



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2018-03-09

MAYORAL COMMITTEE MEETING
WEDNESDAY, 2018-03-14 AT 10:00

TO The Executive Mayor, Ald G Van Deventer (Ms)

The Deputy Executive Mayor, Cllr N Jindela

COUNCILLORS PW Biscombe

J De Villiers

AR Frazenburg

E Groenewald (Ms)

XL Mdemka (Ms)

S Peters

Ald JP Serdyn (Ms)

Q Smit

Notice is hereby given that a Mayoral Committee Meeting will be held in the Council Chamber, Town House, Plein Street, Stellenbosch on **Wednesday, 2018-03-14 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER (MS)

CHAIRPERSON

MAYORAL COMMITTEE MEETING

2018-03-14

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4.	REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MAYORAL COMMITTEE MEETINGS
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NONE

5.	STATUTORY MATTERS
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5.1	COMMUNITY DEVELOPMENT AND COMMUNITY SERVICES: (PC: CLLR AR FRAZENBURG)
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NONE

5.2	CORPORATE AND STRATEGIC SERVICES: (PC: CLLR E GROENEWALD (MS))
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NONE

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NONE

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NONE

5.5	HUMAN SETTLEMENTS: (PC: CLLR PW BISCOMBE)
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5.5.1	PROPOSED POLICY ON THE MANAGEMENT OF STELLENBOSCH MUNICIPALITY'S IMMOVABLE PROPERTY
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1. PURPOSE OF REPORT

To consider the Draft Policy on the Management of Stellenbosch Municipality's Immovable Property.

2. BACKGROUND

2.1 Approval of Draft Policy

On 2016-06-15 Council considered the Draft Policy on the Management of Stellenbosch Municipality. Having considered the report, Council resolved as follows:

RESOLVED (nem con)

“(a) that Council approves the attached updated Draft Policy on the Management of Stellenbosch Municipality's Immovable Property as a draft policy; and

(b) that the Draft Policy be advertised for a further round of public participation”.

2.2 Notice calling for inputs/objections

Following the above resolution, an official notice was published in the Eikestad News of 15 June 2017, a copy of which is attached as **APPENDIX 1**. In terms hereof the public had until 6 July 2017 to submit written communication, objections or representative in connection with the proposed policy.

At the closing date **no such comments, objections or representation were received.**

3 DISCUSSIONS

3.1 Inputs received from Webber Wentzel

During this period, however, a so-called Memorandum/Discussion document was received from Webber Wentzel, as a follow-up on their previous legal inputs received during June 2016, a copy of which is attached as **APPENDIX 2**.

Most of the comments and/or remarks are of a **technical nature**. As far as possible these comments and or remarks were incorporated into the draft Policy, shown as track changes on **APPENDIX 3**.

RECOMMENDATION

that the Draft Policy on the Management of Stellenbosch Municipality's Immovable Property, hereto attached as **APPENDIX 3**, be approved with immediate effect.

ANNEXURE 1



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OFFICIAL NOTICE

PROPOSED ADOPTION OF POLICY ON THE MANAGEMENT OF STELLENBOSCH MUNICIPALITY'S IMMOVABLE PROPERTY

Notice is hereby given in terms of Section 21 of the Local Government: Municipal System Act, 2000 (Act No 32 of 2000) that Stellenbosch Municipality intends to adopt a Policy on the Management of Stellenbosch Municipality's Immovable Property.

Full particulars of the proposed policy are available for inspection during normal office hours at the Office of the Manager: Property Management, 3rd floor, Oude Bloemhof Building (ABSA) at the corner of Plein-and Rhyneveld streets, Stellenbosch.

Comments, objections and representations in connection with the proposed policy, if any, must be lodged with the undersigned in writing by not later than 6 July 2017.

Any person needing assistance in the regard may, during normal office hours, approach the Property Management Department for assistance with the lodging of comments, objections or representation.

Enquiries in connection with the proposed policy may be directed to the Manager: Property Management at:

- e-mail from piet.smit@stellenbosch.gov.za
- PO Box 17, Stellenbosch, 7599
- Tel: 021-8088189
- Cell: 0845065065

Municipal Manager
GERALDINE METTLER

Date: 15 June 2017

e 2017

GEKLASSIFISEERD CLASSIFIED Eikestadnuus

Eikestad NUIS
Skakel 021 887 2840

**Betrekings
Kennisgewings
Boedels Veilings**



Established civil construction company offers the following short term position for the following project for Western Cape Government Transport and Public Works:
C921: The upgrading of DR 1050 (Annandale Road) km 0.00 to km 7.33 In the Stellenbosch area.

**COMMUNITY LIAISON OFFICER
(CLO)**

Main duties:

- * Keep the local community informed on the progress of the project *
- * Keep the Contractor informed on relevant Community affairs *
- * Manage the recruitment of workers from local community *
- * Assist the Contractor's supervisory staff managing the workers *

Closing date for applications: 19 June 2017

Email CV to jacques@baseline.co.za
or deliver to Baseline Site Offices
cnr of Annandale Road and Baden Powell Drive
(opposite Lynedoch Train Station)



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- E-mail: piet.smit@stellenbosch.gov.za
- PO Box 17, Stellenbosch, 7599
- Tel: 021 808 8189
- Cell: 084 506 5065

**Municipal Manager
GERALDINE METTLER**

Date: 15 June 2017



STELLENBOSCH

Handwritten notes: 1 L 5 8 and a signature.

ANNEXURE 2

MEMORANDUM (FOR DISCUSSION PURPOSES)

Discussion document: Comments/remarks in respect of Proposed Policy on the Management of Stellenbosch Municipality's Immovable Property ("the Policy")

1. Introductory observations

- 1.1 There appears to be various discrepancies between the documents now received and prior documents, however, for purposes of consideration of the Policy and on the basis that the Policy in its amended form will be re-advertised, it is not necessary to elaborate on this for present purposes.
- 1.2 Kindly note that our comment and/or remarks in this document are not exhaustive and further comments may follow at a later stage, should it be necessary.

2. The Policy

- 2.1 The following issues are highlighted with regard to the Policy itself and require further discussion and/or instructions and/or deliberation.

REFERENCE IN POLICY	COMMENT / REMARKS
<p>1. DEFINITIONS</p> <p>(in general - amend to ensure that references to legislation are</p>	<ul style="list-style-type: none"> change heading of definitions to <i>interpretation</i> "agricultural allotments": We were instructed that agricultural land is already dealt with in a

uniform)	<p>separate policy. Should this not be deleted?</p> <ul style="list-style-type: none"> • definitions of "competitive bidding process" and "disposal" too narrow - it should be reviewed with reference to Municipal Supply Chain Management Regulations ("SCM Regulations") and the Asset Transfer Regulations ("ATR") • "EIA": Insert "an" before Environmental Impact Assessment: - reference to Government Notice 543 of 2010 is outdated as current Environmental Impact Assessment Regulations are in terms of Government Notice 982 of 2014 - propose to amend to <i>EIA in terms of NEMA and its regulations as amended from time to time</i> • "emergency": definition to be considered, appears wider than that in Supply Chain Management ("SCM") Policy of Municipality • "fair market value": Proposed that ATR's definition be used: <i>[although issues relating to costs it does not necessarily imply that a full independent valuation have to be obtained in order to determine fair market value as envisaged in ATR]</i> <ul style="list-style-type: none"> ○ "Fair market value" <i>in relation to a capital asset means the value at which a knowledgeable willing buyer would buy and a knowledgeable willing seller would sell the capital asset in an arm's length transaction</i> ○ Regulation 5(4) and (5) of the ATR deals
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	<p>with different valuation methods etc in order to arrive at fair market value so no need to have different valuations in the Policy or different definitions of market value</p> <ul style="list-style-type: none"> • "IDP": Add as amended from time to time • "Income tax act": Correct references to Income Tax Act 58 of 1962 • "lease": definition should be refined - the term "land availability agreement" referred to in this definition is not defined in the Policy • "Local Black People": Reference to B-BBEE Act should be corrected to reflect correct year (2003) and the definition should be reviewed. <ul style="list-style-type: none"> ○ should a minimum time period for residence in Stellenbosch area not be inserted so as to assure that residents are advantaged? ○ replace "normally" with "ordinarily", delete "Stellenbosch" and insert "the" as the Municipality is already defined • "municipal land audit" Is the municipal land audit still relevant or rather is the data still up to date? • "Non-Significant Property Right": definition of non-significant property right correlates with ATR but it needs to be considered whether it is really necessary to have different definitions or terms
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	<p>than those in ATR?</p> <ul style="list-style-type: none"> • "official": review this definition as it appears to be similar to the definition in the Local Government: Municipal Finance Management Act 56 of 2003 ("MFMA") but then includes the definition again by way of reference • "public street": Definition of "public street" by and large that of Municipal Ordinance 20 of 1974 ("the Ordinance")¹ • "real rights": Would it not be possible and/or better to include "real right" in "property right" definition? • "SCM policy": insert '<i>and amended</i>' before '<i>from time to time</i>' • 1.2: insert '<i>and phrases</i>' after words
<p>2. SCOPE AND PURPOSE</p>	<ul style="list-style-type: none"> • Should the administration of the supply chain process not be done by SCM and included in the SCM Policy? (2.2) • Consider expansion of criteria in 2.3 with

¹ "**public street**" means —

(a) any street which has at any time been —

- (i) dedicated to the public;
- (ii) used without interruption by the public for a period of at least thirty years;
- (iii) declared or rendered such by a council or other competent authority, or
- (iv) constructed by a local authority, and

(b) any land, with or without buildings or structures thereon, which is shown as a street on —

- (i) any plan of subdivision or diagram approved by a council or other competent authority and acted upon, or
- (ii) any general plan as defined in section 49 of the Land Survey Act, 1927 (Act 9 of 1927), registered or filed in a deeds registry or the Surveyor-General's office, unless such land is on such plan or diagram described as a private street"

WEBBER WENTZEL

in alliance with > Linklaters

	reference to Schedules 4B ² and 5B ³ of Constitution
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² "The following local government matters to the extent set out in section 155 (6) (a) and (7):

Air pollution

Building regulations

Child care facilities

Electricity and gas reticulation

Firefighting services

Local tourism

Municipal airports

Municipal planning

Municipal health services

Municipal public transport

Municipal public works only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law

Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto

Stormwater management systems in built-up areas

Trading regulations

Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems"

³ "The following local government matters to the extent set out for provinces in section 155 (6) (a) and (7):

Beaches and amusement facilities

Billboards and the display of advertisements in public places

Cemeteries, funeral parlours and crematoria

Cleansing

Control of public nuisances

Control of undertakings that sell liquor to the public

Facilities for the accommodation, care and burial of animals

Fencing and fences

Licensing of dogs

Licensing and control of undertakings that sell food to the public

Local amenities

Local sport facilities

Markets

Municipal abattoirs

Municipal parks and recreation

Municipal roads

Noise pollution

Pounds

Public places

Refuse removal, refuse dumps and solid waste disposal

Street trading

Street lighting

Traffic and parking"

<p>3. RESPONSIBILITIES</p>	<ul style="list-style-type: none"> Is it necessary to have these responsibilities in the Policy? If so, consideration should be given to changing it to "objectives" as the concept of "responsibilities" places a certain degree of accountability on the Municipality
<p>5. APPLICATION OF THE POLICY</p>	<ul style="list-style-type: none"> 5.3: the reference in the last sentence should rather be to disposal management system as opposed to disposal management policy
<p>7. AUTHORITY TO RESERVE AND MANAGE IMMOVABLE PROPERTY</p>	<ul style="list-style-type: none"> 7.1: "municipal purposes" is not defined and should possibly be defined in the Policy with reference to the definition in Ordinance⁴, the rights and duties of municipal councils in section 4 of the Local Government: Municipal Systems Act 32 of 2000 ("the MSA")⁵ as well as the

⁴ "(iv) "municipal purposes" includes —

- (a) town-planning or a town planning scheme;
- (b) the establishment and administration of townships;
- (c) the alienation or letting of immovable property or permitting another person to use immovable property subject in each case to a condition that such property shall be used for a purpose contemplated by paragraph (e);
- (d) the acquisition by a council of land which is situate within its municipal area and which is subject to a public servitude in order to facilitate the exercise and performance of the powers conferred and duties and functions imposed on such council in terms of section 182 or the improvement, development or maintenance of such land for the benefit of the public;
- (e) the performance of any act whatsoever which the council is from time to time by law authorised or required to perform;
- (f) anything necessary, desirable, incidental, supplementary or ancillary to any purpose contemplated by paragraph (a), (b), (c), (d) or (e), and
- (g) any act whatsoever which is necessary or desirable for the better carrying out of the provisions of this ordinance, the maintenance of good rule and government and the convenience, safety and comfort of the inhabitants of the municipal area; (xlviii)"

⁵ "..... (2) The council of a municipality, within the municipality's financial and administrative capacity and having regard to practical considerations, has the duty to-

- (a) exercise the municipality's executive and legislative authority and use the resources of the municipality in the best interests of the local community;
- (b) provide, without favour or prejudice, democratic and accountable government;
- (c) encourage the involvement of the local community;
- (d) strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;

	functional areas / matters listed in Schedule 4B and Schedule 5B of the Constitution ⁶ .
8. KEY PRINCIPLES PERTAINING TO RESERVATION AND MANAGEMENT OF IMMOVABLE PROPERTY	<ul style="list-style-type: none"> • 8.1(b): amend to <i>under its ownership</i> • Consider 8.2:- Should this not be reworked as the Municipality has statutory obligations in terms of other laws such as the National Building Regulations and Building Standards Act 103 of 1977?
9. SERVICE LEVEL AGREEMENTS BETWEEN DEPARTMENTS OF THE MUNICIPALITY	<ul style="list-style-type: none"> • Service Level Agreement (SLA) should rather be defined in the Policy. • The question is, however, why is it necessary for an SLA and can the Municipality enter into an SLA with itself having regard to the fact that municipal departments are not separate independent entities? Would it not be more practical to develop standard operating procedures / terms of reference / guidelines as part of the Policy incorporating the aspects highlighted in 9 of the Policy in order to clearly set out the responsibilities etc of the line

(e) consult the local community about-

(i) the level, quality, range and impact of municipal services provided by the municipality, either directly or through another service provider; and

(ii) the available options for service delivery;

(f) give members of the local community equitable access to the municipal services to which they are entitled;

(g) promote and undertake development in the municipality;

(h) promote gender equity in the exercise of the municipality's executive and legislative authority;

(i) promote a safe and healthy environment in the municipality; and

(j) contribute, together with other organs of state, to the progressive realisation of the fundamental rights contained in sections 24, 25, 26, 27 and 29 of the Constitution.

(3) A municipality must in the exercise of its executive and legislative authority respect the rights of citizens and those of other persons protected by the Bill of Rights."

⁶ See footnotes 2 and 3.

	<p>department and the Property Management Department?</p> <ul style="list-style-type: none"> • 9.2: "facilities management agreements" is not defined • 9.4: "Management agreements" and "facilities management agreements" are not defined • 9.5: SLA is not defined, see comment above
10. AUTHORITY TO ACQUIRE	<ul style="list-style-type: none"> • Should acquisition be dealt with in this Policy which has been referred to as the disposal management policy of the Municipality elsewhere in this Policy (see 5.3)? • 10.2: This section unnecessary limits the powers of the Municipality regarding expropriation as provided for in the relevant legislation dealing with expropriation
11. GENERAL PRINCIPLES	<ul style="list-style-type: none"> • 11.2: "service departments" is not defined • 11.3 and further: Should the Property Management Department not rather advise SCM as to acquisition as they are responsible for acquisition management of the Municipality? • 11.5: definition of market value different, to be addressed as set out above
12. ASSESSMENT	<ul style="list-style-type: none"> • Should this not ideally be dealt with under the system of acquisition management in terms of SCM? Should this not be done by SCM assisted by the Property Management Department? • In this regard and in general the judgment in

	<p><i>Airports Company South Africa Limited v Airport Bookshops (Pty) Ltd t/a Exclusive Books</i> 2016 (1) SA 473 (GJ) has to be considered where the relevant contract was in the form of a lease agreement (disposal by way of letting) but it was decided by the Court that it was, in actual fact, procurement, ie contracting for goods and services.⁷</p>
13. SITE SELECTION	<ul style="list-style-type: none"> Is the municipal land audit updated (2003) - if not the reference in the Policy should be to "municipal land audit as updated from time to time"
14. VALUATIONS	<ul style="list-style-type: none"> Uniform definition for market valuation to be determined with reference to definition of fair market value as in the ATR as discussed above
16. MANDATORY CONSULTATION	<ul style="list-style-type: none"> In terms hereof the Municipality must advertise its intention to acquire: Is this not acquisition and therefore procurement as opposed to disposal and thus falling squarely under SCM?
17. APPROVAL PROCESS	<ul style="list-style-type: none"> Should this not be done by SCM with the support of the Property Management Department?
19. DISPOSAL MANAGEMENT PRINCIPLES	<ul style="list-style-type: none"> "public competition" to be defined 19.2.2: "transactions"

⁷ In this regard one must be mindful of the nature of a specific disposal as in *Airports Company South Africa Limited v Airport Bookshops (Pty) Ltd t/a Exclusive Books* 2016 (1) SA 473 (GJ) the Court held that whilst the letting of a shop involves disposal by way of letting, the effect of a contract to lease premises in order to operate a bookshop at an airport is to provide a service to members of the public making use of the departures area at the airport and as such it falls within contracting for goods and services.

	<ul style="list-style-type: none"> • 19.2.4: insert "local" before black ownership etc • 19.2.5.7: "EIA" - delete <i>assessment</i> • 19.3.3: This refers to an application for a lease agreement - is it not against competitiveness - it states on one hand that you can apply and on the other hand (19.3.3.3) refers to specifications to be included in the bid/competitive process - on this basis it creates further issues with competitiveness as specifications may be determined with reference to the application that was made
21.1.2 Public auction	<ul style="list-style-type: none"> • How is it determined that there is "no obvious potential purchaser"?
21.1.3 Closed tender	<ul style="list-style-type: none"> • How is this going to be determined in respect of "non-viable" property
21.1.4 Unsolicited proposals	<ul style="list-style-type: none"> • Why is this not simply treated on the same basis as unsolicited bids?
21.2.2 Viable Property: deviation from a competitive process	<ul style="list-style-type: none"> • <u>Potential issues:</u> Why do you have to advertise and wait for objections if the Municipal Manager has the discretion to deem a competitive process unnecessary? Is this not self-defeating as the processes are first determined to be unnecessary but may become necessary if there are potential bidders? • "reasonable market value" to be replaced with fair market value • Is this power wider? Council still have to make determinations and these processes are only

	<p>aimed at high value ie "significant" as defined in the Policy. Is it applicable in an emergency as deviation appears to be defined and/or limited to certain considerations and it also begs the question of whether a deviation applies to all these different transactions where different considerations seem to apply ie does the Municipal Manager still have to make a decision in that these transactions have built-in / circumscribed requirements?</p> <ul style="list-style-type: none"> • Consider redrafting in whole
<p>21.2.3 Exchange of land</p>	<ul style="list-style-type: none"> • Should a competitive process not be considered, especially in the event that there may be other land available?
<p>22. DISPOSAL AND LETTING OF IMMOVABLE PROPERTY FOR SOCIAL CARE USES</p>	<ul style="list-style-type: none"> • 21.3.2: should it not be handled as unsolicited bids in terms of SCM?
<p>CHAPTER 6: MANAGEMENT OF COMPETITIVE BIDS</p>	<ul style="list-style-type: none"> • It appears that new committees are to be established - as it will be a supply chain process why is SCM simply not used? To the extent required, an official from the Property Management Department and/or relevant director may form part thereof • Bid documentation: Should it not fall under SCM by way of reference eg. to say that principles in SCM Policy applies? • Other provisions appear to mirror provisions in SCM Policy and should it not be incorporated by way of reference?

<p>34. PUBLIC AUCTIONS</p>	<ul style="list-style-type: none"> • For further discussion • Applicable criteria should coincide with the public interest and not be discriminatory unless justified
<p>35. OUTRIGHT TENDER / CLOSED TENDER</p>	<ul style="list-style-type: none"> • 35.1: If one looks at the scorecards incorporating B-BBEE and other considerations, the one with the biggest weighting in respect thereof (40 points out of the 100) only applies to contracts up to value of R10 Million - Is this value of R10 Million realistic having regard to the property market and high prices and will this be effective to ensure that redress take place? Should this value not be increased in order to ensure sufficient redress?
<p>37. MODIFICATIONS</p>	<ul style="list-style-type: none"> • Insert "<i>on an ad hoc basis</i>" after "<i>may</i>" • Should this not resort with Municipal Manager ie that the Council takes the in principle decision and the Municipal Manager (or CFO) determines the applicable scorecard?
<p>43. TERMS AND CONDITIONS OF LEASE</p>	<ul style="list-style-type: none"> • 43.12: this is contradictory - in the event of no breach, will improvements be paid for by Municipality? If so, should the nature of the improvements not be a consideration in such an event? • 43.13: "operational purposes" should be defined or one should rather use "municipal purposes" (as to be defined and as discussed above)
<p>44. CRITERIA FOR DETERMINING COMPENSATION AND FAIR</p>	<ul style="list-style-type: none"> • 44.1: Phrase: "to be received by the Municipality" is possibly more narrow than the MFMA

MARKET VALUES	<ul style="list-style-type: none"> • 44.2: This is a direct extract from Regulation 13 of the ATR and should maybe be incorporated by way of reference. • 44.5: Is this correct to afford the Municipal Manager the discretion and, if so, should it be linked to the costs of valuations. Nevertheless, the ATR prescribes valuation methods etc in Regulation 5 and should the Policy rather not incorporate these?
45. CRITERIA FOR DETERMINING OF FAIR MARKET RENTALS	<ul style="list-style-type: none"> • 45.1: Phrase: "to be received by the Municipality" is possibly more narrow than the MFMA • 45.2: define and expand on categories • 45.3 and further: <ul style="list-style-type: none"> ○ charges to be imposed as part of tariff structure of the Municipality? ○ The ATR contains valuation methods etc and should the Policy not rather incorporate these?
46. MUNICIPAL LAND REGISTER	<ul style="list-style-type: none"> • Is this as a result of the municipal land audit or is it the same? If not, is it still necessary to refer to municipal land audit?

3. Conclusion

- 3.1 These are our comment and/or remarks based on our consideration of the Policy. Please note that the purpose hereof is to facilitate discussion and is subject to further instructions. Please also note that in compiling these comment and/or remarks we have not considered the applicable delegations, roles and

responsibilities, functional areas of relevant departments and/or officials or the macro and/or similar and related organisational structure of the Municipality.

- 3.2 These are just the salient issues highlighted as alluded to above and are for further discussion purposes in particular the objectives to be realised such as the role of the Property Management Department and the need for it to develop into a *de facto* asset management entity.

ANNEXURE 3



STELLENBOSCH
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POLICY ON

THE MANAGEMENT OF STELLENBOSCH MUNICIPALITY'S IMMOVABLE PROPERTY

Directorate: Integrated Human Settlements

Department: Property Management

~~3rd~~ 4 Draft ~~(2017-03-13)~~ 2017-07-25

PREAMBLE

Stellenbosch Municipality is the owner of a large number of immovable properties. In the exercise of its powers, duties and functions the Municipality has the right to acquire, hold, enhance, lease and alienate Immovable property. The inequitable spread of ownership of Immovable property throughout the municipal area and the historical causes thereof are recognized, and the Municipality acknowledges that it has a leading role to play in redressing these imbalances by ensuring that the Immovable property assets under its control are dealt with in a manner that ensures the greatest possible benefit to the Municipality and the community that it serves.

WHEREAS Stellenbosch Municipality is the custodian of the Immovable property of the Municipality and is responsible for the proper management and administration thereof;

WHEREAS Stellenbosch Municipality is required and committed to manage its Immovable property in a fair, transparent and equitable manner; and

WHEREAS Stellenbosch Municipality realise that Immovable property held by it, should be dealt with in a manner which will ensure the greatest benefit to the Municipality and the public in a sustainable manner;

AND IN ORDER TO-

- make available economic opportunities in the municipality;
- promote an efficient administration and good governance; and
- create a culture of accountability, openness and transparency in its administration or in the exercise of its powers or the performance of its functions, by giving effect to the right to just administrative action,

NOW THEREFORE this policy provides, as follows:

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CHAPTER 1: INTERPRETATION, SCOPE, PURPOSE AND OBJECTIVES OF POLICY

1. DEFINITIONS

1.1 In this policy, unless inconsistent with the context, the following expressions bear the meanings assigned to them below:

“**acquisition**” means to acquire by way of purchase or lease.

“**adequate notice**” means a notice period of not less than 30 days within which representations, comments or objections may be made.

“**advertise**” means the giving of adequate notice of the nature and purpose including the material substance of the proposed administrative actions, by publishing a notice in one or more of the local newspapers, and where deemed necessary by the Municipal Manager, any additional form of notice, which may include-

- (a) serving of a notice; or
- (b) displaying on a notice board; or
- (c) holding a public meeting.

“**agricultural allotments**” means portions of agricultural land, demarcated and set aside for “*bona fide*” emerging farmers.

“**alienate**” means to dispose with ownership of Immovable property in favour of another person with the intention of transferring the ownership of the Immovable property to the acquirer thereof.

“**BBBEE Act**” means the Broad-Based Black Economic Empowerment Act, 53 of 2003.

“**BEE**” means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-

- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
- (b) facilitating ownership and management of enterprises and productive assets by communities, workers cooperatives and other collective enterprises;
- (c) human resources and skill development;
- (d) achieving equitable representation in all occupational categories and levels in the workforce;
- (e) preferential procurement; and
- (f) investments in enterprises that are owned or managed by black people.

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"**basic municipal service**" means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;

"**bid**" means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for a procurement or disposal, as part of the competitive bidding process of the Municipality;

"**Black people**" means Africans, Coloured and Indians, as referred to in the B-BBEE Act, No. 53 of 2005.

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"**Buffer 1**" means endangered areas of biodiversity overlapping with extensive agriculture.

"**calendar month**" means a period extending from a specific day in one calendar month to the preceding day in the following month;

"**chief financial officer**" means a person designated in terms of Section 80(2)(a) of the MFMA.

"**close**" in relation to a public street or public place, means to close for all public purposes or for vehicular or pedestrian traffic only.

"**Core 1**" means proclaimed national parks, provincial and municipal nature reserves, mountain catchment areas, unprotected but critically endangered areas of biodiversity;

"**Core 2**" means river and ecological corridors outside areas earmarked for urban development

"**corrupt practice**" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution;

"**commercial service**" means a commercial service as defined in section 1 of the MATR;

"**competitive bidding process**" means a process whereby prospective bidders are invited through public media to submit bids and such bids are administered in a fair, transparent, competitive and cost effective manner;

"**constitution**" means the Constitution of the Republic of South Africa, 1996

"**Council**" means the Municipal Council of the Municipality of Stellenbosch and includes any Political Structure, Political Office Bearer, Councillor or Official, acting under delegated authority.

"**disposal**", means the sale, exchange or donation, or letting of Immovable property, the conclusion of any form of land availability agreement in respect of immovable property with any person and the registration of any real or personal right in respect of Municipal land, including s servitudes;

"**EIA**" means an Environmental Impact Assessment in terms of the NEMA Regulations promulgated by G.N. R 543/2010 from time to time.

"**emergency**" means an emergency dispensation in which one or more of the following conditions are present –

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the possibility of human injury or death;

the prevalence of human suffering or deprivation of rights;

the possibility of damage to property, or suffering and death of livestock and animals;

the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;

the possibility of serious damage occurring to the natural environment;

the possibility that failure to take necessary action may result in the municipality not being able to render an essential service; and

the possibility that the security of the state could be compromised.

“exchange” means the simultaneous acquisition and disposal of Immovable property or any right in respect of Immovable property in terms of an agreement between the Municipality and any other party or parties where the compensation payable by the parties to each other, are offset and only the difference, if any, is payable to the appropriate party.

“fair market value” ~~means the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller after proper marketing wherein the parties have each acted knowledgeable, prudently, and without compulsion.~~ means the value at which a knowledgeable willing buyer would buy and a knowledgeable willing seller would sell the capital asset in an arm's length transaction.

“fraudulent practice” means a misrepresentation of fact in order to influence a selection process and includes:

collusive practices among bidders (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the municipality of the benefits of free and open competition.

“high value” means that the fair market value of the Immovable property exceeds R50 million or 1% of the total value of the capital assets of the Municipality as determined from the latest available audited annual financial statements of the Municipality, or such lower amount as may from time to time be determined by resolution of the Municipal Council;

“housing stock” means housing units that are leased to members of the public and or members of staff as well as subsidised housing units that are earmarked for disposal to qualifying beneficiaries.

“IDP” means the approved Integrated Development Plan of Stellenbosch Municipality, as provided for in Chapter 5 of the Systems Act, as amended from time to time.

“Immovable property” includes, but is not limited to –

- (a) any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such

land or unregistered land where the ownership can be determined/property or buildings or any share therein registered in the name of a person or entity, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person or entity;

- (b) a right to an exclusive use area held in terms of a notarial deed of cession;
- (c) a real right registered against Immovable property in the name of a person or entity, excluding a mortgage bond registered against the Immovable property;
- (d) any share in a share block company as defined in section 1 of the Share Blocks Control Act, 59 of 1980;
- (e) a "public place" or "public street" as defined in this policy ;
- (f) Immovable property as defined in section 107 of the Deeds Registries Act, 47 of 1937; and including property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it.

"Income tax act" means Act 58/1962

"land" means-

- (a) any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land; or
- (b) unregistered land where the ownership can be determined.

"Land Availability Agreement" means an agreement that has been concluded between the municipality and a developer, in terms whereof the developer is allowed to develop the municipal land on behalf of the municipality, whilst the ownership of the land remains with the municipality.

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"lease" means the letting of Municipal land/Immovable property/buildings in terms of which the use and enjoyment of the land/property/building is granted for a specified period exceeding 1 month without ceding legal ownership in the asset or any form of land availability agreement in respect of Immovable property and letting has a corresponding meaning.

"lease agreement" means a written agreement entered into between the Municipality and the lessee specifying rights and duties pertaining to the exclusive use of Immovable property for a continuous period of time longer than thirty (30) calendar days, and which sets forth the terms and conditions of the use, management and control of the Immovable property.

"Local Black people" means Africans, Coloured and Indians, as referred to in the B-BBEE Act, No. 53 of 2005, who normally reside within the municipal area of Stellenbosch Municipality;

"Local Disabled people" means people with disabilities who normally reside within the municipal area of Stellenbosch Municipality.

~~“Local women” means women who normally reside within the municipal area of Stellenbosch Municipality.~~

“MATR” means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA and published in *Government Gazette* No. 31346 of 22 August 2008;

“MFMA” means the Local Government: Municipal Finance Management Act, 56 of 2003, including any Regulations promulgated in terms thereof from time to time;

“municipality” means the Stellenbosch Municipality established in terms of Section 4 of the Establishment Notice (PN 489 of 22 September 2000), as amended;

“municipal area” means the area under the jurisdiction and control of Stellenbosch Municipality.

“municipal function” means any of those functions set out in Schedule 4 B and 5 B of the Constitution.

“municipal land audit (MLA)” means the audit of municipal owned properties which was conducted during 2003 ~~and as updated from time to time.~~

“municipal manager” means a person appointed in terms of Section 82 of the Municipal Structures Act, No 117 of 1998 as the head of the Municipality’s administration and accounting officer of the Municipality or his/her delegate.

“municipality’s property” or “property” means all the Immovable property owned and managed by the Municipality in terms of this Policy;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

“NEMA” means the National Environmental Management Act no 107 of 1998

~~“Non Significant Property Right” means a Property Right in respect of the following categories of Immovable property –~~

- ~~a) Property rights in the Immovable property with a Value more than R10 million, where the Property right is requested for a period less than 3 years; or,~~
- ~~b) Property right in the Immovable property with a Value less than R10 million, where the Property Right is requested for a period more than 3 years.~~

“non-viable Immovable property” means Immovable property that, owing to urban planning, physical constraints or extent cannot be developed on its own or function as a separate entity and that can therefore become functional only if used by an adjoining owner in conjunction with such owner’s Immovable property;

“official” means an employee of the Municipality or a person seconded to the Municipality or contracted by the Municipality to work as a member of staff, ~~otherwise than as an employee as defined in section 1 of the MFMA;~~

“owner” in relation to Immovable property, means the person in whose name that Immovable property is registered in a deeds registry, which may include the holder of a

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registered servitude right or lease and any successor in title of such a person, and includes any person authorized to act as such by the registered owner, any person who in law has been entrusted with the control of such assets or a person to whom Immovable property has been made available in terms of a land availability agreement.

“plight of the poor” means the needs of the people that are vulnerable and unable to meet their socio-economic needs independently or to support themselves and their dependents and are in need of social assistance.

“public interest” means disposal or letting to:-

- a) promote the achievement of equality by taking measures to protect or advance persons or categories of persons, disadvantaged by unfair discrimination;
- b) afford black people who are South African citizens a preference in respect of the disposal and letting of Immovable property as envisaged in Section 9(2) of the Constitution;
- c) promote BBBEE through disposal and letting;
- d) ensure and promote first time home ownership and enterprise development of black people that qualify in terms of the Municipality’s GAP housing policy have access to adequate housing on a progressive basis;
- e) advance agricultural projects for land reform purposes;
- f) promote welfare and charitable purposes including non-profit rehabilitation facilities; shelters for the indigent and destitute, youth development and drug counseling; or
- g) foster equitable access to public amenities, social and/or sports clubs and similar organizations by providing discounted prices or rates in the event that the beneficiaries or the membership component of such institution or body consist of at least 50% black people and/or the membership or subscription fee of black people is less than 50% of the normal membership or subscription fee.

“property laws” means the relevant provisions of the MFMA and the MATR collectively;

“property right” means a right to use, control or manage an Immovable property for a period exceeding a calendar month, as granted by the Municipality without ceding legal ownership in the Property. For the sake of clarity , a servitude, way leave or encroachment in, on, over or under Immovable property granted by the Municipality, or a lease agreement entered into by the Municipality as lessor, constitutes a Property Right and it expressly excludes any reference to land use rights in terms of the Municipality’s Integrated Zoning Scheme/Bylaw;

“private treaty” means where the proposed disposal involves a disposal without public competition as defined in the MFMA to a non-government entity.

“property transaction” means either a Disposal of Immovable property or the granting of a Property Right in Immovable property;

“public place” means any Immovable property indicated on an approved plan, diagram or map as an open space of which ownership as such vests in the Municipality.

“public street” means-

- (a) any street which has at any time been-
 - (i) used without interruption by the public for a period of at least thirty years;
 - (ii) declared or rendered such by a Municipality or other competent authority; or
 - (iii) constructed by the Municipality; and
 - (iv) constructed by someone other than the Municipality and which vests in the Municipality.
- (b) any Immovable property, with or without buildings or structures thereon, which is shown as a street on-
 - (i) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon, or
 - (ii) any plan or diagram as defined in Section 15 of the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in the office of the Registrar of Deeds or the Surveyor-General’s office.

unless such Immovable property is on such plan or diagram described as a private street.

“real rights” means the rights to traverse privately owned property with servitudes which are notarially registered in the Deeds Office or contained in Title Deed Conditions

“SCM policy” means the Supply Chain Management Policy of the Municipality, as approved and amended from time to time and implemented in terms of section 111 of the MFMA, read with the SCM Regulations;

“SCM regulations” means the Municipal Supply Chain Management Regulations promulgated in terms of the MFMA and published under GN 868 in *Government Gazette* No. 27636 of 30 May 2005;

“significant Property Right” means a Property Right with a value in excess of R10 million which is granted for a period exceeding 3 years;

“spatial development framework” means a spatial development framework referred to in Chapter 4 of Act No. 16 of 2013 Spatial Planning and Land Use Management Act, 2013 and the framework contemplated in Section 26(1)(e) of the Municipal Systems Act.

“Systems act” means the Local Government: Municipal Systems Act, 32 of 2000, including any Regulations promulgated in terms thereof from time to time;

“unsolicited bid” is a bid/proposal received from a developer to acquire Immovable property, or rights in immovable property, that is owned by the Municipality, outside the normal bidding process, i.e. without the Municipality

having asked for such proposal/bid.

“viable immovable property” means immovable property that can be developed and function as a separate entity capable of registration by the Registrar of Deeds.

- 1.2 Words and phrases not defined in this Policy have the meaning assigned to them in the

MATR.

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2. SCOPE AND PURPOSE

- 2.1 The purpose of this Policy is to provide a framework for the management and disposal of the municipality's immovable property that are not needed to provide the minimum level of basic municipal services and that are surplus to the municipality's requirements.
- 2.2 The Municipality's immovable property shall be disposed of in the manner as provided for in this policy. The Property Management Department is responsible for the administration of this Policy, and shall in this regard, in consultation with the Supply Chain Management Unit of the municipality, be responsible for the administration of the competitive bidding process relating to the disposal and leasing of the Municipality's immovable property.
- 2.3 In compliance with the provisions of section 14(1) of the MFMA, the Municipality shall not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of an immovable property that is needed to provide the minimum level of basic municipal services. The local government matters listed in Schedule 4B and 5B of the Constitution must be used as a basis to determine whether a service is regarded as a municipal service. following municipal services are classified as basic municipal services for the purposes of section 14(1) of the MFMA, and this classification must be used by the administration as criteria to compile a List of all Municipal Immovable property and Buildings:

- a) Electricity services
- b) Water services
- c) Sanitation services
- d) Refuse removal, refuse dumps and solid waste disposal services
- e) Municipal Roads
- f) Public Places
- g) Cemeteries
- h) facilities for the care and burial of animals
- i) child care facilities
- j) street lighting
- k) traffic and parking
- l) pounds
- m) municipal airports
- n) local amenities
- o) local sport and community facilities
- p) fences

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3. RESPONSIBILITIES

- 3.1 The Municipality has a core responsibility to acquire and avail Immovable property and buildings, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and for facilitating social and economic development and spatial integration. Immovable property unrelated to these responsibilities are, by implication, surplus to the municipality's requirements although future requirements must be acknowledged and hence the need to hold Immovable Property in reserve. For any given property the Municipality must nevertheless decide in a Council meeting open to the public whether the Immovable property is needed to provide the minimum level of basic municipal services.
- 3.2 The municipality has a further responsibility in terms of acquiring, managing, developing and releasing its Immovable property, buildings and Property rights on behalf of its residents and ratepayers. In this regard the key consideration is that the best interests of the municipality (and thus its residents) rather than that of individuals should be paramount in all Immovable property transactions that the municipality enters into.
- 3.3 Immovable property and buildings affect the municipality's entire organization. Therefore, the municipality's policy in this respect must act in support of sectoral policies such as economic development, management and conservation of the environment and nature areas, land use, housing, social and community infrastructure, physical planning and infrastructure, and culture and recreation.

CHAPTER 2: POLICY FRAMEWORK, APPLICATION AND GUIDING PRINCIPLES

4. LEGISLATIVE AND POLICY FRAMEWORK FOR THE MANAGEMENT OF THE MUNICIPALITY'S IMMOVABLE PROPERTY

- 4.1 The legislative framework for the management of the Municipality's Immovable property is contained in a number of legislation, including but not limited to:
- 4.1.1 the MFMA, in particular section 14, which deals with disposal of capital assets (i.e Immovable property as defined herein);
- 4.1.2 the MATR, which governs –
- a) the transfer and disposal of capital assets by municipalities and municipal entities; and
 - b) the granting by municipalities and municipal entities of rights to lease, use, control or manage capital assets;
- 4.2 The object of this Policy is to provide a practical framework for the management of the Municipality's Immovable property.
- 4.3 This Policy must be read together with and in accordance with the Property Laws and all other laws which deal with Immovable property.

5. APPLICATION OF THE POLICY

- 5.1 Section 14 of the MFMA and the MATR apply to capital assets, which are defined in the MATR to include Immovable property, as well as certain movable assets. This Policy only applies to Immovable property.
- 5.2 This Policy does not apply to:
- 5.2.1 The municipality's housing stock or land for subsidised housing on municipal Immovable property and the transfer of that municipal Immovable property to beneficiaries of such subsidised housing.
- 5.2.2 Property owned by the Municipality which is subject to a Public Private Partnership.
- 5.3 In terms of section 40 of the Municipal Supply Chain Management Regulations, a Municipal Supply Chain Management policy must provide for an effective system of disposal management for the disposal and letting of assets. For that purpose of immovable assets of the municipality, this policy must be seen as the disposal management policy-system of the municipality.

6. GUIDING PRINCIPLES

- 6.1. The following principles and values should underpin Immovable property acquisition and disposal activities:

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- (a) The use of the Municipality's Immovable property to promote social integration, to redress existing spatial inequalities, to promote economic growth, to build strong, integrated and dignified communities and to provide access to housing, services, amenities, transport and opportunities for employment.
- (b) The promotion of access by black people to the social and economic benefit of Immovable property ownership, management, development and use.
- (c) The management of the Municipality's Immovable property as a sustainable resource, where possible, by leveraging environmental, social and economic returns on such Immovable property while the Municipality retains ownership thereof.

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CHAPTER 3: RESERVATION AND MANAGEMENT OF IMMOVABLE PROPERTY

7. AUTHORITY TO RESERVE AND MANAGE IMMOVABLE PROPERTY

- 7.1 The Municipality may reserve and manage Immovable property in its ownership for municipal purposes aligned with its operational needs and long term needs and sustainable development

8. KEY PRINCIPLES PERTAINING TO THE RESERVATION AND MANAGEMENT OF IMMOVABLE PROPERTY

- 8.1 Unless it is precluded from doing so by law or by the conditions in terms of which Immovable property was acquired and subject to observation of due statutory process and alignment with the Municipality's strategic objectives, the Municipality may:
- (a) use Immovable property in its ownership to promote social integration, to redress existing spatial inequalities, to build strong, integrated and dignified communities and to provide access to housing, services, amenities, transport and opportunities for employment on a temporary or permanent basis.
 - (b) reserve for future use Immovable property ~~in~~ under its ownership.
 - (c) enhance Immovable property in its ownership by pursuing the amendment of existing rights, establishment of new rights and the provision of municipal services.
 - (d) improve Immovable property in its ownership by the erection of structures thereon.
 - (e) permit Immovable property to be managed on behalf of the Municipality, permit it to be enclosed and permit it to be cultivated.
- 8.2 When immovable property under the control or management of the Municipality is encroached upon, the Municipality may take such steps as may, in the opinion of the Municipality, be necessary to remove or regularize such encroachment. In such instances the Municipality may reduce the extent of a public place or public street which is encroached upon by the extent of the encroachment or by such greater or lesser extent as may, in the Municipality's interest, be desirable.
- ### 9. SERVICE LEVEL AGREEMENTS BETWEEN DEPARTMENTS OF THE MUNICIPALITY
- 9.1 In all circumstances where an Immovable property or Properties is/are reserved for a purpose which falls within a functional responsibility of another line department within the Municipality, the Municipality's Property Management Department will enter into a service level agreement (SLA) with that line department.
- 9.2 An SLA shall regulate the respective roles and responsibilities of the Property Management Department and the line department in respect of the following reserved

Immovable property(ies):

- a) Immovable Properties used by the line department itself, for example, where the line department uses the Immovable property(ies) for provision of a municipal service (where the municipal service is provided through an internal mechanism as provided for in the Systems Act);
- b) Immovable Properties used by third party service providers, for example, where the line department appoints a service provider to provide a municipal service;
- c) Immovable Properties in respect of which the line department has appointed a private party to manage the Immovable property, for example, in terms of facilities management agreements.

9.3 The SLA's shall include provisions dealing with:

- a) the purpose for which an Immovable Property is reserved;
- b) a clear description of the purpose for which a private party is being appointed by the Municipality and the private party's contractual obligations in respect of both the purpose of its appointment (such as the provision of the service), as well as in respect of any Property Rights it may have been granted in respect of the Immovable property;
- c) the manner in which both the appointment of the private party and the Property Transaction will be procured in accordance with the applicable policy provisions below;
- d) the entering into of contract(s) with the private party, and the allocation of the respective responsibilities of the line department and the Property Management Department in respect thereof;
- e) the distinct responsibilities of the Property Management Department and the line department in respect of monitoring and oversight of the use, control and management of the Immovable property once the private party has been appointed;
- f) the line department's responsibilities in respect of the hand-over of reserved Immovable property back to the Property Management Department once the line department no longer requires the Immovable property for the purpose for which it was reserved.

9.4 Given that the Property Management Department is the custodian of the Municipality's Immovable property, it is the only department within the Municipality that may conclude a contract with a successful tenderer in respect of a Disposal and the granting of a Property Right. Other line Departments may conclude agreements ancillary to Immovable property assets including but not limited to Management Agreements and Facilities Management Agreements so far as such agreements do not grant the third party the right of tenure. The authority to conclude agreements, however, is subject to the System of Delegations, approved by the Municipality from time to time. This clause is not applicable on

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the transfer of subsidised housing units to beneficiaries or the conclusion of lease agreements with Lessees of the Municipality's housing rental stock.

9.5 Where it becomes necessary or appropriate to do so, the Property Management Department and the line department shall endeavour to enter into a transaction-specific SLA.

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CHAPTER 4: ACQUISITION OF IMMOVABLE PROPERTY AND RIGHTS IN IMMOVABLE PROPERTY

10. AUTHORITY TO ACQUIRE

- 10.1 The Municipality may acquire Immovable property and rights in Immovable property within or outside its municipal area by purchase, expropriation, exchange, donation, gift, lease or otherwise, subject to compliance with the procedures set out in this policy;
- 10.2 The Municipality may expropriate Immovable property in terms of the Expropriation Act (Act 63 of 1975), or any other applicable legislation from time to time, provided that such expropriation shall only be for public purposes or in the interest of the public and provided that such expropriation is necessary to fulfill a critical municipal function

11. GENERAL PRINCIPLES

- 11.1 The Municipality must ensure that decisions to acquire Immovable property (land, property, buildings and land improvements) are based on sound business and planning principles which are fully in line with and compliant with:
- (a) The Municipality priorities and initiatives;
 - (b) Corporate and service plans;
 - (c) Planning Policies;
 - (d) Regional plans and area planning schemes; and.
 - (e) Sustainable development and management.
- 11.2 The Property Management Department undertakes the acquisition in conjunction with the service departments (purchase or expropriation) of Immovable property (land) and rights in Immovable property (servitudes) for municipal purposes on behalf of all the service departments.
- 11.3 It is the responsibility of a Service Department to timeously advise the Property Management Department of the Immovable property or servitudes that are required in a particular financial year. The service department is required to furnish the Property Management Department with the full particulars of the Immovable property or servitude(s) required. The particulars required must stipulate the erf or farm number if the entire erf or farm is required, or the coordinates and extent of the Immovable property or servitude if a portion of a farm or erf or a servitude is required.
- 11.4 The Service Department is required to confirm that the acquisition is required for an approved municipal project and that funding has been approved on an approved budget for the payment of the purchase price and the costs that the Municipality will incur when transferring the Immovable property or registering the Property right in the name of the Municipality in the Office of the Deeds Registry.

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- 11.5 The municipality will purchase or acquire the Immovable property or servitude at the fair market value of the Immovable property or servitude as determined by an independent valuer or at such lesser amount as may be agreed to by the seller.
- 11.6 In the case of an expropriation the compensation payable for the Immovable property or servitude shall be determined in accordance with prescripts of the legislation in terms of which the Immovable property or servitude was expropriated.
- 11.7 Once the Immovable property has been acquired, it will be reserved for the municipal purpose for which it was acquired and dealt with in accordance with the reservation procedures outlined above.

