RECOMMENDATION:

That Council recommends to the Liquor Control and Licensing Branch the amendment of the license for the reasons outlined in this report.

PURPOSE:

The purpose of this report is to provide Council with an overview of the application which was submitted to the Provincial Liquor Control and Licensing Branch (the Branch) by the Canadian Forces for a temporary change to its liquor license at its Hornet's Nest facility and to provide Council with the information it needs to provide the Branch with its comments.

BACKGROUND:

The Canadian Forces has applied to the Province for a change of location of its license from its Hornet's Nest (All Ranks Combined Mess) facility at Building 11, Kittyhawk Road. The purpose of the application is to permanently transfer their liquor license from their existing facility, to their newly constructed Maritime Helicopter Squadron Building 300 meters to the north. The applicant previously applied for a temporary extension of its existing license in December 2014 to ensure the applicant had the required licensing in their new facility in time for events scheduled that month. Council previously informed the Branch it had no objections to the temporary change. The applicant is now seeking to permanently transfer their license to the new facility.

DISCUSSION:

The Branch requests Council consider commenting on the application based on the following criteria: potential for noise if the application is approved; impact on the community if the application is approved; whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose; and the views of residents if the license amendment may affect nearby residents. Following is Staff's comments in this regard:

Potential Noise and Impact on Community if Application Approved:

There is no significant potential for noise if the application is approved. The applicant's facility is located on the Victoria Airport lands. The applicant has operated under its existing license for many years with no issues and the facility serves only Canadian Forces personnel and their invited guests. Staff does not anticipate any significant impact on the community due to the nature and impact of the existing operations at the airport.
Whether Amendment May Result Operation in a Manner Contrary to the Primary Purpose of the License

Staff does not anticipate the amendment resulting in the establishment being operated in a manner contrary to its primary purpose. The establishment currently has a primary liquor license. The applicant is seeking to transfer its license to its newly constructed Maritime Helicopter Squadron Building 300 meters to the north.

Views of Residents

The views of residents were not gathered due to the establishment’s location on the Victoria International Airport lands. Staff does not anticipate any significant impact on the community due to the nature and impact of the existing operations at the airport.

ALTERNATIVES:

1. Provide a resolution with Council’s comments on the application and direct Staff to advise the Branch.

2. Do not comment on the application and direct Staff to advise the Branch.

SUMMARY/CONCLUSION:

The Canadian Forces applied to the Province to transfer its license to its new facility at the Maritime Helicopter Squadron Building. The provincial liquor licensing process requires that the Branch seek comment from the local government in which the facility is located prior to approving an application.

The Branch is required to provide Council with an opportunity to comment on the application; however, Council is not required to do so. If Council wishes to comment on the application, Staff respectfully submits the following recommendation.

RECOMMENDATION:

That Council recommends to the Liquor Control and Licensing Branch the amendment of the license for the reasons outlined in this report.

Respectfully submitted,

Curt Kingsley
Director of Corporate Services

Concurrence:

Rob Buchan
Chief Administrative Officer
Date: November 19, 2014

Created by: Janine Lind, Senior Licensing Analyst

Re: Application for Transfer of Location – Liquor Primary Licence #301036
Applicant: 443 (MH) Squadron All Ranks Combined Mess
Current Site: Bldg 11, Kittyhawk Road, Sidney
Proposed Site: 9755 Willingdon Road, Sidney
Establishment Name: Hornets’ Nest (All Ranks Combined Mess)

1. APPLICATION INFORMATION

Date application deemed complete: November 18, 2014

Local Government Jurisdiction: District of North Saanich

The primary business focus of the proposed establishment: Food & Beverage

Additional requested amendments to Licence:

- Current Approved capacity/occupant load: Interior - 100 persons
- Requested total person capacity/occupant load: Person 01 = 85 persons
  Person 02 = 85 persons
  Patio = 90 persons

Endorsements currently permitted:

- Off-premise sales permitted.
- Mess members who are minors are permitted to be present while liquor is being served.
- Minors are permitted in LP land-based military messes where the event is sponsored by the military or a mess member.

