



1. ITEM NUMBER : 16 SUB 39/09/2021

2. SUBJECT

LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: BALENA BLU REF. NO.: LLA21080009

ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-BALENA BLU: INOMBOLO YESALATHISO .: LLA21080009 (H3064)

AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: BALENA BLU: VERWYSINGSNO.: LLA21080009 (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 115 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 BALENA BLU 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 ON and OFF Premises Liquor Licence, reference no. LLA21080009, for the business Balena Blu be **CONDITIONALLY SUPPORTED**:

Subject to the applicant obtaining an appropriate business licence (Sale & 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;

- LLA21080009
- Balenu Blu PTY LTD;
- 2021/550434/07
- Balena Blu;
- Consumption ON and OFF Premises
- Erf: 174009 50 Bree Street Shop 1,2 and 3 Cape Town City Centre Cape Town;

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

Ward 115 Councillor:

Cllr McMahon commented on 16 August 2021.
Supported

Community Organizations: As per CBO Database

Comments received from CT CCID, Muneeb Hendricks on 16 August 2021.
No objection.

Ward Committee: Elected Members of Ward 115

Comments received from Muneeb Hendricks on 16 August 2021.
No objection.

CPF:

No response received.

Other interest and effected parties:

Internal departments:

Town Planning:

Comments received from Town Planning Rudi Bester on 24 August 2021.

APPLICATION SUPPORTED

Zoning: The subject property is zoned: General Business Zone (GB7) thus permits the operation of the proposed activity as a primary right.

TOWN PLANNING

R. Bester

24/08/2021

Health:

Comments received from City Health, Ntabeleng Moloto on 19th August 2021.

APPLICATION NOT SUPPORTED

Reasons for NOT supporting: Premise under construction, therefore City Health cannot support the liquor license until the premise is in a possession of a sales and supply of meals business license.

CITY HEALTH

Nthabeleng Moloto

19/08/2021

City Emergency Services: 8/13/2021

Comments received from Emergency Services Moegamat Suruh Barendse on 18 August 2021.

APPLICATION SUPPORTED

Law Enforcement Squad: 8/13/2021

Comments received from Law Enforcement Liquor Unit, Dufton Koopman on 22 August 2021.

APPLICATION SUPPORTED

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

Other(church's) : Yes Evangelical Lutheran church 50m away

Parking: Street parking

Comments: Premises still under construction. Premises will operate as per City of Cape Town business trading hours by-law. Liquor will be consumed with meals. Area is zoned for business. Premises will operate as a restaurant. There are license d premises around the corner of the church already.

LAW ENFORCEMENT LIQUOR UNIT

Dufton Koopman

18 August 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.

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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: (Gregory September)

City Health

Sub District: (Tauriq Hassan)

Safety & Security

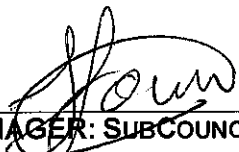
City Emergency Services: (Moegamat Suruh Barendse)

Safety & Security

Law Enforcement: (Marilyn Holding)

FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	Urban Management
DEPARTMENT	Area 1


MANAGER: SUBCOUNCIL 16
GIRSHWIN FOULDIE

TEL NO 021 487 2055

DATE 14/09/2021


CHAIRPERSON: SUBCOUNCIL 16
MATTHEW KEMPTHORNE

TEL NO 021 487 2207

DATE 14/09/2021