



Committee of the Whole Report

For the Meeting of May 13, 2021

To: Committee of the Whole **Date:** January 11, 2021

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: Application for a Structural Change to increase the Occupant Load for Swans Pub, Liquor Primary License at 510 Pandora Avenue.

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 Swans Pub located at 510 Pandora Avenue to increase the occupant load from 171 to 282 people with no change to hours of operation which are 9:00 am to 2:00 am daily.

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 that the noise impacts would be negligible as the increased occupant load affects interior space only, and the establishment has a reputation of responsible operation. The requested hours of operation in conjunction with the proposed 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.
- c. The views of residents were solicited via a mail-out which included 1313 letters to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice was posted at the property. In response to the notification, a total of ten written responses were received, of which seven expressed opposition including one from the Downtown Residents Association, and three expressed support.
- d. Council recommends that the license be approved.

- e. The patio is located on City property and is subject to Swans Pub maintaining a proper licence agreement for the occupation of City property.

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 Swans Pub located at 510 Pandora Street. Under building permit, Swans Pub has completed interior alterations to facilitate additional seating and is consequently required to apply to LCRB for a structural change for the increased occupant load. The application for a structural change is to increase the occupant load from 171 to 282 people, with no change to hours of operation from 9:00 am to 2:00 am daily.

The application was evaluated against City policy and staff commentary, and feedback received through the public notification process. 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.

Swans' application to increase the occupant load with no changes to existing hours of service is consistent with the City's *Liquor Licensing Policy*. The increased occupant load is accommodated within interior space and does not involve exterior seating areas, the establishment has a reputation of responsible operation and limited concern was brought forward by the community. Staff recommend that Council consider supporting the request to increase the occupant load with no change to existing hours of operation.

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 Swans Pub for a structural change to increase the occupant load of their existing liquor primary licence. The proposal is to increase the occupant load to 282 people from 171 with no change to existing hours of operation from 9:00 am to 2:00 am daily.

The LCRB is requesting a resolution from the City of Victoria regarding:

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

Swans Pub has included a letter of intent which provides 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 targeted for comment.

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 or acceptable for the business based on submitted details. In the case of Swans Pub, the establishment is licenced under a liquor primary licence.

ISSUES & ANALYSIS

The following sections identify key issues and provide analysis for Council's consideration.

Zoning

Zoning for the establishment is OTD-1 which permits the use and does not have a requirement for parking.

Noise Bylaw

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. Swans Pub 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. 50dBA is comparable to rainfall, light traffic or a refrigerator and 60dBA 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 several 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 for any application approval change over the life of a licenced establishment; and when they do change, and unanticipated issues arise, the fallback to re-establish compliance related to noise and other aspects is to use enforcement tools. 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 additional authority to bring an establishment back into compliance where issues are more complex.

Swans' proposal has been considered regarding the impact it could have on the community and its potential to generate noise related issues. Under building permit, Swans Pub has completed interior alterations to facilitate an increased occupant load and is consequently required to apply to LCRB for a structural change to provide licenced service for the increased occupant load in the area. The establishment proposes to provide licenced service to an occupant load of 282 people which is an increase of 111 from the existing occupant load of 171 people. Service to these patrons is interior to the building as the licence area for the establishment does not have an outdoor seating area. Staff did not share specific concerns regarding the application but note the general, incremental impact associated with increased seating density in Victoria's downtown area.

If approved, the request results in a total occupant load of 282 people. There are 2,193 licenced seats in the vicinity and the increase of 111 people is a 5.1% increase to licenced capacity in the area. Vicinity information is attached as Appendix D.

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 was undertaken and included circulation to Planning, Engineering, Community and Business Relations, Bylaw, and Police. That review resulted in the following feedback.

Planning

- The application is supportable as the establishment is zoned appropriately for the use, allowing for liquor consumption and service.

Engineering

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

Community and Business Relations

- Community and Business Relations does not foresee significant negative impacts arising from the proposed occupant load increase.

Bylaw

- Bylaw has not identified concerns associated with application.

Police

- Police note that the establishment is well established and that the increase is unlikely to result in significant impact to neighbours and this is attributed to the good operation of the establishment. Increases to hours or occupant load consistently cause concern for Police due to the incremental impacts. 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. In addition, the establishment displayed a notice poster at their entrance for 30 days, which invited input to the City with respect to this application.

The notification was sent to a total of 1313 owners and occupants. In response, the City received seven letters opposing the application, including one from the Downtown Residents Association, and three letters supporting the application. Public Comments 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 an opportunity 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 provided additional correspondence related to the report. The correspondence is available in Appendix H.

IMPACTS

Accessibility Impact Statement

Not applicable

Strategic Plan 2019 – 2022

The recommendation to support the application is likely to increase the viability of the hotel 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 license changes are consistent with the *Official Community Plan* objectives for this neighbourhood as the property is located within the Old Town, Core Historic designation which permits commercial, visitor accommodation and other mixed uses.

CONCLUSIONS

The application for a structural change to a liquor primary licence to increase the occupant load to 282 people is supportable where hours of operation are from 9:00 am to 2:00 am daily.

The site is appropriately zoned for the use, is consistent with current City policy, and staff recommend for Council's consideration that a resolution be made supporting the recommendation for Swans Pub.

ALTERNATE MOTIONS

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of Swans Pub, at 510 Pandora Avenue, does not support the application.

Respectfully submitted,

Ryan Morhart
Manager, Permits & Inspections

Karen Hoese, Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager.

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