Terms and conditions currently with a licence remain with the licence upon site relocation unless changes are requested by the licensee or are otherwise restricted by the General Manager. The licensee has not requested any changes to the terms and conditions on this licence.

Current Approved Hours of Operation:

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Requested Hours of Operation:

No change
2. APPLICANT SUITABILITY INFORMATION (Fit and Proper)

Applicant has met the eligibility and suitability requirements of the Liquor Control and Licensing Act.

3. LOCATION/SITE FACTORS

The proposed establishment is an interior lounge and adjoining patio, located in a DND building on a DND leased parcel of land at the Victoria airport. See attached site map and floor plan.

The General Manager has deemed the proposed site to meet the legislative criteria stated in Regulation 8 (4) (a) and (b) for an LP transfer of location. The new site is approximately 300 metres (0.3 kilometres) and a comfortable walking distance from the current location.

The following sections are compiled from information provided by the applicant except where indicated otherwise.

See the attached Applicant's Letter of Intent for details of the proposed Liquor Primary establishment, including the following details:

a) Business Focus
b) Target Market
c) Composition of the Neighbourhood and Reasonable Distance Measure
d) Benefits to the Community
e) Noise in the Community
f) Impact on the Community
g) Other impacts, comments or requests

Please note that the applicant's letter of intent is enclosed as an attachment to this report for reference purposes. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.

Community Indicators

Contravention Statistics

The Liquor Control and Licensing Branch will provide contravention statistics for liquor primary and liquor primary club establishments near the subject location upon request.

Population, population density and population trends for the community:

- Circle population statistics for 2001 and 2006 are available from BC Stats by emailing your request to BC.Stats@gov.bc.ca
- BC Stats Community Facts includes the BC Benefits recipient and EI Beneficiary statistics and is available at http://www.bcstats.gov.bc.ca/data/dd/facsheet/facsheet.asp
4. PUBLIC INTEREST

In providing its resolution on the proposed Liquor Primary application, local government must consider and comment on each of the regulatory criteria indicated below. The written comments must be provided to the general manager by way of a resolution within 90 days after the local government receives notice of the application, or any further period authorized by the General Manager in writing.

Regulatory Criteria local government or First Nation must consider and comment on:

a) The location of the establishment;
b) The proximity of the establishment to other social or recreational facilities and public buildings;
c) The person capacity and hours of liquor service of the establishment;
d) The number and market focus or clientele of liquor primary establishments within a reasonable distance of the proposed location;
e) The impact of noise on the community in the immediate vicinity of the establishment; and
f) The impact on the community if the application is approved.

The local government or first nation must gather the views of residents in accordance with section 11.1 (2) (c) of the Act and include in their resolution:

(i) the views of the residents,
(ii) the method used to gather the views of the residents, and
(iii) its comments and recommendations respecting the views of the residents;

A sample resolution template and comments are enclosed as attachments 2 and 3 to this report for reference purposes.

For use by Liquor Control and Licensing Branch:

5. REGULATORY CONSIDERATIONS

Liquor Control and Licensing Act, sections: 11, 16 and 18
Liquor Control and Licensing Regulations sections: 4, 5, 6, 8, 10

6. POLICY CONSIDERATIONS

Policy Manual Section 3.2 Applicant Eligibility Assessment
Policy Manual Section 3.3 Site and Community Assessment
Policy Manual Section 3.4 Building Assessment and Issue of a Licence
Attachment 1 – Applicant's Letter of Intent
PART 4: Establishment Proposal

1. Proposed person capacity (patrons plus staff): The person capacity of a licensed establishment must equal the occupant load of the establishment. Capacity must be approved by the LCLB and is subject to local government/First Nations comment. See Part 9 for an explanation of the liquor primary transfer of location approval process.
   a) Proposed total interior capacity (occupant load): 170
   b) Proposed patio capacity (occupant load): 90
   c) Describe the patio by addressing the three points in the space below, and, if applicable, providing the documentation requested in the fourth point.
      1. Type of perimeter you intend to use to define and bound the patio area (i.e., fencing, plants, iron railings, etc.)
      2. Whether a portable bar is being used for food and/or liquor service
      3. Whether the location of patio is immediately adjacent or contiguous to the interior licensed area

4. If patio is located on a public sidewalk or other public property, you must attach written approval from local government or the landlord.