12. ASSESSMENT

- 12.1 Prior to arriving at a decision to acquire an Immovable property the Municipal Manager is required to undertake a detailed assessment to ensure that:
- (a) the service delivery needs of the Municipality are best met by the proposed acquisition;
 - (b) that broader government objectives are also considered;
 - (c) the expenditure of public funds is justified and are approved; and
 - (d) the planned acquisition is in line with the approved Spatial Development Framework(s).
- 12.2 The Municipal Manager must ensure land acquisitions associated with infrastructure projects are consistent with (where relevant) Regional Plans, State Infrastructure Plans, Municipal Infrastructure Master Plans, or other plans that cover a significant proportion of the municipal area. This is to ensure strategic landholdings contribute to a range of social, economic and environmental outcomes sought by the Municipality, including the efficient, coordinated and timely provision of infrastructure.
- 12.3 In addition to the proposed acquisition being consistent with the objectives of planning policies and guidelines, the Municipal Manager need to consider other issues when undertaking the assessment, such as:
- (a) the reason why the preferred site or area best meets the Municipality's requirements;
 - (b) the Municipality's strategic land management plan;
 - (c) source of funding and value for money;
 - (d) alternative service delivery options;
 - (e) sharing of government resources e.g. co-location;
 - (f) method of acquisition;
 - (g) valuation of property;
 - (h) consultation with stakeholders;

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- (i) availability of surplus government property;
- (j) risks associated with proposed transaction; and
- (k) site constraints e.g. cultural and heritage issues and servitudes.

13. SITE SELECTION

- 13.1 Evaluation criteria to allow assessment of the site for suitability for the intended purpose could include requirements for public transport, potential to meet future service demand, local support services, physical site requirements, size of site in proportion to service delivery strategies, financial benefits, municipal priorities and other future service requirements in proximity to the site and potential to collate or share facilities and services. A report should be prepared by the Service Department outlining the reasons for selecting the site as this will form the basis of the mandatory consultation process.
- 13.2 The Municipality's Municipal Land Audit (MLA) contains essential, surplus and under utilised properties. The Municipal Manager is required to review/consult the MLA to determine if suitable properties are available prior to any decision being made on seeking property on the open market.

14. VALUATIONS

- 14.1 Valuations are required in support of an acquisition decision and must be at fair market valuation as determined by a qualified valuer(s).

15. METHODS OF ACQUIRING IMMOVABLE PROPERTY

The Municipality may acquire Immovable property by:-

15.1 Open market (selection in a particular area/location of a suitable site)

The Municipality usually acquire Immovable property through the open market place by either public auction or private sale.

15.2 Private treaty agreement (for site specific acquisition)

Private treaty contracts are suitable where the property has clear title or where clear title is reasonably achievable and the owner is willing to negotiate on reasonable terms.

15.3 Acquisition by expropriation

This method should only be used under circumstances where acquisition by agreement has been rejected as being unsuitable, or the Municipality has been unsuccessful in concluding an agreement with the owner and it can be shown that the Immovable property required is site specific and essential.

16. MANDATORY CONSULTATION

- 16.1 The Municipality shall not acquire Immovable property unless it has-
- (a) advertised its intention to acquire such *Immovable property*; and

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- (b) considered the objections (if any) lodged in accordance with the advertisement contemplated in sub clause (a).
- 16.2 When the Municipality advertises its intention as contemplated above, all material information relevant to the proposed transaction must be included in the advertisement, including, but not limited to the following:-
- (a) the description of the property, including the title description, street address and extent;
 - (b) the contracting parties;
 - (c) reason(s) for proposed acquisition;
 - (d) the purchase price or lease amount of the Immovable property;
 - (e) market value of the Immovable property;
 - (f) how the acquisition is to be financed;
 - (g) whether the transaction is reflected in the current budget; and
 - (h) whether other alternatives have been considered.
- 16.3 If it is reasonable and justifiable under the circumstances, the Municipal Manager may depart from the above requirements. In determining whether such departure is reasonable and justifiable, the Municipal Manager must take into account all relevant factors, including-
- (a) the objects of the proposed transactions;
 - (b) the nature and purpose of, and the need to take the decision;
 - (c) the likely affect of the action;
 - (d) the urgency of taking the action or the urgency of the matter; and
 - (e) the need to promote an efficient administration and good governance.
- 17. APPROVAL PROCESS**
- 17.1 Following the advertisement contemplated above, the Property Management Department shall compile an agenda item, motivating the acquisition of the Immovable property(s) or rights in Immovable property(s). The report should indicate which methods of acquisition was/will be used and why this specific method has been decided on.
- 17.2 The report must be considered by the person/committee who has the delegated authority to consider such application.

CHAPTER 5: DISPOSAL OF IMMOVABLE PROPERTY AND AWARDING OF RIGHTS IN IMMOVABLE PROPERTY

18. AUTHORITY TO DISPOSE OF IMMOVABLE PROPERTY

- 18.1 The Municipality may in terms of Section 14 of the MFMA, read with the MATR, dispose of Immovable property or Property rights in Immovable property by way of sale, letting or registration of a servitude once it is satisfied that such Immovable property or Property rights is not required to provide the minimum level of basic municipal services and once it has considered the fair market value thereof as well as the economic and community value to be received in exchange for such Immovable property or Property right.
- 18.2 The Municipality shall not transfer ownership of, or lease out for a period exceeding ten (10) years, any Immovable property, or portion thereof which is classified as a Core 1, Core 2 or Buffer 1 area in terms of the Municipality's Spatial Development Framework- , unless it is satisfied that such transfer or lease will at least maintain or enhance the conservation status and environmental sustainability of such eco system or Area on that property.

19. DISPOSAL MANAGEMENT PRINCIPLES

19.1 Core Principles

In terms of section 14(5) of the MFMA, a Disposal of Immovable property by the Municipality must be fair, equitable, transparent, competitive and consistent with the Municipality's SCM Policy.

19.2 General Principles pertaining to the disposal of Immovable property and Property rights in Immovable property

- 19.2.1 Unless otherwise provided for in this policy, the disposal of Viable Immovable property shall be effected-
- (a) by means of a process of public competition; and
 - (b) at market value except when the public interest or the plight of the poor demands otherwise.
- 19.2.2 All transactions for the disposal of Immovable property must be considered in accordance with this policy and other applicable legislation.
- 19.2.3 Before alienating Immovable property or rights in Immovable property the Municipality shall be satisfied that alienation is the appropriate methodology and that reasonable economic, environmental and social return cannot be derived whilst ownership of the Immovable property or Property rights is retained by the Municipality.
- 19.2.4 The Municipality reserves the right to entertain unsolicited proposals for the development of Viable Immovable property for development purposes, with the proviso that it is in line with the Municipality's strategic objectives and more specifically that it favours the promotion of black ownership, entrepreneurship and community upliftment.
- 19.2.5 The Municipality may grant occupation of its Immovable property prior to the transfer thereof on condition that:

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- 19.2.5.1 the land use rights have been determined and established;
- 19.2.5.2 all required authorization and approvals in terms all relevant legislation have been granted;
- 19.2.5.3 all conditions of the said approvals and authorisations have been met;
- 19.2.5.4 a suitable sale has been entered into;
- 19.2.5.5 the purchase price is paid in full or alternatively that an acceptable financial guarantee is provided to secure the purchase price;
- 19.2.5.6 occupational rent is payable at a rate specified by the Municipality; and
- 19.2.5.7 the Municipality is indemnified against any and all claims that may arise out of the occupation of the Immovable property by the purchaser. ~~Where an EIA assessment must be conducted, occupation before transfer may not be granted in terms of the NEMA EIA Regulations.~~
- 19.2.6 Viable Immovable property purchased from the Municipality by a first time homeowner shall not, without the Municipality's prior written consent, and right of first refusal be resold within a period of 5 years of the date of transfer.

19.3 General principles and guidelines pertaining to the letting by the Municipality of Immovable property

- 19.3.1 The Municipality's Immovable property should be managed under the principles of sustainable development. Where possible, such management should synergize environmental, social and economic benefits on such Immovable property while the Municipality retains ownership thereof.
- 19.3.2 Immovable Properties that have been let shall be inspected at reasonable time periods to ensure compliance with the terms and conditions of the agreement of lease.
- 19.3.3 No application for a lease agreement shall be processed by the Property Management Department unless;
 - 19.3.3.1 the land use rights have been determined and established by the Municipality through a process prescribed in the relevant By-law;
 - 19.3.3.2 all required authorisations and approvals in terms all relevant legislation have been granted;
 - 19.3.3.3 all conditions of the said approvals and authorisations have been met or the implementation thereof is made part of the specifications for the bid/ competitive process for the disposal.
- 19.3.4 No application for a lease agreement shall be processed by the Property Management Department unless the prescribed application fee as per tariff has been paid nor shall any proposed lease be advertised unless the application has confirmed, in writing , that it will adhere to land use conditions and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.

20. MOST APPROPRIATE USE ASSESSMENT

- 20.1 Before an Immovable property is declared as surplus, and earmarked for disposal or the awarding of rights, it must first be assessed for its most appropriate use.

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- 20.2 The most appropriate use for a surplus property is one which achieves an optimum balance between the following three key elements of sustainable development:
- (a) the protection of ecological processes and natural systems;
 - (b) the optimum financial return to and economic development of the municipal area; and
 - (c) the enhancement of the cultural, economic, physical and social wellbeing of people and communities.
- 20.3 The three elements of sustainability will apply to all surplus Immovable Properties, however their significance and the relationships between them will vary for individual Immovable Properties.
- 20.4 In determining the most appropriate use of surplus properties, regard should be given to:
- (a) Spatial development framework(s);
 - (b) Regional plans;
 - (c) Sectoral studies/plans;
 - (d) Government policies;
 - (e) Relevant legislation; and
 - (f) The views of interested and affected parties.
- 20.5 Where appropriate, opportunities should be provided for community involvement in the assessment process.

21. METHODS OF DISPOSAL AND AWARDING OF RIGHTS

Subsequent to determining the most appropriate use of a property and after the Municipality has decided that the Immovable property could be disposed of, or that rights may be awarded, the method of disposal or method of awarding rights should be determined.

The Municipality may use any of the following methods, depending on the circumstances pertaining the specific Immovable property:

21.1 Competitive Processes

21.1.1 Formal Tender

- a) The type of a formal tender may vary, depending on the nature of the transaction:
 - i) Outright tender may be appropriate where the Immovable property ownership is not complex, and the Municipality is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance.

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- ii) Qualified tenders/call for proposals will be appropriate where the Immovable property ownership position is complex or the development proposals for the Immovable property are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage.
 - iii) Call for proposals on a build-operate transfer (B.O.T) basis will be used if a developer is required to undertake the construction, including the financing, of a facility on Municipal-owned land, and the operation and maintenance thereof. The developer operates the facility over a fixed term during which it is allowed to charge facility users appropriate fees, rentals and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract, to enable the developer to recover its investment and operating and maintenance expenses in the project. The developer transfers the facility to the municipality at the end of the fixed term.
- b) The nature of the formal tender process is that a legally binding relationship is formed between the parties when the Municipality accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents could include a contract for sale or lease which could be completed with the tenderer's details, the tender price and be signed by the tenderer. A binding legal agreement is created upon the acceptance in writing of a tender by the Municipality.
 - c) Such a process may, depending on the nature of the transaction, include a two-stage or two- envelope bidding process (proposal call) in terms of which only those bidders that meet the pre-qualification criteria specified in the first stage are entitled to participate in the second stage.

21.1.2 Public Auction

- a) Disposal by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price can be obtained by auction.
- b) The decision to dispose of Immovable property by way of public auction must be recorded in writing and must include-
 - (i) the reasons justifying a disposal by public auction;
 - (ii) the reserve price, if any, for the auction;
 - (iii) the authority for a staff member to attend the auction and to act on behalf of the Municipality.
- c) The contract for sale or lease must be ready for exchange at the auction.
- d) The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged.
- e) The terms and conditions of each auction shall be determined on a project-by-project basis, appropriate to the specific characteristics and attributes of the Immovable property, and to the Municipality's strategic objectives.

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- f) Where the services of an auctioneer are utilised, the auctioneer's commission shall be payable by the successful bidder and shall not form part of the financial offer to the Municipality.

21.1.3 Closed Tender

- a) If a Non-Viable Immovable property has more than one adjacent owner and if such an Immovable property is capable of being consolidated with more than one of the properties owned by such adjacent owners, then a closed bid will be called from all the registered owners of all the adjacent properties with which the Immovable property can be consolidated.

21.1.4 Unsolicited proposals

- a) It is important that the municipality is in a position to entertain unsolicited proposals in exceptional circumstances. Such proposals may *inter alia* include property development proposals, land sales and leases. In this regard the following principles will apply:
 - i) Proposals received will be analysed and evaluated by the municipality in compliance with the relevant legislation;
 - ii) Realistic propositions will be advertised in the media to elicit competitive proposals or objections from the public;
 - iii) Should the advertisement elicit a response from the market, then a competitive proposal call will be initiated by means of an invitation to bid;
 - iv) The final lease or sale transaction will be submitted to the Municipal council for approval;
 - v) The prudent control will be by way of the market valuation certificate.

21.2 Non-Competitive Processes: Private Treaty Agreements

21.2.1 Non-Viable Immovable property

In respect of Non-Viable Immovable property which can only be utilised by one adjacent land owner, a Property Transaction(s) may be approved without any competitive process having been followed, including in response to an unsolicited application, on the basis that no purpose would be served by a competitive process but subject to the determination of the fair market value and public notice of the intent to dispose of the property.

21.2.2 Viable Property: Deviation from a Competitive process

21.2.2.1 The Executive Mayor may dispense with the competitive processes established in this policy, and may enter into a Private Treaty Agreement through any convenient process, which may include direct negotiations, including in response to an unsolicited application, but only in the following circumstances, and only after having advertised his or her intention so to act. Should any objections be received as a consequence of such a notice, such objections first be considered before a final decision is taken to dispense with the competitive process established in this policy. However, should any objections, be received from potential, competitive bidders, then a public competitive process must be followed. The advertisement referred to above should also be served on adjoining land owners, where the Municipal Manager is of the opinion that such transaction may have a detrimental effect on such adjoining land owner(s):

- (a) due to specific circumstances peculiar to the property under consideration, it can only be utilized by the one person/organization wishing to enter into the Property Transaction;
- (b) an owner of fixed immovable property who leases Municipal-owned immovable property, may be substituted by a successor-in title as deemed necessary on the same terms and conditions and/or additional terms and conditions;
- (c) sport facilities and other public amenities may be let by Private Treaty to Sport boards, Sport Federations and other similar bodies Community based bodies and non-professional sporting bodies shall be charged the tariff rentals as approved by the Municipality from time to time. Professional sport bodies and bodies operating for profit shall be charged a fair market related rental based on the market value of the property to be leased.
- (d) where unsolicited applications are received for access servitudes, right of ways and way leaves over municipal land, subject to approved tariff structure.
- (e) in exceptional cases where the Executive Mayor is of the opinion the public competition would not serve a useful purpose or that it is in the interest of the community and the Municipality, and where none of the conditions as set out in the policy provides for such exception, is permitted, and where they are not in conflict with any provision of the policy. In such cases the Executive Mayor must record full reasons for preferring such out-of hand sale or lease to those by public competition;
- (f) where any immovable property is offered for sale or lease by public competition, any remaining immovable property may be sold or leased out of hand by the

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Municipality at the upset price or higher, as long as it is satisfied that market prices are stable.

The upset price must be determined in such a way that it corresponds with a fair market value and must include the recoverable development costs such as municipal services, advertising and survey costs.

The position must be reviewed by the Municipality at least every six months. Not more than one erf may be sold out of hand to a purchaser where the demand for erven exceeds the number of erven available for sale;

- (g) where unsolicited applications/proposals are received from telecommunication companies to construct or put up communication infrastructure on Municipal owned Property, such as masts, dishes, ect, subject to approved tariff structure;
- (h) where encroachment applications are received from adjoining owners, including applications for outdoor dining permits, subject to approved tariff structure;
- (i) where the applicant is an organization receiving funding support from a government department-
 - which makes a substantial contribution towards the outputs of such a government department; or
 - whose contribution to such government departments outputs would depend upon or be substantially enhanced by gaining priority to a particular property;
- (j) where the applicant is an organization receiving funding support from the municipality for the rendering of a municipal function(s) within the municipal area, on behalf of the municipality;
- (k) where the land is part of a larger area of land that is proposed for development, redevelopment or regeneration. Also, the nature and complexity of the proposed development of the overall site is such that the Municipality's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area;
- (l) lease contracts with existing tenants of immovable properties, not exceeding ten(10) years, may be renegotiated where the Executive Mayor is of the opinion that public competition would not serve a useful purpose or that renewal is aligned with the Municipality's strategic objectives and in the interest of the Community, subject to such renewal being advertised calling for public comment. The existing tenant shall give notice of the intention to renegotiate the lease at least six months before the date of termination;
- (m) where agricultural allotments becomes available, it can be allocated to qualifying emerging farmers on the waiting list for a lease period not exceeding 9 years and eleven months, subject to the approved tariff structure.
- (n) In an emergency limited to the awarding of temporary rights for a period not exceeding 6 calendar months. Should circumstances necessitate the extension of

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the 6 months period, the Municipal Manager shall compile a report and submit it, to Council, recommending such extension of time.

- 21.2.2.2 The Executive Mayor must record the reasons for any such deviation from the competitive disposal process in writing and report them to the Municipal Council within 60 days of the decision to deviate being taken.

21.2.3 Exchange of Land

- 21.2.3.1 Disposal by exchange of land will be appropriate when it is advantageous to the Municipality and other parties to exchange land in their ownerships and will achieve best consideration for the municipality.
- 21.2.3.2 The Municipal Council must authorise the disposal of land by exchange with another land owner for alternative land. Reasons for justifying this manner of disposal must be recorded in writing.
- 21.2.3.3 The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. In such circumstances the Municipality must seek an independent valuation to verify that "*best consideration*" will be obtained.

22. DISPOSAL AND LETTING OF IMMOVABLE PROPERTY FOR SOCIAL CARE USES

- 22.3.1 Social care is defined as services provided by registered welfare, charitable, non-profit cultural and religious organisations and includes, but is not limited to, the following types of uses :-
- (a) Place of Worship to the degree and for that portion of a facility being used for spiritual gathering by, and social/pastoral/manse/welfare caring and support to Worshippers and the broader Community;
 - (b) Child care facility insofar as it contributes to the functioning of a multi-use childcare facility and is operated on a non-profit basis;
 - (c) Schools or centres – utilised as homes for the handicapped and disabled persons.
 - Non-profit rehabilitation centres;
 - Homes/centres for indigent, battered or destitute persons;
 - Organisations for the homeless and elderly;
 - Youth activity centres;
 - Facilities for the accommodation, care and burial of animals; and
 - Cemeteries, NPO funeral parlours and non-profit crematoria.

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21.3.2 The Municipality reserves the right to entertain unsolicited bids for the purchase or lease of viable immovable property for social care uses with the proviso that it abides by the Municipality's IDP objectives.

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CHAPTER 6 MANAGEMENT OF COMPETITIVE BIDS

23 MANAGEMENT OF COMPETITIVE BIDS

- 23.1 For Immovable property transactions above a contract value of R1 Million (incl. of VAT) or where the Municipal Manager deems it appropriate, taking into account the specific nature of the transaction, he/she shall establish committees for the preparation of bid documents the evaluation and adjudication of such bids, as set out hereunder.

24. BID DOCUMENTATION FOR COMPETITIVE BIDS

- 24.1 The criteria to which bid documentation for a competitive bidding process must comply, must -
- (a) take into account -
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) description of Immovable property, including the erf number(s) and size thereof;
 - (iii) current zoning, land use and restrictive conditions;
 - (iv) nature of tenure to be granted;
 - (v) development parameter and guidelines;
 - (vi) an indication of whether the successful bidder will be responsible to apply for development rights, or whether such rights are already in place;
 - (vii) access to Immovable property;
 - (viii) parking requirements;
 - (ix) time-frame for development and use;
 - (x) identification of suspensive conditions, if any, that will have to be met by the successful bidder before a legal binding relationship is formed;
 - (xi) availability of municipal services;
 - (xii) whether the successful bidder will have to make any contributions, over and above the tender amount, such as development contributions, contributions for the upgrade of services; ect.
 - (b) include the preference points system to be used (if any), goals as contemplated in this policy and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) Competitive bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

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- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish-
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements-
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards the municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any property contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

25. PUBLIC INVITATION FOR COMPETITIVE BIDS

25.1 The procedure for the invitation of competitive bids, is as follows:

- (a) Any invitation to prospective developers/bidders to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Municipality, or any other additional, appropriate ways, as determined by the Municipal Manager; and
- (b) The information contained in a public advertisement, must include, *inter alia*:-
 - (i) the deadline for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions;

25.2 The Municipal Manager may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

25.3 Bids submitted must be sealed.

25.4 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

26. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

26.1 The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids-
 - (i) must be opened in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time shall not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical also each bidder's total bidding price;
- (c) No information, except the provisions in subsection (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The Municipal Manager must-
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website of the Municipality.
- (e) All original bid documents must be stored safely.

27. NEGOTIATIONS WITH PREFERRED BIDDERS

27.1 The Municipal Manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiations -

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a lower price than the bidder has submitted, in a case of disposal of Immovable property, or Property rights and;
- (d) does not lead to a higher price than the bidder has submitted, in a case of acquiring of Immovable property, or Property rights.

27.2 Minutes of such negotiations must be kept for record purposes.

28. TWO-STAGE BIDDING PROCESS

28.1 A two-stage bidding process is allowed for-

- (a) large complex projects;

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- (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding three years.

28.2 In the first stage technical proposals on conceptual design should be invited, subject to technical as well as commercial clarifications and adjustments.

28.3 In the second stage final technical proposals and priced bids should be invited.

29. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

29.1 A Committee System for competitive bids above a contract value of R1 Million (including of VAT) is hereby established, consisting of the following Committees for each Immovable property transaction or cluster of transactions as the Municipal Manager may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee.

29.2 The Municipal Manager appoints the members of each committee, taking into account Section 117 of the MFMA.

29.3 A neutral or independent observer, appointed by the Municipal Manager, may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

30. BID SPECIFICATIONS COMMITTEES

30.1 Before placement of any invitations to perspective developers/bidders for the acquisition or disposal of Immovable property, Property Rights a bid specification committee must compile the specifications for each such transaction.

30.2 Specifications-

- (a) must be drafted in an unbiased manner to allow all potential developers/bidders to make a bid/proposal;
- (b) must indicate each specific goal for which points may be awarded in terms of the points system set out in this policy. Such goals must be measurable and must be specified in the documentation accompanying the invitation to submit a bid. The measurable must clearly indicated how the bidder will be awarded a score out of the maximum points allocated; and
- (c) must be approved by the Municipal Manager prior to publication of the invitation for bids.

30.3 The Municipal Manager must appoint a bid specification committee when such a need arise. A specification committee must composed of one or more officials of the Municipality preferably *inter alia* the Manager responsible for Immovable property Management, and may, when appropriate, include external specialist advisors.

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- 30.4 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- 30.5 No Councillor may be a member of such a Bid Specification Committee.

31. BID EVALUATION COMMITTEE

- 31.1 The function of a Bid Evaluation Committee involves the technical evaluation of the proposals submitted, including clarification interviews with short-listed proponents and the formulation of recommendations to the Bid Adjudication Committee in respect of the award of the tender or proposal call. The Bid Evaluation Committee will meet as often as is required, to complete a technical evaluation of the proposals in accordance with the set evaluation criteria and associated weighting. The scoring of the criteria will be by consensus, failing which the weighed average will apply.

Depending on the complexity of the proposal call, the evaluation process may involve other stages such as the short-listing of proponents for an interview with the Bid Evaluation Committee after initial scoring has been finalised. The purpose of this interview is for the Bid Evaluation Committee to obtain clarification on elements of a proposal, and/or confirmation of implied intentions.

- 31.2 A Bid Evaluation Committee must-
- (a) evaluate bids in accordance with the specifications and the points system set out in the Bid Document;
 - (b) evaluate each bidder's ability to execute the contract from a technical, financial and commercial point of view;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and
 - (d) submit to the Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.
- 31.3 The Municipal Manager must appoint a Bid Evaluation Committee when the need arise. A Bid Evaluation Committee must as far as possible be composed of-
- (a) officials who were members of the Bid Specification Committee; and
 - (b) at least one supply chain management practitioner of the Municipality.
- 31.4 The Municipal Manager may, at the request of a Bid Evaluation Committee authorize the appointment of an specialist advisor(s) to assist the Bid Evaluation Committee in the technical evaluation of the bids. Such advisor will not take part in the drafting of recommendations to the Bid Adjudication Committee, but will only advise the Bid Evaluation Committee on the technical evaluation of the bids.
- 31.5 No Councillor may be a member of such a Bid Specification Committee.

32. BID ADJUDICATION COMMITTEE

- 32.1 A Bid Adjudication Committee must-

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- (a) consider the report and recommendations of the Bid Evaluation Committee; and
 - (b) either-
 - (i) depending on its delegations, make a final award, or a recommendation to the Municipal Manager to make the final award; or
 - (ii) make another recommendation to the Municipal Manager how to proceed with the relevant transaction.
- 32.2 The Municipal Manager must appoint a Bid Adjudication Committee when the need arise. A Bid Adjudication Committee must consist of at least four senior Managers of the Municipality, which must include-
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another Manager in the Budget and Treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
 - (b) at least one senior supply chain management practitioner who is an official of the Municipality; and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- 32.3 The Municipal Manager must appoint the Chairperson of the Committee. If the Chairperson is absent from a meeting, the members of the Committee who are present must elect one of them to preside at the meeting.
- 32.4 Neither a member of Bid Evaluation Committee, nor an advisor or person assisting the Evaluation Committee, may be a member of a Bid Adjudication Committee.
- 32.5 If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid notify the Municipal Manager.
- 32.6 The Municipal Manager may-
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee;
 - (ii) if the decision on the Bid Adjudication Committee is rejected, refer the decision of the Adjudication Committee back to that Committee for reconsideration.
- 32.7 The Municipal Manager may at any stage of a bidding process, refer any recommendation made by the Evaluation Committee or the Adjudication Committee back to that Committee for reconsideration of the recommendation.
- 32.8 No Councillor may be a member of a Bid Adjudication Committee.

CHAPTER 7: PREFERENCE POINT SYSTEM

33. OBJECTIVES

33.1 Although municipalities are not obliged to implement a preference point system when disposing of Immovable property or when awarding Property rights in Immovable Property, Stellenbosch Municipality is of the view that the achievement of equality is one of the fundamental goals to be attained. The objectives of the preferred points system are to:

- (a) promote broad-based black economic empowerment;
- (b) promote the redress of current, skewed land ownership patterns;
- (c) enhance the economy of the municipal area;
- (d) give preference to marginalised groups in the society, including women and people with disability;
- (e) give preference to people residing in the municipal area;
- (f) ensure that the most appropriate developments take place; and
- (g) further an integrated approach to development.

34. PUBLIC AUCTIONS

34.1 The Municipal Council may determine, on a project-by-project basis, appropriate to the specific characteristics and attributes of the Immovable property involved, limitations on categories of people who may take part in a public auction with the view of furthering the objectives as set out above, without excluding any category of people to take part in such public auction.

35. OUTRIGHT TENDER / CLOSED TENDER

35.1 For Immovable property transactions with a contract value up to R10 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Sixty (60) points maximum. The highest financial offer shall score sixty (60) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Forty (40) points maximum for black people and legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people, which shall be measured and compiled as follows:
 - ~~(i) Twenty (20) points maximum for local black people and local legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.~~

~~(ii) Five (5) points maximum for local women and local legal entities owned by women. Points for legal entities will be proportionally allocated according to the percentage ownership by women.~~

~~(iii) Five (5) points maximum for local disabled people or legal entities owned by disabled people. Points for local legal entities will be proportionally allocated according to the percentage ownership by disabled people.~~

~~(iv) Ten (10) points maximum for local residents or legal entities owned by local residents. Points for legal entities will be proportionally allocated according to the percentage ownership by disabled people.~~

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35.2 For Immovable property transactions with a contract value above R10 Million up to R50 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Eighty (80) points maximum. The highest financial offer shall score eighty (80) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Twenty (20) points maximum for local black people and local legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.

35.3 For Immovable property transactions with a contract value above R50 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Ninety (90) points maximum. The highest financial offer shall score ninety (90) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Ten (10) points maximum for black people and legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.

36. QUALIFIED TENDERS/PROPOSAL CALLS

36.1 Unless otherwise determined by the Municipal Council for a specific transaction, the awarding of qualified tenders or proposal calls shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Sixty (60) points maximum. The highest financial offer shall score sixty (60) points with lower offers scoring proportionally in relation to the highest offer.
- (b) **Status:** Twenty (20) points for ~~local~~ black people and ~~local~~ legal entities owned by black people. Points for legal entities will be proportionately allocated according to the percentage ownership by black people.
- (c) **Development Concept:** Twenty (20) points maximum, which shall be measured and adjudicated as per criteria to be agreed upon for the specific project.

37. MODIFICATIONS

- 37.1 The Municipal Council may, on an *ad hoc* basis adjust the scoring system set out in this section for a specific immovable property or group of immovable properties to enable it to achieve specific targets or a specific outcome.

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38. NOTIFICATION OF PERFORMANCE POINT SYSTEM

- 38.1 The Tender/Call for proposal document(s) must stipulate the preference point system which will be applied in the adjudication of the specific tender.

39. EQUITY OWNERSHIP

- 39.1 Equity Ownership is tied to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.
- 39.2 Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with the degree of ownership.
- 39.3 Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.

40. TENDERS MUST BE AWARDED TO THE BIDDER SCORING THE HIGHEST POINTS

- 40.1 Tenders must be awarded to the bidder that scores the highest points in terms of the preference points system unless there are objective and reasonable criteria that justify the award of the tender to another tenderer.

41. QUALIFYING CRITERIA/TWO STAGE BIDDING

- 41.1 Criteria other than price, status and development concept, such as technical capability and environmentally sound practices, cannot be afforded points for evaluation. They can be specified in a call for tenders but they will serve as qualification criteria or entry level requirements, i.e a means to determine whether or not a specific tenderer is a complying tenderer in the sense of having submitted an acceptable tender. Only once a tender is regarded as a complying tenderer would it then stand in line for the allocation of points based on price, status and development concept.

CHAPTER 8 CONTRACTUAL OBLIGATIONS

42. TERMS AND CONDITIONS OF SALE

- 42.1 Regulations 17 and 30 of the MATR sets out the minimum terms and conditions that needs to form part of Sales Agreements. The terms and conditions listed below is supplementary to the above.
- 42.2 All costs pertaining to a transaction, inclusive of any costs relating to transfer, registration survey-, re-zoning-, sub-division-, consolidation-, advertisement- and relocation or provision of services cost shall be borne by an applicant, provided that the Municipality may waive its right to claim those costs if the reason for the sale is to rid the Municipality of a burden to maintain the Immovable property or exercise control thereover.
- 42.3 Where applicable, existing services shall be secured by means of the registration of a servitude in favour of the Municipality.
- 42.4 When Immovable property is sold, development must commence where, applicable, within 1 (one) year or such longer period as may be agreed to from the date of transfer or possession or in accordance with the provisions of the deed of sale or the development programme submitted by the purchaser and be completed in accordance with the provisions of the deed of sale or the development programme. The Municipality furthermore reserves the right to impose such conditions as deemed necessary, including a reversionary or penalty clause in the event that the development has not progressed as per the agreement, without limiting its rights to liquidated damage and reversionary clauses.
- 42.5 A reversionary clause must be inserted in the deed of sale if the Immovable property is sold below market value or where the conditions of sale are not met.
- 42.6 Unless approved in writing by the Municipality, the Immovable property may only be used for the purpose as approved by the Municipality and purpose regularized by the relevant by-laws and any applicable legislation.
- 42.7 Where a disposal agreement is subject to the implementation of land use and/or development conditions the agreement will incorporate suspensive conditions which could nullify the contract failing compliance with such land use or development conditions.

43. TERMS AND CONDITIONS OF LEASE

- 43.1 Regulation 45 of the MATR sets out the minimum terms and conditions that needs to form part of Lease Agreements. The terms and conditions listed below is supplementary to the above.
- 43.2 All cost pertaining to a transaction such as legal-, survey-, re-zoning-, sub-division-, consolidations-, advertisement-, relocation or provision of services cost shall be borne by the applicant.
- 43.3 The following deposits shall apply to leases where the rental is based on market value-
- (a) a deposit equal to 2 months rental for commercial transactions;

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- (b) a deposit equal to 1 month's rental for residential and social services transactions.
 - (c) No deposit are payable in respect of encroachment agreements.
- 43.4 An owner of fixed Immovable property who leases an adjoining municipal Immovable Property may be substituted by his successor in title for the duration of the remainder of the lease term on the same terms and conditions or additional terms and conditions as deemed necessary.
- 43.5 Lessees shall be liable for payment of rates and service charges, unless otherwise agreed upon.
- 43.6 The letting of lanes, public open spaces, road reserves shall be subject to the following:
- (a) closing off/securing to the Municipality's satisfaction;
 - (b) costs for the relocation or installation of services, where required, shall be for the account of the lessee; and
 - (c) securing of servitudes.
- 43.7 Lessees shall indemnify the Municipality against any possible claims arising from the lease or use of the Immovable property.
- 43.8 No lessee of Immovable property shall without the prior consent in writing of the Municipality, sublet such Immovable property or any portion thereof or assign any right acquired by him in respect hereof and any such subletting or assignment without such consent shall be null and void.
- 43.9 Save with prior approval the Immovable property may only be used for the purpose for which it was let and purposes regularized by town planning schemes.
- 43.10 Officials from the Municipality shall at all reasonable times be entitled to enter/inspect the Immovable property, having regards for the right to privacy as contemplated in Chapter 2 of the Constitution.
- 43.11 All agreements shall contain a clause which requires the lessee to maintain the leased Immovable property.
- 43.12 All agreements shall contain a clause which requires that improvements provided by the lessee and which the Municipality wishes to retain shall revert, free of charge, to the Municipality once the lease period has terminated and/or in the event the agreement, due to breach of conditions by the lessee, has been cancelled. Provision must also be made on how to deal with such improvements should the Municipality terminate the contract prior to the lapse of the lease period, where the lessee has not been in default.

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43.13 All agreements shall contain a clause which states that the municipality reserves the right, where necessary, to resume Immovable property let, or a portion thereof, and to cancel an existing lease in its entirety where such Immovable property is required for ~~operational~~ *bona fide municipal* purposes, in pursuance of the municipality's strategic objectives or in the interests of the community. In such an event the lessee shall be compensated for improvements established by him/her on a basis to be determined by an independent valuator, taking into account the remaining period of the lease agreement.

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CHAPTER 9: FAIR MARKET VALUES/RENTALS

44. CRITERIA FOR DETERMINING COMPENSATION AND FAIR MARKET VALUES

- 44.1 Immovable property may be Disposed of only at market-related prices, except when the plight of the poor or the public interest which impact on the economic and community value to be received by the Municipality demand otherwise.
- 44.2 If the Municipality, on account of the public interest, particularly in relation to the plight of the poor, intends to Dispose of a Non-Exempted Immovable property for less than market value it must take into account the following factors:
- (a) the interests of the State and the local community;
 - (b) the strategic and economic interests of the municipality, including the long-term effect of the decision on the municipality;
 - (c) the constitutional rights and legal interests of all affected parties;
 - (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
 - (e) whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.
- 44.3 Subject to the Municipality's Section 14 Determinations and an In Principle Approval in respect of a specific Disposal, the Municipality shall Dispose of social care Immovable Properties at a purchase price of between 10% and 60% of fair market value subject to a suitable reversionary clause being registered against the title deed of the Immovable property. In the event of the subject Immovable property ceasing to be used for the purpose originally intended, reversionary rights are triggered and the Municipality reserves the right to demand compensation equal to the difference between the actual purchase price and the fair market value of the Immovable property, or that the Immovable property be transferred into the ownership of the Municipality at no cost to the Municipality.
- 44.4 If the Municipality appoints a private sector party or Organ of State through a competitive bidding process as the service provider of a Commercial Service, the compensation payable to the Municipality in respect of the Disposal of Immovable property as an integral component of the performance of that Commercial Service to that service provider, shall reflect fair market value.
- 44.5 Fair market value of Immovable Properties will be calculated as the average of the valuations sourced from two independent valuers, unless determined otherwise by the

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Municipal Manager, taking into account the value of the property *vis-à-vis* the cost of obtaining such valuations.

45. CRITERIA FOR DETERMINING OF FAIR MARKET RENTALS

- 45.1 Immovable property may only be let at market-related rates, except when the plight of the poor or the public interest which impact on the economic and community value to be received by the Municipality demand otherwise.
- 45.2 In respect of certain categories of Immovable Properties the Municipality shall be entitled to adopt below market-related tariffs in respect of Immovable Properties, leased to non-Profit Organisations, NGOs, Sporting Bodies, *bona fide* small farmers, ect. Such tariffs must form part of the municipality's tariff structure, approved from time to time.
- 45.3 The Municipality shall be entitled, in its sole discretion and from time to time, to specify the types of Immovable property Transactions in respect of which applications are permitted to be made to the Municipality and to impose application fees, charges, rates, tariffs, scales of fees or other charges relating to the Immovable property Transaction.
- 45.4 In such circumstances, the Municipality shall also be entitled not to process the application for the Immovable property Transaction unless the applicant has:
- a) confirmed in writing that it will pay the charges and bear all such costs in respect of the Immovable property Transactions as the Municipality may require (for example legal costs, survey costs, costs of rezoning, subdivision, and consolidations, advertising costs, cost of relocation or cost of provision of services); and/or
 - b) if required by the Municipality, has paid a deposit as specified by the Municipality to cover such incidental costs.
- 45.5 The fair market rentals of individual Immovable Properties will be calculated as the average of the valuations sourced from two service providers, unless determined otherwise by the Municipal Manager, taking into account the estimated rental(s) *vis-à-vis* the cost of obtaining such valuations.

CHAPTER 10 MISCELLANEOUS

46. MUNICIPAL LAND REGISTER (MLR)

- 46.1 The MLR is a computerized database that contains details of all municipal-owned Immovable property.
- 46.2 The MLR database is electronically linked with the Geographical Information System of the Municipality to provide spatial information to complement the data stored in the MLR database.
- 46.3 As from date of commencement of this policy, all departments must record relevant details about their Master Infrastructure Plans and needs for Immovable property in the MLR.
- 46.4 As a minimum requirement, sites for planned community infrastructure, municipal infrastructure, housing projects, ect must be recorded on the MLR.
- 46.5 All changes in the status of municipal-owned Immovable Properties must be recorded in the MLR.

47. STRATEGIC IMMOVABLE PROPERTY MANAGEMENT PLAN

- 47.1 As soon as possible after the approval of this policy the Municipality must, as part of its strategic planning process, develop and adopt a Strategic Immovable property Management Plan.
- 47.2 Such a Strategic Immovable property Management Plan must consist of at least-
- (a) A strategic analysis of the Municipality's Immovable property portfolio (Land Audit), as well as state-owned Immovable property within the municipal area.
 - (b) Categorisation of such Immovable property-holdings, to include, but not limited to:-
 - (i) Immovable property of strategic importance for, *inter alia*:-
 - (aa) housing purposes;
 - (bb) municipal infrastructure; and
 - (cc) public transport, -parking and related used
 - (dd) environmental conservation; and
 - (ee) heritage purposes
 - (ii) Immovable property that should be retained for future generations;
 - (iii) Surplus Immovable property, capable of being developed.
 - (iv) Immovable property that should be acquired for strategic purpose.
 - (v) Immovable property that should be exchanged for strategic purposes.
 - (c) A management plan for each category of Immovable property.

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- (d) A performance assessment of each category of Immovable property.
 - (e) The maintenance activities required for each category of Immovable property.
- 47.3 The Strategic Immovable property Management Plan must be developed within the context of approved spatial development frameworks, sectoral plans, planning related policies and regional plans.
- 47.4 When developing the SLMP, the public should be given ample opportunity to make inputs.
- 47.5 The Municipal Council must annually revise its Strategic Immovable property Management Plan and must incorporate the revised plan into its IDP.

48. FRAUD AND CORRUPTION

- 48.1 Stellenbosch Municipality's policy is to require that bidders observe the highest standard of ethics during the selection and execution of contracts.
- 48.2 The Municipal Manager must reject a proposal for award if he/she determines that the person recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question.
- 48.3 Where evidence in support of corrupt, fraudulent practices or criminal offences are reported and substantiated, the Municipal Manager is to initiate criminal proceedings against such business entity, official or other role player, and inform the Provincial Treasury and the Municipality of such measures.
- 48.4 Employees found guilty after a disciplinary process of conniving with bidders or contravening this Policy may be dismissed.
- 48.5 Bidders and their directors who have been found guilty of abusing this Policy will be barred/suspended from doing business with the Municipality and National Treasury will be informed accordingly.
- 48.6 The Municipality reserves the right to criminally prosecute any person found to have violated or abused this Policy.
- 48.7 The Municipality reserves the right to cancel or not to award bids to bidders found to:
- a) have unfairly influenced the process of award and have been found guilty of improper conduct;
 - b) have been convicted of fraud or corruption during the past 5 years;
 - c) have willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d) have been listed in the Registrar for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act No 12 of 2004.
- 48.8 All employees and/or officials are expected to assist the Municipality in fighting corruption and to this extent are encouraged to report all suspicious acts.

49. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO OFFICIALS AND OTHER ROLE PLAYERS

- 49.1 No person who is a tenderer or prospective tenderer for municipal Immovable property may either directly or through a representative or intermediary promise, offer or grant -

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- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to any official of the Municipality or other role player who may affect the outcome of a tender process.
- 49.2 The Municipal Manager must promptly report any alleged contravention of clause 49(1) to the Municipality.

50. OBJECTIONS AND COMPLAINTS

- 50.1 Persons aggrieved by decisions or actions taken in the implementation of this policy may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action to the Municipal Manager, or if the Municipal Manager is involved to the Executive Mayor.

51. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 51.1 The Municipal Manager must appoint an independent and impartial person, not directly involved in the adjudication processes:-
- (a) to assist in the resolution of disputes between the municipality and other persons regarding-
 - (i) any decisions or actions taken in the implementation of this policy; or
 - (ii) any matter arising from a contract awarded in terms of the Policy; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matter arising from such contract.
- 51.2 The Municipal Manager or another official designated by the Municipal manager or Executive Mayor is responsible for assisting the appointed person to perform his or her functions effectively.
- 51.3 The person appointed must -
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the Municipal Manager or the Executive Mayor as the case may be, on all disputes, objections, complaints or queries received, attended to or resolved.
- 51.4 This paragraph must not be read as affecting a person's rights to approach a court at any time.

ANNEXURE 4



STELLENBOSCH
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MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

POLICY ON

THE MANAGEMENT OF STELLENBOSCH MUNICIPALITY'S IMMOVABLE PROPERTY

Directorate: Integrated Human Settlements

Department: Property Management

4 Draft 2017-11-27

PREAMBLE

Stellenbosch Municipality is the owner of a large number of immovable properties. In the exercise of its powers, duties and functions the Municipality has the right to acquire, hold, enhance, lease and alienate Immovable property. The inequitable spread of ownership of Immovable property throughout the municipal area and the historical causes thereof are recognized, and the Municipality acknowledges that it has a leading role to play in redressing these imbalances by ensuring that the Immovable property assets under its control are dealt with in a manner that ensures the greatest possible benefit to the Municipality and the community that it serves.

WHEREAS Stellenbosch Municipality is the custodian of the Immovable property of the Municipality and is responsible for the proper management and administration thereof;

WHEREAS Stellenbosch Municipality is required and committed to manage its Immovable property in a fair, transparent and equitable manner; and

WHEREAS Stellenbosch Municipality realise that Immovable property held by it, should be dealt with in a manner which will ensure the greatest benefit to the Municipality and the public in a sustainable manner;

AND IN ORDER TO-

- make available economic opportunities in the municipality;
- promote an efficient administration and good governance; and
- create a culture of accountability, openness and transparency in its administration or in the exercise of its powers or the performance of its functions, by giving effect to the right to just administrative action,

NOW THEREFORE this policy provides, as follows:

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CHAPTER 1: INTERPRETATION, SCOPE, PURPOSE AND OBJECTIVES OF POLICY

1. DEFINITIONS

1.1 In this policy, unless inconsistent with the context, the following expressions bear the meanings assigned to them below:

“adequate notice” means a notice period of not less than 30 days within which representations, comments or objections may be made.

“advertise” means the giving of adequate notice of the nature and purpose including the material substance of the proposed administrative actions, by publishing a notice in one or more of the local newspapers, and where deemed necessary by the Municipal Manager, any additional form of notice, which may include-

- (a) serving of a notice; or
- (b) displaying on a notice board; or
- (c) holding a public meeting.

“agricultural allotments” means portions of agricultural land, demarcated and set aside for *“bona fide”* emerging farmers.

“alienate” means to dispose with ownership of Immovable property in favour of another person with the intention of transferring the ownership of the Immovable property to the acquirer thereof.

“BBBEE Act” means the Broad-Based Black Economic Empowerment Act, 53 of 2003.

“BEE” means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-

- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
- (b) facilitating ownership and management of enterprises and productive assets by communities, workers cooperatives and other collective enterprises;
- (c) human resources and skill development;
- (d) achieving equitable representation in all occupational categories and levels in the workforce;
- (e) preferential procurement; and
- (f) investments in enterprises that are owned or managed by black people.

“basic municipal service” means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;

“bid” means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for a procurement or disposal, as part of the competitive bidding process of the Municipality;

“Black people” means Africans, Coloured and Indians, as referred to in the B-BBEE Act, No. 53 of 2005.

“Buffer 1” means endangered areas of biodiversity overlapping with extensive agriculture.

“calendar month” means a period extending from a specific day in one calendar month to the preceding day in the following month;

“chief financial officer” means a person designated in terms of Section 80(2)(a) of the MFMA.

“close” in relation to a public street or public place, means to close for all public purposes or for vehicular or pedestrian traffic only.

“Core 1” means proclaimed national parks, provincial and municipal nature reserves, mountain catchment areas, unprotected but critically endangered areas of biodiversity;

“Core 2” means river and ecological corridors outside areas earmarked for urban development

“corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution;

“commercial service” means a commercial service as defined in section 1 of the MATR;

“competitive bidding process” means a process whereby prospective bidders are invited through public media to submit bids and such bids are administered in a fair, transparent, competitive and cost effective manner;

“constitution” means the Constitution of the Republic of South Africa, 1996

“Council” means the Municipal Council of the Municipality of Stellenbosch and includes any Political Structure, Political Office Bearer, Councillor or Official, acting under delegated authority.

“disposal”, means the sale, exchange or donation, of Immovable property, the conclusion of any form of land availability agreement in respect of immovable property with any person and the registration of any real or personal right in respect of Municipal land, including servitudes;

“EIA” means an Environmental Impact Assessment in terms of the NEMA Regulations promulgated from time to time.

“emergency” means an emergency dispensation in which one or more of the following conditions are present –

the possibility of human injury or death;

the prevalence of human suffering or deprivation of rights;

the possibility of damage to property, or suffering and death of livestock and animals;

the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;

the possibility of serious damage occurring to the natural environment;

the possibility that failure to take necessary action may result in the municipality not being able to render an essential service; and

the possibility that the security of the state could be compromised.

