



## EXECUTIVE SUMMARY

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act*, regarding an application by Herald Street Brew Works to add a lounge endorsement to their manufacturer's licence and having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons. The application has been reviewed by City staff including Planning, Engineering, Business and Community Relations, Bylaw, and Police. In addition, a public notification process is conducted, as required by the Liquor Licence Policy, to allow individuals and the community to share comments through written correspondence. The application has been reviewed against technical policy, and inputs provided by City staff, and through the public notification process have been considered. The proposal has also been considered in the context of the local vicinity and the City as a whole, all of which are reflected in this report and the resulting recommendation.

Herald Street Brew Works application to add a lounge endorsement to their manufacturer's licence, having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 is not in conflict with the City's current Liquor License Policy. The proposal is not inconsistent with other establishments in the area in terms of occupant load and hours, and cautions with compatibility of this proposal, along with others in the area has been expressed by staff due to increases in residential occupancies in the area. Opportunity for public comment included two letters opposed to the application. No letters were received in support of the application and no correspondence was received from the community association. Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the application to add a lounge endorsement to their manufacturer's licence, having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons at 506 Herald Street.

## PURPOSE

The purpose of this report is to seek Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by Herald Street Brew Works to have a lounge endorsement added to their manufacturing license and having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons.

The letter of intent provided in conjunction with the application is included as Appendix A.

## BACKGROUND

The Liquor and Cannabis Regulations Branch (LCRB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. LCRB determines the category of licence appropriate for the business based on submitted details. In the case of Herald Street Brew Works, the establishment will have a manufacturing licence with lounge endorsement. The manufacture's licence with lounge endorsement is the appropriate licence for the proposed business model and while they are not a food primary, licence conditions do require that food is available while open. Local governments are not referred the manufacturing licence component, but they are referred applications for lounge endorsement, and so at a minimum, the manufacturing component can be approved with no input from local government subject to Zoning Bylaw requirements.

With regard to the application for a lounge endorsement on their manufacturing licence at Herald Street Brew Works, local government is asked to provide comments and recommendations to the LCRB regarding:

1. The impact of noise on nearby residents.
2. Impact on the community if the application is approved.



A map of the subject property and the immediate area is attached to this report (Appendix B) and illustrates the 100m public notification area targeted for comment.

As noted above, this application is to have a lounge endorsement added to a manufacturing license, having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons. The Liquor and Cannabis Regulations Branch is requesting a resolution from the City of Victoria regarding the application and the review criteria noted above.

## **ISSUES & ANALYSIS**

The following sections will identify the key issues and provide analysis for Council's consideration:

### **Zoning**

The site is zoned for a Brew-Pub which is defined as facilities used for the consumption of beer, spirits, wine or other alcoholic beverages which are produced and manufactured on the premises and which may be provided in combination with Food and Beverage Service or Retail Trade. The zone places no restrictions on occupant loads or hours of operation. The production and manufacturing area for a Brew Pub (beer, spirits, wine) must not be located above the First Storey and is not permitted within six metres of the wall of any Building that abuts a Street or pedestrian walkway, except where the Brew Pub (beer, spirits, wine) is provided in conjunction with Retail Trade or Food and Beverage Service. Production capacity is limited to not more than 35% of the first storey floor area of a Brew Pub (beer, spirits, wine) for the purpose of production and manufacturing of beer, spirits, wine and other alcoholic beverages.

Compliance is demonstrated conceptually through application for a building permit and the resulting construction is monitored for compliance through the City inspection process related to the issued building permit.

### **Noise Bylaw**

The City's Noise Bylaw sets forth limits on four key areas within the City which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. Herald Street Brew Works is within the Intermediate Noise District and limited to 60 dBA at the point of reception during daytime hours which end at 10:00 pm. During nighttime hours, noise at the point of reception received is limited to 50 dBA in Quiet districts, 55 dBA in the Harbour Intermediate and Intermediate districts and 65 dBA in the Activity district. 50 dBA is comparable to rainfall, light traffic or a refrigerator and 60 dBA is comparable to conversational speech or an air conditioner. Where issues of non-compliance exist, Bylaw Officers and Police have authority to order compliance.

