



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2022-03-18

MAYORAL COMMITTEE MEETING

WEDNESDAY, 2022-03-23 AT 10:00

TO The Executive Mayor, Ald G Van Deventer (Ms)
The Deputy Executive Mayor, Cllr J Fasser

COUNCILLORS R Adams
FJ Badenhorst
Z Dalling (Ms)
R du Toit (Ms)
P Johnson
J Joon
L Nkamisa
C van Wyk (Ms)
J Williams

Notice is hereby given that a Mayoral Committee Meeting will be held via **MS Teams** on **Wednesday, 2022-03-23 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER (MS)

CHAIRPERSON

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2022-03-23
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6.1	ANNUAL REPORT OVERSIGHT REPORT 2020/21
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Collaborator No: 726543
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: ANNUAL REPORT OVERSIGHT REPORT 2020/21

2. PURPOSE

To submit to Council, the Annual Report Oversight Report 2020/21 for **Adoption**.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The Draft Annual Report 2020/21 was referred by Council, on 28 January 2022, to the Municipal Public Accounts Committee (MPAC) which fulfilled the functions of the Oversight Committee. The appointment and mandate of the MPAC / Oversight Committee were informed by the MFMA Circular 32 of 2006.

Committee members, including the two co-opted members, scrutinised the Draft Annual Report 2020/21 and requested, where required, responses from the relevant Directorates. The Annual Report 2020/21 was objectively reviewed by the MPAC Members to ascertain whether the Annual Report 2020/21 is a true and accurate reflection of the municipality's performance for the 2020/21 financial year.

The public was invited to attend a public hearing and to submit any representations on the Draft Annual Report 2020/21. All the councillors were also invited to attend the public hearing and to deliberate on the Draft Annual Report 2020/21.

No members of the community attended the public hearing.

5. RECOMMENDATIONS

- (a) that Council, having fully considered the Annual Report Oversight Report 2020/21 of the Stellenbosch Municipality, **ADOPTS** the Annual Report Oversight Report 2020/21;
- (b) that Council, having fully considered the Annual Report 2020/21, attached as Annexure B to the Annual Report Oversight Report 2020/21, **APPROVES** the Annual Report 2020/21 without any reservations;
- (c) that the Annual Report Oversight Report 2020/21 be made public in accordance with Section 129(3) of the MFMA, and;
- (d) that the Annual Report Oversight Report 2020/21 be submitted in accordance with Section 129(2) and 132(2) of the MFMA to the Auditor General of South Africa, Provincial Treasury: Western Cape, Department of Local Government: Western Cape and the Provincial Legislature: Western Cape.

6. DISCUSSION

6.1 Background

The format of the Annual Report 2020/21 is guided Nationally by the MFMA Circular 63 of 2012, which seeks to establish uniform reporting by all municipalities. It is envisaged with this template that national and provincial governments can better benchmark municipalities when there is a single reporting framework.

The Draft Annual Report 2020/21 was completed and submitted to Council on 28 January 2022. As prescribed by legislation, the Draft Annual Report 2020/21 was released for public comment on 03 February 2022. Comments on the Draft Annual Report 2020/21 closed on 28 February 2022. No feedback from the community was received on or before 28 February 2022. However, Provincial Treasury made a written submission to the municipality on 25 February 2022. This submission was presented to the MPAC on 28 February 2022.

All Directorates were presented with the opportunity to review their information and to provide feedback at the MPAC.

The MPAC Annual Report Oversight Report 2020/21 is attached hereto as **ANNEXURE A**.

Commentary from the MPAC and responses from Directorates are incorporated as **ANNEXURE A** of the MPAC Annual Report Oversight Report 2020/21.

The Final Annual Report 2020/21 is attached to the MPAC Annual Report Oversight Report 2020/21 as **ANNEXURE B**.

6.2 Financial Implications

There are no financial implications beyond that which has been provided for in the 2021/22 MTREF Budget.

6.3 Legal Implications

In terms of Section 129(1) of the MFMA:

“The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council's comments on the annual report, which must include a statement whether the council has -

- (a) approved the annual report with or without reservations;*
- (b) rejected the annual report; or*
- (c) referred the annual report back for revision of those components that can be revised.”*

6.4 Staff Implications

This report has no additional staff implications to the Municipality.

6.5 Risk Implication

None

6.6 Previous / Relevant Council Resolutions:

Item 8.1 of the 2nd Meeting of the Council of Stellenbosch Municipality.