“exchange” means the simultaneous acquisition and disposal of Immovable property or any right in respect of Immovable property in terms of an agreement between the Municipality and any other party or parties where the compensation payable by the parties to each other, are offset and only the difference, if any, is payable to the appropriate party.

“fair market value” means the value at which a knowledgeable willing buyer would buy and a knowledgeable willing seller would sell the capital asset in an arm’s length transaction.

“fraudulent practice” means a misrepresentation of fact in order to influence a selection process and includes:

collusive practices among bidders (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the municipality of the benefits of free and open competition.

“high value” means that the fair market value of the Immovable property exceeds R50 million or 1% of the total value of the capital assets of the Municipality as determined from the latest available audited annual financial statements of the Municipality, or such lower amount as may from time to time be determined by resolution of the Municipal Council;

“housing stock” means housing units that are leased to members of the public and or members of staff as well as subsidised housing units that are earmarked for disposal to qualifying beneficiaries.

“IDP” means the approved Integrated Development Plan of Stellenbosch Municipality, as provided for in Chapter 5 of the Systems Act, as amended from time to time.

“Immovable property” includes, but is not limited to –

- (a) any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land or unregistered land where the ownership can be determined/property or buildings or any share therein registered in the name of a person or entity, including, in the case of a sectional title scheme, a sectional title unit registered in

the name of a person or entity;

- (b) a right to an exclusive use area held in terms of a notarial deed of cession;
- (c) a real right registered against Immovable property in the name of a person or entity, excluding a mortgage bond registered against the Immovable property;
- (d) any share in a share block company as defined in section 1 of the Share Blocks Control Act, 59 of 1980;
- (e) a "public place" or "public street" as defined in this policy ;
- (f) Immovable property as defined in section 107 of the Deeds Registries Act, 47 of 1937; and including property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it.

"Income tax act" means Act 58/1962

"land" means-

- (a) any land registered under separate title and includes the ownership therein, whether in full or reduced form, and any improvements in, on, over or under such land; or
- (b) unregistered land where the ownership can be determined.

"Land Availability Agreement" means an agreement that has been concluded between the municipality and a developer, in terms whereof the developer is allowed to develop the municipal land on behalf of the municipality, whilst the ownership of the land remains with the municipality.

"lease" means the letting of Municipal land/Immovable property/buildings in terms of which the use and enjoyment of the land/property/building is granted for a specified period exceeding 1 month without ceding legal ownership in the asset or any form of land availability agreement in respect of Immovable property and letting has a corresponding meaning.

"lease agreement" means a written agreement entered into between the Municipality and the lessee specifying rights and duties pertaining to the exclusive use of Immovable property for a continuous period of time longer than thirty (30) calendar days, and which sets forth the terms and conditions of the use, management and control of the Immovable property.

"MATR" means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA and published in *Government Gazette* No. 31346 of 22 August 2008;

"MFMA" means the Local Government: Municipal Finance Management Act, 56 of 2003, including any Regulations promulgated in terms thereof from time to time;

"municipality" means the Stellenbosch Municipality established in terms of Section 4 of the Establishment Notice (PN 489 of 22 September 2000), as amended;

“municipal area” means the area under the jurisdiction and control of Stellenbosch Municipality.

“municipal function” means any of those functions set out in Schedule 4 B and 5 B of the Constitution.

“municipal land audit (MLA)” means the audit of municipal owned properties which was conducted during 2003 and as updated from time to time

“municipal manager” means a person appointed in terms of Section 82 of the Municipal Structures Act, No 117 of 1998 as the head of the Municipality’s administration and accounting officer of the Municipality or his/her delegate.

“municipality’s property” or **“property”** means all the Immovable property owned and managed by the Municipality in terms of this Policy;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

“NEMA” means the National Environmental Management Act no 107 of 1998

“non-viable Immovable property” means Immovable property that, owing to urban planning, physical constraints or extent cannot be developed on its own or function as a separate entity and that can therefore become functional only if used by an adjoining owner in conjunction with such owner’s Immovable property;

“official” means an employee of the Municipality or a person seconded to the Municipality or contracted by the Municipality to work as a member of staff..

“owner” in relation to Immovable property, means the person in whose name that Immovable property is registered in a deeds registry, which may include the holder of a registered servitude right or lease and any successor in title of such a person, and includes any person authorized to act as such by the registered owner, any person who in law has been entrusted with the control of such assets or a person to whom Immovable property has been made available in terms of a land availability agreement.

“plight of the poor” means the needs of the people that are vulnerable and unable to meet their socio-economic needs independently or to support themselves and their dependents and are in need of social assistance.

“public interest” means disposal or letting to:-

- a) promote the achievement of equality by taking measures to protect or advance persons or categories of persons, disadvantaged by unfair discrimination;
- b) afford black people who are South African citizens a preference in respect of the disposal and letting of Immovable property as envisaged in Section 9(2) of the Constitution;
- c) promote BBBEE through disposal and letting;
- d) ensure and promote first time home ownership and enterprise development of black people that qualify in terms of the Municipality’s GAP housing policy have access to adequate housing on a progressive basis;

- e) advance agricultural projects for land reform purposes;
- f) promote welfare and charitable purposes including non-profit rehabilitation facilities; shelters for the indigent and destitute, youth development and drug counseling; or
- g) foster equitable access to public amenities, social and/or sports clubs and similar organizations by providing discounted prices or rates in the event that the beneficiaries or the membership component of such institution or body consist of at least 50% black people and/or the membership or subscription fee of black people is less than 50% of the normal membership or subscription fee.

“property laws” means the relevant provisions of the MFMA and the MATR collectively;

“property right” means a right to use, control or manage an Immovable property for a period exceeding a calendar month, as granted by the Municipality without ceding legal ownership in the Property. For the sake of clarity, a servitude, way leave or encroachment in, on, over or under Immovable property granted by the Municipality, or a lease agreement entered into by the Municipality as lessor, constitutes a Property Right and it expressly excludes any reference to land use rights in terms of the Municipality’s Integrated Zoning Scheme/Bylaw;

“private treaty” means where the proposed disposal involves a disposal without public competition as defined in the MFMA to a non-government entity.

“property transaction” means either a Disposal of Immoveable property or the granting of a Property Right in Immoveable property;

“public place” means any Immoveable property indicated on an approved plan, diagram or map as an open space of which ownership as such vests in the Municipality.

“public street” means-

- (a) any street which has at any time been-
 - (i) used without interruption by the public for a period of at least thirty years;
 - (ii) declared or rendered such by a Municipality or other competent authority; or
 - (iii) constructed by the Municipality; and
 - (iv) constructed by someone other than the Municipality and which vests in the Municipality.
- (b) any Immoveable property, with or without buildings or structures thereon, which is shown as a street on-
 - (i) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon, or

- (ii) any plan or diagram as defined in Section 15 of the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in the office of the Registrar of Deeds or the Surveyor-General's office.

unless such Immovable property is on such plan or diagram described as a private street.

“real rights” means the rights to traverse privately owned property with servitudes which are notarially registered in the Deeds Office or contained in Title Deed Conditions

“SCM policy” means the Supply Chain Management Policy of the Municipality, as approved and amended from time to time and implemented in terms of section 111 of the MFMA, read with the SCM Regulations;

“SCM regulations” means the Municipal Supply Chain Management Regulations promulgated in terms of the MFMA and published under GN 868 in *Government Gazette* No. 27636 of 30 May 2005;

“significant Property Right” means a Property Right with a value in excess of R10 million which is granted for a period exceeding 3 years;

“spatial development framework” means a spatial development framework referred to in Chapter 4 of Act No. 16 of 2013 Spatial Planning and Land Use Management Act, 2013 and the framework contemplated in Section 26(1)(e) of the Municipal Systems Act.

“Systems act” means the Local Government: Municipal Systems Act, 32 of 2000, including any Regulations promulgated in terms thereof from time to time;

“unsolicited bid” is a bid/proposal received from a developer to acquire Immovable property, or rights in immovable property, that is owned by the Municipality, outside the normal bidding process, i.e. without the Municipality having asked for such proposal/bid.

“viable Immovable property” means Immovable property that can be developed and function as a separate entity capable of registration by the Registrar of Deeds.

- 1.2 Words and phrases not defined in this Policy have the meaning assigned to them in the MATR.

2. SCOPE AND PURPOSE

- 2.1 The purpose of this Policy is to provide a framework for the management and disposal of the municipality's Immovable property that are not needed to provide the minimum level of basic municipal services and that are surplus to the municipality's requirements.
- 2.2 The Municipality's Immovable property shall be disposed of in the manner as provided for in this policy. The Property Management Department is responsible for the administration of this Policy, and shall in this regard, in consultation with the Supply Chain Management Unit of the municipality, be responsible for the administration of the competitive bidding process

relating to the disposal and leasing of the Municipality's Immovable property.

- 2.3 In compliance with the provisions of section 14(1) of the MFMA, the Municipality shall not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of an Immovable property that is needed to provide the minimum level of basic municipal services. The local government matters listed in Schedule 4B and 5B of the Constitution must be used as a basis to determine whether a service is regarded as a municipal service.

2nd DRAFT

CHAPTER 2: POLICY FRAMEWORK, APPLICATION AND GUIDING PRINCIPLES

3. LEGISLATIVE AND POLICY FRAMEWORK FOR THE MANAGEMENT OF THE MUNICIPALITY'S IMMOVABLE PROPERTY

3.1 The legislative framework for the management of the Municipality's Immovable property is contained in a number of legislation, including but not limited to:

3.1.1 the MFMA, in particular section 14, which deals with disposal of capital assets (i.e Immovable property as defined herein);

3.1.2 the MATR, which governs –

- a) the transfer and disposal of capital assets by municipalities and municipal entities; and
- b) the granting by municipalities and municipal entities of rights to lease, use, control or manage capital assets;

3.2 The object of this Policy is to provide a practical framework for the management of the Municipality's Immovable property.

3.3 This Policy must be read together with and in accordance with the Property Laws and all other laws which deal with Immovable property.

4. APPLICATION OF THE POLICY

4.1 Section 14 of the MFMA and the MATR apply to capital assets, which are defined in the MATR to include Immovable property, as well as certain movable assets. This Policy only applies to Immovable property.

4.2 This Policy does not apply to:

4.2.1 The municipality's housing stock or land for subsidised housing on municipal Immovable property and the transfer of that municipal Immovable property to beneficiaries of such subsidised housing.

4.2.2 Property owned by the Municipality which is subject to a Public Private Partnership.

4.3 In terms of section 40 of the Municipal Supply Chain Management Regulations, a Municipal Supply Chain Management policy must provide for an effective system of disposal management for the disposal and letting of assets. For that purpose of immovable assets of the municipality, this policy must be seen as the disposal management system of the municipality.

5. GUIDING PRINCIPLES

- 5.1. The following principles and values should underpin Immovable property disposal activities:
- (a) The use of the Municipality's Immovable property to promote social integration, to redress existing spatial inequalities, to promote economic growth, to build strong, integrated and dignified communities and to provide access to housing, services, amenities, transport and opportunities for employment.
 - (b) The promotion of access by black people to the social and economic benefit of Immovable property ownership, management, development and use.
 - (c) The management of the Municipality's Immovable property as a sustainable resource, where possible, by leveraging environmental, social and economic returns on such Immovable property while the Municipality retains ownership thereof.

CHAPTER 3: DISPOSAL OF IMMOVABLE PROPERTY AND AWARDING OF RIGHTS IN IMMOVABLE PROPERTY

6. AUTHORITY TO DISPOSE OF IMMOVABLE PROPERTY

- 6.1 The Municipality may in terms of Section 14 of the MFMA, read with the MATR, dispose of Immovable property or Property rights in Immovable property by way of sale, letting or registration of a servitude once it is satisfied that such Immovable property or Property rights is not required to provide the minimum level of basic municipal services and once it has considered the fair market value thereof as well as the economic and community value to be received in exchange for such Immovable property or Property right.
- 6.2 The Municipality shall not transfer ownership of, or lease out for a period exceeding ten (10) years, any Immovable property, or portion thereof which is classified as a Core 1, Core 2 or Buffer 1 area in terms of the Municipality's Spatial Development Framework- , unless it is satisfied that such transfer or lease will at least maintain or enhance the conservation status and environmental sustainability of such eco system or Area on that property.

7. DISPOSAL MANAGEMENT PRINCIPLES

7.1 Core Principles

In terms of section 14(5) of the MFMA, a Disposal of Immovable property by the Municipality must be fair, equitable, transparent, competitive and consistent with the Municipality's SCM Policy.

7.2 General Principles pertaining to the disposal of Immovable property and Property rights in Immovable property

- 7.2.1 Unless otherwise provided for in this policy, the disposal of Viable Immovable property shall be effected-
- (a) by means of a process of public competition; and
 - (b) at market value except when the public interest or the plight of the poor demands otherwise.
- 7.2.2 All transactions for the disposal of Immovable property must be considered in accordance with this policy and other applicable legislation.
- 7.2.3 Before alienating Immovable property or rights in Immovable property the Municipality shall be satisfied that alienation is the appropriate methodology and that reasonable economic, environmental and social return cannot be derived whilst ownership of the Immovable property or Property rights is retained by the Municipality.
- 7.2.4 The Municipality reserves the right to entertain unsolicited proposals for the development of viable Immovable property for development purposes, with the proviso that it is in line with the Municipality's strategic objectives and more specifically that it favours the

promotion of black ownership, entrepreneurship and community upliftment.

- 7.2.5 The Municipality may grant occupation of its Immovable property prior to the transfer thereof on condition that:
- 7.2.5.1 the land use rights have been determined and established;
 - 7.2.5.2 all required authorization and approvals in terms all relevant legislation have been granted;
 - 7.2.5.3 all conditions of the said approvals and authorisations have been met;
 - 7.2.5.4 a suitable sale has been entered into;
 - 7.2.5.5 the purchase price is paid in full or alternatively that an acceptable financial guarantee is provided to secure the purchase price;
 - 7.2.5.6 occupational rent is payable at a rate specified by the Municipality; and
 - 7.2.5.7 the Municipality is indemnified against any and all claims that may arise out of the occupation of the Immovable property by the purchaser. .
- 7.2.6 Viable Immovable property purchased from the Municipality by a first time homeowner shall not, without the Municipality's prior written consent, and right of first refusal be resold within a period of 5 years of the date of transfer.

7.3 General principles and guidelines pertaining to the letting by the Municipality of Immovable property

- 7.3.1 The Municipality's Immovable property should be managed under the principles of sustainable development. Where possible, such management should synergize environmental, social and economic benefits on such Immovable property while the Municipality retains ownership thereof.
- 7.3.2 Immovable Properties that have been let shall be inspected at reasonable time periods to ensure compliance with the terms and conditions of the agreement of lease.
- 7.3.3 No application for a lease agreement shall be processed by the Property Management Department unless;
- 7.3.3.1 the land use rights have been determined and established by the Municipality through a process prescribed in the relevant By-law;
 - 7.3.3.2 all required authorisations and approvals in terms all relevant legislation have been granted;
 - 7.3.3.3 all conditions of the said approvals and authorisations have been met or the implementation thereof is made part of the specifications for the bid/ competitive process for the disposal.
- 7.3.4 No application for a lease agreement shall be processed by the Property Management Department unless the prescribed application fee as per tariff has been paid nor shall any proposed lease be advertised unless the application has confirmed, in writing , that it will adhere to land use conditions and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.

8. MOST APPROPRIATE USE ASSESSMENT

- 8.1 Before an Immovable property is declared as surplus, and earmarked for disposal or the awarding of rights, it must first be assessed for its most appropriate use.
- 8.2 The most appropriate use for a surplus property is one which achieves an optimum balance between the following three key elements of sustainable development:
- (a) the protection of ecological processes and natural systems;
 - (b) the optimum financial return to and economic development of the municipal area; and
 - (c) the enhancement of the cultural, economic, physical and social wellbeing of people and communities.
- 8.3 The three elements of sustainability will apply to all surplus Immovable Properties, however their significance and the relationships between them will vary for individual Immovable Properties.
- 8.4 In determining the most appropriate use of surplus properties, regard should be given to:
- (a) Spatial development framework(s);
 - (b) Regional plans;
 - (c) Sectoral studies/plans;
 - (d) Government policies;
 - (e) Relevant legislation; and
 - (f) The views of interested and affected parties.
- 8.5 Where appropriate, opportunities should be provided for community involvement in the assessment process.

9. METHODS OF DISPOSAL AND AWARDING OF RIGHTS

Subsequent to determining the most appropriate use of a property and after the Municipality has decided that the Immovable property could be disposed of, or that rights may be awarded, the method of disposal or method of awarding rights should be determined.

The Municipality may use any of the following methods, depending on the circumstances pertaining the specific Immovable property:

9.1 Competitive Processes

9.1.1 Formal Tender

- a) The type of a formal tender may vary, depending on the nature of the transaction:
 - i) Outright tender may be appropriate where the Immovable property ownership is not complex, and the Municipality is seeking obligations to be

placed on the successful tenderer which are clear and capable of specification in advance.

- ii) Qualified tenders/call for proposals will be appropriate where the Immovable property ownership position is complex or the development proposals for the Immovable property are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage.
 - iii) Call for proposals on a build-operate transfer (B.O.T) basis will be used if a developer is required to undertake the construction, including the financing, of a facility on Municipal-owned land, and the operation and maintenance thereof. The developer operates the facility over a fixed term during which it is allowed to charge facility users appropriate fees, rentals and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract, to enable the developer to recover its investment and operating and maintenance expenses in the project. The developer transfers the facility to the municipality at the end of the fixed term.
- b) The nature of the formal tender process is that a legally binding relationship is formed between the parties when the Municipality accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents could include a contract for sale or lease which could be completed with the tenderer's details, the tender price and be signed by the tenderer. A binding legal agreement is created upon the acceptance in writing of a tender by the Municipality.
 - c) Such a process may, depending on the nature of the transaction, include a two-stage or two-envelope bidding process (proposal call) in terms of which only those bidders that meet the pre-qualification criteria specified in the first stage are entitled to participate in the second stage.

9.1.2 Public Auction

- a) Disposal by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price can be obtained by auction.
- b) The decision to dispose of Immovable property by way of public auction must be recorded in writing and must include-
 - (i) the reasons justifying a disposal by public auction;
 - (ii) the reserve price, if any, for the auction;
 - (iii) the authority for a staff member to attend the auction and to act on behalf of the Municipality.
- c) The contract for sale or lease must be ready for exchange at the auction.
- d) The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged.

- e) The terms and conditions of each auction shall be determined on a project-by-project basis, appropriate to the specific characteristics and attributes of the Immovable property, and to the Municipality's strategic objectives.
- f) Where the services of an auctioneer are utilised, the auctioneer's commission shall be payable by the successful bidder and shall not form part of the financial offer to the Municipality.

9.1.3 Closed Tender

- a) If a Non-Viable Immovable property has more than one adjacent owner and if such an Immovable property is capable of being consolidated with more than one of the properties owned by such adjacent owners, then a closed bid will be called from all the registered owners of all the adjacent properties with which the Immovable property can be consolidated.

9.1.4 Unsolicited proposals

- a) It is important that the municipality is in a position to entertain unsolicited proposals in exceptional circumstances. Such proposals may *inter alia* include property development proposals, land sales and leases. In this regard the following principles will apply:
 - i) Proposals received will be analysed and evaluated by the municipality in compliance with the relevant legislation;
 - ii) Realistic propositions will be advertised in the media to elicit competitive proposals or objections from the public;
 - iii) Should the advertisement elicit a response from the market, then a competitive proposal call will be initiated by means of an invitation to bid;
 - iv) The final lease or sale transaction will be submitted to the Municipal council for approval;
 - v) The prudent control will be by way of the market valuation certificate.

9.2 Non-Competitive Processes: Private Treaty Agreements

9.2.1 Non-Viable Immovable property

In respect of Non-Viable Immovable property which can only be utilised by one adjacent land owner, a Property Transaction(s) may be approved without any competitive process having been followed, including in response to an unsolicited application, on the basis that no purpose would be served by a competitive process but

subject to the determination of the fair market value and public notice of the intent to dispose of the property.

9.2.2 Viable Property: Deviation from a Competitive process

9.2.2.1 The Executive Mayor may dispense with the competitive processes established in this policy, and may enter into a Private Treaty Agreement through any convenient process, which may include direct negotiations, including in response to an unsolicited application, but only in the following circumstances, and only after having advertised his or her intention so to act. Should any objections be received as a consequence of such a notice, such objections first be considered before a final decision is taken to dispense with the competitive process established in this policy. However, should any objections, be received from potential, competitive bidders, then a public competitive process must be followed. The advertisement referred to above should also be served on adjoining land owners, where the Municipal Manager is of the opinion that such transaction may have a detrimental effect on such adjoining land owner(s):

- (a) due to specific circumstances peculiar to the property under consideration, it can only be utilized by the one person/organization wishing to enter into the Property Transaction;
- (b) an owner of fixed immovable property who leases Municipal-owned immovable property, may be substituted by a successor-in title as deemed necessary on the same terms and conditions and/or additional terms and conditions;
- (c) sport facilities and other public amenities may be let by Private Treaty to Sport boards, Sport Federations and other similar bodies Community based bodies and non-professional sporting bodies shall be charged the tariff rentals as approved by the Municipality from time to time. Professional sport bodies and bodies operating for profit shall be charged a fair market related rental based on the market value of the property to be leased.
- (d) where unsolicited applications are received for access servitudes, right of ways and way leaves over municipal land, subject to approved tariff structure.
- (e) in exceptional cases where the Executive Mayor is of the opinion the public competition would not serve a useful purpose or that it is in the interest of the community and the Municipality, and where none of the conditions as set out in the policy provides for such exception, is permitted, and where they are not in conflict with any provision of the policy. In such cases the Executive Mayor must record full reasons for preferring such out-of hand sale or lease to those by public competition;

- (f) where any immovable property is offered for sale or lease by public competition, any remaining immovable property may be sold or leased out of hand by the Municipality at the upset price or higher, as long as it is satisfied that market prices are stable.

The upset price must be determined in such a way that it corresponds with a fair market value and must include the recoverable development costs such as municipal services, advertising and survey costs.

The position must be reviewed by the Municipality at least every six months. Not more than one erf may be sold out of hand to a purchaser where the demand for erven exceeds the number of erven available for sale;

- (g) where unsolicited applications/proposals are received from telecommunication companies to construct or put up communication infrastructure on Municipal owned Property, such as masts, dishes, ect, subject to approved tariff structure;
- (h) where encroachment applications are received from adjoining owners, including applications for outdoor dining permits, subject to approved tariff structure;
- (i) where the applicant is an organization receiving funding support from a government department-
which makes a substantial contribution towards the outputs of such a government department; or
whose contribution to such government departments outputs would depend upon or be substantially enhanced by gaining priority to a particular property;
- (j) where the applicant is an organization receiving funding support from the municipality for the rendering of a municipal function(s) within the municipal area, on behalf of the municipality;
- (k) where the land is part of a larger area of land that is proposed for development, redevelopment or regeneration. Also, the nature and complexity of the proposed development of the overall site is such that the Municipality's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area;
- (l) lease contracts with existing tenants of immovable properties, not exceeding ten(10) years, may be renegotiated where the Executive Mayor is of the opinion that public competition would not serve a useful purpose or that renewal is aligned with the Municipality's strategic objectives and in the interest of the Community, subject to such renewal being advertised calling for public comment. The existing tenant shall give notice of the intention to renegotiate the lease at least six months before the date of termination;
- (m) where agricultural allotments becomes available, it can be allocated to qualifying emerging farmers on the waiting list for a lease period not exceeding 9 years and eleven months, subject to the approved tariff structure.

- (n) In an emergency limited to the awarding of temporary rights for a period not exceeding 6 calendar months. Should circumstances necessitate the extension of the 6 months period, the Municipal Manager shall compile a report and submit it, to Council, recommending such extension of time.

9.2.2.2 The Executive Mayor must record the reasons for any such deviation from the competitive disposal process in writing and report them to the Municipal Council within 60 days of the decision to deviate being taken.

9.2.3 Exchange of Land

9.2.3.1 Disposal by exchange of land will be appropriate when it is advantageous to the Municipality and other parties to exchange land in their ownerships and will achieve best consideration for the municipality.

9.2.3.2 The Municipal Council must authorise the disposal of land by exchange with another land owner for alternative land. Reasons for justifying this manner of disposal must be recorded in writing.

9.2.3.3 The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. In such circumstances the Municipality must seek an independent valuation to verify that “*best consideration*” will be obtained.

10. DISPOSAL AND LETTING OF IMMOVABLE PROPERTY FOR SOCIAL CARE USES

10.3.1 Social care is defined as services provided by registered welfare, charitable, non-profit cultural and religious organisations and includes, but is not limited to, the following types of uses :-

- (a) Place of Worship to the degree and for that portion of a facility being used for spiritual gathering by, and social/pastoral/manse/welfare caring and support to Worshippers and the broader Community;
- (b) Child care facility insofar as it contributes to the functioning of a multi-use childcare facility and is operated on a non-profit basis;
- (c) Schools or centres – utilised as homes for the handicapped and disabled persons.
Non-profit rehabilitation centres;
Homes/centres for indigent, battered or destitute persons;
Organisations for the homeless and elderly;
Youth activity centres;
Facilities for the accommodation, care and burial of animals; and
Cemeteries, NPO funeral parlours and non-profit crematoria.

- 10.3.2 The Municipality reserves the right to entertain unsolicited bids for the purchase or lease of viable immovable property for social care uses with the proviso that it abides by the Municipality's IDP objectives.

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CHAPTER 4: PREFERENCE POINT SYSTEM

11. OBJECTIVES

11.1 Although municipalities are not obliged to implement a preference point system when disposing of Immovable property or when awarding Property rights in Immovable Property, Stellenbosch Municipality is of the view that the achievement of equality is one of the fundamental goals to be attained. The objectives of the preferred points system are to:

- (a) promote broad-based black economic empowerment;
- (b) promote the redress of current, skewed land ownership patterns;
- (c) enhance the economy of the municipal area;
- (d) give preference to marginalised groups in the society, including women and people with disability;
- (e) give preference to people residing in the municipal area;
- (f) ensure that the most appropriate developments take place; and
- (g) further an integrated approach to development.

12. PUBLIC AUCTIONS

12.1 The Municipal Council may determine, on a project-by-project basis, appropriate to the specific characteristics and attributes of the Immovable property involved, limitations on categories of people who may take part in a public auction with the view of furthering the objectives as set out above, without excluding any category of people to take part in such public auction.

13. OUTRIGHT TENDER / CLOSED TENDER

13.1 For Immovable property transactions with a contract value up to R10 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Sixty (60) points maximum. The highest financial offer shall score sixty (60) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Forty (40) points maximum for black people and legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.,

13.2 For Immovable property transactions with a contract value above R10 Million up to R50 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Eighty (80) points maximum. The highest financial offer shall score eighty (80) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Twenty (20) points maximum for local black people and local legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.

13.3 For Immovable property transactions with a contract value above R50 Million, the awarding of tenders shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Ninety (90) points maximum. The highest financial offer shall score ninety (90) points, with lower offers scoring proportionally in relation to the highest.
- (b) **Status:** Ten (10) points maximum for black people and legal entities owned by black people. Points for legal entities will be proportionally allocated according to the percentage ownership by black people.

14. QUALIFIED TENDERS/PROPOSAL CALLS

14.1 Unless otherwise determined by the Municipal Council for a specific transaction, the awarding of qualified tenders or proposal calls shall be adjudicated on a maximum one hundred (100) points system, set out as follows:

- (a) **Price:** Sixty (60) points maximum. The highest financial offer shall score sixty (60) points with lower offers scoring proportionally in relation to the highest offer.
- (b) **Status:** Twenty (20) points for black people and legal entities owned by black people. Points for legal entities will be proportionately allocated according to the percentage ownership by black people.
- (c) **Development Concept:** Twenty (20) points maximum, which shall be measured and adjudicated as per criteria to be agreed upon for the specific project.

15. MODIFICATIONS

15.1 The Municipal Council may, on an *ad hoc* basis adjust the scoring system set out in this section for a specific immovable property or group of immovable properties to enable it to achieve specific targets or a specific outcome.

16. NOTIFICATION OF PERFORMANCE POINT SYSTEM

16.1 The Tender/Call for proposal document(s) must stipulate the preference point system which will be applied in the adjudication of the specific tender.

17. EQUITY OWNERSHIP

17.1 Equity Ownership is tied to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are

owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.

17.2 Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with the degree of ownership.

17.3 Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.

18. TENDERS MUST BE AWARDED TO THE BIDDER SCORING THE HIGHEST POINTS

18.1 Tenders must be awarded to the bidder that scores the highest points in terms of the preference points system unless there are objective and reasonable criteria that justify the award of the tender to another tenderer.

19. QUALIFYING CRITERIA/TWO STAGE BIDDING

19.1 Criteria other than price, status and development concept, such as technical capability and environmentally sound practices, cannot be afforded points for evaluation. They can be specified in a call for tenders but they will serve as qualification criteria or entry level requirements, i.e a means to determine whether or not a specific tenderer is a complying tenderer in the sense of having submitted an acceptable tender. Only once a tender is regarded as a complying tenderer would it then stand in line for the allocation of points based on price, status and development concept.

CHAPTER 5 CONTRACTUAL OBLIGATIONS

20. TERMS AND CONDITIONS OF SALE

- 20.1 Regulations 17 and 30 of the MATR sets out the minimum terms and conditions that needs to form part of Sales Agreements. The terms and conditions listed below is supplementary to the above.
- 20.2 All costs pertaining to a transaction, inclusive of any costs relating to transfer, registration survey-, re-zoning-, sub-division-, consolidation-, advertisement- and relocation or provision of services cost shall be borne by an applicant, provided that the Municipality may waive its right to claim those costs if the reason for the sale is to rid the Municipality of a burden to maintain the Immovable property or exercise control thereover.
- 20.3 Where applicable, existing services shall be secured by means of the registration of a servitude in favour of the Municipality.
- 20.4 When Immovable property is sold, development must commence where, applicable, within 1 (one) year or such longer period as may be agreed to from the date of transfer or possession or in accordance with the provisions of the deed of sale or the development programme submitted by the purchaser and be completed in accordance with the provisions of the deed of sale or the development programme. The Municipality furthermore reserves the right to impose such conditions as deemed necessary, including a reversionary or penalty clause in the event that the development has not progressed as per the agreement, without limiting its rights to liquidated damage and reversionary clauses.
- 20.5 A reversionary clause must be inserted in the deed of sale if the Immovable property is sold below market value or where the conditions of sale are not met.
- 20.6 Unless approved in writing by the Municipality, the Immovable property may only be used for the purpose as approved by the Municipality and purpose regularized by the relevant by-laws and any applicable legislation.
- 20.7 Where a disposal agreement is subject to the implementation of land use and/or development conditions the agreement will incorporate suspensive conditions which could nullify the contract failing compliance with such land use or development conditions.

21. TERMS AND CONDITIONS OF LEASE

- 21.1 Regulation 45 of the MATR sets out the minimum terms and conditions that needs to form part of Lease Agreements. The terms and conditions listed below is supplementary to the above.
- 21.2 All cost pertaining to a transaction such as legal-, survey-, re-zoning-, sub-division-, consolidations-, advertisement-, relocation or provision of services cost shall be borne by the applicant.

- 21.3 The following deposits shall apply to leases where the rental is based on market value-
- (a) a deposit equal to 2 months rental for commercial transactions;
 - (b) a deposit equal to 1 month's rental for residential and social services transactions.
 - (c) No deposit are payable in respect of encroachment agreements.
- 21.4 An owner of fixed Immovable property who leases an adjoining municipal Immovable Property may be substituted by his successor in title for the duration of the remainder of the lease term on the same terms and conditions or additional terms and conditions as deemed necessary.
- 21.5 Lessees shall be liable for payment of rates and service charges, unless otherwise agreed upon.
- 21.6 The letting of lanes, public open spaces, road reserves shall be subject to the following:
- (a) closing off/securing to the Municipality's satisfaction;
 - (b) costs for the relocation or installation of services, where required, shall be for the account of the lessee; and
 - (c) securing of servitudes.
- 21.7 Lessees shall indemnify the Municipality against any possible claims arising from the lease or use of the Immovable property.
- 21.8 No lessee of Immovable property shall without the prior consent in writing of the Municipality, sublet such Immovable property or any portion thereof or assign any right acquired by him in respect hereof and any such subletting or assignment without such consent shall be null and void.
- 21.9 Save with prior approval the Immovable property may only be used for the purpose for which it was let and purposes regularized by town planning schemes.
- 21.10 Officials from the Municipality shall at all reasonable times be entitled to enter/inspect the Immovable property, having regards for the right to privacy as contemplated in Chapter 2 of the Constitution.
- 21.11 All agreements shall contain a clause which requires the lessee to maintain the leased Immovable property.
- 21.12 All agreements shall contain a clause which requires that improvements provided by the lessee and which the Municipality wishes to retain shall revert, free of charge, to the Municipality once the lease period has terminated and/or in the event the agreement, due to breach of conditions by the lessee, has been cancelled. Provision must also be made on how to deal with such improvements should the Municipality terminate the contract prior to the lapse of the lease period, where the lessee has not been in default.

- 21.13 All agreements shall contain a clause which states that the municipality reserves the right, where necessary, to resume Immovable property let, or a portion thereof, and to cancel an existing lease in its entirety where such Immovable property is required for *bona fide* municipal purposes, in pursuance of the municipality's strategic objectives or in the interests of the community. In such an event the lessee shall be compensated for improvements established by him/her on a basis to be determined by an independent valuator, taking into account the remaining period of the lease agreement.

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CHAPTER 6: FAIR MARKET VALUES/RENTALS

22. CRITERIA FOR DETERMINING COMPENSATION AND FAIR MARKET VALUES

- 22.1 Immovable property may be Disposed of only at market-related prices, except when the plight of the poor or the public interest which impact on the economic and community value to be received by the Municipality demand otherwise.
- 22.2 If the Municipality, on account of the public interest, particularly in relation to the plight of the poor, intends to dispose of a Non-Exempted Immovable property for less than market value it must take into account the following factors:
- (a) the interests of the State and the local community;
 - (b) the strategic and economic interests of the municipality, including the long-term effect of the decision on the municipality;
 - (c) the constitutional rights and legal interests of all affected parties;
 - (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
 - (e) whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.
- 22.3 Subject to the Municipality's Section 14 Determinations and an In Principle Approval in respect of a specific Disposal, the Municipality shall Dispose of social care Immovable Properties at a purchase price of between 10% and 60% of fair market value subject to a suitable reversionary clause being registered against the title deed of the Immovable property. In the event of the subject Immovable property ceasing to be used for the purpose originally intended, reversionary rights are triggered and the Municipality reserves the right to demand compensation equal to the difference between the actual purchase price and the fair market value of the Immovable property, or that the Immovable property be transferred into the ownership of the Municipality at no cost to the Municipality.
- 22.4 If the Municipality appoints a private sector party or Organ of State through a competitive bidding process as the service provider of a Commercial Service, the compensation payable to the Municipality in respect of the Disposal of Immovable property as an integral component of the performance of that Commercial Service to that service provider, shall reflect fair market value.
- 22.5 Fair market value of Immovable Properties will be calculated as the average of the

valuations sourced from two independent valuers, unless determined otherwise by the Municipal Manager, taking into account the value of the property *vis-à-vis* the cost of obtaining such valuations.

23. CRITERIA FOR DETERMINING OF FAIR MARKET RENTALS

23.1 Immovable property may only be let at market-related rates, except when the plight of the poor or the public interest which impact on the economic and community value to be received by the Municipality demand otherwise.

23.1.1 In respect of certain categories of Immovable Properties the Municipality shall be entitled to adopt below market-related tariffs in respect of Immovable Properties, leased to non-Profit Organisations, NGOs, Sporting Bodies, *bona fide* small farmers, ect. Such tariffs must form part of the municipality's tariff structure, approved from time to time.

23.1.2 The Municipality shall be entitled, in its sole discretion and from time to time, to specify the types of Immovable property Transactions in respect of which applications are permitted to be made to the Municipality and to impose application fees, charges, rates, tariffs, scales of fees or other charges relating to the Immovable property Transaction.

23.1.3 In such circumstances, the Municipality shall also be entitled not to process the application for the Immovable property Transaction unless the applicant has:

- a) confirmed in writing that it will pay the charges and bear all such costs in respect of the Immovable property Transactions as the Municipality may require (for example legal costs, survey costs, costs of rezoning, subdivision, and consolidations, advertising costs, cost of relocation or cost of provision of services); and/or
- b) if required by the Municipality, has paid a deposit as specified by the Municipality to cover such incidental costs.

23.1.4 The fair market rentals of individual Immovable Properties will be calculated as the average of the valuations sourced from two service providers, unless determined otherwise by the Municipal Manager, taking into account the estimated rental(s) *vis-à-vis* the cost of obtaining such valuations.

CHAPTER 7 MISCELLANEOUS

24. MUNICIPAL LAND REGISTER (MLR)

- 24.1 The MLR is a computerized database that contains details of all municipal-owned Immovable property.
- 24.2 The MLR database is electronically linked with the Geographical Information System of the Municipality to provide spatial information to complement the data stored in the MLR database.
- 24.3 As from date of commencement of this policy, all departments must record relevant details about their Master Infrastructure Plans and needs for Immovable property in the MLR.
- 24.4 As a minimum requirement, sites for planned community infrastructure, municipal infrastructure, housing projects, ect must be recorded on the MLR.
- 24.5 All changes in the status of municipal-owned Immovable Properties must be recorded in the MLR.

25. STRATEGIC IMMOVABLE PROPERTY MANAGEMENT PLAN

- 25.1 As soon as possible after the approval of this policy the Municipality must, as part of its strategic planning process, develop and adopt a Strategic Immovable property Management Plan.
- 25.2 Such a Strategic Immovable property Management Plan must consist of at least-
- (a) A strategic analysis of the Municipality's Immovable property portfolio (Land Audit), as well as state-owned Immovable property within the municipal area.
 - (b) Categorisation of such Immovable property-holdings, to include, but not limited to:-
 - (i) Immovable property of strategic importance for, *inter alia*:-
 - (aa) housing purposes;
 - (bb) municipal infrastructure; and
 - (cc) public transport, -parking and related used
 - (dd) environmental conservation; and
 - (ee) heritage purposes
 - (ii) Immovable property that should be retained for future generations;
 - (iii) Surplus Immovable property, capable of being developed.
 - (iv) Immovable property that should be acquired for strategic purpose.
 - (v) Immovable property that should be exchanged for strategic purposes.

- (c) A management plan for each category of Immovable property.
- (d) A performance assessment of each category of Immovable property.
- (e) The maintenance activities required for each category of Immovable property.

- 25.3 The Strategic Immovable property Management Plan must be developed within the context of approved spatial development frameworks, sectoral plans, planning related policies and regional plans.
- 25.4 When developing the SLMP, the public should be given ample opportunity to make inputs.
- 25.5 The Municipal Council must annually revise its Strategic Immovable property Management Plan and must incorporate the revised plan into its IDP.

26. FRAUD AND CORRUPTION

- 26.1 Stellenbosch Municipality's policy is to require that bidders observe the highest standard of ethics during the selection and execution of contracts.
- 26.2 The Municipal Manager must reject a proposal for award if he/she determines that the person recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question.
- 26.3 Where evidence in support of corrupt, fraudulent practices or criminal offences are reported and substantiated, the Municipal Manager is to initiate criminal proceedings against such business entity, official or other role player, and inform the Provincial Treasury and the Municipality of such measures.
- 26.4 Employees found guilty after a disciplinary process of conniving with bidders or contravening this Policy may be dismissed.
- 26.5 Bidders and their directors who have been found guilty of abusing this Policy will be barred/suspended from doing business with the Municipality and National Treasury will be informed accordingly.
- 26.6 The Municipality reserves the right to criminally prosecute any person found to have violated or abused this Policy.
- 26.7 The Municipality reserves the right to cancel or not to award bids to bidders found to:
- a) have unfairly influenced the process of award and have been found guilty of improper conduct;
 - b) have been convicted of fraud or corruption during the past 5 years;
 - c) have willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d) have been listed in the Registrar for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act No 12 of 2004.
- 26.8 All employees and/or officials are expected to assist the Municipality in fighting corruption and to this extent are encouraged to report all suspicious acts.

27. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO OFFICIALS AND OTHER ROLE PLAYERS

- 27.1 No person who is a tenderer or prospective tenderer for municipal Immovable property may either directly or through a representative or intermediary promise, offer or grant -
- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to any official of the Municipality or other role player who may affect the outcome of a tender process.
- 27.2 The Municipal Manager must promptly report any alleged contravention of clause 49(1) to the Municipality.

28. OBJECTIONS AND COMPLAINTS

- 28.1 Persons aggrieved by decisions or actions taken in the implementation of this policy may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action to the Municipal Manager, or if the Municipal Manager is involved to the Executive Mayor.

29. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 29.1 The Municipal Manager must appoint an independent and impartial person, not directly involved in the adjudication processes:-
- (a) to assist in the resolution of disputes between the municipality and other persons regarding-
 - (i) any decisions or actions taken in the implementation of this policy; or
 - (ii) any matter arising from a contract awarded in terms of the Policy; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matter arising from such contract.
- 29.2 The Municipal Manager or another official designated by the Municipal manager or Executive Mayor is responsible for assisting the appointed person to perform his or her functions effectively.
- 29.3 The person appointed must -
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the Municipal Manager or the Executive Mayor as the case may be, on all disputes, objections, complaints or queries received, attended to or resolved.
- 29.4 This paragraph must not be read as affecting a person's rights to approach a court at any time.

5.5.2	APPLICATION TO RELAX DEED OF SALE CONDITION: ANTI-SPECULATION CLAUSE: ERF 9194, TECHNOPARK
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Collaborator No: 567123
 IDP KPA Ref No:
 Meeting Date: 14 March 2018

1. SUBJECT:

APPLICATION TO RELAX DEED OF SALE CONDITION: ANTI-SPECULATION CLAUSE: ERF 9194, TECHNOPARK

2. PURPOSE OF REPORT

To consider the written offer received from ENS Africa Attorneys, on behalf of Elsabe Daneel Properties (Pty) Ltd, in relation to erf 9194, TechnoPark, following Council's decision not to approve the request for the relaxation of the anti-speculation clause, i.e. to enforce the buy-back clause.

3. DELEGATED AUTHORITY

(FOR DECISION BY MUNICIPAL COUNCIL)

Although the Executive Mayor has the delegated authority to acquire immovable property or rights in immovable property, it is limited to a contract value of R5M (see delegation 526).

For this reason the Municipal Council must take the decision, as the property under discussion is valued in excess of R5M.

4. EXECUTIVE SUMMARY

Following Council's decision to enforce the buy-back clause in relation to erf 9194, due to non-performance by the owner (obligation to develop within a prescribed period), a written offer has been received from the owner indicating that he is willing to sell the property to Stellenbosch Municipality for R19M. Our own valuator has valued the property at R15M (excluding of VAT).

5. RECOMMENDATIONS

- (a) that Council considers the offer received from Elsabe Daneel Properties (Pty) Ltd, the owner of erf 9194, taking into account the valuation received from Cassie Gerber Property Valuers CC, valuing the property at R15M (exclusive of VAT);
- (b) that, should Council indeed decide to proceed with the transaction, provision be made on 2018/19 Budget; and
- (c) that the Municipal Manager be authorised to sign all documents necessary to effect transfer of the property.

Alternatively, Council could decide to reconsider its decision, i.e. to allow for the relaxation of the anti-speculation clause, as originally recommended to Council.

6. DISCUSSION / CONTENTS

6.1 Background

6.1.1 Council Resolution

On 2017-04-19, having considered a request to relax the anti-speculation clause contained in the Sales Agreement (obligation to develop within a specific period), Council resolved as follows:

“RESOLVED (*majority vote with abstentions*)

- (a) *that the request for the relaxation of the anti-speculation clause not be approved;*
- (b) *that clause 11 of the Sales Agreement be enforced, i.e. that the property be repurchased;*
- (c) *that an independent valuer be appointed to determine a fair escalation on the purchase price; and*
- (d) *that the necessary budgetary provisions be made on the 2017/18 budget”.*

A copy of the agenda item setting out the background is attached as **APPENDIX 1**.

6.1.2 Letter informing applicant of outcome

On 2017-05-16 Mr Daneel was informed of the outcome of the Council’s meeting. A copy of the letter is attached as **APPENDIX 2**.

6.1.3 Valuation

Following the above Council resolution, an independent valuer has been appointed to determine a fair escalation, as provided for in clause 12 of the Sales Agreement, and as per the Council resolution.

Hereto attached as **APPENDIX 3** is a valuation report compiled by Cassie Gerber Valuers, valuing the property at R15M (exclusive of VAT).

6.1.4 Written offer received from owner

Before the valuation could be made available to the owner of Erf 9194, a letter was received from ENS Africa Attorneys, on behalf of Elsabe Daneel Properties (Pty) Ltd, informing the municipality that, although they do not agree with Council’s opinion that they are entitled to exercise its’ right to repurchase, they are indeed willing to accept the Municipality’s offer to repurchase the property.

To ensure that the Municipality indeed has the capacity and is authorised and empowered to conclude a purchase agreement with the owner of Erf 9194, they requested that Stellenbosch Municipality provide a legal opinion from an external and independent, reputable law firm, which confirms that, having regard to all applicable legislation, the Municipality indeed has the capacity and is authorised to conclude a Purchase Agreement at the asking price.

Regarding the purchase price, they indicated that they would not accept less than R19M. A copy of their letter and Sales Agreement is attached as **APPENDIX 4**.

6.2 Discussion

Council should consider whether they would accept the written offer or whether they would like to reconsider their position, now that the market value has been determined, taking into account that proper provision was not made on the 2017/18 budget to buy back the property at the market value of R15M; only R4M was provided for in the budget.

6.3 Financial Implications

Should Council indeed proceed with the repurchase of the property, at the fair market value of R15M, then an additional amount of R11M (exclusive of VAT) will have to be budgeted for in the upcoming Adjustments Budget. The full financial implications (should the owner accept Council's financial offer) will then be R15M (exclusive of VAT).

Alternatively, Council could reconsider its position on the anti-speculation clause, in terms whereof the new owner would immediately be responsible to pay rates as liquidated damages as per clause 10 of the Sales Agreement, estimated at R469 248 per annum (based on a deemed development value of R22 200 000.00 plus the value of the land).

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Staff Implications

This report has no staff implications for the Municipality.

6.6 Previous / Relevant Council Resolutions:

As indicated above, this matter was considered on 2017-04-19, where Council decided not to approve the application to relax the anti-speculation clause.

6.7 Risk Implications

This report has no risk implications for the Municipality, except perhaps some legal risk, should the parties be unable to reach consensus on a way forward.

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations.

6.8.2 Director: Planning and Economic Development

This Directorate supports the recommendation to buy back the property at fair market value in terms of the relevant clause, and for consideration of the property as a municipal asset and resource to satisfy various needs in TechnoPark.

6.8.3 Chief Financial Officer:

No comments received.

6.8.4 Legal Services:

The recommendations (a), (b) and (c) in paragraph 5 above, are supported. The alternative proposal is not supported.

