

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Council will be held on:

Date: Thursday 24 May 2018
Time: 9.30am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Council

OPEN SUPPLEMENTARY AGENDA

Item 21 – Licence to Occupy – Somerset Brewing Company Ltd

Membership

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O’Leary
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Cr R Hamilton

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

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Governance Manager

21 May 2018

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Council Report

Item 21

Committee: Council
Author: Ken Cunningham
Position: Strategic Land Manager

Date: 24 May 2018
Authoriser: Chris Allen
Position: General Manager City Infrastructure

Report Name: Licence to Occupy - Somerset Brewing Company Ltd

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval for a Licence to Occupy in favour of Somerset Brewing Company Ltd (Somerset) for an area of approximately 10m² of Council fee simple land, to enable a pipe to be laid underground and connected between two buildings that Somerset leases.

Staff Recommendation

2. That the Council approves:
 - a) a Licence to Occupy to Somerset Brewing Company Ltd for an area of approximately 10m² over Council land (Lot 4 DPS 14250) subject to:
 - i. Somerset Brewing Company Ltd being responsible for all costs associated with the preparation of the Licence to Occupy documentation.
 - ii. The engineering plans being acceptable to Council.
 - iii. Somerset Brewing Company Ltd being responsible for reinstating the affected ground area to its original state following the laying of the pipe underground.
 - b) Delegates the Chief Executive to sign all documentation relating to the Licence to Occupy, noting that all costs associated with this matter will be borne by Somerset Brewing Company Ltd.

Executive Summary

3. Council received an application in March 2018 from Somerset for the undergrounding of a pipeline through Council owned land.
4. The pipeline is to be between 45A King St and 32A Somerset St and is to carry beer and cider between the two buildings Somerset leases, to provide increased brewing capacity. Refer Attachment 1: Aerial plan of properties – Somerset Brewing Company Ltd.
5. Somerset wishes to complete the undergrounding of the pipe prior to September 2018, the summer peak production period.

6. All costs associated with the Licence to Occupy process are to be the responsibility of Somerset.
7. Staff consider the matter in this report is of low significance and that the recommendations comply with the Council's legal requirements.

Background

8. An application has been received from Somerset requesting use of approximately 10m² of Council owned fee simple land (Lot 4 DPS 14250) for the piping of beer and cider underground from premises it leases at 32A Somerset Street to premises it leases at 45A King Street. Refer Attachment 1.
9. Below is a table summarising the properties including in this report and leased by Somerset:

Premises Location	Owner	Final Lease Expiry Date	Business Use
32A Somerset Street	Future Properties NZ Ltd	March 2030	Restaurant, bar and brewery facilities.
45 King Street	Future Properties NZ Ltd	August 2027	Warehouse, storage & administrative offices.
45A King Street	Waipiri Trust	October 2030	Warehouse, storage & labelling facilities.

10. The table below provides the names of the Directors for each company referred to in this report:

Company	Directors
Somerset Brewing Company Ltd	<ul style="list-style-type: none"> • Jason Macklow • Darrel Hadley • Brian Watson
Future Properties NZ Ltd	<ul style="list-style-type: none"> • Jason Macklow • Glenis Macklow • Peter De Luca
Waipiri Trust	<ul style="list-style-type: none"> • Mathew Fulton • Mary-lee Hight • Tompkins Wake Trustees Ltd

11. Somerset commenced leasing 45A King Street in late 2017 as the adjacent building (45 King Street), which they continue to lease, was at capacity. The lease for 45A King St allowed the relocation of its labelling machinery and expansion of its drystore facility. This relocation allows Somerset the opportunity to more than double the capacity of its brewery operations and keep Frankton as its base.
12. Somerset has advised that to maintain Frankton as its base it needs to be able to move product from the brew and fermentation tanks in Somerset St to the potential packaging at 45A King St

13. Since Somerset began operating from its Somerset Street premises in 2013 it has opened six hospitality outlets across the wider Waikato region.
14. The company estimates that it will have produced approximately 1.20m litres of beer and cider from the Frankton site for the 12 months ending 31 March 2018, making it one of the top five independent craft beer brands by volume in New Zealand.
15. Somerset advises that in addition to a successful brewing and retail business, it operates a vibrant hospitality business that attracts local and tourist visitors to Hamilton. In the last 12 months, there has been more than 1,200 beer tourist tours of the site.