6.7 Comments from Senior Management**6.7.1 Director: Community and Protection Services**

Supported

6.7.2 Chief Financial Officer

Supported

6.7.3 Director: Infrastructure Services

Supported

6.7.4 Director: Corporate Services

Supported

6.7.5 Director: Planning and Economic Development

Supported

6.7.6 Comments from the Municipal Manager

Supported

ANNEXURES

Annexure A: Annual Report Oversight Report 2020/21

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
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DIRECTORATE	Office of the Municipal Manager
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REPORT DATE	08 March 2021

6.2	INTEGRATED DEVELOPMENT PLAN (IDP) PROCESS PLAN FOR REVISED SDF / IDP / BUDGET TIME SCHEDULE FOR 2022/23	2022 - 2027 AND
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Collaborator No: 726651
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: INTEGRATED DEVELOPMENT PLAN (IDP) PROCESS PLAN FOR 2022 - 2027 AND REVISED SDF / IDP / BUDGET TIME SCHEDULE FOR 2022/23

2. PURPOSE

To table to Council for consideration and approval:

- (a) The IDP Process Plan for 2022 – 2027, attached as **Annexure A**; and
- (b) The Revised SDF / IDP / BUDGET Time Schedule 2022/23, attached as **Annexure B**.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

According to Section 28(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA), each municipal council must adopt a process set out in writing to guide the planning, drafting, adoption and review of its IDP after the start of its elected term within a prescribed period. With the local government election being concluded and the inauguration of Council in November 2021, an IDP and Budget Process Plan for 2022 – 2027 had to be drafted for the development of the new 5th Generation IDP 2022 – 2027.

The SDF / IDP / Budget Time Schedule / Process Plan for 2022/23 was adopted by Council on 24 August 2021. Due to the local government elections that were held on 01 November 2021, it was decided by Council to amend the SDF / IDP / Budget Time Schedule / Process Plan for 2022/23 to outline the key strategic activities and consultative processes that will contribute to the drafting of the 5th Generation IDP 2022 – 2027, and the Medium-Term Revenue and Expenditure Framework to be implemented in the 2022/23 financial year. The Revised SDF / IDP / Budget Time Schedule / Process Plan for 2022/23 was considered and adopted by Council on 23 November 2021.

A second revision of the SDF / IDP / Budget Time Schedule for 2022/23 is proposed to the Council, which in effect would move the adoption of the IDP and Budget Process Plan to May 2022. The approval and adoption of the IDP and Budget Process Plan are subjected to the adoption of the Cape Winelands District Municipality's (CWDM's) Integrated Development Planning District Framework (MSA S27 Framework) by the CWDM Council in March 2022. This is also to ensure compliance and alignment between the MSA Section 27 Framework of the CWDM and the IDP and Budget Process Plan 2022 – 2027 of the Stellenbosch Municipality.

The Revised SDF / IDP / Budget Time Schedule 2022/23 is, therefore, compiled in terms of Section 21(b) of the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003) (MFMA), which states that "the mayor of a municipality must –

at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for –

- (i) the preparation, tabling and approval of the annual budget;
- (ii) the annual review of-
 - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
 - (bb) the budget-related policies;
- (iii) the tabling and adoption of any amendments to the integrated development plan and budget-related policies; and
- (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii)

The Revised SDF / IDP / Budget Time Schedule 2022/23 is also compiled in terms of Section 29 of the MSA.

Section 29(1) of the MSA further specifies that:

The process followed by a municipality to draft its integrated plan, including its consideration and adoption of the draft plan, must-

- (a) be in accordance with a predetermined programme specifying timeframes for the different steps;
- (b) through appropriate mechanisms, processes and procedures established in terms of Chapter 4, allow for
 - (i) the local community to be consulted on its development needs and priorities;
 - (ii) the local community to participate in the drafting of the integrated development plan; and
 - (iii) organs of state, including traditional authorities and other role players to be identified and consulted on the drafting of the integrated development plan;
- (c) provide for the identification of all plan and planning requirements binding on the municipality in terms of national and provincial legislation; and
- (d) be consistent with any other matters that may be prescribed by regulation.

