



Committee of the Whole Report

For the Meeting of June 27, 2019

To: Committee of the Whole **Date:** May 17, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Application for a Change to Hours of Licensed Service for a Food Primary License for Clarke & Co., 1002 Blanshard Street.

RECOMMENDATION

That Council direct staff to provide the following response to the Liquor Licensing Agency:

Council, after conducting a review with respect to noise and community impacts, does support the application of Clarke & Co., located at 1002 Blanshard Street, to adjust hours of licensed service to 9:00 am to 1:00 am daily, with an occupant load of 32 persons.

Providing the following comments on the prescribed considerations:

- a. The impact of noise on the community in the vicinity of the establishment has been considered in relation to the request, and assumptions are the noise impacts would be negligible based on experience with the operator, and nature of the request. The requested hours of operation in conjunction with the existing occupant load are not expected to result in negative impacts to the community.
- b. If the application is approved, the impact on the community is expected to be positive economically as the approval supports the business plan and long term viability of the establishment. The business model embraces the combination of small occupant load and high quality of offerings, and provides a unique contribution to the richness, and diversity of offerings in the area.
- c. The views of residents were solicited via a mail out which included 249 letters to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. The City received two letters in response to the request, both of which supported or had no objection to the application.
- d. Council recommends the license be approved.

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 Clarke & Co. to change hours of licenced service associated with their food primary licence to have hours of operation from 9:00 am to 1:00 am daily, and an occupant load of 32 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.

Clarke & Co.'s application to change existing hours of 9:00 am to 12:00 am, to 9:00 am to 1:00 am with an existing occupant load of 32 is not in conflict with the City's current Liquor License Policy. Generally speaking, and outside of police concerns related to resources, staff have not expressed concern for the adjustment mainly due to the small size of the existing establishment. Opportunity for public comment included two letters, both of which supported the application. Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the application to change hours of operation to 9:00 am to 1:00 am daily with an occupant load of 32 persons at 1002 Blanshard 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 Clarke & Co. to change hours of operation from 9:00 am to 12:00 am daily to 9:00 am to 1:00 am daily, with an occupant load of 32 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 Clarke & Co., the establishment is regulated under a food primary licence.

With regard to the application to change hours of a food primary licence past the hour of 12:00 am for Clarke & Co., 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.
3. Whether the amendment will result in the service area being operated in a manner that is contrary to the primary purpose.

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 change hours of licensed service from 9:00 am to 12:00 am daily, to 9:00 am to 1:00 am daily with an occupant load of 32 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 as CBD-1 which permits the activities of the food primary licence and there are no parking requirements attributed to the use.

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. Clarke & Co. 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.

Clarke & Co.'s 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 establishment is a food primary and so has been compared to existing food primary capacity in the area and the City as a whole.

Vicinity Analysis – Licenced Occupant Load and % Increase							
Opening & Closing Hours	Clarke & Co. 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	32	80	n/a	1071	0%	1151	0%
1:00 AM	32	3415	n/a	1411	2.3%	4826	0.66%
City Wide Analysis							
Opening & Closing Hours	Clarke & Co.	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	32	15,682	n/a	16,919	0%	32,601	0%
1:00 AM	32	17,866	n/a	20,811	0.15%	38,677	0.08%

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 0.66% increase to licenced capacity in the evening hours within the vicinity and an increase of 0.08% city wide. Vicinity information is attached as Appendix D.

The hours proposed for licensed service are in keeping with other licenced establishments in the vicinity, and the potential impact on residents is expected to be minimal primarily due to the size of the establishment at 32 persons.

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, Business and Community Relations, 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 the establishment to be in an area that provides hospitality services and that the density of licenced establishments in the area is low. The request is supportable.

Bylaw

- Bylaw echoes comments made by Business and Community Relations

Police

- Police express limited concern regarding the request due to resource pressures and do not support the request. Full comments are available in Appendix F.

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 to the 249 letters sent, Clarke and Co. 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, both of which supported the application and one was a letter from the Downtown Residents' Association. 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 has declined opportunity to provide additional correspondence based on the limited concern expressed.

In summary, after conducting a review with respect to noise and community impacts and soliciting community views regarding Clarke & Co.'s application to change existing hours of 9:00 am to 12:00 am daily, to 9:00 am to 1:00 am daily with an occupant load of 32 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 2019 – 2022

The recommendation to support the application is likely to increase the long-term viability of the restaurant as a local employer and economic contributor, which is consistent with Strategic Objective #4 – *Prosperity and Economic Inclusion*.

Impacts to Financial Plan

None

Official Community Plan

The license application is consistent with the *Official Community Plan*.

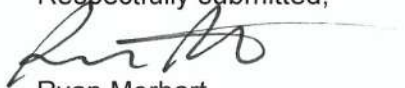
CONCLUSIONS

The application to change hours at Clarke & Co. from 9:00 am to 1:00 am daily with an occupant load of 32 people is not in conflict with the City's current liquor licensing policy. Staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the application for proposed hours for Clarke & Co. at 1002 Blanshard Street.

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 Clarke & Co., at 1002 Blanshard Street, does not support the request for the amendment.

Respectfully submitted,

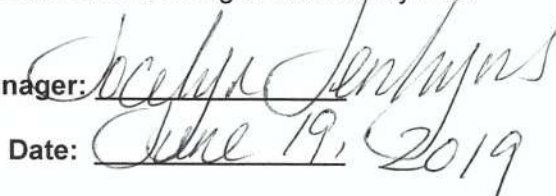


Ryan Morhart
Manager
Permits & Inspections



Andrea Hudson
Acting Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:



Date: June 19, 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: Provincial Liquor License Types