Discussion

16. Council has been advised that the undergrounding of the pipes is the most appropriate solution. The applicant wishes to commence work prior to the commencement of the summer peak production (September 2018).
17. Somerset advises that "...the easement and approval of the pipeline installation is critical to the Good George business and its ability to remain a core part of the Frankton and central Hamilton Hospitality environment."
18. Somerset advise that they have considered other options but that "we feel strongly that Good George is a key part of the Frankton community and Hamilton tourism and hospitality offering and we would like this location to remain our long term spiritual home."
19. A Licence to Occupy (Licence) is considered more appropriate than an easement as it can be made in favour of the tenant and not involve the land owner.
20. A Licence also allows for the continued use of the land.
21. The Council's City Waters and City Transportation teams are supportive of the proposed beer pipeline being underground. They have been involved in the discussions with Somerset as Council services are situated in this area.
22. No Council Resource Consent is required for the proposed pipeline.
23. If the staff recommendation is rejected then the easement application will end.
24. The recommendation supports Council's strategic plans Economic Development Agenda and Frankton Neighbourhood Plan.

Council Land

25. The Council owned land (Lot 4 DPS 14250), which was acquired in 1984, is held as fee simple land.
26. The accessway, that will contain the underground pipeline, is approx. 4.50m wide and provides, (like other Council owned land) access for service delivery vehicles between Lake Road and Devon St.

Licence to Occupy

27. The Licence to Occupy (Licence) would expire in 2030, the same time as the lease Somerset has for 45A King Street.
28. Special conditions to be included in the Licence will be:
 - a) Removal of the pipe and reinstatement of the ground upon the Licence expiring, or the pipeline not being used for the intended purpose.
 - b) Reinstatement of the ground upon the pipe being undergrounded and removed.

- c) Any propose transfer of the Licence, or extension of licence term, requiring a report to Council for approval.
- d) The pipeline being identified on an “as built” plan for recording on Council’s records.

Options

- 29. No options are available for Council to consider because the undergrounding of the pipeline through Council land is either approved or declined.

Financial Considerations

- 30. Somerset has agreed to meet all costs associated with the Licence to Occupy process, which includes legal, valuation and survey expenses.
- 31. Council will receive from Somerset an annual payment of \$1,000 (plus GST) for use of the Council owned land, reviewable every two years.
- 32. It is proposed that a Bond is held for the possible removal of the pipeline should Somerset not comply with its obligations.

Legal and Policy Considerations

- 33. Staff confirm that the staff recommendations comply with the Council’s legal and policy requirements.
- 34. A Licence agreement will be prepared that will include the Council’s and Somerset’s legal obligations relating to the proposed underground pipeline.

Cultural Considerations

- 35. There are no cultural issues that affects the granting of a Licence for the underground pipe.

Sustainability Considerations

- 36. There are no sustainability issues that affects the granting of a Licence for the underground pipe.

Risks

- 37. With Council services being situated in the land proposed for the pipeline the risk of damage to these will be assessed by the Council’s City Waters and City transportation teams by reviewing the engineering plans for the undergrounding and location of the pipeline.

Significance & Engagement Policy

Significance

- 38. Staff considered the following factors under the Significance and Engagement Policy:
 - The portion of the community affected by the proposal or decision.
- 39. Based on these factors, staff have assessed that the recommendation(s) in this report have low significance.

Engagement

- 40. Staff recommend that public engagement is not required for this matter due to its low significance.

Attachments

Attachment 1 - Aerial plan of properties - Somerset Brewing Company Ltd .

Item 21

Properties Leased by Somerset Brewing Co Ltd

Attachment 1

Item 21



Red outline – Property owned by Future Properties NZ Ltd (32A Somerset St)

Dark Blue Outline - Property owned by Future Properties NZ Ltd (45 King St)

Yellow outline – Property owned by Waipiri Trust (45A King St)

Black hatched – Council owned land - vehicle accessway

