

27 October 2016

**Director General
Department of Trade and Industry
Private Bay X84
Pretoria
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RE: COMMENT ON THE DRAFT LIQUOR AMENDMENT BILL, 2016

1. We write in response to the proposed Liquor Amendment Bill. Our comments are restricted to the fields within which our organisation, the Sustainable Livelihoods Foundation, has established proven expertise and scientific recognition.
2. Our interest in this topic relates to the position of small liquor traders (both licenced and unlicensed) in the township economy. The Sustainable Livelihoods Foundation is the leading authority on micro-enterprises in the township economy. Much of the research we have undertaken has been published in peer reviewed scientific publications, including the Journal of Modern African Studies, the South African Geographical Journal and Development Southern African. A list of references is contained below.
3. Over the past 6 years we have conducted research in nine township communities in four provinces. The site we have studied are: i) Delft South, ii) Browns Farm, iii) Sweet Home Farm, iv) Vrygrond, v) Imizamo Yethu, vi) Ivory Park, vii) Tembisa, viii) KwaMashu and ix) Thabong. In one site, Delft South, we have surveyed the businesses environment twice, first in 2010/2011 and second in 2015. This study permits a comparative perspective. Across the nine settlements we identified 10,842 micro-enterprises and conducted firm interviews 3,800 micro-entrepreneurs. The research highlights that micro-enterprises engaged in liquor sales (and providing leisure offering where liquor consumptions takes place) comprise 14% of all micro-enterprise business activity in the townships. Indeed liquor related business activities are the second most frequent category of business in the township economy. It is important to recognise that 60% of these businesses are women run. Furthermore the vast majority are very small micro-enterprises, selling low volumes of alcohol with the principal aim to supplement household income.
4. Given the large scale of the township leisure economy and its many economic multipliers – car washes, street braais, restaurants, entertainers, musicians, DJs, guards, casual workers to name some of the allied enterprise linkages – the proposed tightening of restrictions on residential based trading activities will have a profound livelihood impact. We are particularly alarmed by the omission of measures (and absence of directives) to offset the impact of business closure on the livelihoods of liquor traders as a result of residential prohibition on alcohol sales. As a minimum, the responsible Provincial authorities should be mandated to provide comprehensive business development support for informal liquor traders to enable them to embark on alternative and sustainable livelihoods. This should include, the identification of market opportunities for non-liquor trading, the provision of business training, access to micro-finance credit, and business support mentoring for at least 12

months. Failure to provide such services equates to the failure of the state abide with the constitutionally protected **right to human dignity**. The Constitutional Court has recently ruled that the right to pursue a livelihood (for small traders and their families) is inextricably tied to the right to human dignity (Judge Moseneke, ACJ, 4 April 2014; page 17).

5. The proposed amendment to the Bill in terms of Auxiliary conditions of registration (Section 13A) will **reinforce apartheid spatial economic inequality**. There are two concerns. First, most townships and informal settlements were (through their apartheid creation) designated as residential settlements. Where land use zoning has been applied, most land is zoned for residential use. This was undertaken within the apartheid strategy of creating dormitory communities devoid of economic activity. The post-apartheid state has yet to redress this unfortunate planning legacy. As a consequence there is also no land in township settlements that has been zoned for business or commercial purposes. This situation is clearly illustrated in the case of Delft South, Figure 1. The figure highlights the current land use zones and indicates the position of liquor trading businesses, both licenced and unlicensed. As the diagram clearly indicates, there is a chronic shortage of commercial land in Delft (as in most South African townships). The process of having land rezoned is extremely complex, subject to various legal requirements (including property ownership, having authorised building planning and so forth) and is very costly. Most township business owners do not have the means to have their sites rezoned so as to fall within the proposed regulatory requirement.
6. The proposal in Section 13A (2) of a 500 meter buffer zone is **prohibitionist**. The impact of such as buffer is indicated in Figure 2. The implication is that there is no locality within a township such as Delft South wherein a person can legally trade in liquor. This amendment is likely to stimulate the 'enforced informalisation' of liquor trade, sustaining the underground market that currently exists.
7. Our resurvey of Delft South found that over the period 2010/11-2015 informal liquor trade had increased by 32%. The results are shown in Figure 3, indicating new, old and closed businesses. The research confirms previous studies that indicate that efforts to close residential liquor trade do not succeed, regardless of the intensity of policing. Instead of shutting down the supply of liquor (through closing venues), a tightening of regulation influences the form and function of informal liquor trading venues, promoting the growth of smaller venues and deviant strategies. The data shows, unequivocally, that in neighbourhoods where venues are closed down, alternative venues open up to serve the existing neighbourhood demand for access to alcohol and spaces of recreation / socialisation.
8. From the perspective of township liquor retailers (micro-enterprises), the proposed Liquor Bill Amendments are incompatible with the Function of the National Liquor Regulator, as set out in Section 7 (a). The legislation is profoundly **unfair**. Furthermore, the legislation makes no contribution to shifting informal liquor trade into the formal sector, which is a precondition for the promotion of **responsible trading**. The legislation will perpetuate apartheid inequality and set backwards efforts to promote Black business advancement within the framework of economic development and empowerment.
9. We are available to elaborate on these points.