2. Proposed hours of sale

   Complete the table below by entering the opening and closing times proposed for the establishment.

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<tr>
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3. Zoning

   If a zoning change/amendment is required, please indicate the status of your application.

4. Catering endorsement

   Do you currently have a Catering endorsement?  
   - Yes  
   - No

   If yes, LCLB will re-assess your eligibility for the catering endorsement of your new proposed location by ensuring you meet the following requirements:
   - Catering service is focused on the preparation and serving of food.
   - The applicant has the personnel and infrastructure necessary to prepare and serve food at events hosted by others. This includes a requirement to have a full commercial kitchen at the applicant's establishment. For more details please see the Catering Terms & Conditions Guide.

   Licences with a catering endorsement are subject to an annual licensing fee of $100 in addition to the annual renewal fees.

   Do you wish to keep the catering endorsement at the new location?  
   - Yes  
   - No

PART 5: Letter of Intent (functions and services to be provided at proposed new location)

Explain the functions and services your facility or venue will provide at your proposed new location. The information you provide must address all relevant items indicated under each topic. If additional space is required or if you would like to attach a separate sheet please check the box.

- I have attached a separate sheet.

1. Purpose

   Describe the purpose and business focus of your establishment. The business focus must fall within beverage service, entertainment and hospitality services and must not be youth oriented.

   Beverage service during opening of bar lunch room for all other times.

Part 5 continued on page 3...
2. Target Market. Your proposed establishment will serve mainly (check all that apply):
- Urban locals
- Suburban locals
- Rural locals
- Neighbouring communities
- Tourists
- Other (please specify): Military members of unit only

3. Composition of the Neighbourhood
   A) The composition of the neighbourhood is best characterized as (check all that apply):
   - Commercial
   - Residential
   - Industrial
   - Light Industrial
   - Urban
downtown
   - Suburban
   - Rural
   - Agricultural Land Reserve (ALR)
   - First Nations' Land

   Other (please specify): VICTORIA AIRPORT

   B) Provide a site map of the area surrounding your proposed location identifying the following within a reasonable distance* of the proposed establishment:
   - Site location
   - Road access, egress, parking and all residential areas
   - All other licensed liquor primary or liquor primary club establishments and liquor primary applications in progress
   - Churches
   - Clubs
   - Schools (K-12, colleges, universities)
   - Preschools
   - Day care centres
   - Health care facilities
   - Seniors facilities
   - Recreational/sports facilities
   - Police stations
   - Fire halls
   - Libraries
   - Government buildings
   - Any other social, public or private facilities

   *Note: What constitutes a reasonable distance will vary depending on individual circumstances.

   Reasonable Distance Guidelines:
   - In a densely populated city or municipality, reasonable distance is probably a 2 block radius;
   - In a pocket community having no adjacent developed regional areas (e.g. Gold River, Tumbler Ridge, Whistler, Valemont) reasonable distance is probably the whole community;
   - In a rural area having large acre parcels, reasonable distance is probably up to 8 km (5 miles);
   - In a moderately populated area of developed subdivisions, suburbs, reasonable distance is probably 1.5 or 2 km (1 mile).

   C) On the same map, please mark the boundaries of the neighbourhood of the proposed location as per the reasonable distance guidelines above. State what distance measure you chose and explain your logic.

   See attached pictures

4. Benefits of the proposed establishment to the community
   Describe the community/market need you are addressing by providing an additional licensed establishment in the community:
   (e.g. the proposed establishment will be located in a new mixed-use development where businesses, government offices, residences and sports facilities are located and the LP will be meeting a food and beverage need OR there are currently no licensed establishments in the area)

   Location will be used solely by membership of San due to Restricted access to building.