ANNEXURES

- Annexure 1: Agenda item**
- Annexure 2: Letter of outcome**
- Annexure 3: Valuation Report**
- Annexure 4: Purchase letter and Sales Agreement**

FOR FURTHER DETAILS CONTACT:

NAME	PIET SMIT
POSITION	MANAGER: PROPERTY MANAGEMENT
DIRECTORATE	HUMAN SETTLEMENT & PROPERTY MANAGEMENT
CONTACT NUMBERS	021-8088750
E-MAIL ADDRESS	Piet.smit@ Stellenbosch.gov.za
REPORT DATE	2017-10-17

DIRECTOR: HUMAN SETTLEMENT & PROPERTY MANAGEMENT

The contents of this report have been discussed with the Portfolio Committee Chairperson and the Councillor agrees with the recommendations.

ANNEXURE 1

ENGINEERING & HUMAN SETTLEMENT COMMITTEE MEETING

**APPLICATION TO RELAX DEED OF SALE CONDITION: ANTI-SPECULATION
CLAUSE: ERF 9194, TECHOPARK**

File number :
Report by : *Director: HS and Property Management*
Compiled by : *Manager: Property Management*

Delegated Authority : *Mayco*

Strategic intent of item

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

1. PURPOSE OF REPORT

The purpose of this report is to obtain the necessary authorisation to relax one of the conditions of sale (anti-speculation clause), allowing the owner to sell his property in the open market.

2. BACKGROUND

2.1 Sales Agreement

On 4 February 2008, following a public tender process, a Sales Agreement in relation to erf 9194, Technopark, was concluded with Elsabe Daneel Properties (Pty) Ltd, a copy of which is attached as **APPENDIX 1**.

2.2 Application to relax anti-speculation clause

On 25 April 2016 a letter was received from Mr J Daneel, indicating that, due to personal circumstances, he be allowed to sell erf 9194, a copy of which is attached as **APPENDIX 2**.

3. DISCUSSION

3.1 Anti-speculation clause

In terms of clause 12 of the Sales Agreement it was agreed that "*the PURCHASER will not be allowed to sell off to a business-unrelated third party, its entire interest in the PROPERTY in an act of property speculation, without having added value to it, i.e having developed it in terms of the proposal set-out in the PURCHASER'S tender*".

The purpose of this anti-speculation clause was to ensure that the successful tenderer indeed develop the property as per his tender proposal (diamond cutting factory), thereby adding value to the property.

3.2 Legal position

It is important to note that the provision of clause 12 (anti-speculation clause) of the Sales Agreement was not a Tender Condition, it was an administrative condition which was negotiated/imposed by the Property Management Department, and (by implication) approved by the Municipal Manager, when he signed the Sales Agreement on behalf of the Municipality.

In terms of clause 15 of the Sales Agreement, no alteration, cancellation, variation of/or addition to the Agreement shall be of any force and/or effect, unless reduced to writing and signed by both parties or their duly authorised representatives.

Please note that clause 12 of the Sales Agreement is silent on what should happen if the **purchaser** wants to sell the undeveloped property to a business related 3rd party. The only clause that might be of assistance is clause 11 (reversionary clause) which indicates that "*if building operations in respect of the development of the Property have not commenced within 3 (three) years after date of transfer.....then the SELLER shall have the right/option to repurchase the property at the same price that the PURCHASER has bought it from the SELLER, plus a fair escalation thereon.....to be determined by an independent property valuer*".

This means that we would indeed be in a position to buy back the property at R8 436 000 (inclusive of VAT), plus a reasonable escalation, for the period of 9 years since date of transfer, to be determined by an independent property valuer.

In terms of the current Valuation Role, however, the municipal valuation of the property is only R3.8M (Exclusive of VAT).

3.3 Application to Municipal Manager

Seeing that the anti-speculation clause was not a Tender Condition but merely an administrative condition imposed by the Municipal Manager and seeing that there is no need to buy-back property in Techopark (as we still own various undeveloped erven), the Municipal Manager was requested to approve the relaxation of the anti-speculation clause and/or reversionary clause, thereby allowing Elsabe Daneel Properties (Pty) Ltd to dispose of erf 9194, on condition that the Rates and Liquidated Damages clause (see clause 10 of Sales Agreement) be made applicable on the new purchaser, i.e. that the new purchaser be liable to pay rates and taxes as per clause 10 of the Sales Agreement, **as from date of transfer of the property into his/her name.**

Before the Municipal Manager could make a decision, the matter was referred to Mr Mervin Williams, Snr Legal Advisor. Mr Williams was of the view that the Municipal Manager **cannot** consider the matter, but that **Council** should consider the matter. A copy of the report as well as the legal inputs, is attached as **APPENDIX 3.**

4. INPUTS BY OTHER DEPARTMENTS

4.1 CFO

Not supported

4.2 Legal

See report attached as **APPENDIX 3.**

4.3 Planning Department

This directorate has reviewed its previous comment, which is reflected hereafter in brackets for record purposes:(The Directorate cannot support the item for the relaxation of the anti-speculation clause to permit disposal of the land by the current owner, due to a lack of information on the steps taken to recover rates and liquidated damages in terms of clause 10 of the sales agreement and likewise on the steps taken to apply clause 11 (reversal of the original sale).

Moreover, the Municipality is in dire need of land in Technopark to address specific needs, e.g. parking and economic development opportunities.

The Directorate would support recovery of the property through implementation and if need be enforcement of clauses 10 and 11 of the sales agreement and then disposal and use to resolve the needs in the area.)

After consultation with the proposed developers of the property, an alternative development proposal was submitted to the directorate for discussion on 28 February 2017. The development proposal is for an integrated development on the subject property as well as the abutting vacant properties. Aboveground it is proposed to develop three storey office blocks and basement parking over two storeys containing around 800 parking bays at a ratio of 6,5 parking bays per 100 square metres of gross floor area for the offices. This is more than 50% above the prescribed parking ratio and effectively creates a parking garage with offices above.

Given the severe shortage in parking in Technopark, the proposed development offers a solution, rather than a problem, hence the amended comment in support of the proposed disposal through the relaxation of the anti-speculation clause to allow for the purchaser of the property to develop according to the proposal attached hereto as an Annexure.

The removal of the anti-speculation clause must be subject to an amendment of recommendation “b)” below, by making it a condition of the amended contract that the relaxation applies only for purposes of the development of the site jointly with the abutting vacant properties to create a large underground parking area and a development in general providing parking at a ratio of 6,5 parking bays per 100 square metres gross floor area for any buildings erected on the property.

4.4 Engineering Services

The development of this specific stand in Technopark will not have any detrimental effect on the provision of engineering infrastructure services. Provision has been made for the anticipated use through our master planning.

5. CONCLUSION

From a property management perspective there is no need to enforce the reversionary clause, nor the anti-speculation clause, as there are more dire needs for land acquisition(s) elsewhere. The Planning & Economic Development Department, however, is of the view that the anti-speculation clause should be enforce, as the Municipality is in dire need need of land in Techopark.

In light of the above, Council could consider one of the following options:

Option 1:

- a) that approval be granted for the relaxation of the anti-speculation clause, i.e. that Elsabe Daneel Properties (Pty) Ltd be allowed to dispose of erf 9194 to a business-unrelated 3rd party, on condition that the new purchaser be responsible to pay rates as liquidated damages as per clause 10 of the Sales Agreement as from date of transfer of the property into his/her name or as from 31 October 2018, whichever comes first; and
- b) that the Municipal Manager be authorised to amend the Sales Agreement accordingly.

Option 2:

- a) that the request for the relaxation of the anti-speculation clause not be approved, and;
- b) that clause 11 of the Sales Agreement be enforced, i.e. that the property be repurchased; and
- c) that should the owner of Erf 9194 agree to sell the property back to the municipality, that an independent valuer be appointed to determine a fair escalation on the purchase price.
- d) that the necessary budgetary provisions be made on the 2017/18 budget.

For CONSIDERATION by Council

8TH COUNCIL MEETING: 2017-04-19: ITEM 5.5.5

RESOLVED (majority vote with abstentions)

- (a) that the request for the relaxation of the anti-speculation clause not be approved;
- (b) that clause 11 of the Sales Agreement be enforced, i.e. that the property be repurchased;
- (c) that an independent valuer be appointed to determine a fair escalation on the purchase price; and
- (d) that the necessary budgetary provisions be made on the 2017/18 budget.

<i>Meeting:</i>	<i>8th COUNCIL: 2017-04-26</i>	<i>Submitted by Directorate:</i>	<i>Human Settlements</i>
<i>Ref no:</i>	<i>Unfiled</i>	<i>Author</i>	<i>Manager: Property Management</i>
		<i>Referred from:</i>	<i>Mayco: 2017-04-19</i>

ANNEXURE 2



2017-05-17

Mnr J Daneel
Dorpstraat 174
Stellenbosch
7600

Vir aandag: Mnr Daneel

AANSOEK OM VERSLAPPING VAN ANTI-SPEKULASIE KLOUSULE

U aansoek van 25 April 2016 verwys.

Die Raad het uiteindelik op 2017-04-19 u aansoek oorweeg. Na inagneming van al die relevante inligting tot hul beskikking het die Raad besluit:-

- a) om u aansoek om verslapping van die anti-spekulاسie klousule nie goed te keur nie;
- b) om klousule 11 van die Verkoopsooreenkoms af te dwing, d.i dat die eiendom terug gekoop word; en
- c) dat 'n onafhanklike waardeerder* aangestel word om die billike eskalاسie op die koopsom te bepaal, soos omskryf in klousule 11.1 van die Verkoopsooreenkoms.

*Ons is in die proses om 'n onafhanklike waardeerder aan te stel om die billike eskalاسie te bepaal, waarna ons weer met u in verbinding sal tree.

Die uwe

.....

PIET SMIT

BESTUURDER: EIENDOMSBESTUUR

ANNEXURE 3

**CASSIE GERBER
PROPERTY VALUERS CC**

CK 98/22188/23

**C.L. Gerber, Registered Professional Valuer in Terms of Section 19 of Act 47 of 2000,
Registration No: 1717/4**

P.O. Box 2217
DURBANVILLE
7551

Telephone: (021) 9757240
Fax: 086 558 6933
E-mail-caslg@mweb.co.za
Cell phone- 082 416 2987

VALUATION REPORT

**ESCALATED MARKET VALUE OF ERF 9194, TECHNO PARK,
STELLENBOSCH**

OWNER: ELSABE DANEEL PROPERTIES PTY LTD



Market value: As per report
Date: 25 May 2017

=====

VALUATION REPORT

**ESCALATED MARKET VALUE OF ERF 9194, TECHNO PARK,
STELLENBOSCH**

OWNER: ELSABE DANEEL PROPERTIES PTY LTD

1. Instructions

- 1.1 The Head of the Department of property Management, Stellenbosch, instructed me to value the above-mentioned property.
- 1.2 The market value as well as the escalate growth rate of the above-mentioned property, from the date of purchased until October 2018, when the reversionary clause expires, is required.
- 1.3 Market value is defined in this report as a price, which the property might reasonably be expected to sell for, in a transaction between a willing, able and informed seller and a willing, able and informed buyer.

2. Date of valuation

25 May 2017

3. Description of property

The property is known as a portion of Erf 9194, Stellenbosch at Techno Park.

4. Title Deed

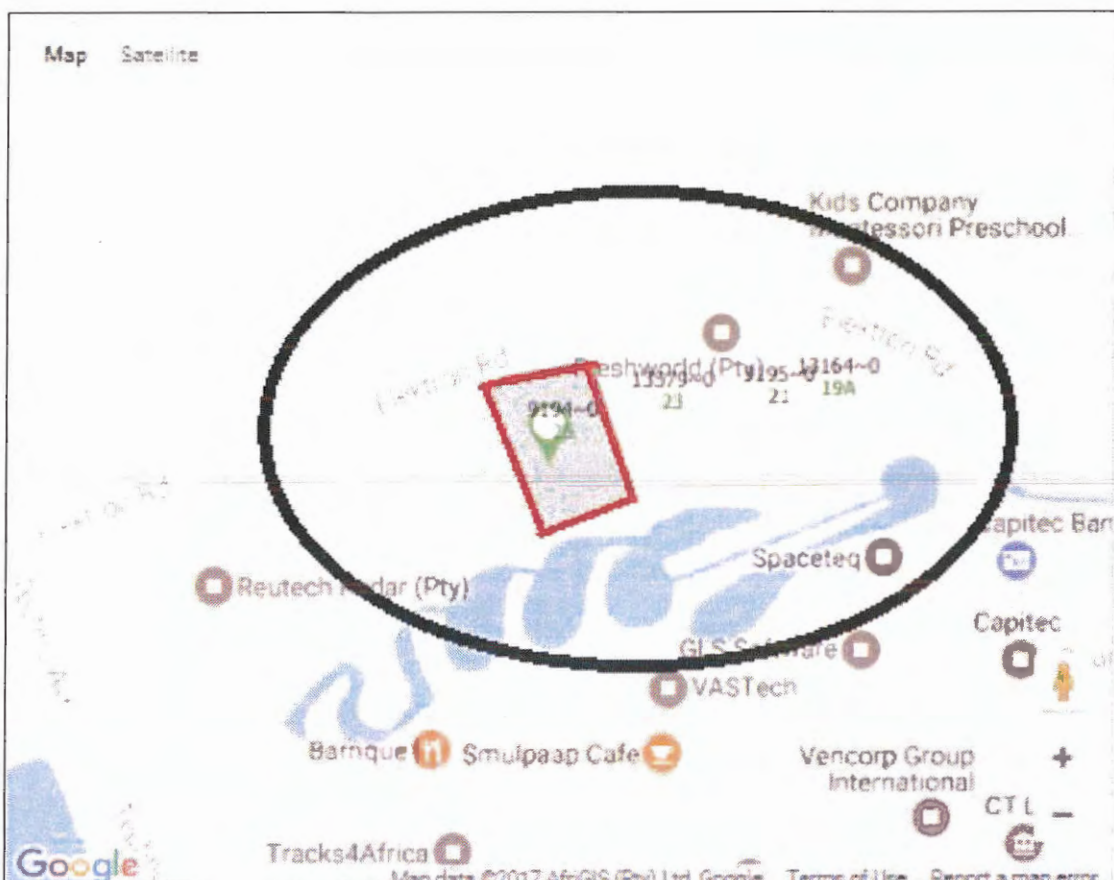
T19339/2008

5. Extent of property

3 800m²

6. Situation and physical aspects

- 6.1 The property is situated in Elektron Road, Techno Park in Stellenbosch.
Map page 3 below refers.
- 6.2 The property consists of vacant land, which is suitable for building purposes.



Location map



Aerial photo of the property

7. Town Planning

Techno Park has its own zoning regulations. The zoning makes provision for the following:

- Bulk: 85% of the extent of the property;
- Coverage: 40%
- Height: 11.25m, 4 stories, but should not exceed the height.

8. Highest and best use

The highest and best use of the property is for offices use.

9. Improvements

The site consists of vacant land.

10. History of the property

10.1 The property was sold by the Stellenbosch Municipality on 4 February 2008 to Elsabe Daneel Properties Pty Ltd.

10.2 The purchase price of the property was R7 400 000.00, excluding VAT.

10.3 The price amounted to ±R1 947.00/m², which was market related compared to Erf 9196, Techno Park, sold in the same year for R1 961.00/m².

10.4 The Deed of Sale made provision for a reversionary clause, with the following conditions: "If building operations in respect of the development of the property have not commenced within 3 years after transfer, or if building operations have not commenced but thereafter have ceased for a period of 12 months due to a wilful act or a wilful omission on the part of the purchaser then the seller shall have the right/option to repurchased the property at the same price that the purchaser has bought it from seller plus a fair escalation thereon, plus the cost of the development by the purchaser up to that point, to be determine by an independent valuator.

10.5 My information is that the reversionary clause has been extended, as a result of various reasons, until October 2018.

10.6 During inspection it was established that no development on the site has taken place and the market value of the vacant land of the property, is required.

11. Method of valuation

- 11.1 It would be appropriate to compare the subject property with similar properties and thus arrive at a market value on the basis of comparison.
- 11.2 Techno Park cannot be compared with other areas in Stellenbosch or in the Cape Peninsula. It is zoned Special Zone 1, Technology or Science Park in terms of the Zoning Scheme Regulations, Stellenbosch.
- 11.3 For valuation purposes only comparable transactions in Techno Park are, therefore, relevant.
- 11.4 A market research in the area was carried out and the following are the only vacant land transactions that took place since 2007:

12. Transactions

No.	Property/ Techno Park	Extent	Date	Purchase Price/Price/m ²
1	Erf 13168, Stellenbosch	3 000m ²	17.09.07	R3 375 000.00/R1 125.00
2	Erven 9206 & 9207, Stellenbosch	3 395m ²	21.12.07	R6 000 000.00/R1 767.00
3	Erf 13164, Stellenbosch	1 000m ²	01.12.07	R1 800 000.00/R1 800.00
4	Erf 9196, Stellenbosch	3442m ²	25.11.08	R6 750 000.00/R1 961.00
5	Erf 9194, Stellenbosch	3 800m ²	04.02.08	R7 400 000.00/R1 947.00
6	Erf 13572, Stellenbosch	1664m ²	27.10.14	R4 200 000.00/R2 524.00
7	Erf 9211, Stellenbosch	10 000m ²	21.12.15	R45 000 000.00/R4 500.00

13. Conclusions

- 13.1 Techno Park is practically fully developed and very few vacant land sales took place over the past 10 years. The demand for the last few vacant sites caused a great increase in the market value; transaction 7 refers.
- 13.2 Transaction 1 took place when property prices were in the upswing, which started in 2006 and peaked during the end of 2008.
- 13.3 Transactions 2, 3, 4 and 5 took place during 2008 when property prices reach their peak and before the prices started to level off for about 2 years, where after it started to escalate at a normal rate.

- 13.4 Transaction 7 was purchased by Capitec Bank, which is one of the fastest growing banks in the country. Their head offices are based at Techno Park, Stellenbosch. They purchased Erf 9211, Techno Park and paid R4 500.00 per m², which seems to be a premium price, but not unrealistically high.
- 13.5 During market research it was established that property prices in general have escalated between 7 % and 8% over the past 10 to 15 years.
- 13.6 The subject property was purchased for R1 947.00/m² during February 2008. The time from the date of purchase to October 2018 when the reversionary clause lapses is 10 years and 8 months. R1947.00 escalated for 10.66 years @ 7% = R4 006.00 per m².
- 13.7 Based on the above-mentioned comparable sales with the necessary adjustments for location, size, and the scarcity of land in Techno Park, a price of R4 000.00 per m², in respect of the subject property, is market related.

14. Valuation calculations

Market value: 3 800m² @ R4 000.00/m² = R15 200 000.00
 Market value rounded: R15 000 000.00

15. Market value

R15 000 000.00 (Fifteen million rand) Excluding VAT

16. Certificate

I inspected the subject property described herein. I have no present or prospective interest in the property.

The valuation is independent and impartial and complies with all the ethical standards of the South African Institute of Valuers of which I am a member.

All suppositions and data in this report are to the best of my knowledge, true and correct and I have not attempted to conceal any information.

The valuation has been made to the best of my skill and ability.

I, Casper Louis Gerber, consider rate of R4 000.00/m² to be fair and market related.



C.L. GERBER

Signed at Durbanville on 25 May 2017

QUALIFICATION TO VALUE

I, Casper Louis Gerber, certify with this my qualifications and experience as follows:

- Professional Valuer registered with the South African Council of Valuers in terms of Act 47 of 2000.
- Member of the South African Institute of Valuers since 1974.
- Served as a member on various valuation boards.
- I have been involved in valuing fixed properties since 1965. At present, I am making an average of 15 valuations per month spread over the whole spectrum of the property market.

ANNEXURE 4

**ENSAfrica**

La Gratitude 97 Dorp Street Stellenbosch 7600
P O Box 940 Stellenbosch South Africa 7599
docex 43 Stellenbosch
tel +2721 808 6620
info@ENSAfrica.com ENSAfrica.com

Stellenbosch Municipality
Plein Street
Stellenbosch

L Elferink/0339911 our ref
P Smit: Manager - Property your ref
8 June 2017 date

Copy by email to: Piet.Smit@stellenbosch.gov.za

WITHOUT PREJUDICE

For attention: The Manager (Property)

Dear Mr Smit

RE: ERF 9194 TECHNOPARK STELLENBOSCH (THE "PROPERTY")

We address this letter to you at the instance of Elsabe Daneel Properties Proprietary Limited ("our Client").

We have been provided with a copy of the Deed of Sale concluded between the Stellenbosch Municipality (the "**Municipality**") and our Client on 4 February 2008, and the addendum thereto concluded on 1 November 2013, in terms of which the Municipality sold the Property to our Client (together, the "**Sale Agreement**"). We have also been provided with a copy of a letter dated 17 May 2017 from the Municipality to our Client, in terms of which the Municipality purports *inter alia* to exercise its alleged right to repurchase the Property in terms of clause 11 of the Sale Agreement.

Our Client denies that the Municipality is entitled to exercise its alleged right to repurchase the Property in terms of clause 11 of the Sale Agreement. To the contrary, our Client has the right to develop the Property and cannot be precluded, by the Municipality's actions in purporting to repurchase the Property, from exercising this right. Our Client does not intend to litigate by way of correspondence and therefore does not, in this letter, enumerate the various reasons for its aforesaid denial and assertion, but reserves its rights to do so at the appropriate time and in the appropriate forum, should this become necessary.

Notwithstanding that our Client has the right to develop the Property, our Client is willing to accept the Municipality's offer to repurchase the Property in terms of clause 11 of the Sale Agreement on the basis set out in this letter. However, our Client does not wish to find itself in a repeating cycle with the Municipality regarding the Property and, in this regard, refers specifically to the history and circumstances surrounding the sale by the Municipality of the Property to our client in the first instance (which commenced in 2007 and

was prompted by the 'Tender 34' saga), and to the administrative issues encountered in attempting to conclude the addendum to the Sale Agreement which was necessitated by the 'Tender 34' saga (which commenced in February 2012 and was only concluded in November 2013, after the Municipality had to ratify and re-sign the relevant addendum), all of which is well known to the Municipality.

In the circumstances it is not unreasonable for our Client, before it incurs legal and other costs to settle the purchase agreement for the purchase by the Municipality of the Property and to pass transfer of the Property to the Municipality, to seek comfort regarding the Municipality's power, capacity and authority to purchase the Property from our Client and to do so at the relevant purchase price (as discussed below). In this regard, our Client requires that the Municipality procure a legal opinion from an external and independent, reputable law firm, issued in favour of our Client and on terms acceptable to our Client acting reasonably, which confirms that, having regard to all laws and regulations which are applicable to the Municipality (including but not limited to the Public Finance Management Act 1 of 1999), as well as all approved budgets of the Municipality and spatial and/or town planning schemes currently in force in respect of immovable property in Stellenbosch (and the Municipality's ownership of immovable property in Stellenbosch), the Municipality has the capacity and is authorised and empowered to conclude a purchase agreement with our Client in terms of which it purchases the Property for the relevant purchase price (as discussed below), that the relevant proposed signatory is duly authorised to sign the purchase agreement on behalf of the Municipality and that such purchase agreement will be binding on and enforceable against the Municipality in accordance with its terms (the "**Legal Opinion**"). In this regard, a draft purchase agreement is attached hereto and can be completed and signed by the Municipality and our Client once the purchase price is determined (as discussed below) and the Legal Opinion is obtained and provided to our Client.

As regards the purchase price at which the Property will be sold back to the Municipality, clause 11 of the Sale Agreement provides that such purchase price shall be equal to (i) the purchase price paid by our Client to acquire the Property from the Municipality (namely R7,4 million) plus (ii) any development costs incurred by our Client in relation to the Property up to the date the Property is transferred back to the Municipality plus (iii) a fair escalation of such amounts, as determined by an independent property valuer. In this regard:

- kindly provide our Client with a list of no less than 4 alternative proposed independent property valuers ("**List of Proposed Valuers**"), who the Municipality proposes to put forward for appointment, in order that our Client may determine whether it considers one or more of such proposed valuers to be independent and, accordingly, agrees to the appointment of any such proposed valuers to determine the fair escalation in accordance with clause 11 of the Sale Agreement. Any dispute regarding the identity and appointment of the independent valuers will be required to be resolved in accordance with clause 15.5 of the Sale Agreement; and
- we point out that, without waiving its right to require the independent property valuer to be appointed and to determine the fair escalation in terms of clause 11 of the Sale Agreement as aforesaid and for the fair escalation as determined by the independent property valuer to be applied to determine the purchase price for the Property, and solely for purposes of enabling the Municipality to procure the

required Legal Opinion (for which an approximate purchase price for the Property will be required), our Client has calculated that, on a conservative basis and including development costs incurred in relation to the Property, the purchase price for the Property as determined in accordance with clause 11 of the Sale Agreement will be no less than R19 million.

Please ensure that (i) the Legal Opinion and (ii) the List of Proposed Valuers is provided to our Client by no later than **23 June 2017**, failing which our Client will accept that the Municipality does not wish to proceed with the repurchase of the Property in terms of clause 11 of the Sale Agreement, alternatively that the Municipality has no power, capacity and/or authority to repurchase the Property in terms of clause 11 of the Sale Agreement.

In the interim, our Client's rights remain reserved.

Yours sincerely

ENSafrica

Per:

P.P. 

LORICA ELFERINK

ENSafrica

La Gratitude 97 Dorp Street Stellenbosch 7600
P O Box 940 Stellenbosch South Africa 7599
docex 43 Stellenbosch
tel +2721 808 6620
info@ENSafrica.com ENSafrica.com

SALE OF PROPERTY AGREEMENT

entered into between

ELSABE DANEEL PROPERTIES PROPRIETARY LIMITED

(registration number: 2007/024963/07)

("Seller")

and

STELLENBOSCH MUNICIPALITY

("Purchaser")

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WHEREBY IT IS AGREED AS FOLLOWS:**1. INTERPRETATION AND PRELIMINARY**

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears:

1.1. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

1.1.1. "**Agreement**" means the agreement set out in this document and includes all schedules and annexures hereto;

1.1.2. "**Attorneys**" means Edward Nathan Sonnenbergs Inc., Stellenbosch, who conducts business as a firm of attorneys at 2nd floor, La Gratitude, 97 Dorp Street Stellenbosch, 7600;

1.1.3. "**Binding Clauses**" means this clause 1 and clauses 11 to 17 (inclusive);

1.1.4. "**Business Day**" means any day other than a Saturday, Sunday or public holiday in South Africa and "**Business Days**" has a corresponding meaning;

1.1.5. "**Deeds Office**" means the office of the Registrar of Deeds at Cape Town;

1.1.6. "**Parties**" means the Seller and the Purchaser and "**Party**" means either of them, as the context may indicate;

1.1.7. "**Property**" means Erf 9194, Technopark, Stellenbosch, Stellenbosch Municipality, Province of the Western Cape, measuring 3800 (three thousand eight hundred) square meters together with all buildings, erections and fixed improvements thereon, held by deed of transfer number [•];

1.1.8. "**Prime Rate**" means the publicly quoted minimum lending rate of interest, calculated on a net annual compounded basis, charged by Nedbank Limited on unsecured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time (and in the case of a dispute as to the rate so payable, the rate shall be certified by any manager of any branch of the said bank, who's authority or appointment need not be proved and whose decision shall be prima facie proof of the said rate);

1.1.9. "**Purchase Price**" has the meaning given in clause 3;

1.1.10. "**Purchaser**" means the Stellenbosch Municipality;

- 1.1.11. "**Rates**" means all municipal assessment rates and taxes, levies, sewerage charges, electricity and water charges, licences, municipal service fees and charges including surcharge on fees, interest, insurance premiums and like items, together with VAT on same, payable in respect of the Property by the Seller or any owner of the Property to the local authority or to any other competent authority entitled to levy and claim payment of any such charges and expenses;
- 1.1.12. "**Seller**" means Elsabe Daneel Properties Proprietary Limited (registration number 2007/024963/07), a company duly incorporated in accordance with the company laws of South Africa, and/or any of its nominees;
- 1.1.13. "**Signature Date**" means the date of signature of this Agreement by the Party signing last in time;
- 1.1.14. "**Transfer**" means the registration in the Deeds Office of the transfer of the Property into the name of the Purchaser;
- 1.1.15. "**Transfer Date**" means the date on which Transfer occurs;
- 1.1.16. "**VAT**" means value-added tax levied in terms of the VAT Act; and
- 1.1.17. "**VAT Act**" means the Value-Added Tax Act, No. 89 of 1991.
- 1.2. words importing
- 1.2.1. any one gender include the other of masculine, feminine and neuter;
- 1.2.2. the singular include the plural and *vice versa*; and
- 1.2.3. natural persons include created entities (corporate or unincorporate) and the state and *vice versa*;
- 1.3. any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment. Any reference to a particular section in an enactment is to that section as at the Signature Date, and as amended or re-enacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this Agreement are changed, the relevant provision of this Agreement shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;
- 1.4. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;

- 1.5. when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in South Africa;
- 1.6. if figures are referred to in numerals and in words and if there is any conflict between the two, the words shall prevail;
- 1.7. expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own conflicting definitions;
- 1.8. the use of any expression in this Agreement covering a process available under South African law such as a winding-up (without limitation *eiusdem generis*) shall, if any of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such defined jurisdiction;
- 1.9. if any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 1.10. the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.11. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply;
- 1.12. any reference in this Agreement to a party shall include a reference to that party's assigns expressly permitted under this Agreement and, if such party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee, as the case may be;
- 1.13. the words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s;
- 1.14. any reference in this Agreement to any other Agreement or document shall be construed as a reference to such other Agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented; and

- 1.15. the words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.

2. **THE SALE**

The Seller hereby sells to the Purchaser, who hereby purchases, the Property subject to the terms of this Agreement.

3. **PURCHASE PRICE**

The purchase price payable by the Purchaser to the Seller in consideration for the Property is an amount of R19 000 000 (nineteen million rand) ("**Purchase Price**"), payable in accordance with the provisions of clause 4.

4. **PAYMENT OF THE PURCHASE PRICE**

4.1. The Purchase Price shall be paid by the Purchaser to the Seller in full on the Transfer Date against Transfer of the Property to the Purchaser.

4.2. The Purchase Price shall be secured by a bank guarantee ("**Bank Guarantee**") issued by a financial institution acceptable to the Seller. The Bank Guarantee shall:

4.2.1. provide that payment in terms thereof shall be made:

4.2.1.1. to the Attorneys (for credit of the Seller); and

4.2.1.2. against receipt by the said financial institution of the original Bank Guarantee and written confirmation from the Attorneys of the Transfer;

4.2.2. be delivered by the Purchaser to the Attorneys at their business address referred to in clause 1.1.2 above marked for the attention of Lorica Elfenk, within 10 (ten) Business Days after the Signature Date.

4.3. All payments to be effected by the Purchaser to the Seller in terms of this Agreement shall be made in cash, by electronic funds transfer, free of any deductions, set-off, or charges of any kind into the Attorneys' bank account, which account details shall be provided to the Purchaser by the Seller in writing on or before the Transfer Date.

5. **PAYMENT OF TRANSFER COSTS AND RATES AND TAXES**

5.1. Notwithstanding the date of payment of the Purchase Price in terms of clause 4, the Purchaser shall nonetheless and within 5 (five) Business Days of receipt of demand from the Attorneys, pay all the costs of and incidental to the Transfer plus VAT, if any, including the conveyancing fees and transfer duty or VAT, if any, in respect of the Property to the Attorneys.

- 5.2. From the Transfer Date the Purchaser will be liable for all Rates in relation to the Property. If the Seller pays for any Rates in respect of the Property for any period after the Transfer Date, the Purchaser shall, within 5 (five) Business Days of receipt of written demand, refund to the Seller the amount of any Rates so paid by the Seller in respect of the Property for any period after the Transfer Date.

6. TRANSFER OF THE PROPERTY

Transfer of the Property shall be effected by the Attorneys as soon as reasonably possible after the Signature Date.

7. TRANSFER, POSSESSION AND OCCUPATION

- 7.1. Transfer shall be given by the Seller, and taken by the Purchaser, with effect from the Transfer Date, from which date:

- 7.1.1. ownership; and

- 7.1.2. the sole risk in and to the Property,

shall pass to the Purchaser.

- 7.2. The Seller shall give and the Purchaser shall take vacant occupation of the Property on the Transfer Date.

8. VOETSTOOTS

- 8.1. The Property is sold as described in the existing title deed thereof, and is subject to all conditions and servitudes (if any) attaching thereto or mentioned or referred to in the title deed.
- 8.2. The Property is sold "*voetstoots*" and as it stands and the Seller gives no warranties in respect of the Property.
- 8.3. The Seller shall not be liable for any defects in the Property, either latent or patent.
- 8.4. The Seller shall not be required to indicate to the Purchaser the position of the beacons or pegs upon the Property and/or boundaries thereof, nor shall the Seller be liable for the costs of locating same.
- 8.5. The Seller shall not be liable for any deficiency in extent which may be revealed on any re-survey of the Property, nor shall the Seller benefit by any possible surplus.
- 8.6. In the event of the Property having been erroneously described herein, such error shall not be binding on the Parties but the correct description of the Property shall apply, and in such

instance the Seller shall be entitled to rectify such error by written notice given to the Purchaser advising him of such error and the required rectification.

9. WARRANTIES

9.1. Each of the Parties warrant to each other, to the extent applicable, as at the Signature Date:

- 9.1.1. it is duly incorporated and validly existing under the laws of South Africa;
- 9.1.2. it has the power and authority to sign this Agreement and all the necessary corporate, shareholder and other action will have been taken and not revoked to authorise such signature and the performance of its obligations under this Agreement;
- 9.1.3. this Agreement will create valid, legally binding obligations for the Parties (subject to applicable bankruptcy, insolvency, reorganisation, business rescue, moratorium, prescription or other laws affecting the enforcement of creditors' and shareholders' rights generally); and
- 9.1.4. the signature and terms of this Agreement do not and shall not:
 - 9.1.4.1. contravene any law, regulation, directive, judgement or audit to which it is subject; or
 - 9.1.4.2. result in any actual or potential breach or default under any obligation, agreement, instruction, or consent to which it is a party or by which it is bound or which is required for its business; or
 - 9.1.4.3. contravene any provisions of its constitutional documents.

9.2. The Purchaser warrants to the Seller, as at the Signature Date:

- 9.2.1. Geraldine Mettler, in her capacity as municipal manager, is duly authorised to enter into this Agreement; and
- 9.2.2. all authorisations required to authorise the signature and performance of its obligations under this Agreement have been obtained or effected and are in full force and effect.

10. AGENT'S COMMISSION

It is recorded that this sale was not effected through the instrumentality of any agent.

11. BREACH

Should either Party (the "**Defaulting Party**") commit a breach of this Agreement and/or fail to comply with any of the provisions hereof, then the other Party (the "**Aggrieved Party**") shall be obliged to give the Defaulting Party 7 (seven) Business Days written notice to remedy such breach and/or failure. If the Defaulting Party should fail to comply with such notice, the Aggrieved Party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Aggrieved Party may have in law (including the right to claim damages), to claim immediate performance and/or payment of all the Defaulting Party's obligations in terms hereof, provided that no Party shall be entitled to cancel this Agreement after it has been implemented.

12. DOMICILIUM CITANDI ET EXECUTANDI

12.1. For the purposes of the giving of notices and the serving of legal process in terms of this Agreement, each of the Parties chooses the address set out below:

12.1.1. Seller:

Address: 174 Dorp Street
Stellenbosch
7600
E-mail: pieter@daneeldiamonds.co.za
Attention: Pieter Daneel

12.1.2. Purchaser:

Address: The Town Hall Complex
Plein Street
Stellenbosch
Email: [•]
Attention: [•]

12.2. Any Party may at any time, by notice in writing to the other Parties, change its chosen address to any other address which is not a post office box.

12.3. Any notice given in connection with this Agreement shall, save where a particular form of notice is stipulated, be:

12.3.1. delivered by hand; or

12.3.2. sent by courier; or

12.3.3. sent by post; or

12.3.4. sent by email,

to the address chosen by the Party concerned.

- 12.4. A notice given as set out above shall be deemed to have been duly given (unless a disputing Party proves the contrary):
- 12.4.1. if delivered by hand, on the date of delivery; or
 - 12.4.2. if sent by courier, on the date of delivery by the courier service concerned; or
 - 12.4.3. if sent by post, on the 5th (fifth) Business Day after the date of posting; or
 - 12.4.4. if sent by email, on the 1st (first) Business Day after the date of transmission.
- 12.5. Any written notice (including any electronic mail) actually received by a Party shall be valid, notwithstanding that it may not have been given in accordance with the preceding provisions of this clause 12.

13. **WHOLE AGREEMENT, NO AMENDMENT**

- 13.1. This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof and supersedes any other discussions, agreements and/or understandings regarding the subject matter hereof.
- 13.2. No amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 13.3. No oral *pactum de non petendo* shall be of any force or effect.
- 13.4. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any Party in respect of his/its rights under this Agreement, nor shall it operate so as to preclude such Party (save as to any extension, waiver or relaxation actually given) thereafter from exercising its rights strictly in accordance with this Agreement.

- 13.5. To the extent permissible by law no Party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

14. APPLICABLE LAW AND COURT

- 14.1. This Agreement shall in all respects be governed by South African law.
- 14.2. Either Party shall be entitled to institute all or any proceedings against the other in connection with this Agreement in the Magistrates' Court having territorial jurisdiction, notwithstanding that such proceedings are otherwise beyond its jurisdiction and each Party hereby consents and submits to the non-exclusive jurisdiction of that court and agrees that any costs awarded against a Party be awarded or paid in accordance with clause 15.2. This clause 14 shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to section 45 of the Magistrates' Court Act of 1944 or any amendment thereof.

15. COSTS

- 15.1. Each Party shall be responsible for its own costs in relation to the drafting and finalisation of this Agreement and attendances incidental thereto.
- 15.2. All legal costs, including costs as between attorney and own client, charges and disbursements incurred by the one Party in successfully enforcing any of the provisions of this Agreement and in collecting and endeavouring to collect all or any amounts payable by the one Party, hereunder or otherwise, and all collection commission, and all other fees and charges of a like nature, shall be for the account of the Party against whom the agreement was successfully enforced and be payable on demand.

16. STIPULATIO ALTERI

No part of this Agreement shall constitute a *stipulatio alteri* in favour of any person who is not a Party to the Agreement unless the provision in question expressly provides that it does constitute a *stipulatio alteri*.

17. COUNTERPARTS

This Agreement may be executed in counterparts and by each Party in a separate counterpart, each of which so executed shall be an original, but all of which shall together constitute one and the same instrument.

Seller: **ELSABE DANEEL PROPERTIES PROPRIETARY LIMITED**

Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

Witness: _____

Witness: _____

Purchaser: **STELLENBOSCH MUNICIPALITY**

Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

Witness: _____

Witness: _____

5.5.3	NOTICE OF MOTION: EARLY TERMINATION OF LEASE AGREEMENT: KVV (PTY) LTD: LEASE FARM 369P, STELLENBOSCH
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Collaborator No: 571382
 IDP KPA Ref No:
 Meeting Date: 14 March 2018

1. SUBJECT:

NOTICE OF MOTION: EARLY TERMINATION OF LEASE AGREEMENT: KVV (PTY) LTD: LEASE FARM 369P, STELLENBOSCH

2 PURPOSE

The purpose of this item is to consider a Notice of Motion submitted by Cllr D.A Hendrickse.

3. DELEGATED AUTHORITY

There is no specific delegation in place dealing with the early termination of long term lease agreements, where the Lessee is not at fault. By default the decision making power is therefor with the Municipal Council.

4. EXECUTIVE SUMMARY

Cllr Hendrickse submitted a Notice of Motion at the Council meeting held on 30 August 2017, recommending that the Municipal Manager be instructed to cancel the lease agreement with KVV, as they are a foreign-owned company.

As KVV is not in default, Council will have to prove that they need the land for *bona fide* municipal purposes, in which case a process of early termination can be considered.

5. RECOMMENDATION

That, until such time as the land in question has been earmarked for urban development, the existing contract not be terminated.

6. DISCUSSION / CONTENTS

6.1. Background

6.1.1 Lease Agreement

On 1991-04-01 Stellenbosch Municipality and KVV (Pty) Ltd concluded a Long Term Lease Agreement in relation to lease farm 369P a copy of which is attached as **APPENDIX 1**.

6.1.2 Motion by Councillor Hendrickse

At the Council meeting held on 2017-08-30 Councillor Hendrickse submitted a Notice of Motion a copy of which is attached as **APPENDIX 2**.

Having considered the motion, and after a point of order was raised by the Executive Mayor, the Speaker ruled that the motion be referred to the Human Settlements Portfolio Committee.

6.2 Discussion

6.2.1 Lease Agreement

On 1991-04-01 Stellenbosch Municipality and KWV (Pty) Ltd, now doing business as La Concorde S.A (Pty) Ltd, concluded a Long term Lease Agreement in relation to Lease Farm 369P, measuring 60.5ha in extent.

The contract is for a period of 50 years, and will expire on 31 March 2041.

In terms of clause 20.1.5 of the Lease Agreement the Municipality can, after following due process, terminate the Lease Agreement, should the Municipality need the land for *bona fide* municipal purposes, which includes township establishment; on condition that a 12 month written notice be served on the Lessee.

6.2.2 Legislation prohibiting the leasing of municipal land to foreign-owned companies

In the motion Cllr Hendrickse indicates that “*current legislation prohibits the Stellenbosch Municipality from leasing or selling municipal owned properties to foreign-owned companies and individuals*”.

This department is not aware of any such legislation.

6.2.3 Location and context: Urban Edge

Lease Farm 369P is situated to the north of Paradyskloof and south of Brandwacht, as shown on Fig 1 and 2 respectively.

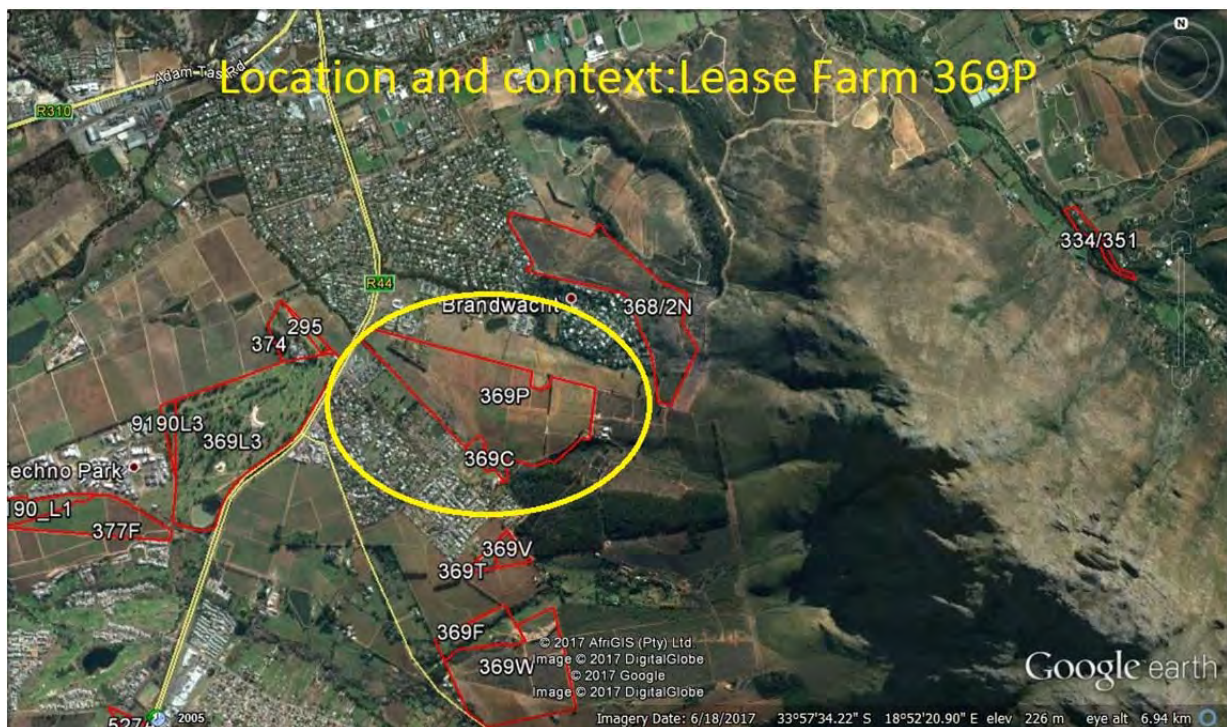


Fig 1: Location and context: Lease Farm 369



Fig 2: Lease Farm 369P

As can be seen from Fig 3, the area is currently outside the urban edge, i.e. it has (to date) not been identified for township establishment/urban development.



Fig 3: Urban edge

6.3. Financial Implications

There is no financial implications should the recommendations as set out in the report be accepted. Should Council, however, decide to terminate the Lease Agreement, the annual financial lost (based on current lease amounts) will be approximately R 126 720.17 (R 111 158.04 + R 15 562.13 VAT) per annum.

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

It is also in line with the contractual situation.

6.5 Staff Implications

This report has no staff implications to the Municipality.

6.6 Previous / Relevant Council Resolutions:

As has been indicated above, the Notice of Motion was considered by Council. No decision on the content, however, has been taken. The Speaker has ruled that the matter be referred to the Human Settlements Portfolio Committee.

The Portfolio Committee however, has no delegated authority to decide on the matter. Only the Municipal Council can decide on whether to amend the urban edge and, by implication, to terminate the lease agreement for the purpose of *bona fide* municipal purposes (which includes township establishment).

6.7 Risk Implications

This report has no risk implications for the Municipality.

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations.

6.8.2 Director: Planning and Economic Development

This directorate supports the recommendations and agrees that there is no immediate need for cancellation of the lease, in view of the effective use of the property in keeping with the purpose of the lease and the fact that the future use of the property for urban development purposes has not yet been approved by Council. A minor portion of the property will be required for road access and development purposes in order to reduce congestion on intersections leading to Paradyskloof, but these do not affect the lease.

6.8.3 Legal Services:

The item and recommendation is supported.

ANNEXURES

- A: Lease Agreement**
- B: Notice of motion**
- C: Council resolution**

FOR FURTHER DETAILS CONTACT:

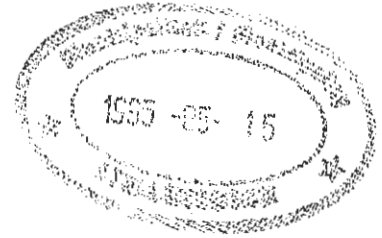
NAME	<i>Piet Smit</i>
POSITION	<i>Manager: Property Management</i>
DIRECTORATE	<i>Human Settlement & Property Management</i>
CONTACT NUMBERS	<i>021-8088189</i>
E-MAIL ADDRESS	<u>Piet.smit@Stellenbosch.gov.za</u>
REPORT DATE	<i>2017-09-29</i>

DIRECTOR: HUMAN SETTLEMENT & PROPERTY MANAGEMENT

The contents of this report have been discussed with the Portfolio Committee Chairperson and the Councillor agrees with the recommendations.

ANNEXURE 1

MEMORANDUM VAN HUUROOREENKOMS



Aangegaan deur en tussen

DIE MUNISIPALITEIT STELLENBOSCH

hierin verteenwoordig deur

GERHARDUS MATTHYS STRYDOM EN ERASMUS PETRUS SMITH TALJAARD

in hul onderskeie hoedanighede as Uitvoerende Hoof/Stadsklerk en/of Burgemeester van gemelde Munisipaliteit

("die **VERHUURDER**")

en **KO-OPERATIEWE WIJNBOUERS VERENIGING VAN ZUID AFRIKA BEPERKT**

hierin verteenwoordig deur **SCHALK WILLEM JOUBERT** IN SY HOEDANIGHEID AS SEKRETARIS VAN KWV

as synde die gevolmagdigde verteenwoordiger ingevolge 'n besluit van die

22 APRIL 1980
gedateer waarvan 'n afskrif as Bylae A aangeheg is.

("die **HUURDER**")

NADEMAAL die **VERHUURDER** die eienaar is van die eiendom bekend as

PLAAS NO 369 P

GROOT 62,70 HEKTAAR

soos aangedui op die aangehegte kaart

("die **EIENDOM**")

A handwritten signature that appears to be "eye".

