



Committee of the Whole Report For the Meeting of February 23, 2023

To: Committee of the Whole **Date:** December 29, 2022
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Application to Add an Outdoor Patio Area for Vancouver Island Brewing at 2330 Government 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 Vancouver Island Brewing, located at 2330 Government Street, to add a 33-person, outdoor patio area to the existing manufacturer lounge endorsement licence that has an occupant load of 86 people (119 total) with existing hours that are 9 a.m. to 11 p.m. daily.

Approval of the application is not expected to produce noise related impacts and the following comments are provided regarding the prescribed considerations:

- a. If the application is approved, it is anticipated to have a positive economic impact on the community as the approval supports the viability of the business as a local employer.
- b. The views of residents were solicited through a mailout to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. In response to the notification that went to 220 owners and occupiers, the City received one letter of support and the Burnside Gorge Community Association did not respond to the notification.
- c. Council recommends to the Province that the liquor primary licence be approved as recommended.

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 Vancouver Island Brewing located at 2330 Government Street. The application is to add a 33-person outdoor patio to their existing 86-person manufacturer lounge endorsement licence. The total occupant load would be 119 people and all licenced areas would have the same hours as the existing licenced area that are 9 a.m. to 11 p.m. daily.

Vancouver Island Brewing has operated the outdoor patio area since 2020 under permissions granted through the Province's Temporary Expanded Service Area (TESA) program, which was created to support businesses through the pandemic. Vancouver Island Brewing'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 Licensing Policy*. The establishment has a history of responsible operation and concerns have not been brought forward through the public notification process. On this basis, it is recommended that the application of Vancouver Island Brewing at 2330 Government Street be supported for the addition of a 33-person outdoor patio to the existing 86-person manufacturer lounge endorsement licence where the hours are 9 a.m. to 11 p.m. 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*, regarding an application by Vancouver Island Brewing at 2330 Government Street. The Liquor and Cannabis Regulations Branch (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.

PROPOSAL

Vancouver Island Brewing is seeking approval to add a 33-person outdoor patio to their existing 86-person manufacturer lounge endorsement licence. The total occupant load would be 119 people and all licenced areas would have hours that are the same as the existing licenced area: 9 a.m. to 11 p.m. daily.

During the recent pandemic, the outdoor patio was approved in 2020 under the Province's Temporary Expanded Service Area (TESA) program. This application seeks to make that patio area permanent.

A letter of intent has been provided in Appendix A and includes information about the business model and the rationale for the licence application. A map of the subject property and the immediate area is provided in Appendix B and illustrates the 100m public notification area.

ISSUES & ANALYSIS

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

LCRB Jurisdiction

The LCRB issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations and determines the category of licence appropriate or acceptable for the business based on submitted details.

Vancouver Island Brewing operates under a manufacturer licence and licenced service to patrons is facilitated under a manufacturer lounge endorsement, which is the appropriate type of licence for this business. All manufacture lounge endorsement applications are referred to local government by LCRB.

City Liquor Licensing Policy

The City's *Liquor Licensing Policy* (2017) (included as Appendix E) provides direction on a number of matters including: which applications the City will opt out of reviewing and commenting on; the procedures for the application process for those the City has not opted out of commenting on; and the approach to enforcement. The policy further indicates that applications for liquor licences having hours of operation later than 2 a.m. will not be considered (except New Year's Eve).

The addition of an outdoor patio to the manufacturer lounge endorsement licence with the occupant load and hours as described for the Vancouver Island Brewing at 2330 Government Street are within the parameters of the City's policy.

City Referrals

An inter-departmental review of the application is conducted prior to public notification. Review of the application to add a 33-person outdoor patio to a manufacturer lounge endorsement licence at 2330 Government Street resulted in the following feedback.

Sustainable Planning & Community Development

- The outdoor patio area has been approved under a delegated development permit. The application is consistent with that approval and therefore supportable.
- Compliance would be demonstrated through the building permit process and verified through City inspection.
- Hours of operation and seating capacity are not regulated under the zoning bylaw.

Engineering & Public Works

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

Business & Community Relations

- The application for a 33-person outdoor patio is supportable.

Bylaw Services

- Bylaw did not provide comments related to the application.

Police

- Police have expressed that they have no objections to the application. 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 (a total of 220 notices) were solicited by a mailed notice to provide input regarding this application. The notice was also sent to the Burnside Gorge Community Association. The public notification letter and poster reflected the applicant's intent to add a 33-person outdoor patio to their existing manufacturer lounge endorsement licence so the combined occupant load would be 119 people, and that hours would be 9 a.m. to 11 p.m. daily. The comment period was open for 30 days.