5. Impact of noise on the surrounding community
   Describe the noise issues expected from your proposed establishment and the measures you will take to ensure others are not disturbed by your establishment: (e.g. entertainment involving amplified music will be addressed by soundproofing walls; noise from outdoor patio will be addressed by closing the patio by 10 p.m.; outdoor entry lineups will be monitored according to our security plan by trained door security and outdoor lighting and cameras will be installed)

   Expect no noise issues as location is removed from any other establishments.

Part 5 continued on page 4...
6. Other impacts on the surrounding community
Describe any other issues expected from your proposed establishment and the measures you will take to address them:
(e.g. late night community disturbance)

No impact expected from proposed new location

7. Other
Include any additional information that might be relevant to your application: (such as site requires rezoning, your business is seasonal in nature and only open from May to October, or liquor service is event driven)

Location typically only open for beverage service 2 times per month.
- No signage outside of building

8. Additional Requests
State any additional requests that you are making as part of your application:

As we are unsure of the date we will accept turnover of the building, request transfer date be confirmed once known.

PART 6: Required Documents (an application must be complete before it can be processed)
To be considered a “complete application”, the following documents must be provided:

☑ 1. Completed Liquor Primary Change of Location form (LCLB095).
☑ 2. Application fee. See Part 8 of this application form.
☑ 3. Proof of valid interest in the site proposed for licensing. Provide a copy of the necessary documentation listed below for the type of valid interest relevant to your application:
  - If the Applicant owns the property: a Certificate of Title in the Applicant's name.
  - If the Applicant is renting or leasing: a fully executed lease or assignment/offer of lease which does not expire for at least 12 months from the date the licence is issued. The document must bear the same name as the Applicant for the licence. An offer for rent/lease must show rent paid, have a term and an expiry date and be signed by both the Applicant and the property owner.
  - If the Applicant is buying the land and the building(s): a copy of the offer or option to purchase the property and building(s) in the Applicant's name. An offer or option must show price paid, have a term and expiry date, and be signed by both the Applicant and the property owner.

NOTE: You must continue to hold valid interest in the currently licensed site until the application receives site and community assessment approval or the equivalent.

☑ 4. Preliminary concept drawings of the overall establishment, including details of access to the area(s), egress, kitchen, washrooms, bar, stairs, patio area(s) and unlicensed areas (Professionally drawn floor plans with occupant load stamps will be required at a later stage called “plans approval”).

☑ 5. Site map of the city, municipality, regional district or First Nation property with the proposed location clearly marked.
☑ 6. A sketch of the proposed establishment signage. Signs are subject to LCLB approval. N/A

Motor Vessels, also provide:

8. a) Evidence of moorage showing that the moorage contract is for at least 12 months from the date the liquor licence is issued.
   b) Site map showing the moorage location and surrounding areas.

9. Floor plans showing public access areas, kitchen/food service areas, liquor service bar and washroom facilities on the vessel.
10. A current captain accreditation certificate.

Note: Relocation of a motor vessel permits a licensee to change the base of motor vessel operations to a home port, not to transfer the licence to another motor vessel.
170 pos total
for mess
85 pers per side
If partition is closed
90 pers on patio
ATTACHMENT 2

Sample Resolution Template for a Liquor-Primary or Liquor-Primary Club Licence Application

General Manager, Liquor Control and Licensing Branch

RE: Application for a liquor-primary licence at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named liquor licence:

"Be it resolved that:
1. The (council/board) (recommends/does not recommend) the issuance of the licence for the following reasons: (detail and explain reasons for recommendation)

2. The (council's/board's) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion - a comment on each must be included in the resolution. Where a staff report has been prepared that addresses the criteria this can be used to provide Council's comments provided the staff report is referenced in the resolution and there is a clear statement that Council endorsed the comments in the report.)
   (a) The location of the establishment (provide comments)
   (b) The proximity of the establishment to other social or recreational facilities and public buildings (provide comments)
   (c) The person capacity and hours of liquor service of the establishment (provide comments)
   (d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location (provide comments)
   (e) The impact of noise on the community in the immediate vicinity of the establishment (provide comments), and
   (f) The impact on the community if the application is approved (provide comments)

3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:
- All of the items outlined above in points 1, 2 (a) through (f) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.
ATTACHMENT 3

Sample Resolution Comments for a Liquor-Primary Licence Application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these ‘pros and cons’.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the establishment:

The location is in a commercial area that is removed from nearby residences and is suitable for a late night entertainment venue where some street noise at closing time can be anticipated.

