

REPORT 4
(12 15/52/IM)

**APPROVAL FOR GRANTING A LICENCE OVER PART OF
GLOVER PARK PURSUANT TO THE RESERVES ACT 1977**

1. Purpose of Report

To recommend the Committee approves a licence over part of the land at Glover Park, 18 Garrett Street, Te Aro (shaded black on Appendix 1) to the proprietor of the Rogue & Vagabond for outdoor bar and café seating.

2. Executive Summary

The Rogue and Vagabond is a bar and eatery that borders Glover Park on the park's north western boundary. The proprietors of the establishment have applied for a licence to use 208m² of the park for outdoor seating during the spring/summer months of the year.

The park is vested in Council as a recreation reserve and is administered under the Reserves Act 1977 (the Act). Section 54(d) of the Act empowers the Council to grant licences for any trade or business provided that the trade or business is necessary to enable the public to obtain the benefit and enjoyment of the reserve.

A reserve management plan was prepared for Glover Park in 2005. The plan provides for commercial activities such as food and drink outlets, including activities from adjoining properties opening out onto the park. The objective of the plan is to create activity within the park to enhance the experience of the user and to improve security and personal safety.

Under section 54(2A) of the Act, licence applications are not required to be publicly notified where they are in conformity with and contemplated by an approved management plan.

This report recommends the Committee approves the granting of the licence.

3. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Agree subject to the terms and conditions noted below, to grant a licence over 208m² of Lot 2 DP 35152 (shaded black on Appendix 1) to the proprietor of The Rogue & Vagabond.*

3. *Note that the terms of the easement agreement are as follows:*
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|----------------------------------|--|
| <i>Licence Purpose:</i> | <i>Bar & café seating</i> |
| <i>Number of Seats:</i> | <i>Up to 20</i> |
| <i>Type of Seating:</i> | <i>Bean-bag styled chairs (or other style as approved by the Manager, Parks Sport & Recreation)</i> |
| <i>Hours:</i> | <i>10.00am to 10.00pm 7 days per week from 1 October to 30 April.</i> |
| <i>Licence period:</i> | <i>Ongoing - terminable on one month's notice</i> |
| <i>Public Access:</i> | <i>Public access through the licensed area will be maintained at all times.</i> |
| <i>Maintenance & Repair:</i> | <i>The licensee will be responsible for rubbish removal and for repairing any damage resulting from the licensed activities.</i> |
| <i>Licence Fee:</i> | <i>\$1010.88 per month (plus GST).</i> |

4. Background

The Rogue and Vagabond is a bar and eatery fronting Glover Park on the park's north western boundary (separated by a driveway). The proprietors are applying to Council for a licence to use the park for outdoor seating between 10.00am and 10.00pm during the spring/summer months of the year (from October to April inclusive).

The applicants would like to provide up to twenty 'bean-bag' styled seats on the grassed area immediately in front of their establishment for use by their patrons.

The proposed licence will not grant exclusive use rights over the reserve and the licence area will be required to be kept open for public use and access.

If the application is granted, conditions will be set to manage the impacts on the reserve.

5. Discussion

5.1 The Site

Glover Park is a small public open space located between Garrett Street and Ghuznee Street just west of Cuba Mall in the Wellington City Centre. It is one of the few public parks in the Te Aro area and serves as a space for passive recreation as well as acting as a pedestrian route between the adjoining streets.

In 2005 the park underwent a major upgrade and revitalisation in order to address the design issues that were considered to be attracting antisocial behaviour to the area. The current design separates sections of the park into walkways and grassed areas.

The applicants are seeking a licence to use the grassed area immediately adjacent to their front doors (refer Appendix 2). This is approximately 208m² of Lot 2 DP 35152 which is gazetted as recreation reserve pursuant to the Reserves

Act 1977. The land is owned and administered by Wellington City Council and is managed by the Parks, Sport and Recreation business unit.

There is a Council-owned lane situated between the park and the applicant's property that services a rear property. Although this lane does not legally form part of the reserve, it has been landscaped in a way that blends with the surrounding landscape. The front doors of the Rogue & Vagabond open onto this lane and patrons will need to cross it to access the proposed seating area.

The Road and Traffic Maintenance team has been consulted and have no objections to the proposal.

5.3 Statutory and Policy Framework

Reserves Act 1977

The park is vested in Council as a recreation reserve and is administered pursuant to the Reserves Act 1977. Section 54(d) of the Act empowers the Council to grant licences for any trade or business provided that the trade or business is necessary to enable the public to obtain the benefit and enjoyment of the reserve.

Unlike a lease, a licence does not provide for exclusive use of the reserve and creates no interest in the land.

Prior to 18 June 2013 the approval of the Minister of Conservation was required for all licences issued pursuant to the Act. However, as of that date, the approval role has been delegated to the administering authority.

Glover Park Reserve Management Plan

The Glover Park Reserve Management Plan (the Plan) was prepared by Council in 2005 in response to historical issues of antisocial behaviour on and around the reserve and a general perception that it was an unsafe place to linger or traverse. A key objective of the Plan is to encourage more activity within the park in order to enhance its appeal as a destination. The Plan provides for commercial activity on the reserve as a way of improving security and personal safety, and includes activities on adjoining properties opening out into the park (page 13).