A handwritten signature consisting of a large, stylized initial "C" followed by "R".

EN NADEMAAL die **VERHUURDER** begerig is om die **EIENDOM** aan die **HUURDER** te verhuur en om 'n gedeelte van die verhuurde eiendom te laat inlyns ooreenkomstig die bepalings van die Besproeiingsraad ("die **BESPROEIINGSRAAD**") vir daardie distrik geproklameer by die Theewaterkloof Staatswaterskema ("die **SKEMA**") kragtens die bepalings van die Waterwet, Nr 54 van 1956 ("die **WET**")

EN NADEMAAL die **HUURDER** begerig is om die **EIENDOM** te huur en om die water-regte wat as gevolg van sodanige inlysting ten opsigte van die verhuurde eiendom verkry word, op die verhuurde eiendom aan te wend

EN NADEMAAL die verhuring van die **EIENDOM** aan die **HUURDER** sowel as die inlystingsvoorwaardes op 'n vergadering van die Stadsraad gehou op 1990-05-15 (item 3.1.B) goedgekeur is.

NOU DERHALWE KOM DIE PARTYE ONDERLING SOOS VOLG OOREEN

1 TERMYN VAN VERHURING

Die **VERHUURDER** verhuur hiermee aan die **HUURDER** die **EIENDOM** wat deur die **HUURDER** in huur aangeneem word vir 'n tydperk wat begin op die eerste (1) dag van April 1991 en afsluit op die 31ste dag van Maart 2041 dog is steeds onderworpe aan die bepalings van subklousules 4.4 (laat betaling), 13.1 (sessie), klousule 20 (opsegging) en die bepalings van Bylae B hiervan.

- 2 Die **VERHUURDER** onderneem om alles te doen, of te laat doen, om **25,0 hektaar** van die **EIENDOM**, of sodanige kleinere gedeelte wat goedgekeur mag word, soos uitgewys tussen die partye, kragtens die bepalings van die Wet by die **SKEMA** te laat inlyns vir die verkryging van besproeiingswater soos deur die Besproeiingsraad per hektaar toegesê.



3 Die **HURDER** sal geregtig wees om gedurende die huurtermyn in klousule 1 bepaal die waterregte wat as gevolg van sodanige inlysting verkry word ten opsigte van die verhuurde eiendom, op die verhuurde eiendom aan te wend op sodanige wyse soos goedgekeur deur die **VERHUURDER** en onderhewig aan alle terme en voorwaardes kragtens die bepalings van die Wet, of andersins bepaal, welke terme en voorwaardes aan die **HURDER** bekend is.

4 **HURGELD, MUNISIPALE BELASTING EN INLYSTINGSKOSTE**

4.1 Die **HURDER** betaal eenmalig voor of op die 30ste dag van April 1992 by die kantoor van die Stadstesourier die bedrag van **R31 577,93** (welke bedrag bereken is vir die tydperk vanaf die datum waarop die ooreenkoms 'n aanvang neem tot die 31ste dag van Maart 1993. Die **HURDER** betaal daarna jaarliks voor of op die 31ste dag van Maart van elke daaropvolgende jaar die basiese huurgeld plus verhoging plus addisionele huurpremie soos bereken volgens die voorwaardes wat as Bylae B hierby aangeheg is;

4.2 Die **HURDER** sal verder aanspreeklik wees om op aanvraag deur die **VERHUURDER** die volgende bedrae ("Inlystingsgeld") aan die **VERHUURDER**, of sy genomineerde, te betaal, naamlik:

4.2.1 enige en alle belastings, heffings en vorderings van welke aard en omvang ookal gehef te word deur die Besproeiingsraad vir die gebied wat jurisdiksie het oor die verhuurde eiendom, die Departement van Waterwese en Bosbou of enige ander owerheidsliggaam, vir of ten opsigte van, maar nie uitsluitend nie -


4.2.2.1 bedryfs- en onderhoudskoste van die watervoorsieningskema;

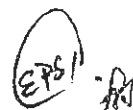
4.2.2.2 administratiewe koste;

4.2.2.3 verpligte bydraes ten opsigte van 'n reserwefonds;

4.2.2.4 verpligte bydraes tot die Waternavorsingsraad;

4.2.2.5 die aankoopprys van water uit die **SKEMA**;


69/91





- 4.2.2.6 voorlopige uitgawes en tussentydse heffings wat deur die Besproeiingsraad en/of die Departement van Waterwese en Bosbou, opgelê word; en
- 4.2.2.7 die **VERHUURDER** beskou die voorlegging van 'n rekening van die Besproeiingsraad en/of die Departement van Waterwese en Bosbou as afdoende stawende bewys van die bedrag wat deur die **HURDER** verskuldig is, opvallende foute en weglatings uitgesluit
- 4.3 Die **VERHUURDER** kan, indien nodig, vereis dat die **HURDER** 'n bankwaarborg of ander garansie verskaf wat vir die **VERHUURDER** aanneemlik is ten opsigte van die huurgeld en inlystingsgelde wat betaalbaar is, en in die geval van 'n **HURDER** wat 'n maatskappy, beslote korporasie of trust is, sal die direkteure, lede of trustees daarvan skriftelik, gesamentlik en afsonderlik, as borge en mede-hoofskuldenare aanspreeklik wees vir die huurgeld en inlystingsgelde wat betaalbaar is.
- 4.4 Enige huurgeld of inlystingsgelde wat na die vervaldatum in subklousule 4.1 en 4.2 vermeld deur die **HURDER** aangebied word, indien die **VERHUURDER** dit aanvaar, is onderworpe aan 'n rente wat maandeliks vooruit bereken sal word teen die standaardrentekoers soos artikel 214 van die Munisipale Ordonnansie, Ordonnansie nr 20 van 1974, soos gewysig of *enige ander toepaslike ordonnansie van tyd tot tyd bepaal* ten opsigte van elke maand of gedeelte daarvan.
- 4.5 Dit is 'n spesiale voorwaarde van hierdie ooreenkoms dat die **VERHUURDER** die reg voorbehou om hierdie ooreenkoms summier te kanselleer, sonder enige voorafgaande skriftelike kennisgewing, indien die **HURDER** sou versuim om enige verskuldigde huur- of inlystingsgeld binne sewe dae vanaf die vervaldatum te vereffen, en so 'n kansellering affekteer generwyse die reg van die **VERHUURDER** om enige bedrag wat die **HURDER** skuld of verskuldig mag word van hom te vorder nie.

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- 4.6 Die **HURDER** sal aanspreeklik wees om die belastings deur die Stadsraad op die **EIENDOM** gehef te betaal, onderworpe aan die voorwaardes en vereistes soos bepaal mag word in terme van die Munisipale Ordonnansie, Ordonnansie nr 20 van 1974, soos gewysig of enige ander vervangende of toepaslike ordonnansie.

5 **STREEKSDIENSTERAADHEFFING**

Die **HURDER** onderneem om alle heffings wat deur die Streeksdiensteraad op die **EIENDOM** gehef word, regstreeks aan daardie owerheid te betaal.

6 **MYN- EN ANDER REGTE**

Die **VERHUURDER** behou voor alle regte op metale, minerale, steenkool, klip van alle soorte, klei en gruis, met inbegrip van die reg van toegang tot die eiendom te alle tye om sodanige metale, minerale of steenkool te myn of om klei, gruis en klip te verwyder, onderworpe aan 'n vermindering van die huurgeld in verhouding tot die oppervlakte wat deur die **VERHUURDER** vir sodanige mynwerk of verwydering teruggeneem word.

7 **BESKERMING VAN BOME**

- 7.1 Alle bome, wingerde of dergelike verbeteringe op die verhuurde perseel bly die eiendom van die **VERHUURDER** en mag nie deur die **HURDER** beskadig of verwyder word nie.
- 7.2 Die **HURDER** moet die geskrewe toestemming van die **VERHUURDER** vooraf verkry vir die verwydering van enige bome, wingerde en dergelike verbeteringe op 'n terrein wat hy vir verbouing nodig het, en as sodanige toestemming verleen word, behou die **VERHUURDER** die reg voor om oor die hout vir sy eie voordeel te beskik.



6/2/74




- 7.3 Die **VERHUURDER** behou die reg voor om deur sy amptenare periodieke inspeksies van bome, wingerde en dergelike verbeteringe op die eiendom uit te voer en om sodanige stappe ter beskerming daarvan te neem as wat hy nodig mag ag.
- 7.4 Die **VERHUURDER** behou die reg voor om self enige bome op die eiendom wat nie deur die **HURDER** aangeplant is nie, te kap en te verwyder, en hiervoor het hy vrye toegang tot die eiendom.
- 7.5 Die **HURDER** onderneem om geen mak wingerdstokke op die eiendom te plant nie, en enige wynkwota wat deur die Ko-operatiewe Wijnbouwers Vereniging van Zuid-Afrika Beperkt, aan die **EIENDOM** toegeken is, mag onder geen omstandighede met enige ander kwota gekonsolideer word nie, tensy die **VERHUURDER** dit vooraf goedkeur, met of sonder bepaalde voorwaardes.

8 WATERBRONNE

- 8.1 Die **VERHUURDER** waarborg geen voorraad van oppervlakte- of ondergrondse water nie.
- 8.2 Die **HURDER** onderneem om nie met fonteinne of met die natuurlike vloei van oppervlakte afloopwater in te meng nie deur kanale, vore of damme te bou of om enige ander werke uit te voer sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie, en vir die toepassing van hierdie subklousule is 'n opinie van die betrokke Staatsdepartemente en/of onderafdelings daarvan bindend en finaal.
- 8.3 Die **VERHUURDER** behou die reg voor om water op die **EIENDOM** op te gaar of om die gebruik van water uit fonteinne of strome te beperk, indien sodanige opgaring of beperking na sy mening noodsaaklik is ter beskerming van die regte van derde partye.
- 8.4 Die **HURDER** onderneem om alle strome, fonteinne of opgaarddamme teen besoedeling te beskerm, en om sodanige instruksies uit te voer as wat die **VERHUURDER** periodiek te dien einde mag uitreik.


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9 **GRONDBEWARING**


- 9.1 Die **HURDER** onderneem om die **EIENDOM** te gebruik deur die verbouing van die grond op 'n versigtige en sorgsame wyse, en ook om verswakking van die natuurlike vrugbaarheid en kwaliteit teen te werk.
- 9.2 Die **HURDER** onderneem om gronderosie teen te werk en om stiptelik uitvoering te gee aan die bepalings van enige grondbewaringskema wat volgens wet op die **EIENDOM** van toepassing mag wees, en te dien einde behou die **VERHUURDER** die reg voor om periodieke instruksies uit te reik.
- 9.3 Die **VERHUURDER** behou die reg voor om sodanige werke uit te voer as wat hy nodig mag ag vir die bestryding van gronderosie, en wel op die koste van die **HURDER** as laasgenoemde versuim om dit op die **VERHUURDER** se versoek te doen.
- 9.4 Die **HURDER** onderneem om geen sand, grond of gruis vanaf die **EIENDOM** vir verkoping of gebruik elders te verwyder nie.
- 9.5 Die **HURDER** onderneem om toe te sien dat geen vullis, rommel of afval op die **EIENDOM** gestort word nie.

10 **SKADELIKE GEWASSE**

- 10.1 Die **HURDER** onderneem om die **EIENDOM** van skadelike gewasse skoon te hou.
- 10.2 Die **VERHUURDER** behou die reg voor om sodanige stappe as wat hy dienlik mag ag, te doen ter verwydering van dergelike geproklameerde onkruid, en wel op die koste van die **HURDER** ingeval laasgenoemde versuim om dit op die **VERHUURDER** se versoek te doen.



16/8/11

11 **BRANDBESTRYDING**

11.1 Die **HURDER** onderneem om die uiterste sorg uit te oefen ter beskerming van die **EIENDOM** teen veldbrande, en die **VERHUURDER** kan vereis dat die **HURDER** op sy eie koste sodanige brandpaaie bou as wat die **VERHUURDER** nodig mag ag.

11.2 Die **HURDER** is aanspreeklik vir vergoeding aan die **VERHUURDER** vir enige uitgawe aangeaan om brande te voorkom of te blus. Brandskade aan bome of ander plante op die **EIENDOM** wat aan die **VERHUURDER** behoort, word deur 'n taksateur wat deur die **VERHUURDER** aangestel en wie se bevinding bindend is, bepaal, en aan die **VERHUURDER** deur die **HURDER** vergoed.

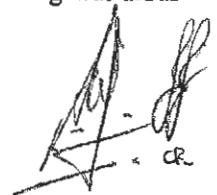
12 **OMHEINING**

12.1 Die **HURDER** is verantwoordelik vir die oprigting en koste van enige omheining wat hy vir die beskerming van sy oeste of diere op die **EIENDOM** nodig mag ag. γ

12.2 Omheining wat deur die **HURDER** opgerig word, kan binne een maand na die afloop van die huurooreenkoms verwyder word, maar die **VERHUURDER** kan uitstel vir sodanige verwydering verleen totdat die **EIENDOM** weer verhuur is om onderhandelinge met die opvolger vir die verkoping of oordrag daarvan moontlik te maak, met dien verstande dat die **VERHUURDER** eienaar van sodanige omheining word indien geen finale reëlings binne sestig dae vanaf die datum van herverhuring deur die **HURDER** getref is nie, en in so 'n geval is die **HURDER** nie geregtig tot enige vergoeding vir die omheining wat aldus deur hom verbeur is nie.


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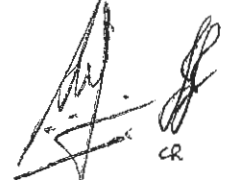
13 **ONDERVERHURINGS, SESSIES OF OORDRAGTE, ENS**

- 13.1 Die **HURDER** sal nie hierdie huurooreenkoms seeder of oordra nie, en onderverhuur nie die **EIENDOM** of enige deel daarvan sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.
- 13.2 Die **VERHUURDER** kan 'n sertifikaat as bewys vereis dat 'n maatskappy, beslote korporasie of trust wat 'n **HURDER** is, wel as sodanig geregistreer is.
- 13.3 Dit word op rekord geplaas dat die **VERHUURDER** toestemming verleen vir die sessie en delegasie van hierdie huurkontrak aan en ten gunste van 'n erfgenaam of erfgename van die **HURDER** as sodanig deur die **HURDER** benoem.
- 13.4 By verandering van die beherende aandeelhouding of beherende belange in 'n maatskappy of beslote korporasie wat 'n **HURDER** is, of by verandering van direkteure of by likwidasie van die maatskappy of beslote korporasie of ingeval die maatskappy of beslote korporasie onder geregtelike bestuur geplaas word, bly die oorspronklike borge ten behoeve van die maatskappy of beslote korporasie gesamentlik en afsonderlik en as mede-hoofskuldenaars teenoor die **VERHUURDER** aanspreeklik, tensy die **VERHUURDER** op skriftelike aansoek van die **HURDER** toestem tot vervanging van sodanige borge.
- 13.5 Verandering van die beherende aandeelhouding of beherende ledebelang, direkteure of trustees van 'n maatskappy, beslote korporasie of 'n trust wat 'n **HURDER** is, word geag 'n onderverhuring te wees.

14 **GEBOU EN STRUKTURELE VERBETERINGE**

- 14.1 Enige gebou of strukturele verbeteringe wat op die **EIENDOM** by die aanvang van die huurooreenkoms bestaan, of mettertyd gedurende die huurtermyn opgerig mag word, sal deur die **HURDER** op sy eie koste hetsy binne of buite in 'n goeie toestand gehou word en wel tot die bevrediging van die **VERHUURDER** en indien die **HURDER** versuim om dit te doen kan die **VERHUURDER** sodanige reparasies as wat hy nodig mag ag, laat aanbring terwyl die **HURDER** vir die uitgawe aanspreeklik bly.





- 14.2 Geen nuwe gebou, struktuur of ander permanente verbetering sal op die **EIENDOM** aangebring, opgerig of uitgevoer word sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie, en sonder dat bouplanne ten opsigte van sodanige verbeteringe vooraf deur die **VERHUURDER** goedgekeur is nie en laasgenoemde kan gelas dat sodanige gebou, struktuur of verbetering wat inderdaad sonder sy skriftelike goedkeuring en toestemming opgerig, aangebring of gebou is deur die **HURDER** op sy eie koste verwyder word.
- 14.3 Goedgekeurde verbeteringe van 'n permanente aard sal deur die **HURDER** op sy eie risiko aangebring of opgerig word.
- 14.4 Die **VERHUURDER** sal enige geboue of ander verbeteringe wat by die aanvang van die huurtermyn op die **EIENDOM** is in sy uitsluitlike diskresie teen skade verseker en sodanige versekering instand hou, met dien verstande dat die **HURDER** verantwoordelik sal wees vir die volle kostes en premies verbonde aan sodanige versekering, en die **VERHUURDER** sal derhalwe die kostes en premies direk van die **HURDER** vorder.
- 14.5 Indien die **VERHUURDER** kontant van 'n versekeringsmaatskappy sou ontvang ter vergoeding van 'n eis ten opsigte van skade aan enige verbetering op die **EIENDOM** soos in subklousule 14.4 van hierdie ooreenkoms genoem, kan hy die verbetering herstel of die kontant hou, na gelang hy dit dienlik ag.
- 14.6 Behuising kan, met behoud van die bepalings van subklousules 14.1, 14.2, 14.3 en 14.4 van hierdie ooreenkoms aan werkers wat die **HURDER** op die **EIENDOM** in diens het, met inbegrip van hul onmiddellike afhanklikes, op die **EIENDOM** voorsien word, onderworpe aan die voorafverkreë skriftelike toestemming van die **VERHUURDER**, en die stiptelike nakoming van die bepalings en vereistes van die toepaslike wetgewing met betrekking tot behuising.
- Enige plakkery op die **EIENDOM** is ten strengste verbode.
- 14.7 Die **HURDER** sal geen reg of aanspraak hê of vergoeding kan eis ten opsigte van verbeteringe, met inbegrip van landboukundige verbeteringe wat tydens die huurtermyn op die **EIENDOM** aangebring is nie, en die **VERHUURDER** behou die reg voor om, by beëindiging van hierdie ooreenkoms ingevolge die





bepalings van klousule 3, subklousules 4.4, 20.1.1, 20.1.2 en 20.2 of andersins volgens sy eie diskresie en goeddunke te besluit of die **VERHUURDER** bereid is om die **HURDER** enigsins te vergoed vir sodanige verbeteringe. Voorts kan die **VERHUURDER** in die alternatief toestem tot die verwydering van enige verbetering binne 'n tydperk soos deur die **VERHUURDER** voorgeskryf, by gebreke waarvan die **HURDER** enige reg op verwydering van sodanige verbeteringe of enige verdere aanspraak van watter aard ook sal verbeur, ten gevolge waarvan die betrokke verbeteringe sonder enige aard van vergoeding die **EIENDOM** van die **VERHUURDER** word.

15 **BAKENS**

- 15.1 Deur die huurooreenkoms te onderteken erken die **HURDER** dat hy bewus is van die werklike ligging van alle bakens wat die **EIENDOM** se grense bepaal en enige onkunde of misverstand aan sy kant in hierdie verband raak nie die geldigheid van die huurooreenkoms of maak hom nie geregtig tot 'n vermindering van die buurgeld of tot kompensasie in enige vorm nie.
- 15.2 Indien enige bakens wat die grense van die **EIENDOM** bepaal na ondertekening van hierdie ooreenkoms nie gevind kan word nie, is die **HURDER** aanspreeklik vir alle opmetings- en ander kostes verbonde aan die herplasing van sodanige bakens.

16 **PAAIE**

Die **HURDER** onderneem om alle bestaande paaie op die **EIENDOM** in 'n goeie toestand te hou, en voorts om geen verdere paaie te bou of oop te maak sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.


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17 **INSPEKSIES**

Die gemagtigde amptenare van die **VERHUURDER** kan te eniger tyd die **EIENDOM** betree om sodanige inspeksies as wat hulle nodig mag ag, uit te voor en om vas te stel of die voorwaardes en bepalings van die huurooreenkoms stiptelik nagekom word.

18 **ADVERTENSIE TEKENS**

Die **HURDER** sal geen advertensietekens hoegenaamd op die **EIENDOM** oprig nie, en sal ook nie toelaat dat sulke tekens opgerig word sonder die voorafverkreë skriftelike toestemming van die **VERHUURDER** nie.

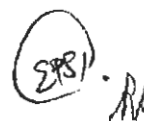
19 **ERFDIENSBAARHEID EN VERJARING**

19.1 Die huur is onderworpe aan enige erfdiensbaarheid wat aan die **EIENDOM** kleef, en as dit te eniger tyd sou blyk dat die **VERHUURDER** nie daartoe geregtig was om die **EIENDOM** of enige deel daarvan te verhuur nie, het die **HURDER** geen eis vir skadevergoeding behalwe dat die huurgeld *pro rata* verminder word ten opsigte van daardie deel van die **EIENDOM** wat nie vir okkupasie of gebruik deur die **HURDER** beskikbaar is nie.

19.2 Die **HURDER** erken hiermee dat hy geen aanspraak op eiendomsreg by wyse van verjaring ten opsigte van die **EIENDOM** wat verhuur word sal verkry nie.

20 **OPSEGGING EN BEËINDIGING VAN HUUROOREENKOMS**

20.1 Die **VERHUURDER** kan, sonder om afbreuk te doen aan enige bepaling of vereistes van hierdie ooreenkoms, met spesifieke verwysing na die bepalings van klousule 4 hiervan, en nadat 'n skriftelike kennisgewing op die **HURDER** beteken is, hierdie ooreenkoms beëindig -


- 20.1.1 indien die **HURDER** versuim om enige voorwaarde of bepaling ten opsigte van hierdie ooreenkoms na te kom; of
- 20.1.2 indien die **VERHUURDER** daarvan oortuig is dat die **HURDER** die grond op onbehoorlike of onverantwoordelike wyse benut; of
- 20.1.3 indien die **VERHUURDER** daarvan oortuig is dat die **HURDER** deur sy handeling op die **EIENDOM** 'n oorlas vir ander uitmaak; of
- 20.1.4 indien die **HURDER** teenstrydig met enige bepaling van die soneringskema van die Munisipaliteit van Stellenbosch afgekondig by PK 73 van 1979-07-20, soos vervang of gewysig, optree; of
- 20.1.5 indien die **EIENDOM** in sy geheel of gedeeltelik vir *bona fide* munisipale doeleindes, waarby dorpstigting ingesluit is, benodig word

met dien verstande dat 'n grasiëperiode van hoogstens een (1) jaar in die gevalle soos in subklousules 20.1.1; 20.1.2; 20.1.3; 20.1.4 en 20.1.5 genoem aan die **HURDER** verleen word, ten einde die **HURDER** in staat te stel om die oeste wat op daardie stadium uitstaande mag wees te in, op voorwaarde dat die **HURDER** gedurende die grasiëperiode aan al die bepalings en vereistes van hierdie ooreenkoms, of ander voorwaardes wat die **VERHUURDER** in hierdie verband mag stel moet voldoen, by gebreke waarvan die toegestane grasiëperiode sonder verdere kennisgewing deur die **VERHUURDER**, in sy uitsluitlike diskresie, in heroorweging geneem sal word.

- 20.2 die **HURDER** kan, sonder om afbreuk te doen aan enige bepaling of vereiste van hierdie ooreenkoms, met spesifieke verwysing na subklousules 4.1, 4.2, 4.3 en klousule 24, hiervan, en nadat 'n skriftelike kennisgewing van ses (6) maande

deur die **HURDER** aan die **VERHUURDER** gegee is, hierdie ooreenkoms beëindig.

21 **SKADELOOSSTELLING**

Die **HURDER** onderneem hierby om die **VERHUURDER** te vrywaar en gevrywaar te hou teen alle gedinge, stappe, eise, vorderings, koste, skadevergoeding en uitgawes wat hef, gebring of gemaak mag word teen die **VERHUURDER** of wat die **VERHUURDER** mag betaal, opdoen of aangaan as gevolg van enige handeling of versuim aan die kant van die **HURDER**, sy werknemers of persone wat onder sy beheer handel.

22 **KOSTE VAN OOREENKOMS**

22.1 Alle kostes wat deur die **VERHUURDER** aangegaan is vir die voorbereiding en opstel van hierdie ooreenkoms, plus die koste van die verhuringsadvertensie, opmetingskoste en ander toevallige uitgawes sal deur die **HURDER** gedra word, en die **HURDER** kan nie die korrektheid van die bedrag wat deur die **VERHUURDER** in hierdie verband geëis word, betwis nie.

22.2 Die huurooreenkoms sal slegs op die uitdruklike versoek van die **HURDER** en op sy koste notarieël verly en in die akteskantoor geregistreer word. Die **HURDER** moet in sodanige geval 'n deposito betaal soos deur die **VERHUURDER** bepaal ten opsigte van die kostes hierbo vermeld.

23 **ARBITRASIE**

23.1 Enige geskil wat te eniger tyd tussen die partye mag ontstaan in verband met enige aangeleentheid voorspruitende uit hierdie ooreenkoms, sal onderwerp word aan en besleg word deur arbitrasie.



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Handwritten signature with the letters 'ETS' circled in a circle.



Handwritten signature with the letters 'dr.' written below it.

- 23.2 Iedere sodanige arbitrasie moet plaasvind -
- 23.2.1 te Stellenbosch;
- 23.2.2 op 'n informele summiere wyse sonder enige pleitstukke of blootlegging van dokumente en sonder die noodsaaklikheid om aan die strenge reëls van die bewysreg te voldoen;
- 23.2.3 onverwyld, met die oog daarop om dit af te handel binne drie (3) maande vanaf die datum waarop die geskil na arbitrasie verwys is;
- 23.2.4 onderworpe aan die bepalings van die Wet op Arbitrasie, no 42 van 1986, of sodanige ander Arbitrasiewette as wat van tyd tot tyd mag geld, behalwe waar die bepalings van hierdie klousule anders voorskryf.
- 23.3 Die arbiter moet 'n persoon wees op wie deur die partye onderling ooreengekom is en, by onstentenis van 'n ooreenkoms, een aangestel deur die diensdoenende President van die Wetsgenootskap van die Kaap die Goeie Hoop.
- 23.4 Die partye kom hiermee onherroeplik ooreen dat die beslissing van die arbiter in sodanige arbitrasieverrigtinge finaal en bindend op hulle sal wees.

24 INVORDERINGSKOSTE

Indien die **VERHUURDER** opdrag aan sy prokureurs sou gee om enige gelde wat kragtens hierdie ooreenkoms betaalbaar is, op die **HUURDER** te verhaal, is die **HUURDER** aanspreeklik vir die betaling van alle koste deur die **VERHUURDER** in hierdie verband aangegaan, bereken op 'n prokureur/kliënt-basis.

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25 DOMICILIUM CITANDI ET EXECUTANDI

Die domicilium citandi et executandi van die HURDER vir die toepassing van hierdie ooreenkoms is:

La Concorde, Hoofstraat 57, Suider-Paarl 7646.
(Postbus 528, Suider-Paarl 7624).

en die van die VERHUURDER

Stadhuiskompleks, Pleinstraat, Stellenbosch

GETEKEN TE STELLENBOSCH HIERDIE
AS GETUIES

12 DAG VAN Mei 1992

1

B. Sippel

E. S. J. J. J. J.
BURGEMEESTER

2

log Robinson

[Signature]
UITVOERENDE
HOOF/STADSKLERK

PAARL

GETEKEN TE STELLENBOSCH HIERDIE
AS GETUIES

24ste DAG VAN Maart 1992

1

J. J. J. J.

Geregistreer kragtens die Koöperasiewet, 1981
Ko-operatiewe Wijnbouwers Vereniging van
Zuid-Afrika Beperkt.

2

Bossonu

[Signature]
SEKRETARIS
HURDER

BYLAE B

BELEID EN TOEPASSING VAN DIE HUURGELDBEREKENING

- 1 (a) Vir die doeleindes van hierdie ooreenkoms word die huurgeld gebaseer op die onverbeterde waarde van die Landbougrond in welke geval die volgende woord-bepaling van toepassing sal wees:

"Onverbeterde grond" - beteken grond soos in sy natuurlike staat, met of sonder natuurlike plantegroei, waarop geen spesifieke struik of gewasse voorkom en verbou word met die doel om dit te oes nie;

- 1 (b) die waarde van die onverbeterde Landbougrond sal deur die KWV bepaal word; en


- 1 (c) vir die jaar 1989 word die waarde van die grond vasgestel op R7 200,00 per hektaar waarop die Stadsraad 'n opbrengs van 5 % verwag.

2 **Huurgeld betaalbaar in eerste termyn van vyf (5) jaar**


- (a) Die jaarlikse basiese huurgeld ingevolge klousule 4.1 van die huurooreenkoms betaalbaar, is die som van R360,00 per hektaar per jaar;
- (b) die basiese huurgeld sal jaarliks met 70 % van die styging van die amptelike verbruikersprysindeks soos op 31 Desember van die vorige jaar eskaleer, welke eskalasië vanaf 1990-04-01 opgeskort word vir vyf (5) jaar of totdat die water beskikbaar is, watter gebeurte ookal eerste plaasvind.

3 **Aangepaste huurgeld na vyf (5) jaar**

Die basis van die huurgeld sowel as die persentasie aanpassing soos beskryf in paragrawe 1 en 2 sal elke vyf (5) jaar herbepaal word ooreenkomstig die basis beskryf in par. 1 of op 'n ander basis waarop onderling ooreengekom word. Indien die partye nie konsensus kan bereik oor die huurgeld nie, sal sodanige kwessie verwys word vir arbitrasie ingevolge klousule 23 van die hoofooreenkoms.


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4.1 Addisionele Huurpremie

Die **HURDER** sal vir dertig (30) jaar 'n vaste addisionele huur per hektaar per jaar betaal ter bestryding van die rente en delgingsbedrae, bereken teen 15 % per jaar, ten opsigte van die kapitale verpligting aangegaan ter vestiging van die waterreg op die **EIENDOM**. Die **HURDER** kan te eniger tyd met die **VERHURDER** onderhandel om die kapitale verpligting af te los voor die verstryking van 30 (DERTIG) jaar.

4.2 Vergoeding by huuropsegging ten opsigte van bona fide munisipale behoeftes

Wanneer subklousule 20.1.5 in werking tree sal die volgende van toepassing wees:

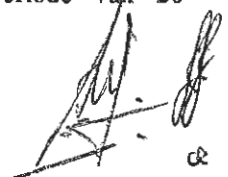
- 4.2.1 indien die kapitale verpligting (*par 4.1 hierbo*) reeds ten volle deur die **HURDER** afgelos is, sal die kapitaalgedeelte daarvan op 'n streng pro rata-basis vergoed word in die verhouding waarin die onverstreke termyn ten opsigte van die kapitale verpligting tot die volle termyn van 30 (DERTIG) jaar (*par 4.1 hierbo*) staan; of
- 4.2.2 indien die kapitale verpligting nog nie ten volle deur die **HURDER** afgelos is nie, sal hy vanaf datum van kansellasië van hierdie ooreenkoms, van die betaling van verdere addisionele huurpremies kwytgeskeld word, met dien verstande dat sodanige kwytskelding slegs betrekking sal hê op bedrae wat nog in die toekoms verskuldig en betaalbaar sou word; en
- 4.2.3 die **HURDER** sal geregtig wees om vergoeding vir die direkte koste wat hy gehad het ten opsigte van die noodsaaklike infrastruktuur, beperkend tot pypleidinge, kleppe, krane en meters en die koste van die vestiging, koppeling en installering daarvan, wat as 'n direkte gevolg en gepaardgaande met die vestiging van die waterreg, op die verhuurde eiendom aangebring is. Die vergoeding sal soos volg bereken word:

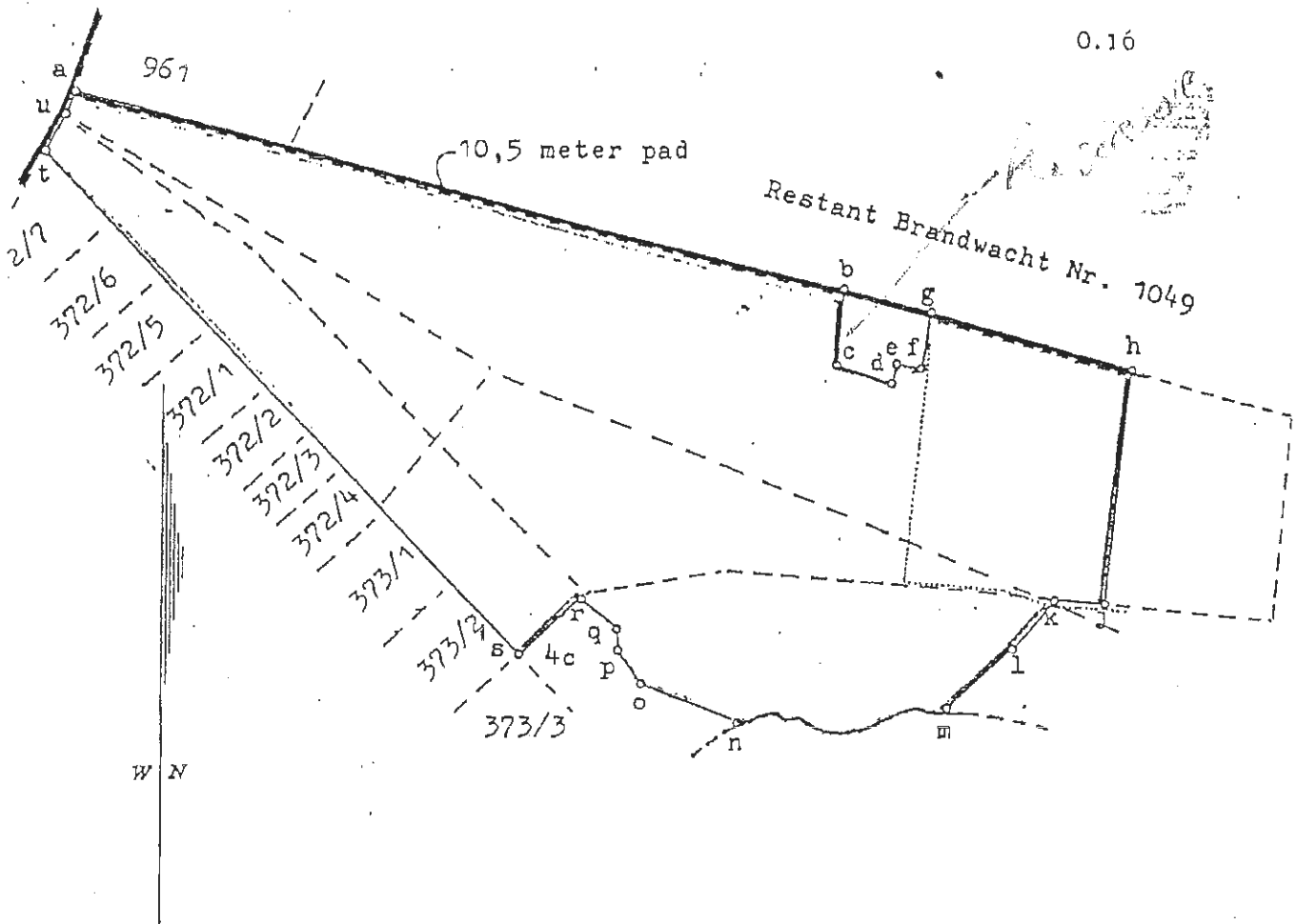
die gemiddelde waardasie van 2 (TWEË) onafhanklike buitelanders van die historiese koste van die noodsaaklike infrastruktuur (soos hierbo beskryf) minus waardevermindering, bereken in gelyke paaiemente oor 'n periode van 20 (TWINTIG) jaar.

(#SPROEI/KONTRAK/II)


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Nota:

Hierdie kaart bevat 'n gedeelte van perseel 369 A en perseel 369 B.

Skaal: 1/10 000

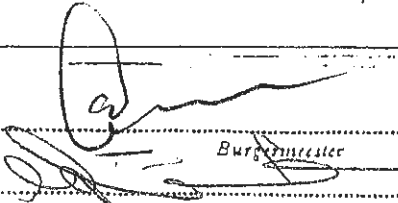
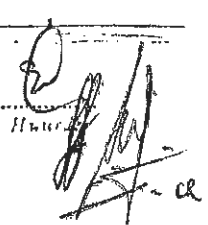
Die figuur, abcdefghijklmnopqrstu stel voor 62;7 Ha (benaderd tot die naaste half Ha) (die 10,5m pad uitgesluit) grond synde

Munisipale Huurgrond Perseel 369 P

geleë in die Munisipaliteit en Afdeling Stellenbosch Provinsie Kaap die Goeie Hoop.

Opgestel deur my Julie 1982

Ko-operatiewe Wijnbouwers Vereniging van Suid-Afrika Beperk.

Oorspronklike Kaart		
Nr.	Burgemeester	Huisheer
T/A Stel F.S. 35	Stadsklerk	
	D. Lippel	
	by Robinson	

Vorm 25/1

UITTREKSEL VAN DIE NOTULE VAN 'N GESAMENTLIKE VERGADERING VAN DIE
STADSRAAD EN DIE BESTUURSKOMITEE GEHOU OP 9-6-92

AEDELING : BOSBOU, LANDE, PARKE EN REKREASIE

2.3.A LANGTERMYN HUURKONTRAKTE : MON VILLA (EDMS) BEPERK EN
KWV

~~7/2/1/2/61~~ ~~7/2/1/2/62~~ ~~7/2/1/2/89~~ ~~7/2/1/2/46~~ ~~7/2/1/2/47~~
7/2/1/2/32)

Mon Villa (Edms) Beperk waarvan die Universiteit van Stellenbosch die enigste aandeelhouer is, huur plase 502 AA, 502 AB, 502 BH en gedeelte 13 ('n gedeelte van gedeelte 1 van gekonsolideerde Plaas 491) van die Stadsraad. Langtermynhuurkontrakte vir 50 jaar is alreeds deur hulle onderteken. Klousule 4.3 van die kontrak lees soos volg:

"4.3 Die VERHUURDER kan, indien nodig, vereis dat die HUURDER 'n bankwaarborg of ander garansie verskaf wat vir die VERHUURDER aanneemlik is ten opsigte van die huurgeld en inlystingsgelde wat betaalbaar is, en in die geval van 'n HUURDER wat 'n maatskappy, beslote korporasie of trust is, sal die direkteure, lede of trustees daarvan skriftelik, gesamentlik en afsonderlik, as borge en medehoofskuldenare aanspreeklik wees vir die huurgeld en inlystingsgelde wat betaalbaar is."

Die kontrakte bevat die nodige borgstellings maar is nie deur die Universiteit onderteken nie. Hulle deel mee dat as algemene beleid die Universiteit nie borgstellings teken nie.

Die identiese posisie word ondervind in die geval van die KWV wat Plaas 369 P (Grondves) van die Stadsraad huur.

Die risiko verbonde aan die huurtransaksies is baie laag en die KWV en Universiteit is kapitaalkragtige instellings. In hierdie gevalle hoef die vereiste van die daarstelling van 'n bankwaarborg of ander garansie dus nie neergelê te word nie.

AANBEVEEL

dat die Universiteit en KWV nie gebonde gehou word aan die vereistes van klousule 4.3 van die 50 jaar huurkontrakte sover dit die teken van borgstellings aangaan nie.

(Artikel 171 van die Munisipale Ordonnansie, 1974)

2.3.A **BESLUIT** (nem con)

dat die aanbeveling aangeneem word.

(HAB(S)/ST/BBB)

Vorm 25/1

UITTREKSEL UIT DIE NOTULE VAN DIE RAADSVERGADERING GEHOU OP

14/8/90

AFDELING : LANDE BOSBOU EN PARKE EN ONTSPANNING

6.1.A HUUROOREENKOMS KWV : PLAAS 369P : GRONDVES

(7/2/1/2/32)

In uitvoering van die Raadsbesluit van 1990-06-12 (item 4.3.B) om samesprekings met KWV ten opsigte van bogenoemde te voer, is daar op 1990-08-02 vergader.

Die notule van die samesprekings word as BYLAE H aangeheg.

AANBEVEEL

dat die aanbeveling van die subkomitee aanvaar word.

(Artikel 50 van die Munisipale Ordonnansie, 1974)

6.1.A BESLUIT (nem con)

- (a) dat die notule in terme van artikel 6 van die Standaardverordeninge insake Prosedure en Handhawing van Orde op Vergaderings as 'n juiste weergawe aanvaar word;
- (b) dat die Hoof: Beplanning en Ontwikkeling aandag verleen aan die wysiging van die Gidsplan ten einde die betrokke eiendomme se gebruik te verander na landboudoeleindes. (14/1/12)

(HAB(S)/H:BO/REGISTRASIE)

Habe

ANNEXURE 2



07 August 2017
 The Single Whip
 Stellenbosch Municipal Council
 Plein Street
 STELLENBOSCH
 7600
 Attention : Clr W Petersen (Ms)



Dear Whip

**RE NOTICE OF MOTION and QUESTION TO SERVE AT THE AUGUST 2017 COUNCIL MEETING
 Motion NO 1**

That Council instruct the municipal Manager to institute proceedings to cancel the lease agreements with KVV on Portion of farm 369 as KVV is a multi nation owned company with majority if not all overseas ownership.

MOTIVATION

Current legislation prohibits the Stellenbosch municipality from leasing or sell municipal owned properties to foreran owned companies and individuals.

This portion of land is also ideally situated to address the municipal housing need nearest to the CBD. This will also be ideal for a real intergraded development at affordable prices.

Mover

Clr DA Hendrickse

Seconded

Question NO 1

What is the current , various municipal rental rates (with breakdown of rental rates) for various municipal flats and houses charges to occupants as from 1 July 2017.

Motivation.

No item or report has served before Council on the new fiat rental rates . Nor any report on delegations on this matter.

Clr DA Hendrickse

ANNEXURE 3

10.5 MOTION BY COUNCILLOR DA HENDRICKSE: CANCELLATION OF LEASE AGREEMENT WITH KWV ON PORTION OF ERF 369

11TH COUNCIL MEETING: 2017-08-30: ITEM 10.5

The Speaker allowed Clr DA Hendrickse to put his Motion, duly seconded. After the Motion was motivated, the Speaker allowed debate on the r

During debate on the matter, the Executive Mayor, Ald G van Deventer (Ms) raised a Point of Order in terms of Rule 18.7 of the Rules of Order B this matter be referred to the Human Settlements Portfolio Committee.

The Speaker RULED

that this Motion be referred to the Human Settlements Portfolio Committee.

Councillor DA Hendrickse requested that it be minuted that, in his view, the power to rule or resolve on this matter vests with Council and not with nor with the Mayoral Committee.

(OFFICE OF THE MM TO ACTION)

5.5.4	PROPOSED EXCHANGE OF LAND A PORTION OF FARM 183 (CLOSED STREET) FOR A PORTION OF FARM 183/7: WOODMILL DEVELOPMENT PROJECT
--------------	--

Collaborator No: 566798
IDP KPA Ref No:
Meeting Date: 14 March 2018

1. SUBJECT:

PROPOSED EXCHANGE OF LAND A PORTION OF FARM 183 (CLOSED STREET) FOR A PORTION OF FARM 183/7: WOODMILL DEVELOPMENT PROJECT

2. PURPOSE

To obtain Council's approval for the exchange of certain portions of land, each measuring $\pm 5560\text{m}^2$ in size, to allow for the re-alignment of the Devon Valley Road, following the recent approval of the proposed Woodmill Development .

3. DELEGATED AUTHORITY

As there are no delegations in place authorising the exchange of land, the Municipal Council must decide on the matter.

4. EXECUTIVE SUMMARY

At the commencement of the planning process for the redevelopment of the Woodmill Area, the Provincial Roads Engineer insisted that the Devon Valley Road (located on Farm 183) be realigned as to ensure an intersection with the current access road to Distell. When the land-use application was approved, it was made subject to the successful exchange of land. The Director: Planning and Economic Development, however, did not have the delegated authority to approve the actual exchange of land.

5. RECOMMENDATIONS

- (a) that the portion of land, indicated as Portion A on Fig 4, measuring $\pm 5560\text{m}^2$, being a portion of Farm 183, be identified as land not needed to provide the minimum level of basic municipal service;
- (b) that Council approves the exchange of Portion A for a portion of Farm 183/17, indicated as Portion B on Fig 4, measuring $\pm 5560\text{m}^2$, in order to meet the requirements of the Provincial Roads Engineer, i.e. that the Devon Valley Road be aligned as to ensure an intersection with the current access road to Distell, on condition that:-
 - (i) the Developer be responsible for all associated costs, such as the rezoning and subdivision, transfer cost, etc.; and
 - (ii) Portion A be consolidated with Farm 183/57; and
- (c) that the Municipal Manager be authorised to sign all necessary documents to effect the exchange of land.

6. DISCUSSION / CONTENTS

6.1 Background

During 2015 TV3 Architects a Town Planner submitted a land use planning application on behalf of their client, Lurand Investments (Pty) Ltd, to establish a mixed use of development rights on the old Woodmill site.

On 15 April 2016 the Provincial Roads Engineer (Provincial Department of Transport and Public Works), having considered a Traffic Impact Assessment compiled by ICE (Pty) Ltd, indicated that he would support the application, but only on receipt of an agreement, in terms whereof, *inter alia*:

- a) The Devon Valley Road intersection with the Adam Tas Road be relocated as to ensure an alignment with the Distell access; and
- b) The Developer and the Municipality negotiate a land swap as to ensure implementation of (a).

The land use planning application, including:-

- a) the subdivision of Farm 183 (Municipal Land) into a Remainder and a Portion A;
- b) the public road closure and alienation of Portion A (in exchange for Portion B); and
- c) the consolidation of Portion A with the abutting Farm 183/57 was eventually approved by Stellenbosch Municipality on 06 December 2016, subject to a number of conditions.

In order to finalise the road closure and exchange of the land parcels, TV 3 Architects and Town Planners, on behalf of the Developer, has now submitted a formal request for the exchange of land, to be considered by Council.

6.2 Discussion

6.2.1 Location and context

The properties are situated on the R310, as shown on Fig 1 – 4 below.



