



Committee of the Whole Report For the Meeting of October 5, 2023

To: Committee of the Whole **Date:** September 21, 2023
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Application for a Liquor Primary Licence Structural Change (Capacity Increase) for Strathcona Hotel at 919 Douglas 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 Strathcona Hotel, located at 919 Douglas Street, to increase the liquor primary capacity by 117 people, from 183 to 300, with no overall change to the occupant load through the conversion of 117 existing food primary seats.

The following comments are provided regarding the prescribed considerations:

The impact of noise on the community near the business was considered in relation to the request, and the proposed liquor primary capacity is compatible with the area.

- 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 431 owners and occupants, the City received 15 letters of correspondence. Of these letters, 14 expressed opposition, and one expressed support for the proposed structural change. A letter from the Downtown Residents Association (DRA) indicates that they cannot endorse the application.
- 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 the Strathcona Hotel, located

at 919 Douglas Street. The application is for an increase to the liquor primary capacity within the establishment's existing rooftop patio, with no change to the overall occupant load of 300 people. The current liquor primary capacity on the rooftop patio is 183 people, and the application would increase the liquor primary capacity to 300 people by transferring 117 food primary seats to liquor primary.

Strathcona Hotel'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*. On this basis, it is recommended that the application of Strathcona Hotel at 919 Douglas Street be supported to allow an increase in the liquor primary capacity.

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 Strathcona Hotel at 919 Douglas 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.

PROPOSAL

Strathcona Hotel is seeking approval to increase the liquor primary capacity of their existing rooftop patio, with no change to the overall occupant load. The occupant load in the rooftop patio is 300 people, with a current capacity of 183 people in liquor primary areas and 117 in food primary areas. The application seeks to increase the liquor primary capacity by 117 seats, for a total 300-person liquor primary capacity on the patio. In a separate application to the LCRB, Strathcona Hotel has applied to reduce the food primary capacity by 117 seats, so there would be no net increase in licenced capacity. The increased liquor primary capacity is sought by the applicant to provide increased operational flexibility that would better suit the business's needs.

A letter of intent has been provided in Appendix A and includes information about the business model and the rationale for the 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 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.

Liquor primary licences are required where the primary purpose of the business is not the service of food and where liquor is being served in the service area. All liquor primary licence applications are referred to local government by LCRB.

In the case of Strathcona Hotel, the operator is seeking a capacity increase for the liquor primary licence for its rooftop patio. Liquor primary licences allow for a greater level of operational flexibility where a focus on food service is not a condition of operation. A liquor primary licence is the appropriate licence type for the proposed operation.

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).

Strathcona's hours of licenced service are from 10 a.m. to 2 a.m. daily and are not proposed to change with this application.

City Referrals

An inter-departmental review of the application is conducted prior to public notification. Review of the application for a liquor primary licence at 919 Douglas Street resulted in the following feedback:

Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for use as a *food and beverage service* and as a *drinking establishment*.
- Zoning for the establishment is CBD-1, Central Business District 1. This zone permits drinking establishments, which includes facilities licenced through the Liquor Control and Licencing Act and includes entertainment venues with live or recorded music, night clubs, bars and pubs.
- The zone does not restrict the hours of operation or the occupant load of these establishments, and the zone permits residential uses within the same property.
- Compliance would be demonstrated through the building permit process and verified through the City inspection.

Engineering & Public Works

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

Community & Business Relations

- The application is supportable as there is no change in occupancy or hours of operation, therefore noise for residents and the community would not be impacted as a result of the requested change.

Bylaw Services

- Bylaw Services receives complaints against the Strathcona on a yearly basis. Strathcona's management works with Bylaw Services and ensures that the establishment is compliant with section 15 of the City's Noise Bylaw.
- Bylaw Services does not expect any change in the number of noise complaints received as a result of this structural change.

