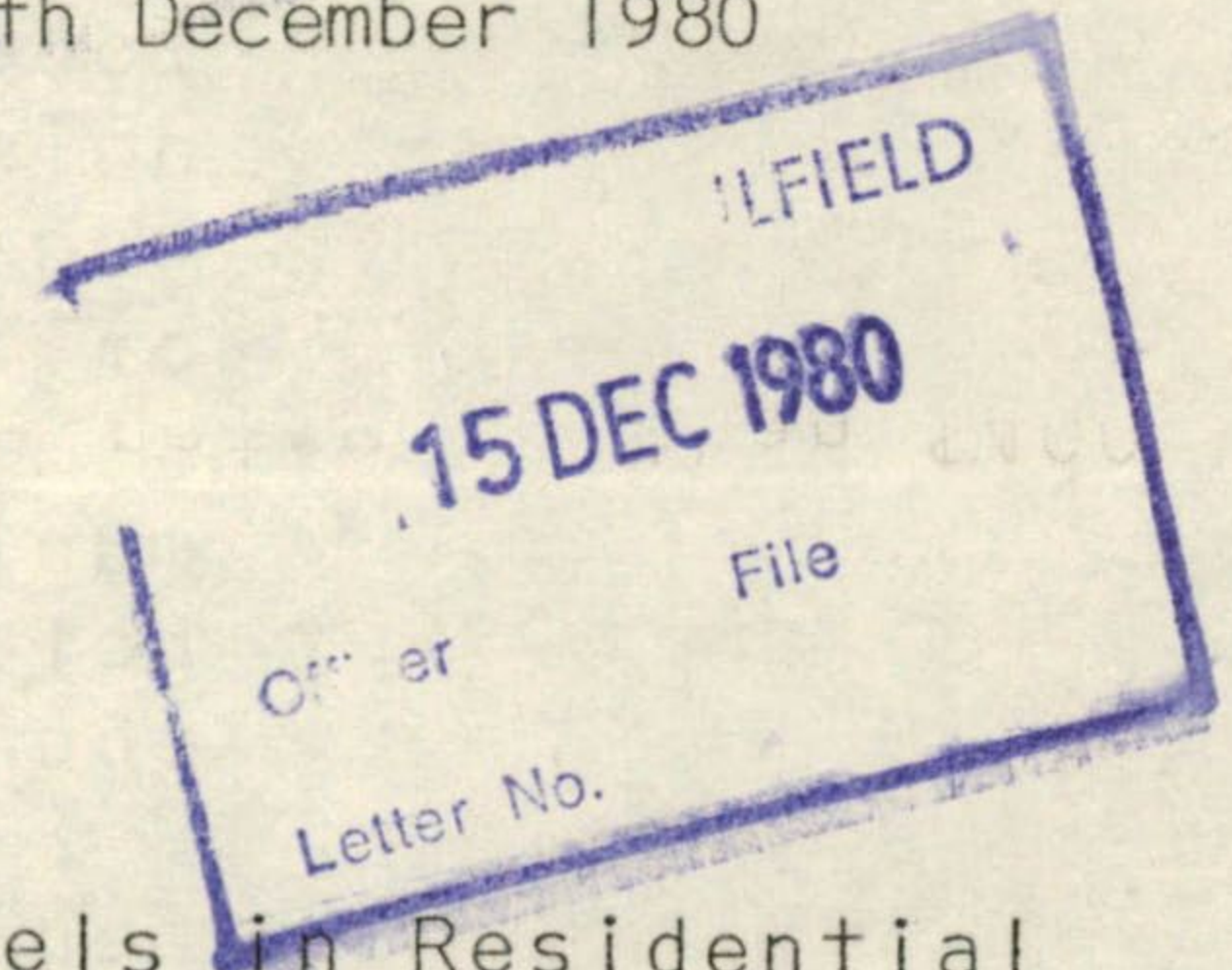
Letter No. M15

Keep this section clear
if file is to be
minuted for a Council/
Committee Meeting

AFTER ACTION



11th December 1980



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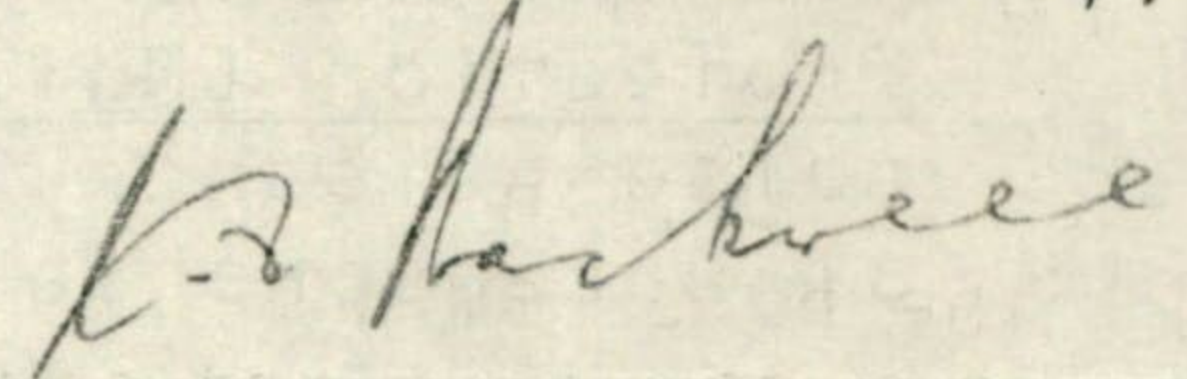
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However, in practice, the Commission usually only removes the licence of the hotel or club for a short period of time, perhaps 3 or 4 days. After that the licensed premises can continue as usual. A licensing inspector can also restrict the hours of a hotel with a late licence back to 10 p.m. until the noise situation is rectified, however the same situation does not appear to apply to clubs.

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Cr. J.F. Laidlaw.