Fig 1: Location and context



Fig 2: Position of sites

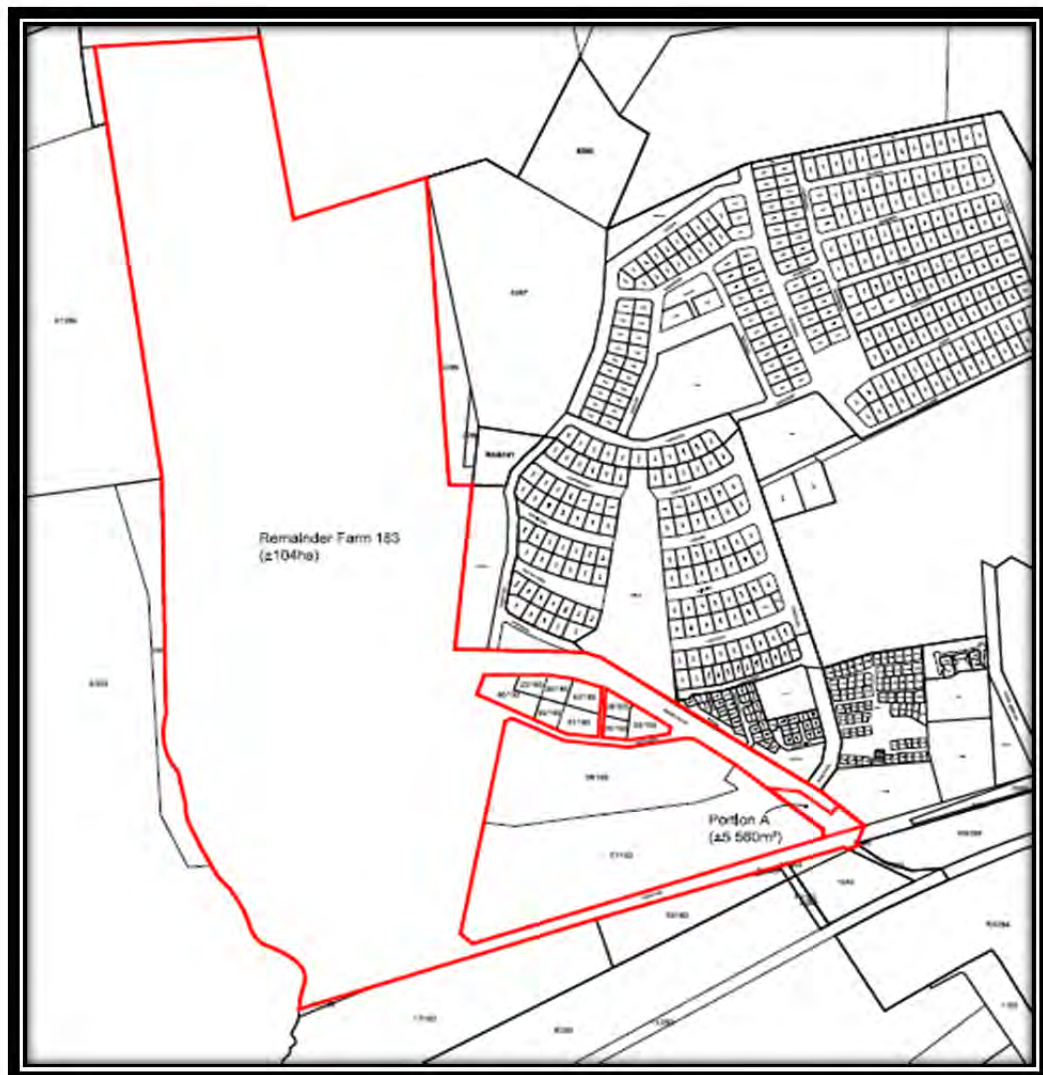


Fig 3: Farm 183

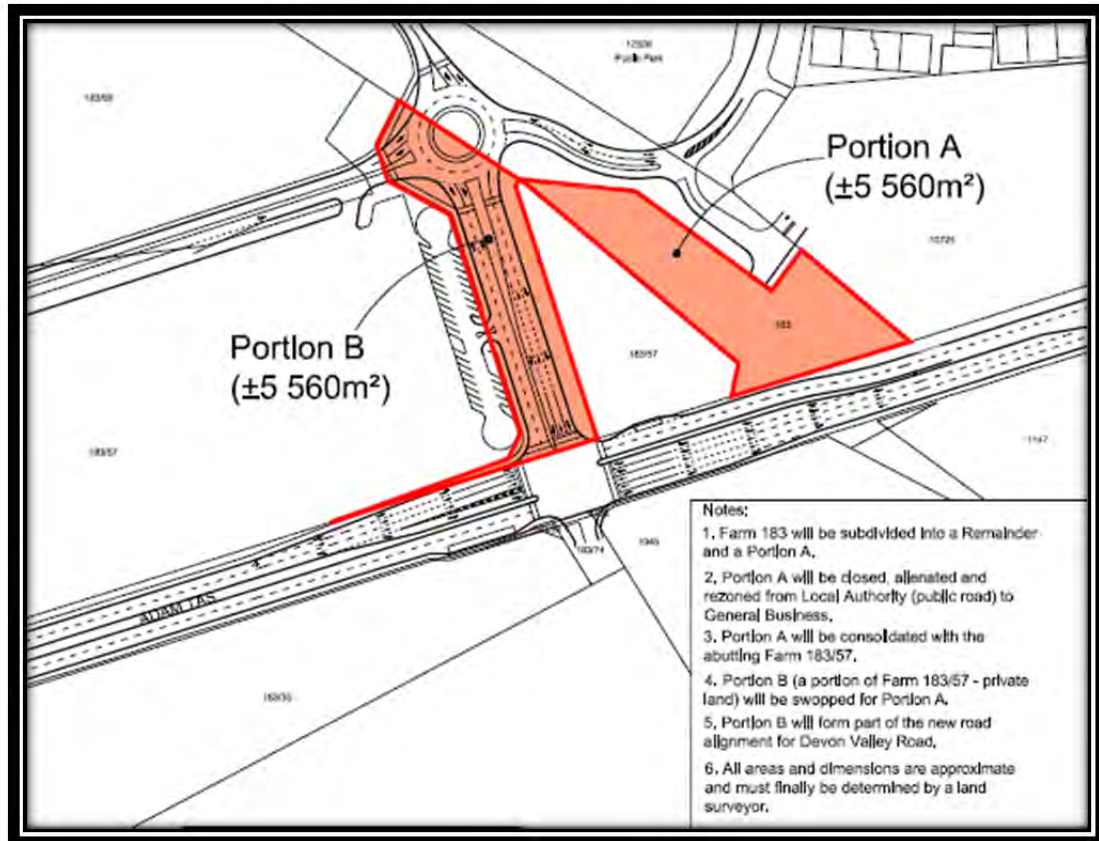


Fig 4: Portions A and B

6.2.2 Ownership

Portion A, measuring approximately 5560m² in extent, being a portion of Farm 183, vests with Stellenbosch Municipality by virtue of Title Deed STF8-15/1908.

Portion B, measuring approximately 5560m² in extent, being a portion of Farm 183/57, currently vests with Lurand Investment (Pty) Ltd by virtue of Title Deed T965/2015.

6.2.3 Zoning

Portion A has been closed as a public street and has been rezoned for General Business.

Portion B has been rezoned to Public Street.

6.3 Financial Implications

There are no financial implications to the municipality, as all costs will be for the account of the Developer.

6.4 Legal Implications

6.4.1 Municipal Finance Management Act, No 56/2007

In terms of section 14 of the MFMA,

(1) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

- (2) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after municipal council, in a meeting open to the public-
- a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
 - b) Has considered the fair market value* of the asset and the economic and community value to be received in exchange for the asset.

*In the circumstances under discussion the fair market value of the two portions of land to be exchange are the same, as the land parcels are equal in size. The economic value to the municipality is huge, taken into account the size of the proposed development and the positive impact it will have on the economy of the town.

6.4.2 Asset Transfer Regulations (1998)

In terms of Regulation 5 of the ATR:-

- (1) A municipality may transfer or dispose of a non-exempted capital asset only after-
- a) the accounting officer has in terms of regulation 6 conducted a public participation process to facilitate the determinations a municipal council must make in terms of section 14(2) and (b) of the Act; and
 - b) the Municipal council-
 - (i) has made the determinations required by Section 14(2) and (b) and
 - (ii) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.
- (2) Subregulation (1)(a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value *capital asset.

***high value*”, in relation to a capital asset of a municipality or municipal entity, means that the fair market value of the capital asset exceeds R50m. The property under discussion, measuring only 5560m² in extent, does not fall into the category of a high value property, i.e. the prescribed public participation process is therefore not required.

6.4.3 Supply Chain Management Policy

In terms of paragraph 5.2.4 all matters relating to the alienation of immovable assets shall be dealt with in terms of the Asset Transfer Regulation, 2008.

Further, in terms of par. 5.25 the statutory powers of Stellenbosch Council in respect of the alienation of immovable property/section 14 of the MFMA) are **reserved** to be exercised by Council, i.e. no delegation.

It is therefore clear from the above that the recommendations contained in this report comply with Council's policies and other applicable legislation.

6.5 Staff Implications

This report has no staff implications to the Municipality.

6.6 Previous / Relevant Council Resolutions:

As indicated above, when considering the land use application, approval has already been given for:-

- a) The closure of the public street (Portion A);
- b) The rezoning thereof to General Business, with the view of consolidating it with Farm 183/57; and
- c) The disposal of Portion A on an exchange basis.

*The Director Planning & Economic Development, however, did not have the delegated authority (see par. 6.4.3 *supra*) to make a decision regarding the disposal of Council owned land. For this purpose, Council must make a decision in this regard.

6.7 **Risk Implications**

This report has no risk implications for the Municipality.

6.8 **Comments from Senior Management:**

6.8.1 **Director: Infrastructure Services**

Agree with the recommendations.

6.8.2 **Director: Planning and Economic Development**

This directorate supports the proposed land exchange and the relevant land use planning approvals for the future use of the land have already been granted. The land swap will facilitate the improvement of the transport networks and facilitate efficient land use and land development on either side of the Stellenbosch Arterial.

6.8.3 **Director: Strategic and Corporate Services:**

Agree with the recommendations.

6.8.4 **Chief Financial Officer:**

Agree with the recommendations.

6.8.5 **Legal Services:**

Agree with the recommendations.

ANNEXURES

- Annexure A: Application for exchange of land
- Annexure B: Letter of approval: LUPO Application
- Annexure C: Letter from Provincial Roads Engineer
- Annexure D: Windeed printout: Farm 183
- Annexure E: Windeed printout: Farm 183/57

FOR FURTHER DETAILS CONTACT:

NAME	<i>Piet Smit</i>
POSITION	<i>Manager Property Management</i>
DIRECTORATE	<i>Human Settlement & Property Management</i>
CONTACT NUMBERS	<i>021-8088189</i>
E-MAIL ADDRESS	Piet.Smit@stellenbosch.gov.za
REPORT DATE	<i>2017-10-05</i>

ANNEXURE 1



ARCHITECTS AND TOWN PLANNERS
ARGITEKTE EN STADSBEPLANNERS

Our Reference: 3184-P

26 September 2017

Head: Property Management
Stellenbosch Municipality
Town House
7600 STELLENBOSCH

37 DORP STREET
FIRST FLOOR
LA GRATUDE
OFFICE BUILDING
STELLENBOSCH 7600
TEL +27 21 861 3800
FAX +27 21 882 9025
EMAIL ste@tv3.co.za

Attention: Mr. Piet Smit

Sir

RE: THE WOODMILL: FARMS 183/57 AND 183/58, STELLENBOSCH

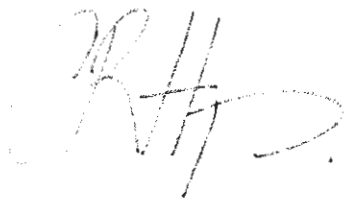
1. We refer to your meeting (on 26 September 2017) with the undersigned and Messrs. Jan van Rensburg (TV3) and Chris Kruis (Steinhoff) regarding the abovementioned Woodmill development project.
2. In 2015 we submitted a land use planning application to establish additional development rights for the proposed Woodmill mixed land use development. As part of the land use planning application, application was also made for:
 - The subdivision of (municipal) Farm 183 into a *Remainder* and a *Portion A*.
 - The public road closure and alienation of *Portion A*.
 - The rezoning of *Portion A* from Local Authority (public road) to General Business; and
 - The consolidation of *Portion A* with the abutting Farm 183/57, Stellenbosch.

A copy of the subdivision plan (Plan 9) is attached hereto.

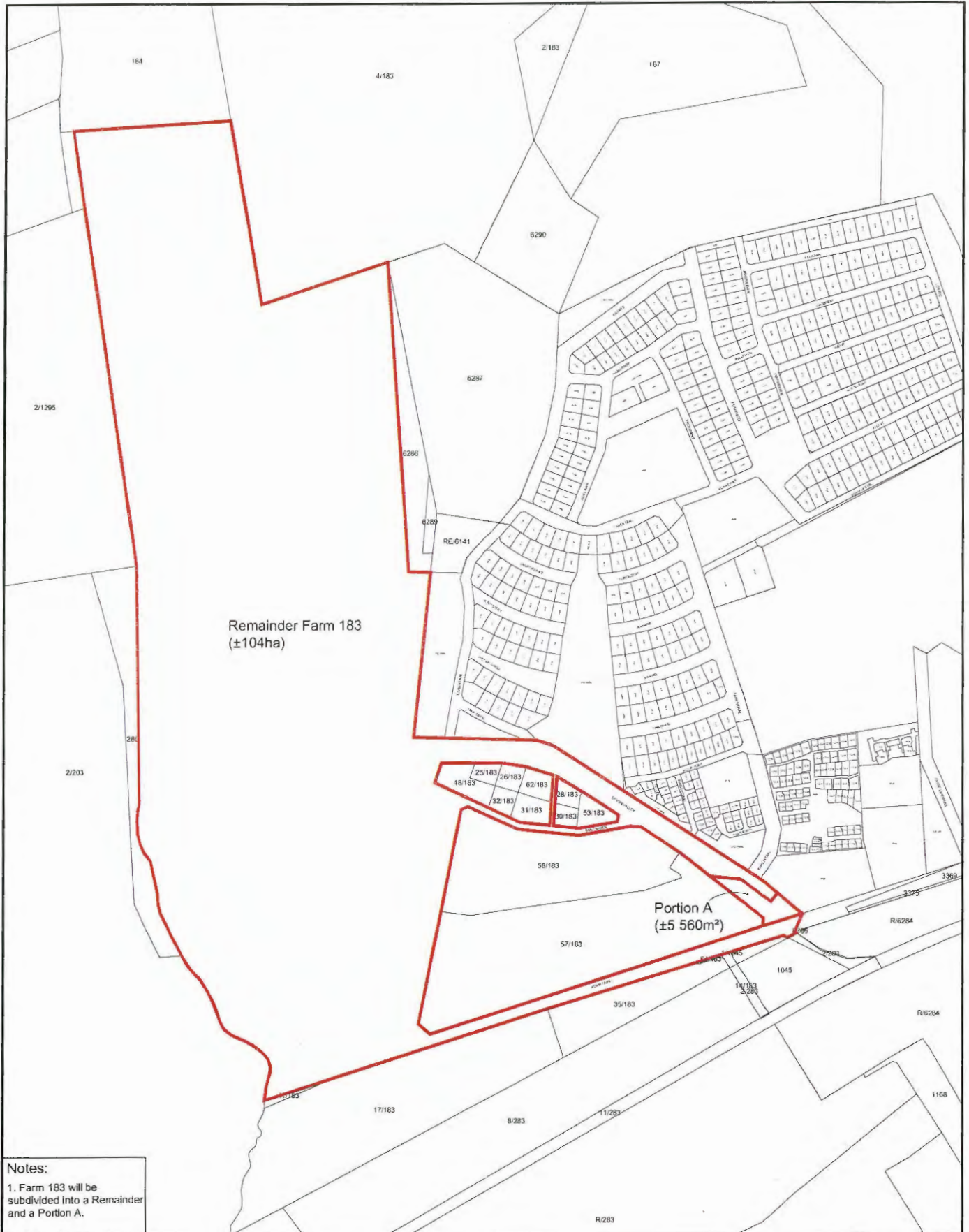
TV3 PROJECTS (PTY) LTD * REGISTRATION NO: 2006/015278/07
DIRECTORS: J. van Rensburg, P. van der Merwe, J. van der Merwe, N. van der Merwe, C. van der Merwe, J. van der Merwe
ASSOCIATES: J. van der Merwe, W. van der Merwe, C. van der Merwe, A. van der Merwe, H. van der Merwe

3. At the commencement of the planning process we were informed by the Provincial Roads Engineer that with the proposed Woodmill mixed land use development a portion of the Devon Valley Road (located on Farm 183) will have to be realigned over Farm 183/57. Consequently a land swop was proposed - i.e. to swop a portion of Farm 183/57 (that will now become public road) for the portion of the Devon Valley Road that will be closed due to the road's realignment. A copy of the land swop plan (Plan 8) is attached hereto.
4. The land use planning application – including the subdivision, road closure, alienation, rezoning and consolidation of *Portion A* – was eventually approved by the Stellenbosch Municipality. A copy of their letter of approval (dated 6 December 2016) is attached hereto.
5. In order to finalise the road closure and alienation process – based on a land swop proposal of equal size and value – we respectfully request that you submit this application to you Council for their final approval.
6. Please feel free to contact the undersigned if you have any queries or require any additional information.

Yours faithfully


A handwritten signature in black ink, appearing to read 'CH', with a long horizontal flourish extending to the right.


CLIFFORD HEYS
TV3 PROJECTS (PTY) LTD

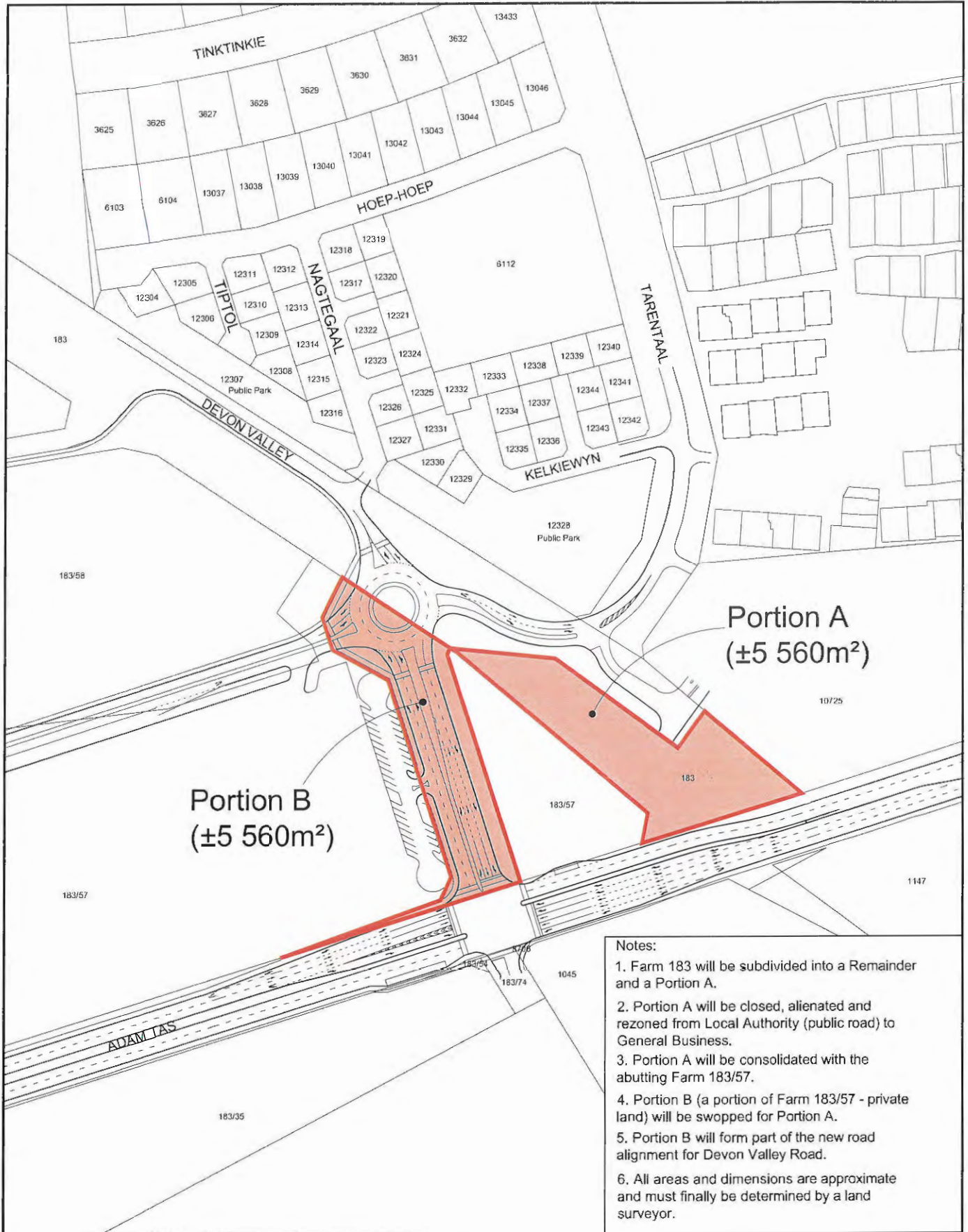


- Notes:**
1. Farm 183 will be subdivided into a Remainder and a Portion A.
 2. Portion A will be closed, alienated and rezoned from Local Authority (public road) to General Business.
 3. Portion A will be consolidated with the abutting Farm 183/57.
 4. All areas and dimensions are approximate and must finally be determined by a land surveyor.

Drawn:	CH	Date:	20 APR 2016
Drawing:	SUBDIVISION PLAN		
Project:	REMAINDER FARM NO. 183, STELLENBOSCH		
Client:	LURAND INV (PTY) LTD		





 Scale: 1:10 000 (A4)

 ARCHITECTS AND TOWN PLANNERS	First Floor • La Gratitude Office Building 97 Dorp Street • Stellenbosch 7600 tel (021) 861 3800 fax (021) 882 8025 e-mail: stel@tv3.co.za web: www.tv3.co.za	
	Plan No:	9
Project No:		3184-P



Notes:

1. Farm 183 will be subdivided into a Remainder and a Portion A.
2. Portion A will be closed, alienated and rezoned from Local Authority (public road) to General Business.
3. Portion A will be consolidated with the abutting Farm 183/57.
4. Portion B (a portion of Farm 183/57 - private land) will be swapped for Portion A.
5. Portion B will form part of the new road alignment for Devon Valley Road.
6. All areas and dimensions are approximate and must finally be determined by a land surveyor.

Drawn: CH	Date: 20 APR 2016	 Scale: 1:2 500 (A4) 	 First Floor • La Gratitude Office Building 97 Dorp Street • Stellenbosch 7600 tel (021) 861 3800 fax (021) 882 8025 e-mail: stel@tv3.co.za web: www.tv3.co.za
Drawing: LAND SWOP PLAN			
Project: FARMS 183 AND 183/57, STELLENBOSCH			
Client: LURAND INV (PTY) LTD			
		Plan No: 8	Project No: 3184-P

ANNEXURE 2



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

INNOVATION CAPITAL • ISIXEKO ESIZA NENGLUQU • INNOVASIESTAD

Enquiries	R Fooy / B Mdoda
Your ref	-
Our ref	Farm 183/57, Stellenbosch
Application No	LU/4355
Date	2016-12-06
Telephone	021-808 8680 / 8690
Fax	021-886 6899

REGISTERED MAIL

TV3 Architects and Planners
1st Floor, La Gratitude Office Building
97 Dorp Street
Stellenbosch
7600

Sir

APPLICATION FOR REZONING, SUBDIVISION, SPECIAL DEVELOPMENT, PRECINCT PLAN, ROAD CLOSURE AND ALIENATION OF FARMS 183/57 AND 183/58, STELLENBOSCH DIVISION

Your application in the above regard, refers.

The Director: Planning and Economic Development on 30 November 2016, in terms of Sections 17 and 24 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) and the Stellenbosch Zoning Scheme Regulations (1996), read with Section 42 thereof and the relevant Zoning Scheme regulations, **approved conditionally** the following:

- The consolidation of Farm 183/57 with Farm 183/58 Stellenbosch;
- The rezoning of the consolidated unregistered site to Subdivisional Area;
- The subdivision thereof into four portions consisting of public road, private open space / road, general business, general residential, general industrial and educational institution zonings;
- Consent for a special development for a hotel, liquor store, pub / tavern, gathering place, motor showroom and warehouse;
- Approval of the Precinct Plan;
- The subdivision of Farm 183 into a Remainder and Portion A;
- The closure and alienation of Portion A;
- The rezoning of Portion A from Local Authority (public road) to General Business;
- The consolidation of Portion A with the abutting Farm 183/57, Stellenbosch.

This **conditional approval** is indicated in the attached **Appendix 2** and is subject to the conditions signed by the Director Planning and Economic Development as attached hereto, which conditions must be complied with prior to subdivision clearance being granted for the transfer of any portion and/or registration of a Certificate of Registered Title.

Kindly note, this subdivision approval will lapse unless all conditions of approval have been complied with and separate registration of at least one erf therein is effected in the Deeds Registry within 5 years of Council's final notification letter, which is to follow in due course. Should it be required, any application for extension of validity of the subdivision approval should be lodged well in advance of lapsing of this approval.



Kindly note that the above approval does not guarantee approval of any related building plan application in terms of the National Building Regulations and Building Standards Act, No 103 of 1977 and that building work may therefore only commence once such plans are formally passed.

Kindly also note, you are advised in terms of Section 5 of the Promotion of Administrative Justice Act, No 3 of 2000 that you are entitled to request in writing reasons for the above decision.

Kindly be advised that you may appeal to the Municipal Manager against the above Council decision (including any conditions imposed in case of approval) by giving written notice of such appeal in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000 ("MSA"), and/or the internal appeal process approved by Council at its meeting held on 29 October 2014. In terms of the aforesaid Council decision, an applicant or objector aggrieved by a decision of Council in respect of an application in terms of the Ordinance, Zoning Scheme Regulations or applicable By-Law, may appeal against such decision to the Municipal Manager, by giving written notice of such appeal.

A detailed motivated appeal with reasons therefore (and not only the intention to appeal), clearly stating in terms of which legislation it is made, as well as payment of the appeal fee to the amount of R1500,00, should be directed to and received by the Municipal Manager, Stellenbosch Municipality, P O Box 17, Stellenbosch, 7599, or if hand delivered, to the Advice office, Land Use Management, Ground floor, municipal building, Plein Street, Stellenbosch, or faxed to fax number 021 886 6899 within 21 days of the date of registration at the Post Office of this notification letter (with such registration day not included in the appeal period), provided where the last day for lodging an appeal falls either on a Saturday, Sunday or public holiday, it shall be deemed to be the next working day thereafter. Where this letter is collected by hand, the above appeal period will be similarly calculated from the next day after collection. Failure to comply with the above requirements may result in the appeal being ruled invalid by the Appeal Authority. **Kindly be advised that no appeal will be accepted via email.**

Notwithstanding the above, kindly note, you are not permitted to submit a revised proposal as part of such an appeal. Should this be the case, your submission will not be regarded as an appeal, but rather a new application which should be submitted in the normal manner, as only the above decision can be appealed at this stage.

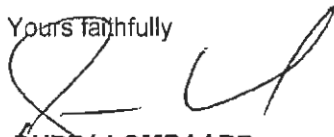
Kindly be advised that objectors (if any) are granted a simultaneous right of appeal in terms of the internal appeal process approved by Council at its meeting held on 29 October 2014.

Please note, appellants are not permitted to canvass the Municipal Manager or members of Council before or after the matter is heard.

Important note: Rights of appeal in terms of Section 44(1)(a), (b), (c) or (d) of the Land Use Planning Ordinance, No 15 of 1985 no longer exist, as such an appeal to the Minister of Local Government, Environmental Affairs and Development Planning, Western Cape has been declared unconstitutional by the Constitutional Court in its unanimous judgment* on 4 April 2014, as such matters fall within the exclusive functions of a municipality in terms of the Constitution.

Kindly note the above Council decision is suspended and may therefore not be acted on until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully



DUPRÉ LOMBAARD
DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT

* In *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v The Habitat Council and Others*; *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v City of Cape Town and Others* [2014] ZACC 9 (Case No.CC117/13).



STELLENBOSCH
 STELLENBOSCH • ENEL • FRANSCHHOEK
 MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



THE DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT HEREBY MAKES THE FOLLOWING DECISION UNDER DELEGATED AUTHORITY:

That the application made in terms of Sections 17 and 24 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) and the Stellenbosch Zoning Scheme Regulations (1996), for:

- The consolidation of Farm 183/57 with Farm 183/58 Stellenbosch;
- The rezoning of the consolidated unregistered site to Subdivisional Area;
- The subdivision thereof into four portions consisting of public road, private open space / road, general business, general residential, general industrial and educational institution zonings;
- Consent for a special development for a hotel, liquor store, pub / tavern, gathering place, motor showroom and warehouse;
- Approval of the Precinct Plan;

As indicated in **Appendix 2.**

That the application made in terms of Sections 17 and 24 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) for:

- The subdivision of Farm 183 into a Remainder and Portion A.
- The closure and alienation of Portion A.
- The rezoning of Portion A from Local Authority (public road) to General Business.
- The consolidation of Portion A with the abutting Farm 183/57, Stellenbosch.

As indicated in **Appendix 2.**

The consolidation of Portion A with the abutting Farm 183/57, Stellenbosch.

As indicated in **Appendix 2.**

APPROVED	APPROVED CONDITIONALLY	x	APPROVED IN PART	REFUSED
----------	---------------------------	---	---------------------	---------



the application made in terms of Sections 17 and 24 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) and the Stellenbosch Zoning Scheme Regulations (1996).

SIGNATURE: _____

DATE: _____

DUPRÉ LOMBAARD

DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT

CONDITIONALLY APPROVED

Conditions imposed in terms of Section 42 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985):

- 1) That a site development plan (SDP) which clearly indicates the phasing of the development in relation to the upgrading of the external infrastructure, which includes roads and non-motorised transport infrastructure. The SDP will be considered by the Director: Planning and Economic Development in consultation with the Directors: Engineering Services, Community and Protection Services and Integrated Human Settlements and Property and will only be approved once agreement is reached on the integration of the development with the upgrading of the external services;
- 2) The subdivision into four portions can only be acted upon once approval of the SDP referred to in paragraph 1) above has been finalized;
- 3) Consent for a special development for a hotel, liquor store, pub / tavern, gathering place, motor showroom and warehouse can only be acted upon once approval of the SDP referred to in paragraph 1) above has been finalized;
- 4) Approval of the Precinct Plan is granted unconditionally as basis for the consideration of the SDP but it is not approved as the sole indicator of development and/or infrastructure development to occur externally to improve integration of the proposed development with the surrounding area and infrastructure;
- 5) The subdivision of Farm 183 into a Remainder and **Portion A** can only be decided act upon once approval of the SDP referred to in paragraph 1) above has been finalized;
- 6) The closure and alienation of **Portion A** (public road) can only be acted upon once approval of the SDP referred to in paragraph 1) above has been finalized;
- 7) The rezoning of **Portion A** from Local Authority (public road) to General Business can only be acted upon once approval of the SDP referred to in paragraph 1) above has been finalized;



- 8) The consolidation of Portion A with the abutting Farm 183/57, Stellenbosch can only be acted upon once approval of the SDP referred to in paragraph 1) above has been finalized;
- 9) The SDP and expanded Precinct Plan shall form the basis for entering into a development charges agreement between the developer and the Municipality, wherein all aspects of external services upgrading and financing must be addressed and in which agreement must be concluded prior to final approval of the SDP in implementation of the approvals granted herein;
- 10) All conditions imposed by other authorities and attached in **Appendix 6**;
- 11) That the conditions as set out by the Directorate Engineering Services in their memorandum dated 20 June 2016 be complied with as attached in Appendix 5 of this report;
- 12) The approval applies only to the application under consideration shall not be construed as authority to depart from any other legal prescriptions, Bylaws or Regulations of requirements of Council;
- 13) That the applicant submits an electronic copy (shp, dwg, dxf) or A4 hard copy of the SG approved diagram for each portion created, as approved by the SG with the Site Development plan;
- 14) That the following information must be indicated on the diagram:
 - Newly allocated Erf Numbers
 - Co-ordinates
 - Survey Dimensions
 - All servitude
- 15) That a detailed Site Development Plan must be submitted and approved by the Director: Planning and Economic Development for each precinct prior to a building plan being submitted for consideration and approval;
- 16) That all public places and public streets be transferred to the Municipality and that all cost for the surveying and transfer of public land will be for the account of the developer;
- 17) That the building plans not differ substantially from the approved precinct site development plan;
- 18) That the contractor negotiate with the Engineers Department with regard to the disposal of the excess soil which is to be removed from the subject property prior to any site preparation and building work being undertaken;



19) That a detailed landscaping plan form part of the site development plan submitted for each precinct. That the tree and plant sizes be indicated on the landscaping plan and that the landscaping be undertaken and completed prior to an occupation certificate being issued for the relevant building;

20) That the developer employs at least 40% of local workforce during the construction phase and 50% of local workforce in the operational phase of the development. The Developer will provide the Local Economic Development Department with employment information and skills needed in a format to be agreed upon between the developer and the Local Economic Development Department. That a register be kept and updated in this regard and be provided to the Local Economic Development Department on a quarterly basis in a format to be agreed upon between the developer and the Local Economic Development Department.

REASON/S FOR DECISION:

Basis of refusal of applications and particulars applicable at granting thereof

In terms of Section 36 (1) & (2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) (Chapter V: General Provisions), land use applications shall be refused solely on the basis of a lack of desirability of the contemplated utilization of land concerned, or on the basis of its effect on existing rights concerned (except any alleged right to protection against trade competition).

The lack of desirability on the basis of the effect on existing rights is not evident and no such significant / substantial objections were submitted by any local residents / property owners.

Subsection (2) states that where a land use application is not refused by virtue of the matters referred to in subsection (1), regard shall be had, in considering relevant particulars, to only the safety and welfare of the members of the community concerned, the preservation of the natural and developed environment concerned or the effect of the application on existing rights concerned (with the exception of any alleged right to protection against trade competition).

The proposed development is not shown to have any significant negative effect on the safety and welfare of the members of the community. In fact, members of the community supported the proposal in view of its positive effects in the local area. The proposed development is not shown to have any significant negative effect on the natural or developed environment and it is arguable that the exercising and development of the existing rights (industrial) might have such neatige effects.

Other reasons

One of the main arguments against the development in the item above is the impact on the roads infrastructure and lack of support from the roads authorities.

The consistency argument of the Stellenbosch MSDF based on residential densification and public transport is not relevant to the proposed land use. By adding an additional major attraction to the town centre, an already congested area would probably be further congested. Thus, the location of the proposed development on a major arterial alongside a residential area which does not contain any significant retail, office or high density residential opportunities could create



Densification and redevelopment within the CBD area of Stellenbosch as argued in the item does not solve the problem of public transport between Stellenbosch and the origins of the daily commuters in the short or medium term. It would probably contribute to pedestrianisation and internal public transport system development, but the inter-nodal / urban area flows will remain a major cause of congestion for a significant period and thus detract from the redevelopment potential of the Stellenbosch CBD.

Papegaaiberg is one of the least dense residential neighbourhoods in Stellenbosch and it offers significant potential for densification within the urban edge. Its residents need to drive into town for retail and other regular activities, contributing to the peak period congestion, as no such opportunities exist within walking distance. The proposed development is argued to cause a change in the character of the area wherein it is located and it is indeed the case based on experience of similar developments in the Cape Metropolitan Area. The proposed development might thus be a catalyst for densification and further mixed use developments in Papegaaiberg, including creation of the threshold population to justify development of a school on the existing vacant school site in the neighbourhood.

The specialist studies undertaken separately by the Municipality and the applicant (Lightstone and Urban Econ) come to the same conclusion, namely that there is sufficient market demand and a need for a major retail development in Stellenbosch. The difference of opinion in the two studies is in relation to the location of the proposed development, which aspect has been addressed above. What is clear from the Urban Econ study (Appendix 7) is that *"the wholesale and retail trade sector is the second largest contributing sector to the Stellenbosch Municipal economy and have created the largest number of jobs between 2003 and 2013"*. The report further highlights the need to grow the residential market, which in turn brings additional demand for retail activities, which is reflected in Chapter 4 of the report. The study also has bearing on reaching agreement on the phasing of the development through consideration of the site development plan and development agreement.

It is noted herein that the Lightstone report, commissioned by the applicant was not properly considered in the analysis leading to the item and neither is it attached as an appendix. It does however form part of the record of the application.

Reference to the 2001 policy on retail development is irrelevant to the argument as subsequent approvals departed from it (Stellenbosch Square, Welgevonden) and the approved 2013 SDF replaced it.

ANNEXURE 3



ROAD NETWORK MANAGEMENT
 Email: Grace.Swaneepoel@westerncape.gov.za
 tel: +27 21 483 4669
 Rm 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8009

183/57

REFERENCE: 13/3/5/1-25/164 (Job 18835)
 ENQUIRIES: Ms GD Swanspoel
 DATE: 15 April 2016

The Municipal Manager
 Stellenbosch Municipality
 PO Box 17
 STELLENBOSCH
 7599



Attention: Mr R Fooy/Ms H Deacon

Dear Sir/Madam

F 183/57-585

424694

FARMS 183/57 AND 183/58, STELLENBOSCH DIVISION: APPLICATION FOR REZONING, SUBDIVISION AND SPECIAL DEVELOPMENT

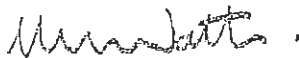
1. The following refer:
 - 1.1 Your letter Farm 512/6, Stellenbosch dated 21 January 2016 and
 - 1.2 Traffic Impact Assessment undertaken by ICE (Pty) Ltd dated September 2015.
2. The subject properties are \pm 3km from Stellenbosch Town centre and are located north of Main Road 177 (Adam Tas Road) and between Vredenburg and Devon Valley Road.
3. This application is for the following:
 - 3.1 Consolidation of Farms 183/57 and 183/58;
 - 3.2 Rezoning of the consolidated unit from General Industrial to Subdivisional Area for public road, private open space, private road, general business, general residential, general industrial and educational institution purposes;
 - 3.3 Subdivision of the property into four portions;
 - 3.4 Application for special development for a hotel, motor showroom and warehouse, and to use portions of the proposed buildings for a liquor store, pub/tavern and gathering place:

- 3.5 Approval of precinct plans;
- 3.6 Subdivision of the property into Remainder and Portion A ($\pm 8840\text{m}^2$);
- 3.7 Closure and alienation of the unregistered Portion A, a portion of public road;
- 3.8 Rezoning of Portion A from Local Authority to General Business;
- 3.9 Consolidation of the rezoned Portion A with Farm 183/57, Stellenbosch Division.
4. The TIA recommends the following in respect of matters that affect this Branch:
 - 4.1 The Vredenburg Road and Devon Valley Road intersections with Adam Tas Road be relocated as per plan No. ICE/S/884RL1 and constructed as such;
 - 4.2 The Baden Powell Drive/Polkadraai/Adam Tas Road intersection be improved in order to provide two right turn lanes;
 - 4.3 The Adam Tas/Oude Libertas Street intersection be upgraded as per plan No ICE/S/1097/P01;
 - 4.4 Dorp Street be dualled as per plan No. ICE/S/1054/P02B;
 - 4.5 Alexander Street be relocated to align with the R44/Adam Tas intersection and that it be improved as per plan No ICE/S/1054/P03A;
 - 4.6 The R44/Merriman intersection be upgraded as per the plan No. ICE/S/1054/P04;
 - 4.7 The developer and the municipality negotiate a land swap in respect of the Vredenburg Road and Devon Valley Road (Divisional Road 1069) intersections;
 - 4.8 Public Transport embayments be provided along Adam Tas Road;
 - 4.9 The Roads Authorities (Western Cape Government and Municipality) seriously consider the further planning and implementation of the western bypass to Stellenbosch;
 - 4.10 The responsibility for the road improvements be as follows:
 - 4.10.1 Realignment of Vredenburg and Devon Valley Road and improvements to Adam Tas in the vicinity of the project is for the account of the developer of the Woodmill precinct;
 - 4.10.2 The Baden Powell/Polkadraai/Adam Tas upgrade be undertaken by the Provincial Government of the Western Cape;
 - 4.10.3 Adam Tas/Oude Libertas as part of the possible Distell offices;

- 4.10.4 Dualling of Dorp Street as part of the Remgro Precinct project;
- 4.10.5 The Municipality be responsible for improvements to R44/Merriman intersection and R44/Adam Tas/Alexander Road intersection.
5. This Branch has the following concerns:
 - 5.1 In respect of the proposed Devon Valley Road intersection with Adam Tas Road, it is noted that the left turn lane is subject to traffic light control. Traffic will flow better out of the development if it designed as a slip lane with an acceleration lane.
 - 5.2 The proposed left in-left out is not supported due to its proximity to the traffic light at Adam Tas/Vredenburg Road, the expected volume of traffic and the proposed public transport embayment. A supported location is midway between the intersections of Adam Tas/Vredenburg Road and Adam Tas / Devon Valley Road.
 - 5.3 With respect to funding of infrastructure the following is acceptable to this Branch:
 - 5.3.1 The developer of the Woodmill precinct is completely responsible for the following:
 - 5.3.2 Upgrading of the Adam Tas/Vredenburg intersection;
 - 5.3.3 Upgrading of the Adam Tas/Devon Valley Road intersection
 - 5.3.4 Upgrading of the Baden Powell/Polkadraai/Adam Tas Road intersection;
 - 5.4 The municipality should establish the impact of the Distell project and Remgro project in relation to the Woodmill project and apportion the cost of the proposed road improvements at Adam Tas/Oude Libertas, Dualling of Dorp Street, R44/Merriman intersection and R44/Adam Tas/Alexander Road to the various developers.
6. In respect of the realignment of Devon Valley Road (Divisional Road 1069), the Applicant and the Municipality can contact Mr Pieter J Pienaar (021 483 2105) of this Branch to establish due process.
7. The TIA recommendation relating to the possible construction of a bypass must be seen in context. It is impossible to construct such a road in the medium term and this comment does not make sense in the context of this application.
8. At this stage this Branch objects to the application in terms of the Land Use Planning Ordinance, No 15 of 1985.

9. It may review its comments on receipt of an apportionment agreement, supported by an implementation and financial plan, for the improvements listed in paragraph 5.4.

Yours faithfully



ML WATERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ANNEXURE 4

Deeds Office Property

FARM 183, 183, 0 (REMAINING EXTENT) (CAPE TOWN)

GENERAL INFORMATION

Deeds Office CAPE TOWN
 Date Requested 2017/10/03 09:44
 Information Source DEEDS OFFICE
 Reference -



PROPERTY INFORMATION

Property Type FARM
 Farm Name FARM 183
 Farm Number 183
 Portion Number 0 (REMAINING EXTENT)
 Local Authority STELLENBOSCH MUN
 Registration Division STELLENBOSCH RD
 Province WESTERN CAPE
 Diagram Deed STF8-15/1908
 Extent 291.3792H
 Previous Description -
 LPI Code C06700000000018300000

OWNER INFORMATION

Owner 1 of 1

Company Type LOCAL AUTHORITY
 Name MUN STELLENBOSCH
 Registration Number
 Title Deed STF8-15/1908
 Registration Date 1908/06/22
 Purchase Price (R) -
 Purchase Date -
 Share
 Microfilm Reference 2003 0196 4362
 Multiple Properties NO
 Multiple Owners NO

ENDORSEMENTS (3)

#	Document	Institution	Amount (R)	Microfilm
1	K530/2011S	-	UNKNOWN	
2	K865/2000S	-	UNKNOWN	2000 0623 3285
3	VA2947/2011	MUN STELLENBOSCH	UNKNOWN	

HISTORIC DOCUMENTS

No documents to display

DISCLAIMER

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ANNEXURE 5

WinDeed Database Deeds Office Property

FARM 183, 183, 57 (REMAINING EXTENT) (CAPE TOWN)

GENERAL INFORMATION

Date Requested 2017/10/03 09:45
 Deeds Office CAPE TOWN
 Information Source WINDEED DATABASE
 Reference -

**PROPERTY INFORMATION**

Property Type FARM
 Farm Name FARM 183
 Farm Number 183
 Portion Number 57 (REMAINING EXTENT)
 Local Authority STELLENBOSCH MUN
 Registration Division STELLENBOSCH RD
 Province WESTERN CAPE
 Diagram Deed T70463/1991
 Extent 10.4911H
 Previous Description -
 LPI Code C06700000000018300057

OWNER INFORMATION**Owner 1 of 1**

Type COMPANY
 Name LURAND INV PTY LTD
 ID / Reg. Number 196200428607
 Title Deed T965/2015
 Registration Date 2015/01/16
 Purchase Price (R) 176,700,000
 Purchase Date 2014/05/23
 Share 0.00
 Microfilm -
 Multiple Properties NO
 Multiple Owners NO

ENDORSEMENTS (2)

#	Document	Institution	Amount (R)	Microfilm
1	K1007/1991S	-	UNKNOWN	1991 1891 1439
2	FROM ST RD 183/11,18	3/15	UNKNOWN	-

HISTORIC DOCUMENTS (7)

#	Document	Owner	Amount (R)	Microfilm
1	T58113/2001	CAPE SAWMILLS PROP PTY LTD	31,600,000	2004 0616 3586
2	B39799/2001	FIRSTRAND BANK LTD	8,000,000	2002 0589 3044
3	T43101/1999	MONDI LTD	14,800,000	2001 0518 5227
4	T70463/1991	BRUPLY SAWMILLS LTD	UNKNOWN	1999 0333 1961
5	VA3029/2004	-	UNKNOWN	2004 0616 3575
6	T2031/2014	AIRTON TIMBERS PTY LTD	81,200,000	-
7	B24932/2014	LURAND INV PTY LTD	30,000,000	-

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5.5.5	STELLENBOSCH MUNICIPALITY: HOUSING PIPELINE (ANNUAL REVIEW 2018-2021)
-------	--

Collaborator No:

IDP KPA Ref No:

Meeting Date:

14 March 2018

1. SUBJECT:

STELLENBOSCH MUNICIPALITY: HOUSING PIPELINE (ANNUAL REVIEW 2018-2021)

2. PURPOSE

To request Council to approve the Stellenbosch Municipality's Housing Pipeline (projects) for the next 3 financial years, for submission to the Provincial Department of Human Settlements (PDoHS).

3. DELEGATED AUTHORITY

FOR DECISION BY MUNICIPAL COUNCIL

In terms of system of delegations which reads as follows:

- Item 515 (Section 2 of the Housing Act) (Page 115) – Apply the general principals set out in Section 2, when deciding on housing projects.

4. EXECUTIVE SUMMARY

The report relates to the annual review of the Stellenbosch Municipality Housing Pipeline. This particular review relates to the period 2018 to 2021.

The report requests the support of Council for the following housing projects and initiatives:

- Those projects with appropriate funding and relevant provincial approvals as well as available bulk infrastructure capacity;
- Those projects that require Council's support in principle in order to allow these to be submitted to the Provincial Department of Human Settlements for funding to initiate pre-feasibility studies; and
- A report to be compiled and submitted to Council for consideration following the completion of pre-feasibility studies as envisaged in b) above.

