



1. **ITEM NUMBER :** 24SUB 38/11/2020

2. **SUBJECT**

**LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: BARN RESTAURANT REF. NO.: LLA20100025**

**ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-BARN RESTAURANT: INOMBOLO YESALATHISO .: LLA20100025**

**AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: BARN RESTAURANT: VERWYSINGSNO.: LLA20100025**

3. **PURPOSE**

To report on an application for a liquor license received in terms of SECTION 36 NEW APPLICATIONS of the Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 and to inform the Subcouncil of the outcome of public participation conducted on the application and recommendation submitted to the Liquor Authority in terms of sub delegated authority.

4. **FOR DECISION BY**

For information. Original decision taken by Subcouncil Manager in conjunction with Chairperson and Ward 109 Councillor in terms of sub-delegated authority.

5. **EXECUTIVE SUMMARY**

The Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 were implemented on 1 April 2012. In terms of the Act, certain obligations were put on the City Manager. The City Manager ruled that all applications for liquor licenses received within the City be received at a central venue and delegated his authority

to the Manager: Subcouncils to receive such applications from the various Designated Liquor Officers.

4(1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, as amended.

Where time or legal constraints do not allow the timeous submission of the matter to the Subcouncil, the SubCouncil manager, in conjunction with the chairperson and relevant ward councillor, has the sub delegated authority to deal with the matter.

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## 6. RECOMMENDATION

It is recommended that:

It be **NOTED** that an application for a liquor licence received from BARN RESTAURANT was considered in terms of sub delegated authority and that the following recommendation was forwarded to the Liquor Authority in terms of the Western Cape Liquor Act, 2008, as amended:

SubCouncil 24 recommends that the application for a Consumption ON Premises Liquor Licence, reference no. LLA20100025, for the business Barn Restaurant **BE SUPPORTED**.

### ISINDULULO

Kundululwe ukuba:

Kufuneka **KUQATSHELWE** ukuba isicelo sephepha-mvume lokuthengiswa kotywala esifunyenwe kwabe- Barn Restaurant, saye saqwalaselwa ngokwesigunyaziso esigunyazisiweyo kwakhona isindululo esilandelayo saye sagqithiselwa kuGunyaziwe ongezoTywala ngokungqinelana noMthetho ongezoTywala waseNtshona Koloni wango-2008, njengoko ulungisiwe:

IBhungana-24 malindulule ukuba **MASIXHASWE** isicelo sePhepha-mvume lokuthengisa utywala kwizakhiwo ekuselelwa kuzo, inombolo yesalathiso ngu-LLA20100025, elingeshishini labakwa- Barn Restaurant.

### AANBEVELING

Daar word aanbeveel dat:

Daarvan **KENNIS GENEEM WORD** dat 'n aansoek om 'n dranklisensie wat van die Barn Restaurant ontvang is, kragtens gedelegeerde bevoegdheid oorweeg is en dat die volgende aanbeveling ingevolge die Wes-Kaapse Drankwet, 2008, soos gewysig, aan die drankowerheid gestuur is:

Subraad 24 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer LLA20100025, vir die sakebedryf Barn Restaurant **GESTEUN WORD.**

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## 7. DISCUSSION

7.1.1 Section 37 of the Act address the Notice of Application process. Section 37(4), (5) and (6) of the Act reads as follows:

*(4) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must, within the prescribed period from the date of lodgement of an application, serve a copy of the application in the prescribed manner on the municipality concerned in order for it to—*

*(a) where section 36(1)(c) applies—*

- (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;*
- (ii) obtain the comment of the ward councillor;*
- (iii) comment on the application; and*
- (iv) allow for the consideration of the planning application in relation to the application for a liquor licence; or*

*(b) where section 36(1)(c) does not apply—*

- (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;*
- (ii) obtain comment of the ward councillor; and*
- (iii) comment on the application.*

*(5) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must or the municipality **may**, within the prescribed time, give notice of the application to—*

- (a) neighbouring residents or such persons who in his, her or its judgement may be affected by, or have an interest in, the granting or refusal of the application; and*
- (b) the community policing forum, if any, of the area in which the premises are located.*

*(6) Notwithstanding subsection (1), where an applicant has to comply with section 36(1)(c), the notification done in terms of the applicable planning legislation is deemed to be in compliance with the notification requirements in terms of this section: Provided that the Liquor Licensing Tribunal may require such additional notification as it may deem appropriate.”*

7.1.2 The following application for liquor license has been received by Subcouncil:

### 7.1.3 Details of applicant;

- LLA20100025
- Vergenoegd Wine Estate PTY LTD;
- 1996/002540/07
- Barn Restaurant;
- Consumption ON Premises
- Erf: Vergenoegd Wine Estate Portion 12 of Farm 653 Faure;

### 7.1.4 Subcouncil Manager confirmation: Advertising extent (Community participation) - Notices served on and received the following Comments:

Ward 109 Councillor:  
No objection.