Dr Andrew Charman, Director

Dr Leif Petersen, Director

Figure 1:
Distribution of liquor sales enterprises in context of land use categories
Delft South and Eindhoven, September 2015

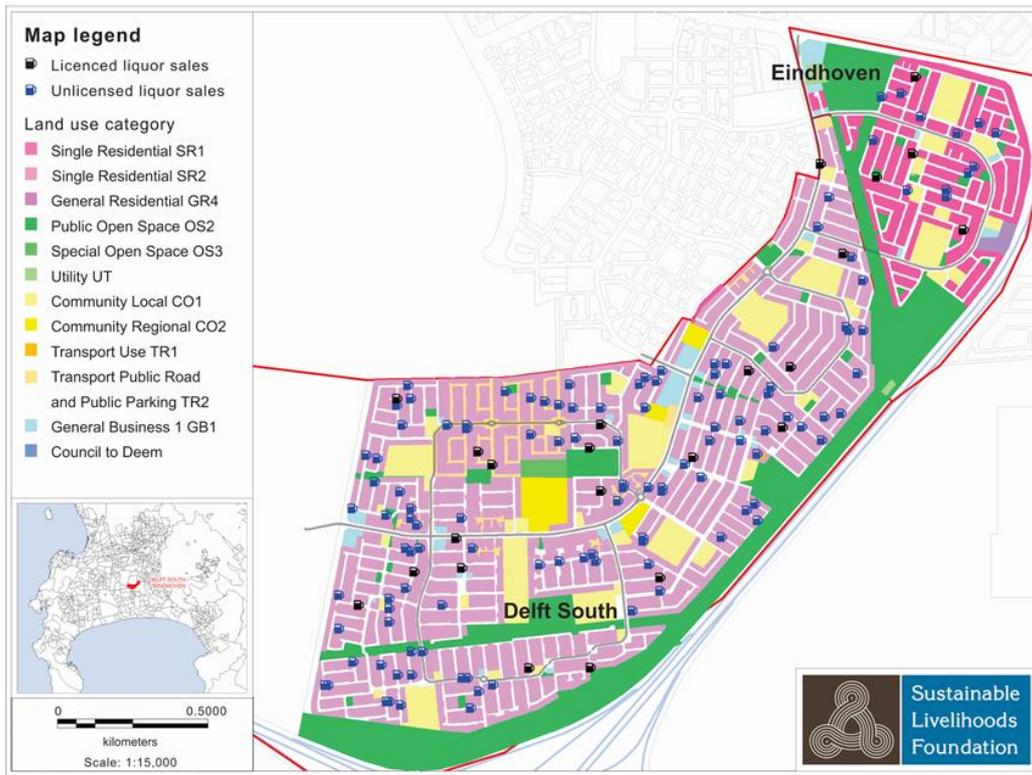


Figure 2:

The Implication of a Liquor Trading Exclusion Zone: 500 Meter Buffers from Religious Infrastructure and Social Infrastructure