5. RECOMMENDATIONS

- that the projects as reflected in the table below be supported in accordance with the appropriate funding and relevant provincial approvals (see attached **ANNEXURE 1**) as well as available bulk infrastructure capacity:

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Stellenbosch Ida's Valley (166/265 services)	IRD/FLISP	Await planning approval (LUPA)	265	
2.	Klapmuts (Phase 4 Of 2053:15) 298 services & TRA	IRD	Construction	298	
3.	La Rochelle, Klapmuts (80 sites)	UISP / ISSP	Planning		

4.	Longlands, Vlotenburg (144 Services and units)	IRDP	Contractual matters to be finalised	144	
5.	Stellenbosch Jamestown (Phases 2) (133 sites)	IRDP	Planning Phase 2		
6.	Erf 7001 and other possible sites for mix-used development in Cloeteville	IRDP/FLISP	Proposal Call		
7.	Kayamandi: Zone O (±711 services) & Watergang (277 services)	UISP / ISSP	Planning		
8.	Kayamandi Enkanini Enhanced Services (1300 sites)	UISP / ISSP	Planning (LUPA & EIA)		
9.	Kayamandi Enkanini (Pilot project)	UISP / ISSP	Construction (Electricity and upgrading of toilets) 300 electricity connections and 20 additional communal toilets		
10.	Kayamandi Town Centre Regeneration (700units)	UISP/ Institutional	Planning		
11.	Northern Extension, Stellenbosch (5600 opportunities)	IRDP/FLISP	Land acquisition and planning		
12.	Kylemore (171 services & 171 units)	IRDP	Await transfer of land		
13.	Franschhoek Langrug Enhanced Services (1200 services)	UISP	Planning and feasibility study for decanting site		
14.	Stellenbosch La Motte Old Forest Station (430 services & 430 units)	IRDP/FLISP	Await planning approval		
15.	Meerlust, Franschhoek (200 services & 200 units)	IRDP	Planning		
16.	De Novo (374 sites) Project managed by PDoHS	IRDP / Institutional	Planning		
TOTAL				707	

Note: IRDP – Integrated Residential Development Programme
 FLISP – Finance Linked Individual Subsidy Programme
 UISP – Upgrading of Informal Settlement Programme
 ISSP – Informal Settlements Support Programme
 LUPA – Land Use Planning Act
 EIA – Environmental Impact Assessment

- (b) that the projects in the table below, be supported in principle and submitted to Provincial Department of Human Settlements for funding to commence with pre-feasibility studies;

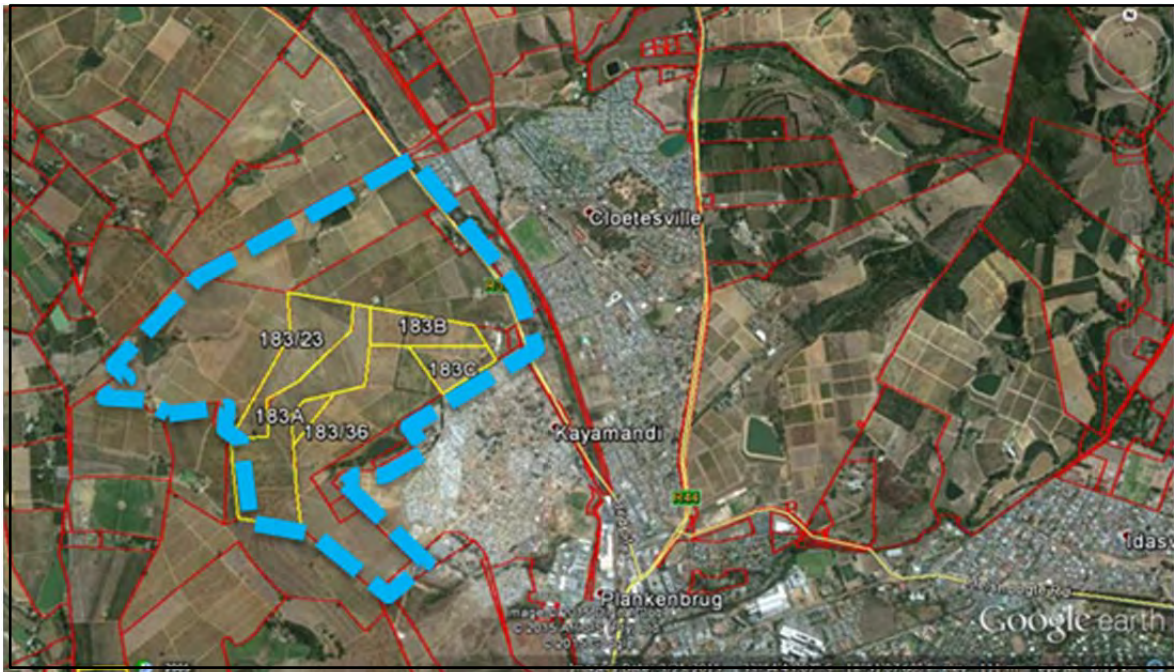
	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	La Motte, Franschhoek	IRDP/FLISP	Pre-planning phase		
2.	Erf 2, La Motte (±70 services)	IRDP	Pre-planning phase		
3.	Drodyke	IRDP	Pre-planning phase		
4.	Botmaskop (±1500 opportunities)	Social Housing / IRDP	Pre-planning phase		
5.	Stellenbosch Transit Orientated Development complex precinct (±3500 opportunities)	IRDP	Pre-planning phase		

- (c) that after the completion of the pre-feasibility studies of these projects as listed in (b) above, a report be submitted to Council for consideration; and
- (d) that the housing pipeline be reviewed on an annual basis to align the project readiness with the DORA allocation.

6. DISCUSSION / CONTENTS

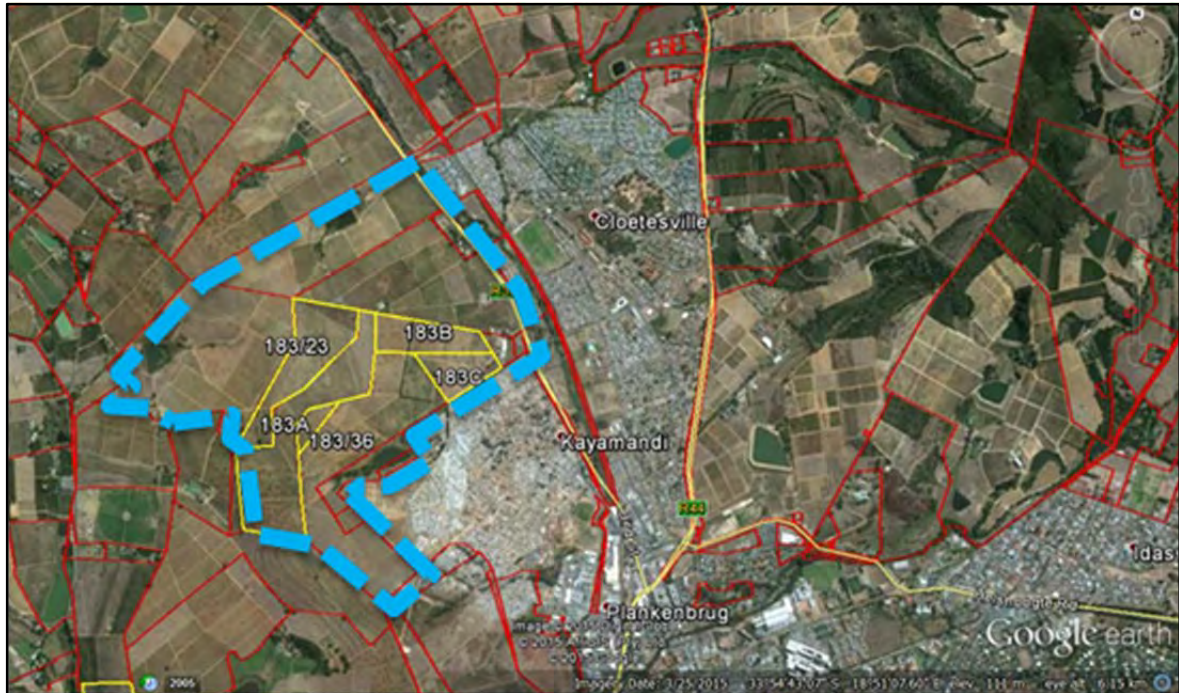
- (i) ***The Northern Extension*** - potential development of approximately 86ha of land located north of Kayamandi of which 30% is currently in the ownership of the Stellenbosch Municipality. A key factor in this proposed development is the alignment of the proposed Western Bypass which is to form the western boundary of the project area as well as the new north-western urban edge of Stellenbosch town.

The project is envisaged to facilitate the development of 4 000 to 6 000 residential opportunities in a mix of housing typologies of which the majority will be social housing (three to four storey flats for rent).



- (ii) ***Jamestown (Portion 4 of Farm 527 and Remainder Farm 527)*** - located on the southern edge of the suburb of Jamestown, east of the R44 between Stellenbosch and Somerset West. Phase 1 of an existing land use approval for the development of 395 housing units have been completed in December 2016 and facilitated the construction of 120 subsidized housing units on Portion 4 of Farm 527.

The remaining phases of the approved development on Portion 4 is to be completed and an additional 850 units is envisaged for Remainder Farm 527 with a mix of housing typologies that may include a number of social housing (rental) units.



- (iii) **Vlotenburg Nodal Development** - located approximately 7 km to the west of Stellenbosch, this nodal development comprises the Digteby, Ash-Farm (Digteby Phase 2) and Longlands low income housing projects. It is anticipated to be a largely a mixed-income rural settlement focused on a small processing node around the railway station, Van Ryn Brandy Cellar and Vlotenburg Winery. As no municipal owned land existed in this area, developers made certain trade-offs in lieu of approvals for estate developments in the area. Portions of privately owned land were made available for low income housing projects through public/private partnerships which included Digteby (20 subsidy units), Longlands (initially 106 subsidy units, later increased to 144 units) and Ash-Farm (20 subsidy units).

Whilst the Digteby project has already been completed, the Longlands and Ash-Farm projects are now part of a planning process aimed at integrating all three subsidy housing projects. A state of impasse currently exists as the Provincial Roads authority objected to the proposed access point for the development off the Vlotenburg Road.

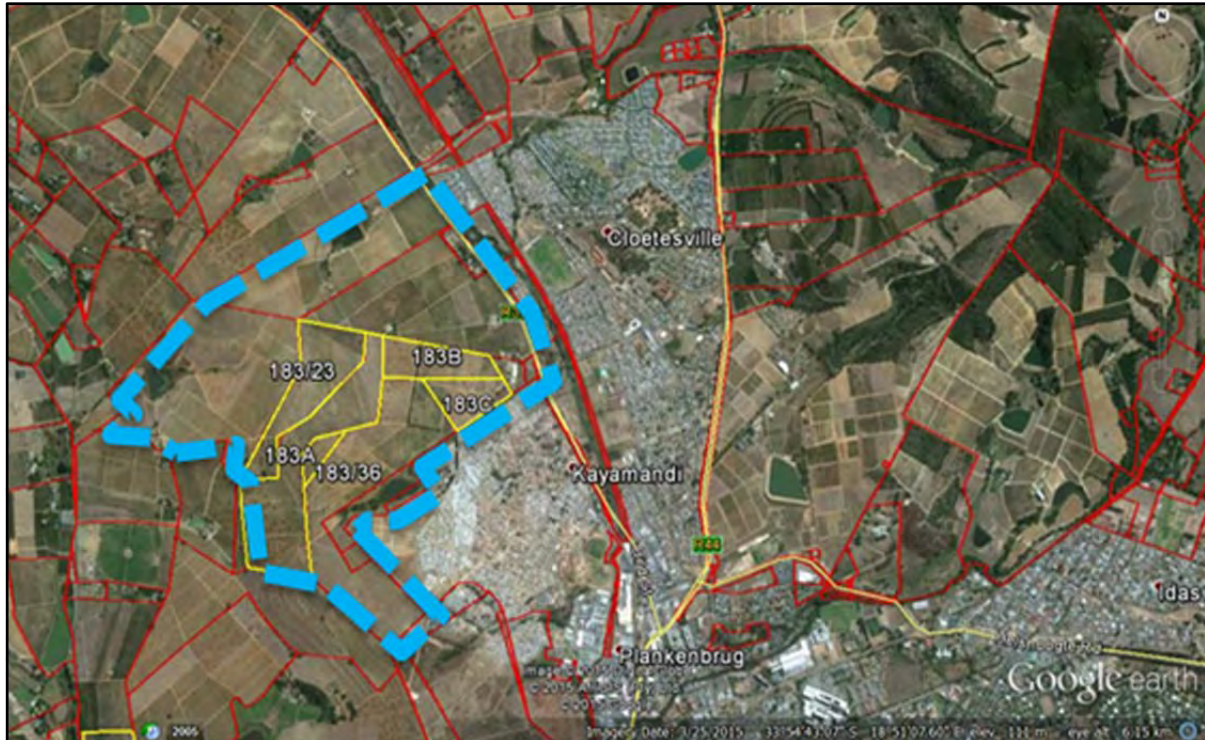


- (iv) ***Stellenbosch Transit Orientated Development*** – focuses on the Adam Tas Corridor for the development of a mix of uses where buildings and services cater to the pedestrian accessing the area via alternate modes of transportation. This type of development typically incorporates compact development and dense activity centres within easy walking distance of transit stops and generally includes a mix of residential, employment and shopping opportunities designed for transit riders, cyclists, and pedestrians.

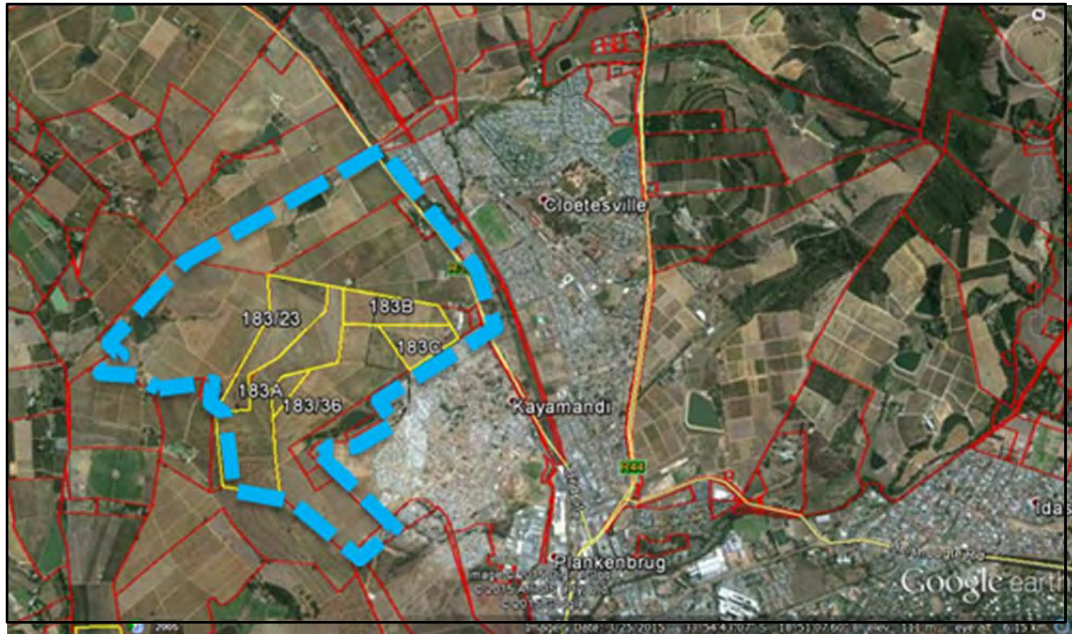
Specific areas identified for this development include the Stellenbosch and Du Toit Rail Stations, PRASA land holdings along the R44 corridor, George Blake Road, the Van Der Stel Sports Complex, the Bergzicht Taxi Rank and Informal Traders Area and Open Space parcels around R44/Adam Tas Road.



- (v) **Botmaskop** – the site comprises an approximately 98ha portion of Erf 3363 and a portion of Erf 3393, Stellenbosch in the corridor approved by Council for social housing in a restructuring zone. The combined sites provide for approximately 35 – 40ha of developable municipal land and presents an ideal opportunity for social and middle income housing. The exact nature and extent could be determined only after a pre-feasibility study has been conducted. The site also provides for an opportunity to engage private developers and/or Social Housing Institutions in the development and pre-feasibility processes.



- (vi) **Upgrade of Informal Settlements Project (UISS)** - Stellenbosch Municipality developed an upgrading of Informal Settlements Strategy which is aligned with the Municipal Housing Pipeline. The strategy categorises different settlements in order of develop ability with higher order settlements included in formal developments and lower order settlement incrementally upgraded and provided with interim basic services.



- (vii) **Forest Villages** – focuses on four settlements (historically “Bosdorp” established to service the forestry industry).

In **Jonkershoek**, located south-east of Stellenbosch town, a participatory planning process has been initiated, bringing a wide range of stakeholders together to map the way forward to achieve security of tenure for the approximately 114 households currently accommodated in the settlement area.

Transfer of individual erven to identified beneficiaries in **La Motte** Forest Village has been completed and the transfer of an additional 80 units is currently underway. The proposed extension of La Motte Village on land currently owned by NDPW can be implemented as soon as the land has been transferred to Stellenbosch Municipality.

A recent Council decision to take over the **Meerlust** Rural Housing Development from Cape Winelands District Municipality has paved the way for this project to move into implementation phase.

A topographic survey of **Maasdorp** has recently been completed and the administration is now ready to commence with the township establishment phase of the project pending funding availability.



6.2 Discussion

6.2.1 Progress on current housing projects

6.2.1.1 Kayamandi Housing

6.2.1.1.1 Watergang Housing

Contractor to build the remaining 17 units has been appointed in accordance with Supply Chain Policy, Section 32. The contractor commenced with the work in December 2017 and will complete the units before the end of the current financial year.

6.2.1.1.2 Zone O

The consultants completed the layout plan. The layout plan consists of 703 housing opportunities with N2 gateway model included. All houses will be semi-detached double or triple storey buildings. The consultants are preparing other options in order to increase the density even more to accommodate as many as possible families. Once a final layout is agreed upon the LUPA application will be submitted.

6.2.1.1.3 332 TRA

The contractor to build the 332 temporal housing units has been appointed. Site handover was on 5 December 2017. Contractor commenced with the work on 8 January 2018 and will complete the project by end of the current financial year.

6.2.1.2 Erf 2181, Mandela City, Klapmuts

The project was initially to develop the remainder of the 219 sites that was approved by the Provincial Department of Human Settlements (PDoHS) during 2012. The Department: Informal Settlements appointed consultants for the densification of the existing sites to 295 sites. The application for the subdivision was submitted to the Directorate: Planning and Economic Development.

The subdivision was advertised in terms of the By-law and approved by the Municipal Planning Tribunal (MPT) on 8 May 2017.

The Department: New Housing advertised the tender for the installation of civil engineering services and was approved by the Bid Adjudication Committee (BAC) to the successful bidder. A site hand over the meeting was held on 7 June 2017. Site establishment took place and the installation of services is in progress. Several meetings were held in Klapmuts to keep the residents of Mandela City updated of the process of relocation and the various construction phases. A housing committee was also elected to represent the community and to keep them abreast of any challenges.



Installation of services in progress.

The rephasing of the project and the required funding was approved by PDoHS. The installation of services for phase 1 is at 80% completion to date and progress is good on site. One of the challenges is the re-location of the families to electrified structures. Klapmuts area is supplied by Eskom and Stellenbosch's Electricity Department is currently intervening in order to find a solution for this matter.

A tender was also advertised during November 2017 for the construction of nutec fibre cement houses. The tender closed on 8 December 2017 and the amounts that the Municipality received through the tender process is much higher than initially anticipated; it was two times the estimated amount as per the budget for the project. Alternatives are currently being explored in order to provide Mandela City residents with a suitable structure.

6.1.2.3 Ida's Valley Housing

6.1.2.3.1 Erf 9445

Construction started during June 2017 in order to rehabilitate the river adjacent to the development on Erf 9445. The Department Environmental Affairs and Development Planning (DEA&DP) issued a pre-compliance notice to inform the Municipality that they are concerned that construction in the watercourse is taking place and that all activities in the watercourse must cease. The allegation

by the member of the public is currently under investigation but the DEA&DP confirmed that this investigation does not stop the housing development on Erf 9445. A 24G application will be submitted to DEA&DP in order to obtain approval for the river rehabilitation work.

The MPT approved the application on 3 November 2017, where after an appeal period followed. An objection was received from one of the Interested and Affected parties. The project is currently on hold objection process has been concluded.

6.1.2.3.2 Erf 11330

The Environmental Authorization was issued for Erf 11330 on 25 November 2016. A Project Implementation Readiness Report was submitted to secure funding for the installation of the internal engineering services. Various discussions with the Municipality's technical department have taken place since the planning stage of the project, in order to adhere to the required regulations.

During the MPT meeting of 3 November 2017, the township establishment was approved. The contractor did site establishment during January 2018 and the Consulting engineers will finalise the drawings with the Engineering Department in order to re-route the main waterlines on the site. Site establishment for the earthworks will also commence in January 2018.

6.1.2.4 Jamestown Housing

An agenda item served during a Council meeting held in September 2017 for the disposal of municipal land, being a portion of Portion 4 of Farm No 527 and a portion of the Remainder of Farm No 527, located at Jamestown. The Department commenced with a procurement process to appoint a Turnkey Developer through a Call for Proposals.

6.1.2.5 Erf 7001 and other possible sites for mix-used development in Cloetesville

The Directorate: Planning and Economic Development identified a number of vacant and underutilised properties within Cloetesville and a service provider was appointed to prepare a strategy to identify the best use for each of these properties.

The properties include the following:

- Erf 6847, 6886, 6300;
- Erf 7135 (two separate properties);
- Erf 7181, 6668;
- Erf 7271;
- Erf 8776;
- Erf 8915; and
- Erf 7001

Area with Redevelopment Potential:

- Erf 6868, 7555, 7231, 9049, 7630 – 7636, 5354, 6859 - 6860, 6851, 16431, 8938 – 8960, 6865, 8937, 15172 – 15196, 14599, 15228 – 15261, 9527, 8932.

The intent of the report was to devise a development strategy that will aid the highest and best use of the land. The study was conducted in two stages. This study report aimed to address Stage 1, through reviewing, identifying, evaluating and assessing the erven in question, which in turn will form the baseline for Stage 2.

The report will be submitted to Council after relevant departments have submitted their comments to the consultant/s.

6.2.2 Upgrading of Informal Settlements Strategic (UISS)

The Informal Settlements department developed an Informal Settlements Upgrading Strategy (ISUS). The purpose of this strategy is to identify all the informal settlements within the Stellenbosch Municipal area and to identify possible upgrading projects within these settlements. The identified projects were then prioritised in accordance with the level of basic services that are available to the settlement.

Applications for funding for these prioritised projects were submitted to the budget office at Stellenbosch Municipality, as well as the PDoHS. The Department: Informal Settlements is currently implementing the following projects:

- (a) Enkanini pilot project;
- (b) Enkanini rezoning, consolidation and subdivision;
- (c) Jamestown water and sanitation project; and
- (d) Langrug road project.

The Department: Informal Settlements has also submitted additional funding application (planning applications) to PDoHS for:

- (a) Enkanini rezoning, consolidation and subdivision;
- (b) Enkanini interim services;
- (c) Langrug completion of the road project;
- (d) Langrug dam rehabilitation project; and
- (e) Upgrading of La Rochelle informal settlement.

6.2.3 Strategic for forest villages (“Bosdorpe”)

The Stellenbosch Municipality intervention in respect of forest villages (“Bosdorpe”) is centered around the following settlements:

- Op-die-Bult (Jonkershoek);
- La Motte;
- Maasdorp; and
- Meerlust.

(a) **Op-die-Bult (Jonkershoek)**

The Jonkershoek Valley lies south-east of the town of Stellenbosch and is divided into distinct separate areas given different historical land use and ownership:

- Agricultural Precinct
- Mixed Use Precinct
- Forestry Precinct; and
- Natural / Conservation Precinct.

The Op-die-Bult Settlement is located within the Mixed Use Precinct of the Valley and is one of 14 identifiable areas of residential use. It is located on steep terrain in the north-eastern portion of the Precinct. In 2011 the settlement consisted of 18 timber structures (draft Jonkershoek Spatial Development Framework, 2011/2012) originally used to house forestry workers. According to this draft Spatial Development Framework (SDF) the settlement was home to approximately 80 inhabitants at the time. Over the past few years, however, a number of informal structures have been erected to accommodate the growing in-migration into the settlement. The informal structures have not been officially quantified to date.

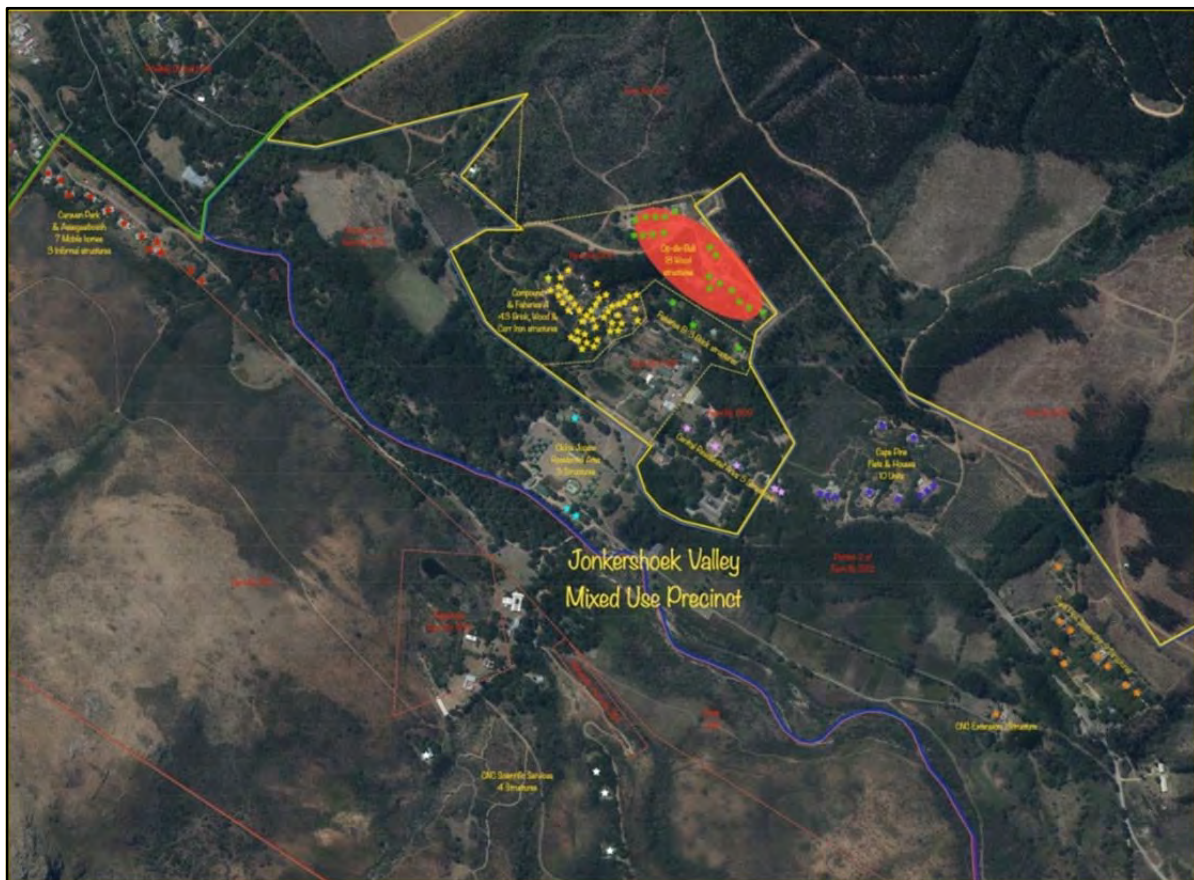


Figure 1: Op-die-Bult location

Although the Stellenbosch Municipality is a major landowner in the Jonkershoek Valley, the land on which the Op-die-Bult Settlement is located is in the ownership of the National Department of Public Works (NDPW). During 2006, NDPW requested Stellenbosch Municipality to take over the management of

Op-die-Bult until such time as township establishment would occur, whereafter it would become the responsibility of Stellenbosch Municipality to deliver municipal services. In considering this request Stellenbosch Municipality made it clear that they would only take over this responsibility if the various role-players, i.e. Stellenbosch Municipality, Mountain to Ocean (MTO), Cape Nature and the National Department of Public Works, agree on the future of the Jonkershoek Valley in its entirety.

A formal process, initiated by Stellenbosch Municipality and involving all relevant role-players, has recently been established for sustained service delivery and township establishment intended to eventually lead to security of tenure for the Jonkershoek community. It is envisaged that this process may take 2 – 3 years to be concluded. A final draft Memorandum of Understanding (MoU) has been developed and it is expected that it will be signed by all the relevant role players shortly. This will pave the way for a participatory planning process and the improved provision of basic engineering services for the area. A separate Memorandum of Agreement (MoA) is to be concluded between Stellenbosch Municipality and the owner of the land on which Op-die-Bult is located to the planning and township establishment process to commence.

(b) La Motte

The village of La Motte is situated to the west of Franschhoek, on the Robertsvlei Road, approximately 1km south of where it intersects the R45 on land previously owned by the Republic of South Africa (NDPW).

A land use application has been submitted for the extension of La Motte Village on land currently owned by NDPW. The costs relating to this La Motte Old Forest Station Housing Project (1000 services and 1000 units) will be covered by the Western Cape Department of Human Settlements. As soon as land transfer (NDPW to Stellenbosch Municipality) has been effected and planning approval has been obtained, the project can enter the project implementation phase.

(c) Maasdorp

The Maasdorp Settlement is currently located on two portions of land owned by NDPW (Portions 27 and 28 of Farm 1041) approximately 4km west of Franschhoek Village Centre on the north-eastern side of the R45 between Franschhoek and Paarl.

A Memorandum of Agreement between the NDPW and Stellenbosch Municipality was concluded in April 2007 whereby the Municipality would attend to the upgrading of services in the existing settlement with the view of township establishment. A process of engagement with NDPW on the transfer of the land to Stellenbosch Municipality has been initiated and preliminary planning investigations required for township establishment have commenced. A topographical survey of the settlement has been completed and the planning and township establishment processes can now commence.

(d) Meerlust

Meerlust (Portion 1 of Farm 1006) is located on the southern edge of the R45 between Franschhoek and Paarl close to the intersection of the R45 and the R310. Meerlust currently consists of 33 households residing in old timber forestry houses on land owned by NDPW.

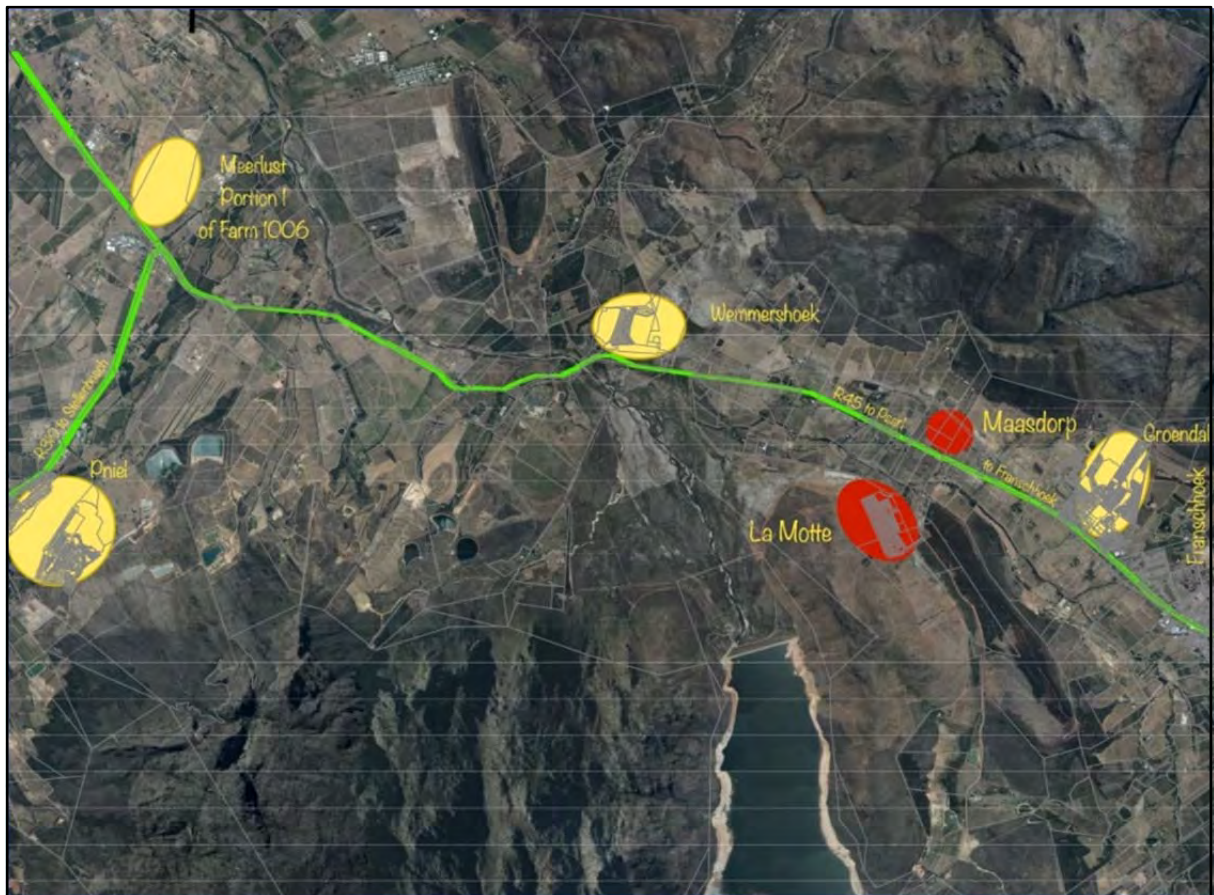


Figure 2: La Motte, Maasdorp and Meerlust location

A Memorandum of Agreement (2007) between the NDPW and Stellenbosch Municipality is in place whereby the Municipality would provide limited services to Meerlust until such time as the property is transferred to Stellenbosch Municipality. A housing project (the Groot Drakenstein / Meerlust Rural Housing Project) has been initiated by the Cape Winelands District Municipality and ministerial approval has been obtained for the transfer of the land from NDPW to Cape Winelands District Municipality.

The Council of Stellenbosch Municipality has recently resolved that the Groot Drakenstein/Meerlust Rural Housing Project be transferred from Cape Winelands District Municipality to Stellenbosch Municipality and the simultaneous transfer of the land from NDPW to Cape Winelands District Municipality and then to Stellenbosch Municipality. This has paved the way for the planning, township establishment and housing project processes to be initiated.

6.2.4 Review and update of projects for the MTREF 2018-2021

(i) 2018/19 Financial Year

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Stellenbosch Ida's Valley (265 services) (Erf 113300)	IRDP/BNG	Construction	205	
2.	Stellenbosch Ida's Valley (166 services) (Lindida)	FLISP	Construction (pending on appeal process)	60	
3.	Klapmuts (Phase 4 of 2053:15) 298 services & TRA	IRDP	Construction	179 (119 service sites completed during 2017/18 FY)	284 temporary units

4.	La Rochelle, Klipmuts (80 sites)	UIISP / ISSP	Planning		
5.	Longlands, Vlotenburg (144 Services and units)	IRDP	Contractual matters to be finalised	144	
6.	Stellenbosch Jamestown (Phases 2) (133 sites)	IRDP	Planning Phase 2 – Proposal Call		
7.	Erf 7001 and other possible sites for mix-used development in Cloetesville	IRDP/FLISP	Proposal Call		
8.	Kayamandi: Zone O (±711 services) & Watergang (277 services)	UIISP / ISSP	Planning		
9.	Kayamandi: Watergang (277 services)	UIISP (Enhance site)	Temporary units with toilets		55 (temporary structures)
10.	Kayamandi Enkanini Enhanced Services (1300 sites)	UIISP / ISSP	Planning (LUPA & EIA)		
11.	Kayamandi Enkanini (Pilot project)	UIISP / ISSP	Construction (Electricity and upgrading of toilets) 300 electricity connections and 20 additional communal toilets		
12.	Kayamandi Town Centre Regeneration (700units)	UIISP/ Institutional	Planning		
13.	Northern Extension, Stellenbosch (5600 opportunities)	IRDP/FLISP	Land acquisition and planning		
14.	Kylemore (171 services & 171 units)	IRDP	Await transfer of land		
15.	Franschhoek Langrug Enhanced services (1200 services)	UIISP	Planning and feasibility study for decanting sites		
16.	Stellenbosch La Motte Old Forest Station (430 services & 430 units)	IRDP/FLISP	Await planning approval		
17.	Meerlust, Franschhoek (200 services & 200 units)	IRDP	Planning		
18.	Rectification of existing units in Smartie Town (106 units)	CRR	Rectification implementation		
19.	Social Housing: Restructuring Zones, CBD Stellenbosch		Planning and Proposal Call		
20.	Botmaskop (±1500 opportunities)	Social Housing / IRDP	Pre-planning phase		
21.	Stellenbosch Transit Orientated Development complex precinct (±3500 opportunities)	IRDP	Pre-planning phase		
22.	De Novo (374 sites) Project managed by PDoHS	IRDP / Institutional	Planning		
TOTAL				588*	339 temporary units
DORA ALLOCATION				R48 094 000	

* Current Provincial costing for service sites are R46 000 per erf and R120 000 per top structure.

(ii) 2019/20 Financial Year

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Stellenbosch Ida's Valley (265 services) (Erf 13300)	IRDP/BNG	Construction		90
2.	Stellenbosch Ida's Valley (166 services) (Lindida)	FLISP	Construction	166	100
3.	Longlands, Vlotenburg (144 Services and units)	IRDP	Construction		144
4.	Stellenbosch Jamestown (Phases 2) (133 sites)	IRDP/FLISP	Construction	133	
5.	Erf 7001 and other possible sites for mix-used development in Cloetesville	IRDP/FLISP	Planning		
6.	Kayamandi Zone O (±711 services)	UISP	Construction	100	
7.	Kayamandi Enkanini Enhanced Services (1300 sites)	UISP	Planning		
8.	Kayamandi Town Centre Regeneration (700units)	UISP/ Institutional	Planning		
9.	Northern Extension, Stellenbosch (5600 opportunities)	IRDP/FLISP	Planning		
10.	Kylemore (171 services & 171 units)	IRDP	Land transfer DoPW		
11.	Franschhoek Langrug Enhanced services (1200 services)	UISP	Planning and feasibility study for decanting sites		
12.	Stellenbosch LaMotte Old Forest Station (430 services & 430 units)	IRDP/FLISP	Planning		
13.	Meerlust, Franschhoek (200 services & 200 units)	IRDP	Planning		
14.	Rectification of existing units in Smartie Town (106 units)	CRR	Rectification		106
15.	Social Housing: Restructuring Zones, CBD Stellenbosch		Planning		
16.	Botmaskop (±1500 opportunities)	Social Housing / IRDP	Pre-planning		
17.	Stellenbosch Transit Orientated Development complex precinct (±3500 opportunities)	IRDP	Pre-planning		
TOTAL				399	440
DORA ALLOCATION				R39 280 000	

* Current Provincial costing for service sites are R46 000 per erf and R120 000 per top structure.

(iii) 2020/21 Financial Year

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Stellenbosch Ida's Valley (265 services) (Erf 13300)	IRDP/FLISP	Construction		175
3.	Stellenbosch Jamestown (Phases 3) (±165 opportunities)	IRDP/FLISP	Planning		
4.	Erf 7001 and other possible sites for mix-used development in Cloetesville	IRDP/FLISP	Construction	*	
5.	Kayamandi Zone O (±711 services)	UISP	Construction	100	
6.	Kayamandi Enkanini Enhanced Services (1300 sites)	UISP	Construction	*	

7.	Kayamandi Town Centre Regeneration (700units)	UISP/ Institutional	Construction	*	
8.	Northern Extension, Stellenbosch (5600 opportunities)	IRDP/FLISP	Planning		
9.	Kylemore (171 services & 171 units)	IRDP	Construction	100	
10.	Franschhoek Langrug Enhanced Services (1200 services)	UISP	Construction	*	
11.	Stellenbosch LaMotte Old Forest Station (430 services & 430 units)	IRDP/FLISP	Construction	50	
12.	Meerlust, Franschhoek (200 services & 200 units)	IRDP	Construction		
13.	Social Housing: Restructuring Zones, CBD Stellenbosch		Planning		
14.	Botmaskop (±1500 opportunities)	Social Housing / IRDP	Planning		
15.	Stellenbosch Transit Orientated Development complex precinct (±3500 opportunities)	IRDP	Planning		
TOTAL				250	175
DORA ALLOCATION				R41 000 000	

*To be confirmed by the allocation amount of PDoHS.

* Current Provincial costing for service sites are R46 000 per erf and R120 000 per top structure.

7. Financial Implications

This report has the following financial implications: The Housing Pipeline must reconcile with budgets and provincial approvals as well as bulk infrastructure capacity or budget.

8. Legal Implications

The item and recommendations are supported.

9. Staff Implications

This report has staff implications in accordance with the newly approved organogram. Project Managers will be appointed on an ad-hoc basis.

10. Previous / Relevant Council Resolutions:

11TH COUNCIL MEETING: 2017-08-30: ITEM 7.5.1

RESOLVED (majority vote with abstentions)

- (a) that the projects as reflected in the table below be supported in accordance with the appropriate funding and relevant provincial approvals as well as available bulk infrastructure capacity:

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Stellenbosch Ida's Valley (166 services) (Lindida)	IRDP/FLISP	Await planning approval (LUPA)	166	
2.	Stellenbosch Jamestown (Phases2)	IRDP	Planning Phase 2		

3.	Klapmuts (Phase 4 Of 2053:15) 298 services & units	IRDP	Construction	100	
4.	Kayamandi Watergang (295 services)	UISP (Enhance site)	Temporary units with toilets		±300 (temporary structures)
5.	Kayamandi Watergang (187 units)	IRDP	Construction		20
6.	Kayamandi Zone O (±711 services) Investigating possible increase of sites	UISP	Planning		
7.	Franschhoek Langrug Enhanced Services (1200 services)	UISP	Planning and feasibility study for decanting site		
8.	Longlands, Vlotenburg (144 Services and units)	IRDP	Contractual matters to be finalised		
9.	Stellenbosch La Motte Old Forest Station (430 services & 430 units)	IRDP/FLISP	Await planning approval		
10.	Kylemore (171 services & 171 units)	IRDP	Await transfer of land		
11.	Kayamandi Enkanini Enhanced Services	UISP	Planning (LUPA & EIA)		
12.	Kayamandi Enkanini (Pilot project)	UISP	Construction (Electricity and upgrading of toilets)	300 electricity connections and 20 additional communal toilets	
13.	Kayamandi Town Centre Regeneration (700units)	UISP/ Institutional	Planning		

- (b) that the projects in the table below, be supported in principle and submitted to Provincial Department of Human Settlements for funding to commence with pre-feasibility studies;

	PROJECT NAME	HOUSING PROGRAM	PROJECT PHASE	NO OF SITES	NO OF UNITS
1.	Erf 7001 and other possible sites for mix-used development in Cloetesville	IRDP/FLISP	Planning		
2.	Erf 2, La Motte (±70 services)	IRDP	Planning		
3.	Botmaskop	Social Housing / IRDP	Pre-planning phase		
4.	Van der Stel Sports complex precinct	IRDP	Pre-planning phase		

- (b) that after the completion of the pre-feasibility studies of these projects as listed in (b) above, a report be submitted to Council for consideration; and

- (d) that the housing pipeline be reviewed on an annual basis to align the project readiness with the DORA allocation.

Councillors DA Hendrickse and LK Horsband requested that their votes of dissent be minuted.

Meeting: Ref no: Collab:	11 th Council: 2017-08-30 17/4/9	Submitted by Directorate: Author Referred from:	Directorate: Human Settlements Manager: New Housing & Man: Informal Settlements
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11. Risk Implications

This report has no risk implications for the Municipality.

12. Comments from Senior Management:**12.1 Director: Infrastructure Services**

Agree with the recommendations.

12.2 Director: Planning and Economic Development

Agree with the recommendations. The Municipal Spatial Development Framework (MSDF) was amended in May 2017. The Housing Pipeline should be adjusted where needed to comply with the SDF. The annual revision of the MSDF is currently in process and will reference current studies such as the urban development strategy, heritage inventory, rural area plan, transit orientated development plan and other special development studies.

With regards to respective land use rights, each project will be subject to an application in terms of Section 15 of the Stellenbosch Land Use Planning By-Law, 2015 and relevant studies as well as NEMA requirements where necessary.

The application will be considered by the Municipal Planning Tribunal in keeping with Sections 65 and 66 of the Land Use Planning By-Law. Section 15 (6) of the By-Law reads as follows:

“When the Municipality on its own initiative intends to conduct land development or an activity contemplated in subsection (2), the decision on the application must be made by the Tribunal in accordance with this Chapter and Chapter IV and no official may be authorised to make such a decision.”

12.3 Director Human Settlements and Property Management

Agree with the recommendations. The item is supported.

12.4 Chief Financial Officer:

Agree with the recommendations.

12.5 Municipal Manager:

Agree with the recommendations.

ANNEXURES**Annexure 1: Provincial approval****FOR FURTHER DETAILS CONTACT:**

NAME	Lester van Stavel
POSITION	Manager: New Housing
DIRECTORATE	Human Settlements & Property Management
CONTACT NUMBERS	021 808 8462
E-MAIL ADDRESS	Lester.vanstavel@stellenbosch.gov.za
REPORT DATE	

ANNEXURE 1



CHIEF DIRECTORATE: HUMAN SETTLEMENT IMPLEMENTATION
ENQUIRIES: MS P MAYISELA

The Municipal Manager
Stellenbosch Municipality
PO Box 17
Stellenbosch
7599
Fax: (021) 808 - 8026

ALLOCATED FUNDING : HUMAN SETTLEMENT DEVELOPMENT GRANT
AGREEMENT OF DELIVERY TARGETS

We refer to our correspondence of 21st December 2017, as well as the meeting of 15th January 2018. The Department was notified on 22nd December 2017 of a R370m reduction in the Human settlements development Grant for 2018/19 and similar amounts in the 2019/20 and 2020/21 financial years. It is therefore necessary to adjust the allocated funding to municipalities. The funding allocated to your municipality for the implementation of Human Settlement projects over the MTEF has been adjusted as follows :

2018/19 : R 48,094,000
2019/20 : R 39,280,000 (Indicative amount subject to approval of projects)
2020/21 : R 41,000,000 (Indicative amount subject to approval of projects)

The attached schedule lists the proposed projects for the 2018/19 provincial financial year (1 April 2018 to 31 March 2019). Please confirm that your municipality is able to deliver on these targets by 31st March 2019. Please also provide detailed cash flows per project to your regional director.

DELIVERY TARGETS 2018/19

STELLENBOSCH	Planned 2018/19		
	Sites	Units	Funding R'000
Kayamandi Watergang UISP (277 TRA)			860
ISSP Kayamandi Zone 0 (711) UISP	0		5 000
ISSP Kayamandi Enkanini (1300 sites) UISP			2 400
ISSP Kayamandi Enkanini (Interim Services)			1 000
Stellenbosch De Novo (374) IRDP			1 400
Stellenbosch Northern Extension (5200) IRDP			2 000
Stellenbosch Idas Valley (166/265) IRDP	265		15 900
Klapmuts (balance 298 of 1036)	298		13 500
Klapmuts TRA (on 298 sites Nutec structures)			4 300
Stellenbosch Jamestown Phase 2 (133) IRDP			600
Stellenbosch Erf 7001 Cloetesville (380) IRDP			250
Vlottenburg Longlands (144) IRDP	144		144
ISSP Klapmuts La Rochelle (80 sites) UISP			140
Meerlust (200)			600
Total	707	0	48 094

Yours faithfully

HEAD OF DEPARTMENT

DATE: 6/2/2018

CHIEF DIRECTORATE: HUMAN SETTLEMENT IMPLEMENTATION
27 Wale Street, Cape Town, 8000
Tel: +27 21 483 2512

Private Bag X9043, Cape Town, 8000
www.westerncape.gov.za
Phila.Mayisela@westerncape.gov.za

5.5.6	KAYAMANDI TOWN CENTRE REDEVELOPMENT PROJECT: FEASIBILITY REPORT
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Collaborator No: **572529**
 IDP KPA Ref No:
 Meeting Date: **14 March 2018**

1. SUBJECT: KAYAMANDI TOWN CENTRE REDEVELOPMENT PROJECT: FEASIBILITY REPORT

2. PURPOSE

To report on the feasibility of the redevelopment of Kayamandi Town Centre.