The City of Victoria Noise District Map is included for reference (Appendix C).

### **Vicinity and Municipal Impacts**

Predictability of noise related issues or other community impacts, negative or positive in effect, is challenging due to a number of variable factors. The business model, target clientele, quality of owner/operator, existing density of licenced capacity in the area, hours of service, demographics, and fluctuating populations due to tourism factor into predicting the likelihood of noise related issues and impacts on the community.

Consideration of those factors can assist a municipality to predict negative aspects associated with licenced establishments. The factors considered in conjunction with any application approval at



time of consideration change over the life of a licenced establishment, and when they do change, and issues arise, compliance related to noise and other aspects is re-established using tools of enforcement. These tools include LCRB enforcement which ensure responsible and appropriate service as required by the terms of the licence with LCRB. The Noise Bylaw can be enforced to bring an establishment into compliance, and police have authority to bring an establishment back into compliance where issues are more complex.

Herald Street Brew Works' application has been considered with regard to the impact it would have on the community and its potential to generate noise related issues. The impact has been considered in terms of the vicinity and within the city as a whole. The category of licence required by Herald Street Brew Works for their operational concept is a manufacturer's licence with lounge endorsement. This type of licence carries a requirement that they must provide, at a minimum, a variety of hot or cold snacks and non-alcoholic beverages during all hours of operation. The establishment is neither a Liquor Primary nor Food Primary but has been compared to both to illustrate the impact it is likely to have in the vicinity.

<b>Vicinity Analysis – Licenced Occupant Load and % Increase</b>							
Opening & Closing Hours	Herald Street Seating	Existing Liquor Primary Seats	Increase in Seat Capacity	Existing Food Primary Seats	Increase in Seat Capacity	All Existing Seats	Increase in Seat Capacity
9:00 AM	178	171	104.1%	431	41.3%	602	<b>29.6%</b>
2:00 AM	178	907	19.6%	115	154.8%	1022	<b>17.4%</b>
<b>City Wide Analysis</b>							
Opening & Closing Hours	Herald Street Seating	Existing Liquor Primary Seats	Increase in Seat Capacity	Existing Food Primary Seats	Increase in Seat Capacity	All Existing Seats	Increase in Seat Capacity
9:00 AM	178	15,504	1.15%	16,965	1.05%	32,469	<b>0.5%</b>
2:00 AM	178	9,253	1.9%	2,658	6.7%	11,911	<b>1.49%</b>

The local vicinity and the city as a whole have been considered in terms of contributory impact related to occupant load and hours of operation, and if approved, represents a 17.4% increase to licenced capacity in the evening hours within the vicinity and an increase of 1.49% city wide. Vicinity information is attached as Appendix D.

The hours proposed for licensed service are in keeping with the vast majority of other licenced establishments in the vicinity. Herald Street Brew Works' proposal and its potential impact on residents in the area is not expected to be significant in terms of contribution to existing conditions in the area. The area is well established as host to a number of licenced venues, but residential growth is expected in the area and compatibility of these interfacing uses creates potential for conflict due to disturbances. Approval will contribute to the impacts associated with licenced establishments, and at the hour of 2:00 am the impact is 1.49% in terms of existing licensed capacity city wide and 17.4% in the vicinity of the establishment.

### **City Liquor Licensing Policy**

The City's Liquor Licensing Policy directs staff to consider applications for liquor licences having hours of operation not later than 2:00 am. The applicable Council Policy is attached to this report (Appendix E).

The hours of licensed service proposed in this application are within the parameters of the policy.



## **City Referrals**

An inter-departmental review of the project has been undertaken by City staff. The inter-departmental review includes circulation to Planning, Engineering, Community Development, Bylaw, and Police. That review has resulted in the following feedback:

### Planning

- The use is permitted in the zone and there is no restriction on hours of business.

### Engineering

- Transportation related noise impacts or general community impact are not anticipated.