Police

- The application does not involve any increases to capacity or hours; therefore, there should not be any greater impact on the downtown core than what the current licence permits.
- Police 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 431 notices) were solicited by a mailed notice to provide input regarding this application and the notice was also sent to the Downtown Residents Association. The public notification letter and poster reflected the applicant's intent to increase the liquor primary capacity, with no change to the overall occupant load or hours of operation. The comment period was open for 30 days.

In terms of community feedback, the City received 15 letters in response to the notification. Of these letters, 14 expressed opposition and one expressed support. The public letters of response are included in Appendix G. A letter from the Downtown Residents Association (DRA) indicates that they cannot endorse the application and is attached as Appendix H.

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

The Strathcona Hotel is in the Central Business District 1 zone. The six-storey mixed-use building is at the corner of Douglas and Courtney Streets and includes restaurant and hotel uses.

Across Courtney Street there is mixed-use building with commercial and residential uses. Any building that has residences is required by the BC Building Code to provide sound attenuation to limit noise transmission to and from residential units. Sound attenuation would be incorporated into residential buildings' partitions at time of construction.

Based on the City's Noise Bylaw, the Strathcona Hotel is within the Intermediate Noise District and is subject to the noise limits prescribed for this district.¹ The Noise District Map is included in Appendix D.

To understand Strathcona's potential to contribute to noise related issues, the application has been assessed against 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 which includes a total of 7,680 licenced seats where:

- 2,868 (37%) are liquor primary seats distributed over 11 establishments
- 4,812 (63%) are food primary seats distributed over 20 establishments.

To provide perspective on the hours of operation of the 7,680 licenced seats in the area:

- 717 (9%) are closed by midnight
- 4,974 (65%) close by 1 a.m.
- 1,989 (26%) close by 2 a.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

Strathcona Hotel is an established entertainment venue operating a variety of food and beverage venues at the south end of 919 Douglas Street. The rooftop patio, which is the subject of this application, operates primarily in the summer months when the weather is suitable for outdoor drinking and dining. The application proposes converting the existing food primary service areas and the sand-covered beach volleyball court on the rooftop into liquor primary areas. The use of the volleyball court as a liquor primary service area is currently authorized under a Temporary Expanded Service Area (TESA) authorization. The applicant has provided a letter of intent, attached as Appendix A, which outlines their business operations, reasons for licence change and strategies to manage patrons and ensure compliance, and other aspects of the business.

The LCRB Compliance and Enforcement has confirmed that the business has no record of infractions and is in good standing with respect to meeting the terms and conditions of their licence.

Based on the staff assessment and experience with the business, it is unlikely the structural change to liquor primary on the rooftop would result in impacts beyond that which currently exists.

Enforcement

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.

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 additional correspondence in support of their application. This correspondence is available in Appendix J.

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 2023 – 2026

The recommendation to support the application as recommended is likely to support small business and the visitor economy, and work to strengthen and add vitality to the downtown core, consistent with the Strategic Objective for *Economic Health and Community Vitality*.

Impacts to Financial Plan

None.

Official Community Plan

The use as a *drinking establishment* is consistent with the Official Community Plan objectives for this neighbourhood.

CONCLUSIONS

Strathcona Hotel is seeking approval for an increase to the liquor primary capacity within the establishment's existing rooftop patio, with no change to the overall occupant load. The current liquor primary capacity on the rooftop patio is 183 people, and the application would, in effect, be a transfer of the 117 food primary seats to increase the liquor primary capacity to 300 people. The

site is appropriately zoned for the use and is consistent with current City *Liquor Licensing Policy*. Impacts are not anticipated based on experience with the business, and staff and LCRB input indicate that the application is considered supportable.

ALTERNATE MOTION

That Council, after conducting a review with respect to noise and community impacts regarding the application of Strathcona Hotel at 919 Douglas Street, does not support the application.

Respectfully submitted,

Katie Lauriston
Development Process Coordinator

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: Provincial Liquor Licence Types
- Appendix H: Public Notification Response
- Appendix I: Downtown Residents Association Response
- Appendix J: Applicant Response Letter.