Community Organizations: As per CBO Database  
No comment received.

Ward Committee: Elected Members of Ward 109  
No comment received.

CPF: Community Policing Forum: Macassar  
No comment received.

Other interest and effected parties:  
No comment received.

#### **Internal departments:**

Town Planning:  
Please note this application is supported by Development Management with on conditions.

Health:  
Re: Application (LLA201200025) for Liquor Licence – consumption On premises, BARN RESTAURANT, Vergenoegd Wine Estate Portion 12 of Farm 653, Faure

Your request for comments from our department regarding the above applications refers. This department supports this application provided the following are adhered to:

1. The applicant must comply with the Tobacco Products Control Act, 1993 (Act No 83 of 1993) and Notice relating to Smoking of Tobacco Products in public places, Regulation No R975 dated 29 September 2000.

2. Compliance with the Noise Control Regulations P.N 200/2013 as promulgated under the Environment Conservation Act, 1989 (Act 73 of 1989) by not creating a disturbing noise and / or noise nuisance to surrounding property owners.

3. Any noise producing plant or equipment must be adequately muffled so as not to create a disturbing noise or noise nuisance to any of the surrounding property owners, churches, hospitals, educational buildings or offices.

4. Should the premises be used for a category of business which is required to be licenced in terms of the Business Act No 70 of 1991 i.e. Supply of Meals: Health and Entertainment: etc. then application must be made for the relevant business licence. Should food be prepared or handled then application must also be made for a Certificate of Acceptability for Food Premises in terms of Regulation R638 dated 22/06/2018 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972). These requirements come into effect once Council has approved the consent use application.

City Emergency Services: 2020/10/15

THIS DEPARTMENT HAS NO OBJECTIONS - WITH CONDITIONS: SEE COMMENT BELOW:

Relative to the above Liquor Licence Applications - Please be advised that this department has NO OBJECTION to the above Liquor Licence Applications – Please take note that THE NO OBJECTION FROM THIS DEPARTMENT IS SUBJECT to the above Liquor Licence Applications complying with the National Building Regulations and The CCT By-law Relating to Community Fire Safety and or any other pertinent regulations.

There must be an Approved Fire Protection Plan for the Building / Structure – And all the Fire Safety Requirements as per this Approved Fire Protection Plan for the Building / Structure shall be implemented:

Law Enforcement Squad: 2020/10/15

Supported: Yes

Aged or Frail Care Centre: No

Rehab: Drugs/Alcohol Centre: No

Schools: No

Other: None

Parking: Secured on farm parking for customers.

Reasons for Supporting: Premises zoned agriculture 1. Vergemoegd Wine Estate still closed due to development processes according to farm GM Ruan Spence. Restaurant will open and operate when liquor license are approved. Alterations will take place in the near future. No objections

## **7.2 Constitutional and Policy Implications**

The Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 were implemented on 1 April 2012. The Act was implemented in phases. In terms of the Act, certain obligations were put on the City Manager. The City Manager ruled that

all applications for liquor licenses received within the City be received at a central venue and delegated his authority to the Manager of Subcouncils to receive such applications from the various Designated Liquor Officers.

5(1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, as amended.

Where time or legal constraints do not allow the timeous submission of the matter to the Subcouncil, the subcouncil manager, in conjunction with the chairperson and relevant ward councillor, has the sub-delegated authority to deal with the matter.

### 7.3 **Sustainability Implications**

No ☒ Yes ☐

### 7.4 **Legal Implications**

Public participation was conducted by the Subcouncil Manager, the circulation was distributed to the Ward Councillor, Community Organizations (as per the Community Based Organisation Database), Ward Committee, Community Police Forums (CPF's) and Internal Departments: Town Planning, Health, City Emergency Services and Law Enforcement Squad (Liquor Control Unit).

### 7.5 **Staff Implications**

Does your report impact on staff resources or result in any additional staffing resources being required?

No ☒ Yes ☐

### 7.6 **Other Services Consulted**

The following Internal Departments and officials were consulted:

#### ***Energy, Environmental and Spatial Planning***

*Planning and Building Development Management: (Nyameko Thuvana)*

#### ***City Health***

*Sub District: (Claude Byilingiro)*

#### ***Safety & Security***

*City Emergency Services: (Edward Labuschagne)*

#### ***Safety & Security***

*Law Enforcement: (Jean Mampofu)*

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<i>Goodman Rorwana</i>
<b>CONTACT NUMBERS</b>	<i>021 444 7530</i>
<b>E-MAIL ADDRESS</b>	<i>GoodmanLulamile.Rorwana@capetown.gov.za</i>
<b>DIRECTORATE</b>	<i>Urban Management</i>
<b>DEPARTMENT</b>	<i>Area 2</i>

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**MANAGER: SUBCOUNCIL 24**

**GOODMAN RORWANA**

TEL NO     021 444 7530  
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DATE  
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