5. RECOMMENDATIONS

- (a) that the IDP and Budget Process Plan for 2022 – 2027 to guide the planning, drafting, adoption and review of the 5th Generation IDP 2022 -2027 be approved for public comment, attached as **ANNEXURE A**;
- (b) that Council adopts the Revised SDF / IDP / Budget Time Schedule 2022/23 for the compilation of the annual budget in terms of Section 21(1) of the MFMA and Section 29 of the MSA, to guide the development of the 5th Generation IDP 2022 - 2027, attached as **ANNEXURE B**;
- (c) that a notice of the IDP and Budget Process Plan 2022 – 2027 and the Revised SDF / IDP / Budget Time Schedule for 2022/23 be placed in the local newspaper notifying the public;
- (d) that the IDP and Budget Process Plan for 2022 – 2027 be published on the official website of the municipality and placed in libraries for a period of 21 days for public comment; and
- (e) that the Revised SDF / IDP / Budget Time Schedule / Process Plan 2022/23 be published on the official website of the municipality and placed in libraries and ward offices.

6. DISCUSSION

6.1 Background

The IDP and Budget Process Plan 2022 -2027 is compiled in terms of Sections 28 and 29(1) of the MSA; which specifies that:

Section 28:

- (1) *Each municipal council must adopt a process set out in writing to guide the planning, drafting, adoption and review of its IDP.*
- (2) *The municipality must through appropriate mechanisms, processes and procedures established in terms of Chapter 4, consult the local community before adopting the process.*
- (3) *A municipality must give notice to the local community of particulars of the process it intends to follow.*

Section 29(1):

The process must—

- (a) *be in accordance with a predetermined programme specifying timeframes for the different steps;*
- (b) *through appropriate mechanisms, processes and procedures allow for—*
 - (i) *the local community to be consulted on its development needs and priorities;*
 - (ii) *the local community to participate in the drafting of the IDP; and*
 - (iii) *organs of state, including traditional authorities, and other role players to be identified and consulted on the drafting of the integrated development plan;*
- (c) *provide for the identification of all plans and planning requirements binding on the municipality in terms of national and provincial legislation; and*
- (d) *be consistent with any other matters that may be prescribed by regulation.*

The process set out below will be followed for the planning, drafting, adoption and review of the **5th Generation IDP 2022 – 2027**:

Phases	Time Frame	Tasks	Responsible
Analysis	September - October	External Analysis	All departments Planning and Economic development IDP/PMS/PP Section
		✚ Review sector plans and priorities implementation of sector plans recommendations.	
		✚ Review / amendment of Spatial Development Framework.	
		✚ Socio-Economic Analysis. ✚ Public participation: Community needs analysis and inputs.	

Phases	Time Frame	Tasks	Responsible
		<ul style="list-style-type: none"> ✚ Internal Analysis ✚ Review Long Term Financial Plan. ✚ IDP needs analysis. 	Finance IDP/PMS/PP Section
Strategy and action	October – November	<p>Strategic Planning</p> <p>MayCo and management consider the external and internal analysis and strategies around the 5-year development priorities and operational strategies (programmes / projects / activities and actions).</p>	Executive Management Council
Project and programme Identification	November - December	Details of the possible solutions are discussed to determine what is needed (budget, timing, how long, when, by who).	Executive Management Senior Managers / Managers Project Managers
Integration	December – February	<ul style="list-style-type: none"> ✚ Identified projects are integrated and budgeted for through internal meetings. ✚ Intergovernmental alignment – align municipality strategy with national, provincial and district municipality development policies and planning instruments. 	Executive Management / Senior Managers / Managers IDP/PMS/PP Section Financial Management Services
Approval	March – April	<ul style="list-style-type: none"> ✚ Draft IDP is tabled at Council for approval. ✚ Consultation with the public and stakeholders on the draft IDP and Budget. 	IDP/PMS/PP Section Council
	May	<ul style="list-style-type: none"> ✚ Adoption of final IDP document and budget. 	Council

The approval of the draft 5th Generation IDP and Budget 2022 - 2027 is planned for March 2022 and final adoption in May 2022.

The requirements for a Time Schedule are outlined in Section 21(1) of the MFMA and indicates:

The Mayor of a municipality must –

- (a) *coordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget-related policies are mutually consistent and credible;*

- (b) *at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for–*
- (i) *the preparation, tabling and approval of the annual budget;*
 - (ii) *the annual review of –*
 - aa) *the integrated development plan in terms of section 34 of the Municipal Systems Act; and*
 - bb) *the budget-related policies.*
 - (iii) *the tabling and adoption of any amendments to the integrated development plan and the budget-related policies; and*
 - (iv) *any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).*

The new planning dispensation which includes the Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2013) (SPLUMA), the Western Cape Land Use Planning Act, 2014 (Act No.3 of 2014) and the Stellenbosch Municipal Planning By-law, 2015 imposes new requirements to compile or amend a municipal Spatial Development Framework (*mSDF*).