3. DELEGATED AUTHORITY

In terms of system of delegations which reads as follows:

- Item 516 (Section 9 of the Housing Act) (Page 115) - Take all reasonable and necessary steps, within the framework of national and provincial housing legislation and policy to ensure –
 - (a) that the inhabitants of its area of jurisdiction have access to adequate housing on a progressive basis;
 - (b) services in respect of water, sanitation, electricity, roads, stormwater drainage and transport are provided in a manner which is economical/efficient; and
 - (c) that appropriate housing development is initiated, planned and co-ordinated.

4. EXECUTIVE SUMMARY

The objective of this project is to:

- (a) Submit a planning application for the Town Centre of Kayamandi;
- (b) conduct geotechnical investigation;
- (c) compile engineering design and submit for approval; and
- (d) apply for funding approval to install services and build multi-storey top structures.

5. RECOMMENDATIONS

- (a) That the recommendations of the feasibility report be implemented with regard to the:
 - detailed planning and land use rights;
 - detailed engineering designs;
 - installation of civil and electrical engineering;
 - high density residential development layout; and
- (b) that funding be sourced from the Provincial Department of Human Settlements (PDoHS) to implement the project.

6. DISCUSSION / CONTENTS

6.1 Background

Jubelie Projects has been appointed by Municipality to conduct a feasibility report to assess the redevelopment of the Town Centre of Kayamandi. The scope of their work during the feasibility phase consisted of:

- Determining the existing status quo
- Contextual assessment of the site
- Planning policy directives
- Site development plan with housing placing thereon, indicating the development patterns, and proposed land uses, residential densities.

The intention is to determine the feasibility of redeveloping the Kayamandi Town Centre, formalising the residential area, to be re-inhabited by the existing residents of the area, while providing the necessary additional community facilities.

6.2 Discussion

In 2016, the Provincial Department of Human Settlements (PDoHS) approved funding for feasibility studies and detailed town planning of Kayamandi Town Centre (see attached **ANNEXURE 1**). Jubelie Projects was then appointed by the Municipality do the feasibility studies. To date the feasibility report has been completed and detailed town planning and civil engineering designs needs to be concluded.

A number of demographic surveys were undertaken in Kayamandi recently. The study area of the Town Centre comprised the following wards:

- (a) Wards A, D, F, I, J, K, L, M and P.

An updated structure count from 2017 aerial photography was also conducted as can be seen below. Approximately 2 787 structures have been counted in the town centre. It should be noted that each structure does not necessarily represent a residential unit as some units are used for non-residential use.



Table 1: Kayamandi-Enkanini Socio Economic Survey Profile Summary

	Aerial photography count			Survey units and Households		Household Income Profile							
	Area (ha)	Structure Count 2017	Structures / ha	Survey No.	Households	>R3 500		Single with no dependents		Potential Beneficiary		Total	
				Units	Total	no	%	no	%	no	%	no	%
TOWN CENTRE PRIMARY AREA													
Zone A	5.3	1,138	213	606	1,107	138	12.5%	547	49.4%	422	38.1%	1,107	100.0%
Zone J	2.1	409	197		409	51	12.5%	202	49.4%	156	38.1%	409	100.0%
Zone K	3.4	473	140	187	203	56	27.6%	85	41.9%	62	30.5%	203	100.0%
Zone L	0.0			240	277	61	22.0%	132	47.7%	84	30.3%	277	100.0%
Subtotal	10.8	2,020	187	1,033	1,996	306	15.3%	966	48.4%	724	36.3%	1,996	76.6%
TOWN CENTRE SECONDARY AREA													
Zone D	0.3	41	158	109	120	26	21.7%	53	44.2%	41	34.2%	120	100.0%
Zone F	1.4	295	213	184	305	78	25.6%	145	47.5%	82	26.9%	305	100.0%
Zone I	1.8	304	173	159	252	58	23.0%	109	43.3%	85	33.7%	252	100.0%
Zone M	0.5	51	98	48	50	11	22.0%	14	28.0%	25	50.0%	50	100.0%
Zone P	0.4	76	206	56	77	15	19.5%	27	35.1%	35	45.5%	77	100.0%
SubTotal	4.3	767	179	556	804	188	23.4%	348	43.3%	268	33.3%	804	100.0%
TOWN CENTRE (Zone A-P)	15.1	2,787	185	1,589	2,800	494	17.6%	1,314	46.9%	992	35.4%	2,800	100.0%

The total demand for housing within the Town Centre is ± 2800 opportunities. In order for the Municipality to be able to start the project within the Town Centre 891 households must be relocated to a decanting site.

The Town Centre will provide about 1909 housing opportunities (see attached the layout plan as **ANNEXURE 2**).

The total backlog can be accommodated in any of the following ways:

- (a) Qualifiers
 - BNG Single free standing units;
 - BNG Multi-storey units; and
 - Enhanced serviced sites.
- (b) Non-qualifiers
 - Community Rental units;
 - Social Housing;
 - Enhanced serviced sites; and
 - Lower and upper GAP housing.

Various investigations have been done by Jubelie to determine the formalisation of the greater Kayamandi including Zone O and Enkanini. Refer to the feasibility report for detail.

In order to maximise the residential yield, it is proposed to develop the Town Centre with four and five storey units (see attached proposed housing typologies as **ANNEXURE 3**).

6.3 **Financial Implications**

This report has the following financial implications. Project will be aligned in accordance with DORA allocation to the Municipality.

6.4 **Legal Implications**

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Planning Implications

The area under consideration falls within the approved Municipal Spatial Development Framework (MSDF). From a planning perspective the redevelopment of the Town Centre is therefore in line with the future vision for Kayamandi.

6.6 Previous / Relevant Council Resolutions:

None

6.7 Risk Implications

This report has no risk implications for the Municipality.

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations.

6.8.2 Director: Planning and Economic Development

Agree with the recommendations. The study undertaken by Jubelie investigated the project in depth and was based on sound planning principles. It appears from the study that the upgrading is feasible and indeed desirable.

This directorate supports the notion of increasing the density of residential units by constructing multi-storey apartments and a variety in the typology of buildings. As the area is located at the entrance to Stellenbosch and Kayamandi the visual impact of the proposed development (which is to be taller than the current structures) will however be a significant factor that has to be taken into account. A visual impact assessment and mitigated measures is required in the detailed planning of the project.

Further studies and detail will be delayed during the next phase regarding the detailed planning to be undertaken.

6.8.3 Director: Community and Protection Services:

Not applicable.

6.8.4 Director: Strategic and Corporate Services:

Not applicable.

6.8.5 Director Human Settlements and Property Management

Agree with the recommendations.

6.8.6 Chief Financial Officer:

Agree with the recommendations.

6.8.7 Municipal Manager:

Agree with the recommendations.

ANNEXURES

Annexure 1: Feasibility studies and detailed town planning of Kayamandi Town Centre

Annexure 2: Layout plan

Annexure 3: Proposed housing typologies

FOR FURTHER DETAILS CONTACT:

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<i>REPORT DATE</i>	26 February 2018

ANNEXURE 1

KAYAMANDI TOWN CENTRE REDEVELOPMENT PROJECT STELLENBOSCH

FEASIBILITY REPORT

PREPARED FOR

NEW HOUSING
HUMAN SETTLEMENTS & PROPERTY MANAGEMENT
STELLENBOSCH MUNICIPALITY

OCTOBER 2017



STELLENBOSCH
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Relocation Strategy	Plan Associates
Land Surveyors	JBSurveys
Environmental	Guillaume Nel Environmental Consultants
Traffic Engineers	ICE Group
Civil Engineers	ICE Group
Town Planner	TV3 Architects and Town Planners
Project Management & Co-ordination	Jublie Projects

PROJECT TEAM

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2.1.1 The study area, the Kayamandi Town Centre, is situated in the central regions of Kayamandi, within the Stellenbosch Municipal area. The site is located on the western side of the R304 (main arterial from the North) to Stellenbosch. *Plan No. 1* attached hereto, indicates the affected properties forming the study area. Figure 1 represents an aerial view of the study area's location with regards to the Stellenbosch context.

2.1 Locality and background

2. **PROPERTY INFORMATION**

1.5 The following section provides the relevant property information of the implicated properties in the identified and approved area, hereafter referred to as the study area, and assesses the feasibility (need and desirability) of the proposed development. The merits of the development proposal from a development planning perspective is taken into account, assessing the physical and sociological characteristics of the implicated properties, as well as the engineering services and infrastructure implications of the proposed development.

1.4 The intention is to determine the feasibility of redeveloping the Kayamandi Town Centre, formalising the residential area, to be re-inhabited by the existing residents of the area, while providing the necessary additional community facilities.

- Determining the existing status quo
- Contextual assessment (baseline assessment) of the site
- Planning policy directives
- Site development plan with housing placing thereon, indicating development patterns, and proposed land uses, residential densities, etc.

1.3 Jubelle Projects (Pty) Limited appointed TV3 Architects and Town Planners as 'Town Planner' for the feasibility assessment for the Kayamandi Town Centre Redevelopment Feasibility Study in Stellenbosch. The scope of services TV3 is responsible for during the feasibility phase consists of the following tasks and duties:

1.2 The specific site has been discussed and subsequently approved by the Stellenbosch Municipality for the redevelopment of the town centre of Kayamandi, Stellenbosch (see *Plan No. 3*).

1.1 Jubelle Projects (Pty) Ltd have been appointed by Stellenbosch Municipality to appoint the necessary multi-disciplinary team of professional consultants required to conduct a feasibility study to assess the redevelopment of the town centre of Kayamandi. Jubelle has entered into a service level agreement (SLA) with Stellenbosch Municipality in respect of the Project and an order to perform work in terms thereof has been issued to Jubelle.

1. **GENERAL INFORMATION**

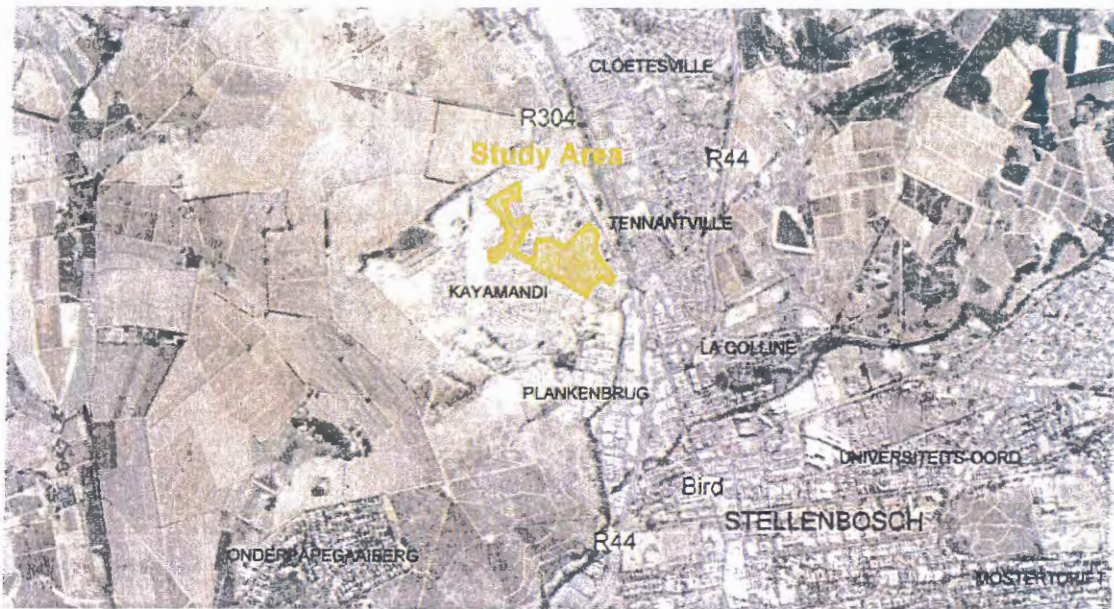


Figure 1: Aerial photo

- 2.1.2 The consideration of urban redevelopment occurring in this specific area is as a result of the proliferation of informal dwellings currently located within the study area, with its associated concerns with respect to basic engineering services, health and safety. This Project will also be running in conjunction with the proposed Northern Extension Project of Stellenbosch, which has identified a specific site that will be used as a decanting site, whilst the study area is being cleaned up to get ready for construction. The decanting site will therefore be utilised by the implicated displaced residents as a result of the proposed redevelopment project.

2.2 Site description, ownership and extent

- 2.2.1 As evident in *Plan No. 3*, the study area comprises of 116 properties, which consist of 7 public open spaces and 4 public roads. Details relating to the 116 properties; which include erf numbers, size, title deed no., ownership and land use are tabulated in *Annexure A*.
- 2.2.2 All the affected and implicated properties, as listed in *Annexure A*, are mapped and assessed in order to identify any potential constraints such as servitudes registered in or on the said properties.
- 2.2.3 Most of the properties within the study area are owned by Stellenbosch Municipality, with only 5 of the properties owned by companies, institutions or individuals. There are also 8 erven for which there is no information available. The ownership details are listed in *Annexure A* and illustrated on *Plan No. 6* attached hereto.
- 2.2.4 The only servitude registered within the study area is a Servitude Pipe Line (SG No. 4167-1990) which is in the process of being withdrawn.
- 2.2.5 A team site visit was conducted on the 20th of April 2017 to evaluate current land uses, facilities and visual inspections of environmental constraints, slopes and status of existing buildings in the area.

Guillaume Nel Environmental Consultants have been appointed to undertake an

4. ENVIRONMENT & HERITAGE

3.2.1 The Municipality is aiming to redevelop the Town Centre of Kayamandi, whereby formal residential opportunities will be created for existing residents in the demarcated study area. Following the detailed socio-economic survey, a number of other land uses will also be identified, which should be incorporated in the development proposal, including the required social amenities and public facilities such as crèches, churches, educational facilities, community halls and commercial opportunities. The subsequent planning applications following this feasibility study will include the rezoning, consolidation and subdivision of the given properties to an applicable zoning as prescribed by the Zoning Scheme By-law (to be approved) suitable for the proposed redevelopment of Kayamandi Town Centre.

3.2 Proposed Development and Development Controls

3.1.2 Stellenbosch Municipality is in the process of advertising their Draft Zoning Scheme By-law and Zoning Scheme Plans for public comment, which upon approval and finalisation, will be appropriated allocated to all the subject properties.

3.1.1 The majority of properties within the study area are used for residential purposes, mostly informal and some hostels. Given the fact that the study area is predominantly an informal residential area, there are several informal businesses operating inside the demarcated study area. There are also numerous crèches in the area, operated from informal dwellings. Kayamandi Hall, Makupula High School and a Methodist Church are also within the study area. To the north and west of the study area there are single residential erven, informal dwellings, some public open spaces, churches, Ikaya Primary School, churches and crèches. East from the study area there are the Economic & Tourism buildings, Police station and the proposed taxi rank site. South of the Town Centre is the Kayamandi Sport Fields and abutting that is the Kayamandi Mall, followed by Pankenburg Industrial. Most of the existing land uses can be seen on the attached plans with high resolution imagery.

3.1 Existing and Surrounding Land Uses

3. LAND USE AND ZONINGS

2.3.2 A title deed spot check has been done on some of the properties and there appear to be no title restrictions on those selected that would prevent the redevelopment of Kayamandi Town Centre. This will be confirmed once the Conveyancer's Certificates are obtained. Due to the large number of properties (116) the cost implication was too high (for this study and its budget) to obtain all title deeds and will be acquired during the following phase if a town planning application is prepared.

2.3.1 S.G. Diagrams / General Plans were obtained for all erven apart from the 8 erven for which there are no information available on the Chief Surveyor General's Website, see *Annexure B* attached.

2.3 S.G. Diagrams, Title Deeds and Conveyancer Certificates

Environmental Due Diligence to inform the proposed upgrading of Kayamandi Town Centre. A copy of the Environmental Due Diligence Report is attached hereto as *Annexure C*.

4.1 Topography

- 4.1.1 The site can be described as steep, sloping from north west (because of Papegaaiberg) to the south east towards the R304 and Plankeburg River, see attached *Plan 5, Slope Analysis* with contours.

4.2 Geology

- 4.2.1 The study area stretches over three dominant geological categories. The Town Centre section is dominated by the Cape Granite Suite (Db50). This suite occasionally contains greywacke, phyllite and quartzitic sandstone from the Tygerberg Formation within the Malmesbury Group. This geological group consists of alluvium and surficial cover formed in situ on Malmesbury rocks as well as granite and deposits of weathering products of granite. Soils covering this geological type's prismatic and/or pedocutanic horizons are dominant and is not red in colour.
- 4.2.2 The largest portion of Zone I is covered mainly by granite and deposits of the weathering products of granite from the Kuils River-Helderberg Pluton (Ba47). The area also contains greywacke, phyllite and quartzitic sandstone from the Tygerberg Formation within the Malmesbury Group. However the soil here tends to be more red.
- 4.2.3 Finally, the most southern portion of the study area contains a small section (Ia21) covered in deep deposits of alluvium and terrace gravel, which is associated with the Plankenbrug River.

4.3 Conservation

- 4.3.1 The study area contains no environmental conservation areas or critical biodiversity areas of concern. The entire site has been developed and if there were any sensitive ecological areas in the past, none have been retained or conserved here.

4.4 Water Resources

- 4.4.1 The study area does not contain any natural water resources. The Plankenbrug River flows along the R304 to the east of the site and a farm dam is located to the west of the study area on the Papegaaiberg hill, however the dam is separated from the study area by approximately 450 metres of developed residential area and therefore does not have an impact.

4.5 Heritage Resources

- 4.5.1 The Kayamandi CBD is located within an area scattered with tall pine trees. Historical photographs were obtained to determine the age of the trees on site. The photo in the report was taken in 1953 and shows the presence of the pine trees. This means that these trees have historical significance and should be retained in the re-development of the site as far as possible. A Notice of Intent to Develop was submitted to Heritage Western Cape and subsequently their approval / formal comment was obtained wherein they confirm that the redevelopment will not impact on heritage resources (see *Annexure D*).

5.1	Water Supply	ICE Tygerberg prepared an Engineering Services and Storm Water Report. This report entails the preliminary assessment of existing services for the proposed Kayamandi Town Centre project. The size and scale of the proposed development as received from the town planner were used to calculate the services demands of the proposed development (see <i>Annexure E</i>).
5.1.1		The existing water supply to this area can be described as follows: <ul style="list-style-type: none"> • A 450 mm Dia gravity water supply main from the Idas Valley dams to the Papegaaiberg reservoir; • A 355 mm pumped rising main from Papegaaiberg reservoir to the Kleinvallei reservoir (TWL 218.4m); • A pumped rising main from the Kleinvallei reservoir to the Kayamandi reservoir (2000 kl; TWL=224.3).
5.1.2		The development area falls within the supply area of the Kayamandi reservoir, which has been earmarked to be augmented with a new reservoir of 2000 kl.
5.2	Proposed Bulk Water	
5.2.1		The proposed bulk water system should provide sufficient water storage for 48 hours and operating water pressures between 90m and 30m to all the users. Within limits the pressure in excess of 90m can be controlled with a pressure-reducing valve and pressure less than 30m can be augmented with a booster pump. Total reservoir storage (48 hrs) of approximately 1.6 Ml is required for the total development. The 2011 masterplan proposes that the existing Kayamandi Reservoir be augmented by an additional 2000 kl reservoir.
5.3	Sewerage	
5.3.1		The existing sewerage system entails a bulk sewer on the western side of the Plankenburg River and has limited capacity. Phase 1 of the main outfall sewer (from the WWTW to Oude Molen) is presently being upgraded by the municipality and phases 2 and 3, which will extend the sewer to Nigtevonden Road, are scheduled to be completed by end of 2018. The existing sewerage network as obtained from the municipality. Similarly, the wastewater treatment works is also being upgraded from 20 Ml/day to 35 Ml/day to be completed by end 2018. This should provide additional spare capacity of 11 Ml/day, due to previous backlogs.
5.4	Storm Water	
5.4.1		A computerized storm water model of the study area was developed in the PCSWMM software to determine the flows from the 50 year events and the corresponding attenuation requirements. The existing storm water network and catchment areas can be viewed in the full report attached hereto.
5.5	Electricity	
5.5.1		It has been determined that the development will require approximately 4 MVA to provide electricity to this development. The existing networks do not have the capacity for this demand and will have to be upgraded. Discussions are presently underway with the electrical engineer's department regarding this matter.

6. DRAFT TRAFFIC INPUT

ICE Group prepared a Draft Traffic Input; the final report will be submitted to council on completion, see attached *Annexure E*.

Note that the final report may have an impact on the number of units currently shown on the Proposed Layout Plan.

6.1 Available Traffic

- 6.1.1 As it is the intention to provide new facilities for the existing residents, it is not anticipated that peak hour traffic will increase significantly. The accompanying community facilities are also not expected to generate significant external peak hour traffic. However, following discussions with Stellenbosch Municipality (Messrs John Muller and Nigell Winter), it was requested that traffic counts be conducted at the Masitandane Street-roundabout and the George Blake Street/Rand Street intersection, as well as updated counts at the R304/Masitandane Street intersection. The said counts were conducted on Thursday, 31 August 2017 from 06h00 to 09h00 and again from 15h30 to 18h30. The peak hour volumes derived from these counts are indicated in Figure 1 attached to *Annexure E*.

6.2 Trip Generation

- 6.2.1 Based on the trip generation rates as contained in the South African Trip Generation Rates Manual (SATGR), the 1 669 units could potentially generate 835 peak hour trips (292 in, 543 out during the AM peak hour and vice versa during the PM peak hour). As mentioned, the residential units will not be additional to the existing; a portion of the informal structures in Kayamandi will merely be formalised / replaced. It should be noted, however, that the existing traffic within Kayamandi entering and exiting Kayamandi via the Masitandane Street-roundabout during the AM/PM peak hours, are ± 760 during the AM and PM peak hours. The trip generation as calculated above can thus be considered high.

6.3 Geometry

- 6.3.1 The existing roads within Kayamandi Town Centre are surfaced, with some gravel roads between the informal structures. As indicated on the attached *Proposed Layout Plan*, it is proposed to retain the existing roads. It can be anticipated that the existing condition of the said roads will need to be improved (e.g. resurfaced).

6.4 Parking

- 6.4.1 The current parking regulations for the Kayamandi Scheme are considered relatively high. Additional information was obtained from a document referencing a parking survey conducted by the City of Cape Town in 2011 in which the average of the surveyed rates calculates to $\pm 0,2$ bays per unit.
- 6.4.2 Based on all of the above, it is suggested that parking to the redeveloped town centre be provided at a rate of 0,25 bays per unit. These Parking bays should be provided with dimensions in line with normal parking standards, i.e. 2,5 by 5,0 metre bays. Isle widths provided behind parking bays should be minimum 7,0 metres.

Survey unit and Aerial photography count	Structures / Structures Count 2017		Area (ha)		Household Income Profile		Household Income Profile	
	Structures	Count 2017	Area (ha)	Count 2017	Single with no dependents	Beneficiary	Total	
Zone A	23	138	3.3	1.07	42	38	1.07	
Zone B	23	138	3.3	1.07	42	38	1.07	
Zone C	40	197	2.1	40	156	38	40	
Zone D	187	405	2.1	40	156	38	40	
Zone E	187	405	2.1	40	156	38	40	
Zone F	187	405	2.1	40	156	38	40	
Zone G	187	405	2.1	40	156	38	40	
Zone H	187	405	2.1	40	156	38	40	
Zone I	187	405	2.1	40	156	38	40	
Zone J	187	405	2.1	40	156	38	40	
Zone K	187	405	2.1	40	156	38	40	
Zone L	187	405	2.1	40	156	38	40	
Zone M	187	405	2.1	40	156	38	40	
Zone N	187	405	2.1	40	156	38	40	
Zone O	187	405	2.1	40	156	38	40	
Zone P	187	405	2.1	40	156	38	40	
Zone Q	187	405	2.1	40	156	38	40	
Zone R	187	405	2.1	40	156	38	40	
Zone S	187	405	2.1	40	156	38	40	
Zone T	187	405	2.1	40	156	38	40	
Zone U	187	405	2.1	40	156	38	40	
Zone V	187	405	2.1	40	156	38	40	
Zone W	187	405	2.1	40	156	38	40	
Zone X	187	405	2.1	40	156	38	40	
Zone Y	187	405	2.1	40	156	38	40	
Zone Z	187	405	2.1	40	156	38	40	
Subtotal	179	767	4.9	767	258	33.5%	100.0%	
Town Centre	185	1,589	25.1	2,787	992	35.4%	2,800	
Zone A-P	185	1,589	25.1	2,787	992	35.4%	2,800	
Zone O	156	1,061	8.5	1,324	501	47.2%	1,061	
Enkanini	184	2,413	17.9	3,298	1,280	50.5%	2,534	
Grand Total	179	5,063	6.3%	6,395	2,534	39.6%	6,395	

Table 1: Kayamandi-Enkanini Socio Economic Survey Profile Summary

7.1 Demographic Profile

7.1.1 Numerous Demographic Surveys have been undertaken for various wards in Kayamandi and Enkanini during the past year. The results of these surveys were consolidated to provide a comprehensive demographic profile for the broader area (see Table 1).

7. HOUSING DEMAND & RELOCATION STRATEGY

Plan Associates prepared this document, it deals with the formalisation and relocation strategy for the informal settlements located in the broader Kayamandi and Enkanini areas in the Stellenbosch Local Municipality.

- 6.5.1 Minibus taxis are largely utilised in Kayamandi. Two informal taxi ranks currently exist within walking distance from the study area. With the proposed redevelopment of the Kayamandi Town Centre, public- and non-motorised transport will be addressed and linked with the existing networks in/around Stellenbosch.
- 6.5.2 A formalised, but temporary, taxi rank is currently planned on the western corner of the R304/Mastitandane Street intersection. According to Stellenbosch Municipality, the existing midblock pedestrian crossing across the R304 will soon be moved. From aerial photos, it can be noted that the existing desire line between Kayamandi and Cloetesville does not align with the existing position of the midblock crossing.

6.5 Public and Non-Motorised Transport (NMT)

7.2 Housing Typologies

- 7.2.1 The total demand/ backlog could be accommodated using the following housing typologies depending on the beneficiary status of the individual households. BNG housing whether it be free standing or multi storey units will give the option of full ownership to residents. Social and Community Residential Units (CRU) will yield higher densities, but as a result of current policies and funding mechanisms, will only be available as rental stock (see *Table 2* for a break down). These housing typologies can be viewed under *Architect Plans*.

Table 2: Housing Typologies

Qualifiers	
- BNG Single Free Standing Units	Full Ownership
- BNG Multi Storey Units	Full Ownership
- Site and Service	Full Ownership
Non-Qualifiers	
- Community Residential Units (Re-turbishment)	Rental
- Social Housing	Rental
- Site and Service	Rental/PFO
- Lower and Upper GAP Market	Full Ownership

7.3 In-Situ Formalisation Potential and Relocation Surplus

- 7.3.1 Various investigations have been undertaken by professional project teams in the different parts of Kayamandi and Enkanini to determine the in-situ formalisation potential/ capacity within each of these areas. The results from these studies are summarised in *Table 3*.

Table 3: In-Situ Formalisation Yields and Relocation Surplus

Area	Approach	Demand		In-Situ Yield (Units)		Relocation Surplus	
		no	%	no	%	no	%
Town Centre	4 Storey Walk-Up BNG and Rental (621) + (986)	2500	100%	1507	57%	1193	43%
Zone D	BNG and 'Job Slope' Model (526) + (177)	1051	100%	703	68%	355	34%
Enkanini	BNG, Social and Site and Service (812) + (296) + (190)	2534	100%	1304	51%	1230	43%
		6395	100%	3614	57%	2781	43%

- 7.3.2 In order to provide 2781 opportunities (shortfall after in-situ upgrading), additional developable land in the Northern Extension area is required. Presuming a density of ± 70 dwelling units per hectares, approximately 40 hectares of land is required in the Northern Extension.
- 7.3.3 The attached *Proposed Layout Plan* depicts the proposed layout for the redevelopment/ formalisation of the Kayamandi Town Centre. It is based on the

		KAYAMANDI TOWN CENTRE REDEVELOPMENT FEASIBILITY STUDY, STELLENBOSCH
		PAGE 11
8.1.1	Nationally, the National Development Plan (NDP) identified five principles for spatial development: spatial justice, spatial sustainability, spatial resilience, spatial quality	
8.1	National Planning Policies	
	Several policy documents were taken into consideration to assess and guide the development proposal of the Kayamandi Town Centre Redevelopment Project. The policy documents range from national, provincial, district and local municipal planning and development documentation.	
8.	PLANNING POLICY DIRECTIVES	
7.4.7	Phase 6: (2028 and Beyond) Incremental expansion of GAP, BNG, Site and Service and Rental in broader Northern Extension Area.	
7.4.6	Phase 5: (2026/2027) Complete last in-situ BNG, Rental and Site and Service formalisation in Enkanini. Complete in-situ BNG and Rental formalisation in Kayamandi Zones D, F, I, M and P.	
7.4.5	Phase 4: (2024/2025) Relocate and formalise last households from Enkanini in the Northern Extensions GAP, BNG and Site and Service project areas respectively. Relocate and formalise last households from Kayamandi Zone D, F, I, M and P in the Northern Extensions GAP, BNG and Site and Service project areas respectively.	
7.4.4	Phase 3: (2022/2023) Formalise remaining GAP households from Zone O on the 191 sites in Watergang which were utilised as decanting site during Phase 1 and Phase 2. Commence with formalisation first 50% of Enkanini in-situ households (BNG, Rental and Site and Service). Commence with formalisation of in-situ BNG and Rental in Kayamandi Zones A, J, K and L. Use the two Social Housing Precincts in Northern Extension area as temporary decanting site for the two projects noted above.	
7.4.3	Phase 2: (2020/2021) Relocate the surplus GAP and Site and Service demand from Zone O to the Northern Extension Area GAP and Site and Service project area. Complete Zone O in-situ BNG and Rental development. Relocate first group of households from Enkanini to the Northern Extensions GAP, BNG and Site and Service project areas respectively. Relocate first group of households from Kayamandi (Zones A, J, K, L) to the Northern Extensions GAP, BNG and Site and Service project areas respectively.	
7.4.2	Phase 1: Finalise Strategic Planning towards formalisation of Enkanini and Kayamandi Town Centre and complete registration of beneficiaries (all households).	
7.4.1	The proposed Formalisation and Relocation Strategy for the Kayamandi-Enkanini area is briefly summarised below (see the full report attached for more details).	
7.4	Formalisation & Relocation Strategy	
7.3.4	The four storey walk-up scenario results in about 1607 units comprising 621 BNG units and 986 Rental units (consisting of studio, one- and two bedrooms). The five storey scenario increases these figures to 621 BNG and 1230 Rental units which total ±1851 units.	
	principle of only providing multi-storey (4 to 5 floors) BNG and Rental units in order to optimally utilise the available land in the strategically located Town Centre.	

and spatial efficiency. These principles are translated and localised in various other documents and cognisance was taken of these principles.

- 8.1.2 The proposed development aligns with the vision of the NDP, as it will promote compaction of the town through the creation of higher density residential development, combined with other public amenities, stimulating an integrative environment and human settlement incorporating various other facilities. Provision will also be made for public transport in the form of a proposed taxi rank situated adjacent to the proposed study area, in alignment with the NDP's visions and objectives to improve the quality and use of public transport. The proposed redevelopment of the town centre contains development through upgrading and formalization, and therefore does not represent leap frog development but rather urban renewal / upgrading.
- 8.1.3 The NDP also focuses on the creation of sustainable human settlements, by focusing on the incorporation of BNG housing, thereby providing greater diversity in social housing options in terms of the product and financing options available. The proposed redevelopment aims to provide sufficient housing opportunities with increased tenure security for the current residents within the study area.

8.2 Provincial Planning Policies

- 8.2.1 At provincial and district levels, the Western Cape **PSDF** (2014), amongst others, was compiled to specify a clear set of spatial objectives for municipalities in order to ensure the realisation of the future provincial spatial infrastructure; and to enable and direct growth. The PSDF aims to articulate the spatial objectives of the Western Cape region to assist the alignment of neighbouring municipalities' spatial plans.
- 8.2.2 The proposed development took cognisance of several guideline tools relating to the provision of public and social facilities. This directly addresses the challenge highlighted within the PSDF, which include the locality and design of public facilities within settlements. The need for motorised travel is reduced through the multi-functionality of facilities, where complementary land uses are clustered. The notion of clustering and ease of access were the two main factors used to determine the proposed site development plan and housing typology and placing.

8.3 District Planning Policies

- 8.3.1 The Cape Winelands **IDP** (2016/17) is also aligned with the NDP's visions and objections. This document provides the status quo of the district, where the Kayamandi Town Centre Redevelopment Project is situated. It sets out development challenges that the district face, including the lack of available housing opportunities with a housing backlog of 6395 units in the study area. The proposed redevelopment of this area will greatly contribute towards alleviating the housing backlog and regenerating and formalizing the area.

8.4 Municipal Planning Policies

- 8.4.1 At a local level, the Stellenbosch **IDP** (2016/21) states the mission of the Stellenbosch Municipality: *To deliver cost-effective services that will provide the most enabling environment for civil and corporate citizens.* This strategic vision is informed by the desire to become the *Innovation Capital of South Africa*. Addressing the strategic challenges and achieving the visions and goals set out by the Municipality, which requires collaborative action and enhanced public planning participation. Within the IDP, a summary is provided of a needs analysis, which commenced during September and

8.6.1 Stellenbosch Municipality is currently busy with their new Zoning Scheme By-Law which will be essentially different in many ways from the current Kayamandi Zoning Scheme from the mid 1990's. The implications of the zoning scheme regulations can

8.6 Zoning Scheme

8.6.4 Municipalities are required to act as developers for the UISP and the NUSP provides support, in partnership with the province, the NDHS and the Housing Development Agency (HDA), to help them do so effectively. Guidance for implementation is set out in Part 3 of the National Housing Code. The key objective of NUSP is to enhance the capacity municipalities to overcome challenges of growing number of informal settlements and slow delivery of subsidised houses through incremental upgrading of informal settlements.

8.6.3 Informal settlement upgrading is a developmental process that needs to be a part of the whole that is human settlement delivery. The drive in the current climate is therefore to develop the incremental settlement process in such a manner that it will lead to access to integrated human settlements comprised of a range of housing typologies, that are mixed income, mixed use and have access to a range of amenities, social spaces and services.

8.6.2 The state has a mechanism in place for providing funding, by way of an urban settlements development grant (USDG). The USDG was devised to ensure that the upgrading process and the installation of bulk infrastructure, in particular, were adequately funded to mitigate bottlenecks that were hampering the process.

8.6.1 The government's Upgrading of Informal Settlement Programme (UISP), contained in the National Housing Code of 2009, prioritises *in situ* upgrading and provides funding for incremental, participative upgrading projects. It is a fully funded programme that comprehensively sets out the steps to be taken by government in upgrading informal settlements. It puts the affected communities at the centre of the discussions about how and when their communities will be developed. The UISP aims to address the country's housing challenges, including details on the norms and standards to be followed. The understanding of the dynamics and complexities around informal settlement needs to be couched in a rationale that counters the conservative notion that informal settlements are a threat.

8.5 Upgrading of Informal Housing Programmes and Mechanisms

8.5.2 From the above it is evident that the redevelopment of the Kayamandi Town Centre proposed, consisting of subsidised BNG and social housing (apartment blocks) will directly address these pressing needs and pressures experienced in Stellenbosch Municipality concerning housing backlogs and unsatisfactory living conditions. The development proposal should therefore be included in the new IDP and the necessary sector plan for this region.

8.5.1 October 2014. The following needs relevant to this development proposal were identified. The IDP identifies that inadequate supply of shelters is of main concern. The Municipality has a current and future housing backlog, half of which are for middle and more affluent households. Over the past ten years Kayamandi has more than doubled its population. As the population has grown, the release of land for development and housing has not kept pace. Housing has become so expensive that many of those who work in the Stellenbosch municipal area commute from outside this area. For these and others, the most basic shelter – even of a temporary nature – within this municipal domain remains an unattainable dream.

only be determined once the new scheme has been approved by Council.

- 8.6.2 The Draft Zoning Scheme states that the purpose of the Less Formal Residential Zone is to make provision for the use of land for the purpose of informal and / or subsidised housing, as well as group housing where more than one dwelling house can be permitted on the same cadastral erf; settlement of people in an informal manner for emergency purposes; incremental upgrading of informal settlements; where conditions so dictate, to accommodate persons residing in areas where financial constraints require that less stringent land use management and building development management provisions be applied; the stimulation of informal-sector economic activity by making provision for an increased and appropriate mix of land use activities within residential areas.

- HOUSING TYPOLOGIES
- PROPOSED LAYOUT

ARCHITECT PLANS

- NO. 6 - OWNERSHIP
- NO. 5 - SLOPE ANALYSIS MAP
- NO. 4 - EXISTING SERVICES
- NO. 3 - STUDY AREA
- NO. 2 - WARDS AND ZONES
- NO. 1 - LOCALITY MAP

PLANS

- ANNEXURE G - HOUSING DEMAND & RELOCATION STRATEGY
- ANNEXURE F - DRAFT TRAFFIC INPUT
- ANNEXURE E - ENGINEERING SERVICES REPORT
- ANNEXURE D - HERITAGE WESTERN CAPE ROD
- ANNEXURE C - ENVIRONMENTAL DUE DILIGENCE
- ANNEXURE B - SG DIAGRAMS / GENERAL PLANS
- ANNEXURE A - PROPERTY DESCRIPTIONS AND DETAILS

ANNEXURES

ANNEXURE A

PROPERTY DESCRIPTIONS AND DETAILS

No. of Even	Erf Number	Erf Size (m ²)	Title Deed No.	Owner	Use
1	63	1045	T9056/2017	METHODIST CHURCH OF SOUTHERN AFRICA	Place of Worship
2	64	599	T10200/2009	MUN STELLENBOSCH	Informal Dwellings
3	65	28906	T10201/2009	MUN STELLENBOSCH	Informal Dwellings
4	66	7866	TS2610/1997	N E IND PTY LTD	Informal Dwellings
5	67	1912	T10202/2009	MUN STELLENBOSCH	Informal Dwellings
6	68	1374	T10203/2009	MUN STELLENBOSCH	Creche & Hostel
7	69	4597	T10204/2009	MUN STELLENBOSCH	Informal Dwellings
8	73	19310	T10206/2009	MUN STELLENBOSCH	Informal Dwellings
9	187	548	TL46464/1988	REGIONAL SERVICES COUNCIL CAPE METROPOL	Offices for Regional Services
10	425	956	T10270/2009	MUN STELLENBOSCH	Community Hall
11	426	9935	T10271/2009	MUN STELLENBOSCH	School
12	427	233	T10272/2009	MUN STELLENBOSCH	Informal Dwellings
13	428	261	T10282/2009	MUN STELLENBOSCH	Informal Dwellings
14	429	227	T10273/2009	MUN STELLENBOSCH	Informal Dwellings
15	430	308	T10274/2009	MUN STELLENBOSCH	Informal Dwellings
16	431	217	T10275/2009	MUN STELLENBOSCH	Informal Dwellings
17	432	262	T10276/2009	MUN STELLENBOSCH	Informal Dwellings
18	433	199	T10278/2009	MUN STELLENBOSCH	Informal Dwellings
19	434	210	T10277/2009	MUN STELLENBOSCH	Informal Dwellings
20	435	198	T10279/2009	MUN STELLENBOSCH	Informal Dwellings
21	438	216	T10293/2009	MUN STELLENBOSCH	Informal Dwellings
22	439	265	T10283/2009	MUN STELLENBOSCH	Informal Dwellings
23	440	221	T10284/2009	MUN STELLENBOSCH	Informal Dwellings
24	441	261	T10285/2009	MUN STELLENBOSCH	Informal Dwellings
25	442	1229	T10286/2009	MUN STELLENBOSCH	Informal Dwellings
26	452	393	T10296/2009	MUN STELLENBOSCH	Informal Dwellings
27	453	297	T10297/2009	MUN STELLENBOSCH	Informal Dwellings
28	454	225	T10298/2009	MUN STELLENBOSCH	Informal Dwellings
29	455	196	T10299/2009	MUN STELLENBOSCH	Informal Dwellings
30	456	196	T10300/2009	MUN STELLENBOSCH	Informal Dwellings
31	457	196	T10301/2009	MUN STELLENBOSCH	Informal Dwellings
32	458	184	T10345/2009	MUN STELLENBOSCH	Informal Dwellings
33	475	815	T10314/2009	MUN STELLENBOSCH	Hostel
34	476	750	T10315/2009	MUN STELLENBOSCH	Hostel
35	477	690	T10316/2009	MUN STELLENBOSCH	Hostel
36	478	888	T10317/2009	MUN STELLENBOSCH	Hostel
37	479	781	T10361/2009	MUN STELLENBOSCH	Hostel
38	480	766	T10362/2009	MUN STELLENBOSCH	Hostel

Property descriptions for all Even located within the study area:

Information in this table was obtained from the Chief Surveyor General, Search Works, Aerial Photography and Site Visits

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Site Visits

39	481	702	T10363/2009	MUN STELLENBOSCH	Hostel
40	482	701	T10364/2009	MUN STELLENBOSCH	Hostel
41	483	3355	T10365/2009	MUN STELLENBOSCH	Informal Dwellings
42	484	327	T10366/2009	MUN STELLENBOSCH	Informal Dwellings
43	485	206	T10367/2009	MUN STELLENBOSCH	Informal Dwellings
44	486	145	T10368/2009	MUN STELLENBOSCH	Informal Dwellings
45	487	93	T10369/2009	MUN STELLENBOSCH	Informal Dwellings
46	488	207	T10370/2009	MUN STELLENBOSCH	Informal Dwellings
47	489	147	T10372/2009	MUN STELLENBOSCH	Informal Dwellings
48	490	318	T10373/2009	MUN STELLENBOSCH	Informal Dwellings
49	491	227	T10374/2009	MUN STELLENBOSCH	Informal Dwellings
50	492	274	T10375/2009	MUN STELLENBOSCH	Informal Dwellings
51	493	605	T10376/2009	MUN STELLENBOSCH	Hostel
52	494	746	T10377/2009	MUN STELLENBOSCH	Hostel
53	495	676	T10294/2009	MUN STELLENBOSCH	Hostel
54	496	780	T10371/2009	MUN STELLENBOSCH	Hostel
55	497	173	T10295/2009	MUN STELLENBOSCH	Informal Dwellings
56	498	186	T10318/2009	MUN STELLENBOSCH	Informal Dwellings
57	499	186	T10319/2009	MUN STELLENBOSCH	Informal Dwellings
58	500	187	T10320/2009	MUN STELLENBOSCH	Informal Dwellings
59	501	187	T10321/2009	MUN STELLENBOSCH	Informal Dwellings
60	502	187	T10322/2009	MUN STELLENBOSCH	Informal Dwellings
61	503	187	T10323/2009	MUN STELLENBOSCH	Informal Dwellings
62	504	187	T10324/2009	MUN STELLENBOSCH	Informal Dwellings
63	505	324	T10325/2009	MUN STELLENBOSCH	Informal Dwellings
64	506	1084	T10326/2009	MUN STELLENBOSCH	Informal Dwellings
65	507	193	T10327/2009	MUN STELLENBOSCH	Informal Dwellings
66	508	193	T10328/2009	MUN STELLENBOSCH	Informal Dwellings
67	509	193	T10329/2009	MUN STELLENBOSCH	Informal Dwellings
68	510	194	T10330/2009	MUN STELLENBOSCH	Informal Dwellings
69	511	194	T10331/2009	MUN STELLENBOSCH	Informal Dwellings
70	513	194	T10333/2009	MUN STELLENBOSCH	Informal Dwellings
71	514	194	T10334/2009	MUN STELLENBOSCH	Informal Dwellings
72	515	194	T10335/2009	MUN STELLENBOSCH	Informal Dwellings
73	516	195	T10336/2009	MUN STELLENBOSCH	Informal Dwellings
74	517	195	T10337/2009	MUN STELLENBOSCH	Informal Dwellings
75	518	195	T10338/2009	MUN STELLENBOSCH	Informal Dwellings
76	519	195	T10339/2009	MUN STELLENBOSCH	Informal Dwellings
77	520	195	T10341/2009	MUN STELLENBOSCH	Informal Dwellings
78	521	196	T10341/2009	MUN STELLENBOSCH	Informal Dwellings
79	522	198	T10342/2009	MUN STELLENBOSCH	Informal Dwellings
80	523	28987	T10343/2009	MUN STELLENBOSCH	Informal Dwellings
81	633	15235	T10344/2009	MUN STELLENBOSCH	Community Hall & Informal Dwellings
82	644	280	NA	NA	Informal Dwellings

83	Informal Dwellings	NA	287	645	287
84	Informal Dwellings	NA	479	646	479
85	Informal Dwellings	NA	467	647	467
86	Informal Dwellings	NA	528	648	528
87	Informal Dwellings	NA	420	649	420
88	Informal Dwellings	NA	389	650	389
89	Informal Dwellings	NA	230	651	230
90	Informal Dwellings	JANGE NONTUZELO GLORIA	207	708	207
91	Informal Dwellings	MUN STELLENBOSCH	691	709	691
92	Informal Dwellings	MUN STELLENBOSCH	204	728	204
93	Informal Dwellings	MUN STELLENBOSCH	204	729	204
94	Informal Dwellings	MUN STELLENBOSCH	204	730	204
95	Informal Dwellings	MUN STELLENBOSCH	200	731	200
96	Informal Dwellings	MUN STELLENBOSCH	224	732	224
97	Informal Dwellings	MUN STELLENBOSCH	204	733	204
98	Informal Dwellings	MUN STELLENBOSCH	223	734	223
99	Informal Dwellings	BALENI LUYANDA HAMILTON	228	735	228
100	Informal Dwellings	MUN STELLENBOSCH	200	736	200
101	Informal Dwellings	MUN STELLENBOSCH	232	737	232
102	Informal Dwellings	MUN STELLENBOSCH	212	738	212
103	Informal Dwellings	MUN STELLENBOSCH	224	739	224
104	Informal Dwellings	MUN STELLENBOSCH	224	740	224
105	Informal Dwellings	MUN STELLENBOSCH	227	741	227
Public Open Space					
106	Pedestrian Access	MUN STELLENBOSCH	95	70	95
107	POS/Informal Structures	MUN STELLENBOSCH	NA	334	NA
108	POS/Informal Structures	MUN STELLENBOSCH	1172	422	1172
109	POS/Informal Structures	MUN STELLENBOSCH	834	437	834
110	Pedestrian Access	MUN STELLENBOSCH	55	512	55
111	POS/Informal Structures	NA	NA	652	NA
112	POS/Informal Structures	MUN STELLENBOSCH	198	710	198
Public Road					
113	Public Road	NA	NA	71	NA
114	Public Road	NA	NA	72	NA
115	Public Road	MUN STELLENBOSCH	342986	288	143399/2000
116	Public Road	NA	NA	RE/707	NA

Information in this table was obtained from the Chief Surveyor General, Search Works, Aerial Photography and Site Visits

ANNEXURE B

SG DIAGRAMS / GENERAL PLANS