Objective 3.3 of the plan relates to commercial operations:

[To] Enable appropriate commercial activities to operate within the park while ensuring the passive open space character of the park predominates.

The following explanation is provided:

Allowing appropriate commercial activity, such as food and drink retail/cafes, to apply for a concession licence or lease to use part of the park would create activity within the park and improve security

and personal safety. Commercial operations may include appropriate activities on adjoining properties opening out onto the park.

Any licence is required to be consistent with the recreational use and character of the park and should not prevent public access through and across the park.

District Plan

Glover park is zoned Open Space A in the Wellington City Council District Plan. Café seating is a Permitted activity in the open Space A zone (with conditions for lighting, dust & noise). The proposed activity is not expected to trigger conditions.

5.3 Management and Control

The applicants, Gwilym Waldren and Rebecca Gray, have previous management experience in the hospitality industry, including in New Zealand, Australia and China. They have recently returned to New Zealand and purchased the previous business that was operating from the site. They have removed the TAB and 'pokie' facilities from the venue and have established a craft beer bar and pizzeria. Their application is supported by the owner and operator of the Victoria Court Motor Lodge that backs onto Glover Park.

The front doors of the establishment open directly onto an accessway on the edge of the park. Both the bar service area and the indoor and outdoor seating areas are positioned with clear views across the proposed licence area.

The following table identifies the matters considered by officers as part of this application:

<i>Furniture</i>	<i>Bean bag styled seating. No other style of seating or furniture is permitted without the prior approval of the Manager, Parks Sport & Recreation.</i>
<i>Fencing & Barriers</i>	<i>None is proposed at this stage. We've been advised that under the current liquor licensing rules, the physical layout provides a satisfactory indication of boundaries. However, this may need to be re-visited. In any event, no permanent barriers will be permitted.</i>
<i>Clutter</i>	<i>No signage, sandwich boards, or other advertising is permitted on the grassed area.</i>
<i>Glass</i>	<i>No glasses will be permitted on the reserve. Thick plastic 'glasses' are to be used.</i>
<i>Cleaning</i>	<i>The licensee will be responsible for keeping the area free from litter, including cigarette butts.</i>
<i>Wear & tear</i>	<i>The applicant will be responsible for re-grassing any areas of the licence area that become worn or damaged from the licensed activities</i>
<i>Lightspill</i>	<i>The proposal does not introduce any additional lighting. The applicant has already installed an illuminated sign on the front of their building which has created a lit zone within the reserve.</i>
<i>Noise</i>	<i>The location is in the city centre where there are relatively high levels of noise. The proposal is not considered to add significantly to these levels.</i>

The applicant will be required to seek a liquor licence to cover the consumption of alcohol on the reserve. The permitted hours of use proposed for this licence agreement are the maximum permitted and not necessarily the hours granted under any future liquor licence.

5.4 Consultation and Engagement

At section 48(2) of the Reserves Act 1977 an administering authority is required to publicly notify applications for licences and to consider all objections and submissions. Section 48(2A) however states that notification is not required where the proposal is in conformity with and contemplated by an approved management plan for the reserve. The Glover Park Management Plan was adopted by Wellington City Council in February 2005. It specifically provides for commercial use by adjacent property owners for 'food and drink retail/cafes'. The Plan was notified for public comment in September 2004 and the relevant consultation process was undertaken at this time. For this reason, public notification of the proposed licence is not recommended in this report.

5.5 Proposed Licence Fee

Wellington Waterfront Limited has recently granted a licence to the St Johns Bar on the waterfront to use the Lagoon Lawn for a similar purpose. The licence fee for the use of the lagoon lawn is \$4.86m² per month. Officer's recommend a similar charge apply to this application for the use of Glover Park. Accordingly this report recommends a monthly licence fee of \$1010.88 (\$7076.16 per annum).

6. Conclusion

The proposed activity is considered by the Reserve Management Plan for Glover Park. It increases the amenity and use of the park and will provide increased surveillance through and across the surrounding area. Council officers recommend that the Strategy and Policy Committee approve the granting of licence to the Rogue & Vagabond over part of the Council owned land known as Glover Park.

Contact Officers: *Myfanwy Emeny, Manager, Community Engagement and Reserves, Parks and Gardens and Tracy Morrah, Manager, Property Services.*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Assists with meeting the objectives of the Glover Park Reserve Management Plan.

2) LTP/Annual Plan reference and long term financial impact

A licence fee payment of \$7076.16 (plus GST) will be paid to Council per annum and will be allocated to the Reserves Management budget.

The applicants will be responsible for all costs directly associated with their use of the land and for repairing any damage resulting from the licensed activities.

3) Treaty of Waitangi considerations

No negative Iwi implications have been identified.

4) Decision-Making

This is not considered a significant decision in terms of the Council's Significance Policy.

5) Consultation

The proposal is in conformity with and contemplated by the Reserve Management and therefore is not required to be publicly notified pursuant to the Reserves Act 1977.

6) Legal Implications

No legal implications have been identified. The activity is provided for at s54 of the Reserves Act 1977.

7) Consistency with existing policy

Is consistent with the Reserve Management Plan for Glover Park 2005

Glover Park *



* Proposed Licence Area shaded black (208.22 m²)

Appendix 2: Proposed Licence Area



Proposed Licence Area looking toward the Rogue & Vagabond



Proposed Licence Area from the front doors of the Rogue & Vagabond