(b) The proximity of the establishment to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a late night entertainment venue.

- or -

The proposed location is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed establishment is not considered compatible with the existing facilities.

(c) The person capacity and hours of liquor service of the establishment

The maximum person capacity of 250 with closing hours of 2:00 a.m. Tuesday through Saturday and midnight on Sunday is acceptable. A larger capacity or later hours is not supported given the few number of police on duty at that time.

(d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location:

The existing establishments are large public house establishments that focus on exotic entertainment or are nightclubs that attract patrons 19 to 25 years of age. The proposed establishment is a small local pub style facility with an extensive menu and is designed to appeal to couples wanting a quiet adult venue for socializing in their community. There are no other (or few other) facilities with a similar focus.

(e) The impact on the community in the immediate vicinity of the establishment:
The establishment is not expected to negatively affect traffic patterns and noise is not expected to be an issue because [of the small size and early hours] – or – [the applicant has agreed to various noise baffling strategies to ensure the neighbours are not disturbed by late night music]. The applicant has met the requirements of the zoning bylaw with regard to road access and parking.

(f) The impact on the community if the application is approved:
If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

The Council’s comments on the views of residents are as follows:

The views of residents within a half mile* of the proposed establishment were gathered by way of written comments that were received in response to a public notice posted at the site and newspaper advertisements placed in two consecutive editions of the local newspaper. Residents were given 30 days from the date of the first newspaper advertisement to provide their written views. Residents were also given an opportunity to provide comments at the public meeting of Council held on March 18, 200X.

A total of 63 responses were received from businesses and residents. Of the responses received, 21 were in support of the application citing the creation of additional jobs and a new entertainment venue for the area as their primary reasons. A total of 42 letters were received in opposition to the application. The primary reason cited by those in opposition was the proposed closing hours of 4 am. A number of business residents in the area also cited the lack of parking as an area of concern.

The following three examples illustrate ways Council may complete their comments on the views of residents based upon the preceding fact pattern.

1. Council agrees that a 4 am closing time for this establishment would not be appropriate and therefore recommends that the establishment have a closing time of 2 am to be consistent with the other licensed establishments in the area. Council does not agree with the parking concerns raised by some of the local businesses as the proposed establishment’s peak operating hours will be after the surrounding businesses have closed.

Council recommends that a liquor licence be issued with hours of operation ceasing at 2 am. Council believes that the majority of residents in the area support the issuance of the licence provided the closing hours are no later than 2 am. The establishment will create new jobs and provide a new entertainment venue that is needed in this area.

– or –

2. There are 6450 residents within the half mile radius of the proposed establishment. Notwithstanding that there is a two to one ratio of opposed residents to residents that support the application Council is of the view that the 42 residents who are in opposition represent a small proportion of the overall population that may be affected by this establishment. Council also notes that frequently only residents who oppose a proposal are the ones that respond; consequently Council is of the view that the rest of the residents are not opposed to issuance of a liquor licence for this establishment.

Council recommends that a liquor licence be issued with hours of operation ceasing at 4 am. Council believes that the majority of residents in the area support the issuance of the licence. The establishment will create new jobs and provide a new entertainment venue that is needed in
this area.

- or -

3. Based upon the input received by residents within a half mile of the proposed establishment there is a two to one ratio of opposed residents to residents that support the application. The opposition to this establishment comes from both homeowners and businesses. Council is of the view that with both the residential and business communities' opposition to this proposed establishment that the issuance of a licence for this establishment would be contrary to the community standard for this area.

Despite the potential creation of additional jobs and a new entertainment venue for the area Council is unable to support the issuance of a liquor licence for this establishment. Council recommends that a licence not be issued.

* The local government or First Nation determines the appropriate area to be included and the method for gathering those views.