



## **Committee of the Whole Report**

### **For the Meeting of May 6, 2021**

---

**To:** Committee of the Whole **Date:** March 29, 2021

**From:** Karen Hoesse, Director, Sustainable Planning and Community Development

**Subject:** Application for a New Liquor Primary Licence for Tora Tiki at 714 Cormorant Street

---

### **RECOMMENDATION**

That Council direct staff to provide the following response to the Liquor and Cannabis Regulation Branch:

1. That Council, after conducting a review with respect to noise and community impacts, does support the application of Tora Tiki located at 714 Cormorant Street having hours of operation from 12:00 pm to 1:00 am daily with a total occupant load of 60 people.

Providing the following comments on the prescribed considerations:

- a. The impact of noise on the community near the establishment was considered in relation to the request, and approval of the licence as recommended is not expected to result in unacceptable levels of noise.
- b. If the application is approved, it is anticipated to have a positive economic impact on the community as support for the liquor licence, a component of the business model, will support the viability of the business.
- c. The views of residents were solicited through a mailout that was sent to neighbouring property owners and occupants within 100 metres of the licensed location (a total of 778 notices) and through a notice posted at the property. In response to the notification, the City received 27 letters of which 14 letters stated opposition including one from the Downtown Residents Association and 13 letters expressed support.
- 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 Tora Tiki. The application is for a new Liquor Primary licence having hours of operation from 12:00 pm to 2:00 am daily with a total occupant load of 60 people.

Tora Tiki's application was evaluated against City policy, staff commentary, and feedback received through the public notification process. It has also been considered in the context of the local vicinity and the City as a whole and is consistent with the City's Liquor License Policy. With the objective of balancing community needs with the operational requirements of the business, it is recommended that the application be supported with an earlier closing time of 1:00 am daily.

## **PURPOSE**

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by Tora Tiki for a Liquor Primary licence at 714 Cormorant Street. The LCRB is requesting a resolution from the City of Victoria regarding:

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

Tora Tiki is seeking approval for hours of licensed service from 12:00 pm to 2:00 am daily with a total occupant load of 60 people. A letter of intent has been provided with information about the business model and is included as Appendix A. A map of the subject property and the immediate area is attached to this report (Appendix B) and illustrates the 100m public notification area.

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 or acceptable for the business based on submitted details. In the case of Tora Tiki, the operator is seeking a liquor primary licence. Liquor primary licences allow for a greater level of operational flexibility where a focus on food service is not a condition of operation or the primary focus of the business and includes permission to provide entertainment such as karaoke or other forms of live entertainment.

## **ISSUES & ANALYSIS**

The following sections provide Council with information, analysis and recommendations for consideration of the Council resolution to the LCRB.

### **Zoning**

Zoning for the establishment is CBD-1, Central Business District-1, which permits "Food and Beverage Service" and "Drinking Establishments" and imposes no restriction on hours or occupant loads. Compliance would be demonstrated through an application for a building permit and the resulting construction would be verified for compliance through the City inspection process related to an issued building permit.

### **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 and is attached to this report (Appendix C). The hours of licensed service proposed in this application are within the parameters of the policy.

For reference, in terms of hours of liquor service, applications for food primary licences (as opposed to liquor primary licenses) are entitled to closing hours of 12:00 am and the occupant load is limited only by washrooms or parking, with no referral to local government. This is notable as it creates an unintended baseline of standard hours for licenced establishments.

## Impact Assessment

As part of the liquor primary license application review, the LCRB is requesting a resolution from the City of Victoria regarding noise impacts, specifically on nearby residents, as well as the overall impact on the community if the application is approved.

To understand the impact Tora Tiki would have on the community and its potential to generate noise related issues, the application has been compared to the existing licensed capacity both in the vicinity and citywide. If approved, the licenced capacity of 60 people is a 4% increase in licenced capacity in the vicinity. Vicinity information is attached as Appendix D.

