

**1. ITEM NUMBER: 24SUB 15/05/2019**

**2. SUBJECT**

**LIQUOR LICENCE APPLICATION: DECISION TAKEN UNDER SUBDELEGATED AUTHORITY BY THE SUBCOUNCIL MANAGER, THE WARD COUNCILLOR AND THE CHAIRPERSON IN RESPECT OF: SIBERIAN EXPRESS. REF. NO.: LLA19020016:**

**ISIHLOKO**

**ISICELO SEPHEPHA-MVUME LOKUTHENGISA UTYWALA: ISIGQIBO ESIGQITYWE PHANTSI KWESIGUNYAZISO ESISEZANTSI NGUMPHATHI WEBHUNGANA, UCEBA WEWADI NOSIHLALO NGOKUJOLISWE KWABE-SIBERIAN EXPRESS, INOMBOLO YESALATHISO :LLA19030016:**

**ONDERWERP**

**AANSOEK OM DRANKLISENSIE: BESLUIT GENEEM DEUR DIE SUBRAADSBESTUURDER, DIE WYKSRAADSLID EN DIE VOORSITTER KRAGTENS GESUBDELEGEERDE BEVOEGDHEID TEN OPSIGTE VAN: SIBERIAN EXPRESS.: VERWYSINGSNO.: LLA19030016:**

**3. PURPOSE**

To report on an application for a liquor license received in terms of section 37 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 Sub council 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 Sub council Manager in conjunction with Chairperson and Ward 96 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. 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.

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 Siberian Express 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 a Micro Manufacturer Off Consumption Liquor Licence, reference no. LLA19030016, for the business **Siberian Express**, **BE SUPPORTED**

### ISINDULULO

Kundululwe ukuba:

Kufuneka **KUQATSHELWE** ukuba isicelo sephepha-mvume lokuthengiswa kotywala esifunyenwe kwabe **Siberian Express**, 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-LLA19030016, elingeshishini labakwa- **Siberian Express**.

## AANBEVELING

Daar word aanbeveel dat:

Daarvan **KENNIS GENEEM WORD** dat 'n aansoek om 'n dranklisensie wat van die **Siberian Express** 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:

Sub-raad 24 beveel aan dat die aansoek om 'n dranklisensie vir verbruik op die perseel, verwysingsnommer LLA19030016, vir die sakebedryf **Siberian Express**, **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;

LLA19030016  
Siberian Express PTY LTD;  
2018/418824/07  
Siberian Express;  
Micro Manufacturer Off Consumption  
Erf: Remainder of the Farm Lourensford Lourensford Road Somerset west  
Lourensford Road Somerset West;

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

**Ward 84 Councilor:**

I support the application, provided that the City's policies and by laws are complied with.

**Community Organizations: As per CBO Database**

No comment received.

**Ward Committee: Elected Members of Ward 84**

No comment received.

**CPF: As per the Subcouncil 24 Organisation Database**

No comment received.

**Other interest and effected parties:**

No comment received.

**Internal departments:**

**Town Planning:**

Zoning: Agriculture

Comment: In order, use permitted in terms of the zoning (Wine Farm)

**Health:**

Application for Liquor Licence - Siberian Express, Remainder of the farm  
Lourensford Wine Estate, Lourensford Road, Somerset West

Your request for comments from our department, dated 06/03/2019, regarding the above application refers:

The application is supported subject 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. 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 license. Should food be prepared or handling then application must also be made for a Certificate of Acceptability for Food premises in terms of Regulations R638 dated 22/06/2018 made in terms of the Foodstuffs, Cosmetics and Disinfectants Act.(Act 54 of 1972). These requirements come into effect once Council has approved the consent use application.

**City Emergency Services: 2019/03/06**

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: 2019/03/06**

Supported: Yes

Aged or Frail Care Centre: None

Rehab: Drugs/Alcohol Centre: None

Schools: None

Other: No

Parking: Secured Parking

Comments: Premises will manufacture liquor and provide to liquor shops. No customers will come to premises to buy liquor.

**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 Councilor, 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: (Nontsikelelo Ntutha)*

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

*Sub District: (Roween Bam)*

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

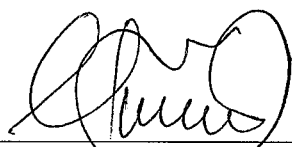
*City Emergency Services: (Edward Labuschagne)*

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

Law Enforcement: (Cameron Isaacs)

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Goodman Rorwana
<b>CONTACT NUMBERS</b>	021 444 7533 / 2 / 1
<b>E-MAIL ADDRESS</b>	GoodmanLulamile.Rorwana@capetown.gov.za
<b>DIRECTORATE</b>	Urban Management
<b>DEPARTMENT</b>	Area 2



SUBCOUNCIL MANAGER

Comments:

Date

04 April 2019