The City received one letter of support in response to the notification and the Burnside Gorge Community Association did not provide any correspondence related to the notification.

The public letter of response is included as Appendix G.

Impact Assessment

As part of the licence application review, the LCRB has referred this application to the City of Victoria to review and provide comments regarding noise impacts and the overall impact on the community if the application is approved.

Noise and other community impacts are challenging to predict and there are several variables that can contribute to the level of impact such as the business model, quality of owner/operator, context and existing density of licenced capacity in the area, hours of service, and fluctuating populations due to tourism.

Context

Vancouver Island Brewing is in a low rise, multi-tenant commercial building and the proposed outdoor patio area occupies a space that is equivalent to approximately four parking spots in an area adjacent to and lowered from Government Street. The proposal is located in the M-G-4 Zone, Government Light Industrial 4 District which permits the brewpub use. Based on the City's Noise Bylaw, this site is within the Activity Noise District and is subject to the noise limits prescribed for this district.¹ The Noise District Map is included in Appendix D.

The application is to add a 33-person outdoor patio area to Vancouver Island Brewing's existing 86-person manufacturer licence for a total occupant load of 119 people with existing hours that are 9 a.m. to 11 p.m. daily. To understand the potential impact of this change, the area context has been considered including the existing licenced capacity in the vicinity, which includes the block of the establishment and adjacent blocks.

The vicinity information, attached as Appendix C, illustrates the composition of licenced establishments in the area. In this case, there are a total of 146 licenced seats, all of which belong to Vancouver Island Brewing. Of these, 86 are the existing manufacturer lounge endorsement seats, and 60 are seats attributed to brewery's special event area, all of which close by 11 p.m.

In Victoria, there are approximately 115,000 licenced seats of which:

- 53,400 (46%) close by midnight
- 42,500 (37%) close by 1 a.m.
- 19,000 (17%) close by 2 a.m.

Operations

Vancouver Island Brewing operates under a manufacturer licence and provides licenced service to patrons on premise under a manufacturer lounge endorsement. The establishment currently

¹ The Noise Bylaw sets limits for four key areas within the City: Quiet District, Intermediate District, Harbour Intermediate and Activity District. The Activity Noise District is limited to 70dBA at the point of reception until 10 p.m.; after 10 p.m., noise at the point of reception is limited to 55dBA in Quiet districts, 60dBA in Harbour Intermediate and Intermediate districts and 70dBA 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.

has an occupant load of 86 people and operates an outdoor patio under the provinces Temporary Expanded Service Area (TESA) program. The outdoor patio was approved for temporary use by the province in 2020 and this application seeks to make that patio area permanent with an occupant load of 33 people. The existing licenced service area has hours that are 9 a.m. to 11 p.m. daily and these are not proposed to change. Based on the establishment's history of responsible operation and limited hours of licenced service in relation to the 33-person patio, it is not anticipated that approval of the patio will result in unacceptable negative community impacts.

Enforcement

Consideration of the factors noted above can assist a municipality to predict negative aspects associated with licensed establishments; however, these factors can also change over the life of a licensed establishment. If 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. These include:

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

Applicant Response

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to review this report and its recommendation including feedback from the public notification and other attachments so they may respond to the report prior to the report being forwarded to Council.

In response, the applicant has provided correspondence in support of their application. This correspondence is available in Appendix I.

IMPACTS

Accessibility Impact Statement

As the establishment is an existing building, current accessibility requirements may not be met. There is no retroactive application of accessibility requirements under the BC Building Code and the establishment is therefore conforming.

Strategic Plan 2019 – 2022

The recommendation to support the application as recommended 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 Official Community Plan designates this location as Core Employment which envisions a mix of predominantly industrial, light industrial, high technology, marine industrial, research and development, commercial, office and complimentary retail uses. The use as a *drinking establishment* is therefore consistent with the Official Community Plan objectives for this neighbourhood.

CONCLUSIONS

Vancouver Island Brewing is seeking approval to add a 33-person outdoor patio area to their existing 86-person manufacturer lounge endorsement licence with existing hours that are 9 a.m. to 11 p.m. daily. The site is appropriately zoned for the use, is consistent with current City *Liquor Licensing Policy*, and neither the staff review nor the public notification process identified concerns with the application. Based on this, the application is considered supportable.

ALTERNATE MOTION

That Council, after conducting a review with respect to noise and community impacts regarding the application of the Vancouver Island Brewing at 2330 Government Street, does not support the application.

Respectfully submitted,

Ryan Morhart, Manager
Permits & Inspections Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

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