The City's Noise Bylaw sets limits for four key areas within the City, which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. Tora Tiki is within the Intermediate Noise District and limited to 60dBA 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 50dBA in Quiet districts, 55dBA in the Harbour Intermediate and Intermediate districts and 65dBA in the Activity district. For reference, 50dBA is comparable to rainfall, light traffic or a refrigerator and 60dBA is comparable to conversational speech or an air conditioner. The City of Victoria Noise District Map is included in Appendix E.

Noise related issues and other community impacts, negative or positive in effect, are challenging to predict as there are a number of variables that need to be considered. This includes 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.

Consideration of these factors can assist a municipality to predict negative aspects associated with licenced establishments; however, these factors can also change over the life of a licenced establishment. When they do change, and unanticipated issues arise, the fallback to re-establish compliance related to noise and other aspects is to use tools of enforcement including:

- LCRB enforcement, which ensures responsible and appropriate service as required by the terms of the licence with LCRB;
- Noise Bylaw enforcement by Bylaw Officers; and
- where issues are more complex, the Police have additional authority to bring an establishment back into compliance.

## City Referrals

An inter-departmental review of the project is conducted prior to public notification. The review for the proposed liquor primary license at 714 Cormorant Street resulted in the following feedback:

### Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for the intended use as drinking establishment.

### Engineering & Public Works

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

### Community & Business Relations

- Community & Business Relations is supportive of the establishment at the proposed location and indicates preference for earlier closing times to allow monitoring of impacts for the first year of operation and suggests initial closing hours of 12:00 am on weekdays and 1:00 am on weekend evenings.

### Bylaw Services

- Bylaw Services has not provided input due to resource pressures.

### Police

- Police have indicated the establishment is unlikely to generate significant community impacts and notes the general concern with contribution to citywide licence capacity. Full police 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. Both the public notification and the poster reflected the application's proposed closing time of 2:00 am daily.

In terms of community feedback, the City received 27 letters in response to the notification, representing a response rate of 3.5%. A similar number of responses were received in support of and opposed to the application, with 14 letters expressing concern, including a letter from the Downtown Residents Association, and 13 letters expressing support.

The letters of response are included in Appendix G and DRA comments are in Appendix H

## **Applicant Response**

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to consider public feedback and to respond to this and the report prior to the report being forwarded to Council. Based on the evaluation of the application, the applicant was advised that the recommendation to Council would be support but with an earlier closing time of 1:00 am daily in order to balance community needs with the operational requirements of the business.

In response, the applicant has chosen to provide additional correspondence to address concerns and comments brought forward and to provide additional information and perspective. The operators of the establishment are locally experienced and reputable business owners, and the correspondence provided provides clarity about the business model and measures taken to reduce impacts.

This correspondence is available in Appendix I.

## **IMPACTS**

### Accessibility Impact Statement

The establishment is accessible at ground level and meets accessibility requirements of the BC Building Code.

### Strategic Plan 2019 – 2022

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

### Impacts to Financial Plan

None

### Official Community Plan

The proposed licence is generally consistent with the objectives for the Core Business Urban Place designation in the Official Community Plan which broadly aims to encourage active ground uses and supports a range of amenities to serve the daily needs of residents, businesses and visitors and an improved local economy.

## **CONCLUSION**

This application of Tora Tiki, for a new liquor primary licence at 714 Cormorant Street, with hours of operation from 9:00 am to 1:00 am daily, and with a total occupant load of 60 people, is considered supportable. The site is appropriately zoned for the use and the proposal is consistent with current City policy. While a later closing time was originally requested, based on the feedback received and to better balance community concerns with the operational needs this local business, an earlier closing time of 1:00 am daily is recommended for Council's consideration.

## **ALTERNATE MOTIONS**

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of Tora Tiki, at 714 Cormorant Street, does not support the application.

Respectfully submitted,

Ryan Morhart  
Manager, Permits & Inspections

Karen Hoesel, Director  
Sustainable Planning & Community Dev.

**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **List of Attachments**

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