



1. ITEM NUMBER :

2. SUBJECT

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: BLESSINGS REF. NO.: LLA20070016

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-BLESSINGS: INOMBOLO YESALATHISO .: LLA20070016 (H3064)

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: BLESSINGS: VERWYSINGSNO.: LLA20070016 (H3064)

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 23 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.

6. RECOMMENDATION

It is recommended that:

It be **NOTED** that an application for a liquor licence received from BLESSINGS 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 01 recommends that the application for a Consumption ON Premises Liquor Licence, reference no. LLA20070016, for the business Blessings BE **SUPPORTED ON CONDITION** that if food is prepared the applicant must make application for a business licence and COA

ISINDULULO (H3064)

Kundululwe ukuba:

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

IBhungana-1 malindulule ukuba **MASIXHASWE PHANTSI KWEMIQATHANGO** isicelo sePhepha-mvume lokuthengisa utywala kwizakhiwo ekuselelwa kuzo, inombolo yesalathiso ngu-LLA20070016, elingeshishini labakwa- Blessings.

AANBEVELING (H3064)

Daar word aanbeveel dat:

Daarvan **KENNIS GENEEM WORD** dat 'n aansoek om 'n dranklisensie wat van die Blessings 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 1 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer LLA20070016, vir die sakebedryf Blessings **VOORWAARDELIK GESTEUN WORD**

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, 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;

- LLA20070016
- De Faye Bosch Cellars and Brewery PTY LTD;
- 2018/612404/07
- Blessings;
- Consumption ON Premises
- Erf: 396 41 Commaille Road Melkbosch Strand;

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

Ward 23 Councillor:

I do not support the application for the following reasons:

In the immediate surroundings we already have the OK liquor outlet, as well as the Spar Outlet. Considering the historic challenges we had with the selling of liquor to the street consumer, I foresee an increase in the number of public use as well as liquor consumption on the beach and open public space.

To have a third outlet so close to a High school, the only in Melkbosstrand as well as on one of the major Churches in the area, approving yet another outlet will totally be against the regulations considering the position of this outlet.

I appeal that the liquor board consider the implications of approving yet another outlet in close proximity will have a direct impact on this community.

Community Organizations: As per CBO Database

No comments received

Ward Committee: Elected Members of Ward 23

NSRI / CPF

I have a concern with this application in that it is almost across the road from the high school and across the road from the Dutch Reformed Church and only a 100m from a pre-school.

CPF:

No comments received

Other interest and effected parties:

No comments received

Internal departments:

Town Planning:

Supports the comment

Health:

City health has no objections but has the same concerns of Mr. Rhine Barnes (Ward Committee Member) If food is prepared the applicant must make application for a business licence and COA.

City Emergency Services: 2020/08/20

No comments received

Law Enforcement Squad: 2020/08/20

Supported

Premises zoned for residential, but zoning was granted by the City of Cape Town according to applicant Welma Esterhuizen. (it was not produce at the time of inspection) Premises in process of business license for food. Wines will be on sale with meals only. Operating hours will be 9am – 5pm. Liquor license can be approved from our department if zoning certificate are produced.

Close proximity to Melkbosstrand High School and NG Kerk

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 ☒ Ye ☐

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: (Alicia Visagie)

City Health

Sub District: (Pieter Rossouw)

Safety & Security

City Emergency Services: (Francis Van der Byl)

Safety & Security

Law Enforcement: (Liquor Control)

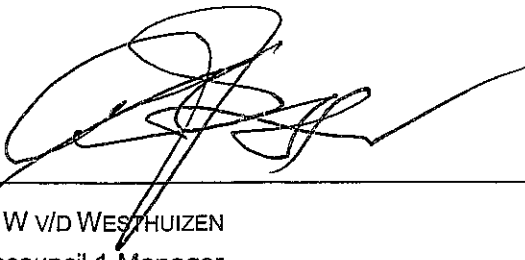
FOR FURTHER DETAILS CONTACT:

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DEPARTMENT	Area 1

MANAGER: SUBCOUNCIL 1
WESSIE VAN DER WESTHUIZEN

TEL NO 021 444 6037 OR 021 444 6039

DATE

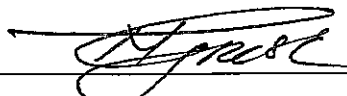


MR W v/d WESTHUIZEN
Subcouncil 1 Manager



DATE

11/09/2020



CLLR N GROSE
Chairperson Subcouncil 1



DATE

11/09/2020