



1. ITEM NUMBER : 16 SUB 17/06/2021SM

2. SUBJECT

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: TOPS OAKHURST REF. NO.: LLA21050006

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-TOPS OAKHURST: INOMBOLO YESALATHISO .: LLA21050006 (H3064)

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: TOPS OAKHURST: VERWYSINGSNO.: LLA21050006 (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 74 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 TOPS OAKHURST 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 16 recommends that the application for a Consumption OFF Premises Liquor Licence, reference no. LLA21050006, for the business Tops Oakhurst **CONDITIONALLY SUPPORTED:**

Subject to the applicant obtaining an appropriate business licence (Sale and Supply of Meals) from the City of Cape Town.

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, inspector, 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;

- LLA21050006
- Globify 54 CC;
- 2011/066625/23
- Tops Oakhurst;
- Consumption OFF Premises
- Erf: 10097 2 DormanWay Shop 6 Oakhurst Farm Park Hout Bay;

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

Ward 74 Councillor:

Cllr Quintas commented on 5 May 2021.

APPLICATION SUPPORTED.

Community Organizations: As per CBO Database

No response received.

Ward Committee: Elected Members of Ward 74

Danielle Klaff commented on 5 May 2021.

APPLICATION SUPPORTED.

CPF:

Comments received from Chairperson of Hout Bay CPF on 5 May 2021.

APPLICATION SUPPORTED

Other interest and effected parties:

Internal departments:

Town Planning:

Comments received from Town Planning, Pierra Evard on 14 June 2021.

APPLICATION SUPPORTED.

Comments: The delay in responding has been the result of obtaining the original approval documents as well as changes to the previous Zoning Schemes and now the Municipal Planning By-Law (MPBL). The original rezoning of the property was in terms of the former Divisional Council of the Cape Zoning (DivCo) Scheme and included a condition which limited the use of the property to "The property shall only be used for shops and/or offices and/or medical consulting rooms. No supermarket or portion thereof shall be permitted on the property".

In terms of the MPBL a shop does not include the sale of alcohol beverages.

However, as the approval was in terms of the former DivCo Scheme, and has been acted upon, in which the definition of a shop (see extract below) does not exclude the sale of alcohol, the proposed liquor outlet, from a land use perspective is permitted.

TOWN PLANNING

Pierre Evard

14 June 2021

Health:

Comments received from City Health, Bulelani Jwampini on 18 May 2021.

APPLICATION NOT SUPPORTED

The business is NOT LOCATED near Aged or Frail Care Centre, Rehab, Drugs / Alcohol Centre or School(s).

Parking: Yes

Reasons for NOT supporting: The premises is not in the possession of appropriate business License for sales and supply of meals.

CITY HEALTH

Bulelani Jwampini

18/05/2021

City Emergency Services: 2021/05/05

Comments received from Emergency Services, Ian Craig Peters on 28 May 2021.

APPLICATION SUPPORTED

Having completed an inspection of the above mentioned premises, please be advised of the following:

The above premises has to comply with requirements of a F1 occupance as per SANS 10400 - T:2011.

The building has to comply with the NBR and the By-Law relating to Fire Safety, to be considered.

The necessary amended plans for any internal changes taking place has to be submitted via the Plumstead Building Plans Department.

The Fire Department has no objection to the above liquor licence approval.

Law Enforcement Squad: 2021/05/05

Comments received from Law Enforcement Liquor Unit, S. Dishi on 14 May 2021.
APPLICATION SUPPORTED

The business is NOT LOCATED near Aged or Frail Care Centre, Rehab, Drugs / Alcohol Centre or School(s).

Other: None

Parking: Yes Centre parking

Comments: Premises zoned for business. Premises not erected yet, currently a construction site as per attachment.

LAW ENFORCEMENT LIQUOR UNIT

S. Dishi

10/05/2021

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: (Pierre Hoffa)

City Health

Sub District: (Tauriq Hassan)

Safety & Security

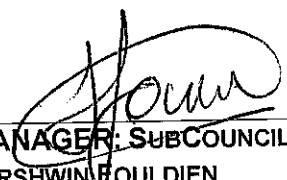
City Emergency Services: (Ian Craig Peters)

Safety & Security

Law Enforcement: (Marilyn Holding)

FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	Urban Management
DEPARTMENT	Area 1


MANAGER: SUBCOUNCIL 16
GIRSHWIN FOULDIEN

TEL No 021 487 2055

DATE


CHAIRPERSON: SUBCOUNCIL 16
MATTHEW KEMPTHORNE

TEL No 021 487 2207

DATE

15/06/2021