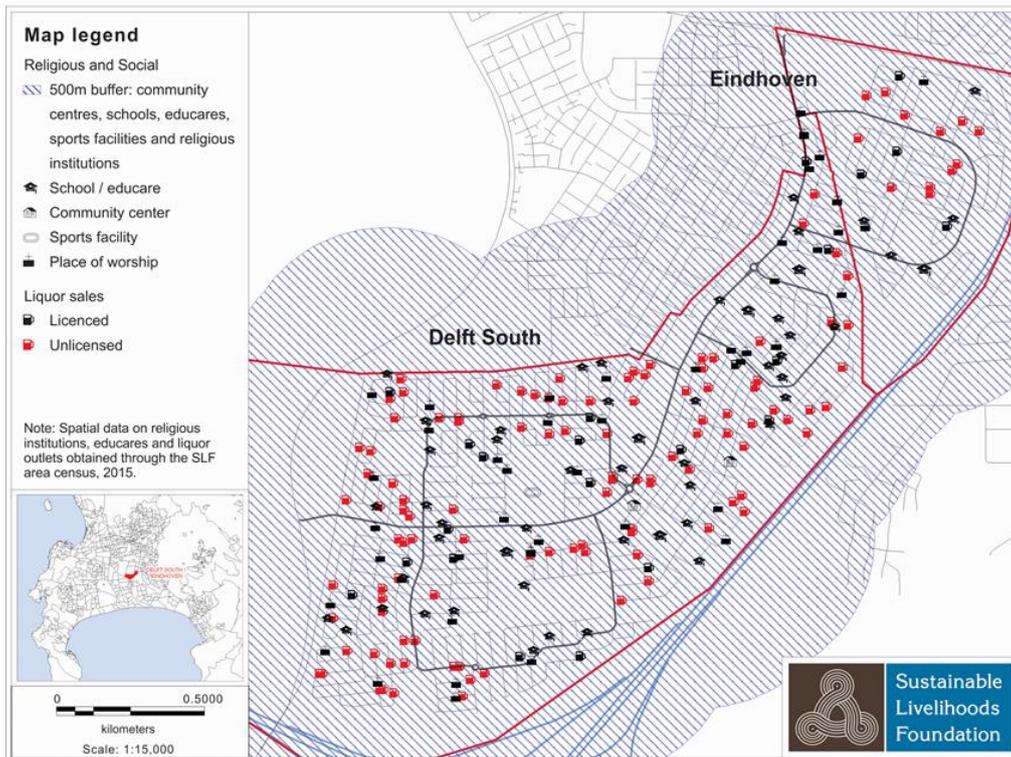
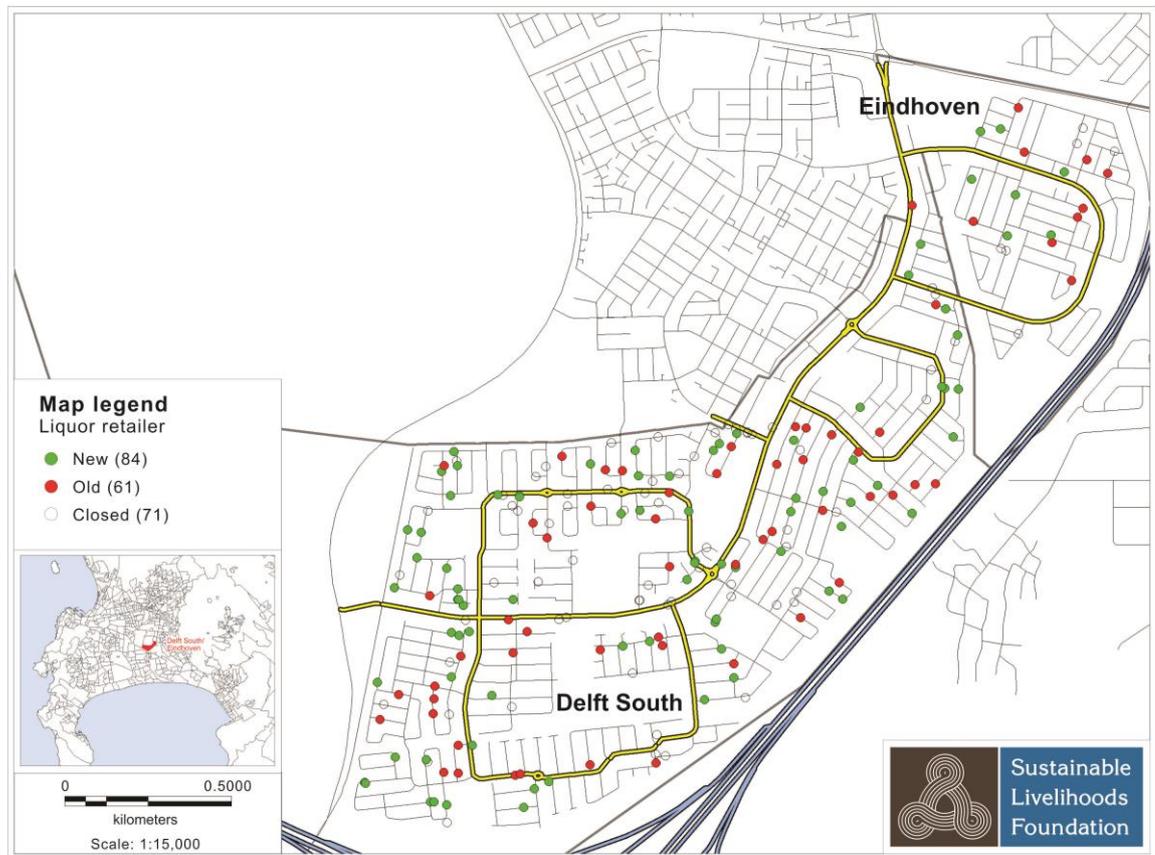


Figure 3:
**Distribution of liquor retailers showing new, old and closed
Delft South and Eindhoven, September 2015**



Additional References:

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