### Business and Community Relations

- Business and Community Relations noted that, in its current context, the proposal is unlikely to cause issues typically associated with interfacing residential uses and licenced establishments during evening hours as the location is somewhat remote from residences in the area. However, caution is recommended where future residential developments are anticipated in close proximity to the establishment.

### Bylaw

- Bylaw echoes comments made by Business and Community Relations

### Police

- Police express limited concern regarding the application in context of the current make-up of businesses and residences in the area. However, concern regarding future residential development and proximity to this establishment is expressed. Full Police comments attached separately as Appendix F.

From the perspective of provincial process relative to Food Primaries, midnight can be considered as normal or expected in terms of impacts. LCRB's Food Primary licence category, regardless of occupant load, is not referred to local government for consideration of impacts unless the closing hours are past midnight. This is recognized as a baseline for potential impact associated with the establishment as any Food Primary could occupy the space with no limitations on occupant load and without consideration by local government where hours do not extend beyond midnight.

## **Community Consultation**

In accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy, all property owners and occupiers within 100 metres of the applicant's location were solicited by a mailed notice to provide input regarding this application. In addition, Herald Street Brew Works displayed a notice poster at the entrance for 30 days which invited people to provide input to the City with respect to this application.

A total of two letters were received, and both opposed the application. Concerns with the application were representative of experiences associated with other establishments in the area and a general preference to limit the amount of licenced establishments in the area to what currently exists. Correspondence from the Downtown Residents Association DRA was not received. The letters are available in Appendix G.

## **Applicant Response**

As is standard practice as a part of the liquor licence process, after City staff gives input, the applicant has a chance to review the information (and this report) and respond prior to the report being forwarded to Council. After the applicant reviewed City staff comments, the applicant chose to provide additional correspondence related to the staff review. This is available as Appendix H.

In summary, after conducting a review with respect to noise and community impacts and soliciting community views regarding Herald Street Brew Works application for a lounge endorsement to be added to their manufacturing license, and having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons, it is considered that the proposal is consistent with current City policy. Therefore, staff recommend that Council consider directing staff to notify the Liquor Licensing Agency that Council supports the application for the addition of a lounge endorsement to the manufacture's license.

## **IMPACTS**

### Accessibility Impact Statement

None

### Strategic Plan 2015 – 2018

The recommendation to support the application is likely to increase the business viability of the pub, which is consistent with Strategic Plan Objective #5 - *Create Prosperity Through Economic Development*.

### Impacts to Financial Plan

None

### Official Community Plan

The existing and proposed uses of the lounge endorsement and manufacturing license are consistent with the *Official Community Plan* objectives for this neighbourhood.

## **CONCLUSIONS**

The application for a lounge endorsement to Herald Street Brew Works manufacturing license, having hours of operation from 9:00 am to 2:00 am daily, and an occupant load of 178 persons is not in conflict with the City's current liquor licensing policy. While the site is zoned appropriately, caution is expressed regarding future residential development in close proximity to the establishment. In its current context, potential impacts related to the establishment if approved will likely be minimal based on experience with similar establishments and their proximity to residences in the area, and the establishment has proposed hours similar to other establishments in close proximity. Staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the application for lounge endorsements for Herald Street Brew Works.

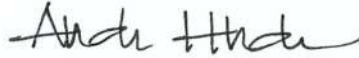


## ALTERNATE MOTION (No Support)

That Council, after conducting a review with respect to noise and community impacts regarding the application to add lounge endorsements to the manufacturing licences of Herald Street Brew Works, at 506 Herald Street, does not support the request for the amendment.

Respectfully submitted,


  
Ryan Morhart  
Manager  
Permits & Inspections



Andrea Hudson  
Acting Director  
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:

Date:

  
March 8, 2019

### List of Attachments

Appendix A: Rationale Letter  
Appendix B: Site Map  
Appendix C: Noise District Map  
Appendix D: Vicinity Map  
Appendix E: Council Policy  
Appendix F: Police Comments  
Appendix G: Public Response from 30 day posting  
Appendix H: Applicant Comments  
Appendix I: Provincial Liquor License Types