The Revised SDF / IDP / Budget Time Schedule 2022/23 also takes cognisance of the regulatory framework for the review, amendment and approval of the SDF, IDP, Budget and the annual Service Delivery and Budget Implementation Plan (SDBIP). The SDBIP is the implementation tool to give effect to those objectives and targets as indicated in the IDP and Budget. The importance of synchronising the timelines for the revision of the IDP and Annual Budget with those of the SDBIP, is captured in Section 41 of the MSA, which states that:

Section 41:

- “(1) A municipality must in terms of its performance management system and in accordance with any regulations and guidelines that may be prescribed –*
- (a) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact, with regard to the municipality’s development priorities and objectives set out in its integrated development plan”.*

Section 26(e) of the MSA refers to the Municipal SDF as a ‘core component’ of the municipal IDP and requires that the IDP reflect an *mSDF*, which must include the provision of basic guidelines for a land-use management system for the municipality.

A municipal SDF (new and / or amended) has to follow a timeline set out in a process plan / time schedule similar to the IDP Process Plan. Moreover, the SDF and IDP processes need to be aligned.

The table below stipulates the important deadlines in terms of the MSA and the MFMA:

Legislation / Regulation	Activity	Prescribed Period
MFMA – Sec 21(1)	Approve the time schedule	10 months before the start of the new budget year
MFMA - Sec 16(2)	Table draft budget at a council meeting	90 days before the start of the new budget year
MFMA - Sec 24(1)	Approve the final budget	30 days before the start of the new budget year
MFMA - Sec 69 (3)(a)	Submit draft SDBIP	No later than 14 days after the approval of an annual budget
MFMA - Sec 53 (1)(c)(ii)	Approval of SDBIP	Within 28 days after the approval of the annual budget is approved by the council
MSA – Sec 32(1)	Submit a copy of the IDP to the district, provincial government and national government	10 days after the adoption of the IDP
MSA - Sec 25(4)	Give notice to the public on the adoption of the IDP	14 days after the adoption of the IDP
MFMA - Sec 69(3)	Submit to the Executive Mayoral Committee a service delivery and budget implementation plan (SDBIP)	14 days after the approval of the annual budget

6.2 **Financial Implications**

There are no financial implications beyond that which was approved in the 2021/22 MTREF Budget.

6.3 **Legal Implications**

In accordance with Section 28(1) :

- (1) Each municipal council must adopt a process set out in writing to guide the planning, drafting, adoption and review of its IDP.
- (2) The municipality must through appropriate mechanisms, processes and procedures established in terms of Chapter 4, consult the local community before adopting the process.
- (3) A municipality must give notice to the local community of particulars of the process it intends to follow.

Section 29(1) of the MS further specifies that:

The process followed by a municipality to draft its integrated development plan, including its consideration and adoption of the draft plan, must –

- (a) be in accordance with a predetermined programme specifying timeframes for the different steps;

- (b) through appropriate mechanisms, processes and procedures established in terms of Chapter 4, allow for
 - (iv) the local community to be consulted on its development needs and priorities;
 - (v) the local community to participate in the drafting of the integrated development plan; and
 - (vi) organs of state, including traditional authorities and other role players to be identified and consulted on the drafting of the integrated development plan;
 - (c) provide for the identification of all plan and planning requirements binding on the municipality in terms of national and provincial legislation; and
 - (d) be consistent with any other matters that may be prescribed by regulation.
- In accordance with Section 21(b) of the MFMA “the mayor of a municipality must –

at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for –

- (i) the preparation, tabling and approval of the annual budget;
- (ii) the annual review of-
 - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
 - (bb) the budget-related policies;
- (iii) the tabling and adoption of any amendments to the integrated development plan and budget-related policies; and
- (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).

Section 41 of the MSA also states that:

- (1) A municipality must in terms of its performance management system and in accordance with any regulations and guidelines that may be prescribed –
 - (b) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact, with regard to the municipality’s development priorities and objectives set out in its integrated development plan”.

6.4 Staff Implications

This report has no additional staff implications for the municipality.

6.5 Risk Implication

This report has no direct risk implications for the municipality.

6.6 Previous / Relevant Council Resolutions

- Item 8.1 of the 37th Council Meeting held on 24 August 2020.
- Item 8.1 of the 45th Council Meeting held on 24 August 2021.
- Item 6.16 of the Adjourned 1st Council Meeting held on 23 November 2021

6.7 Comments from Senior Management

6.7.1 Director: Community and Protection Services

Supported

6.7.2 Chief Financial Officer

Supported

6.7.3 Director: Infrastructure Services

Supported

6.7.4 Director: Corporate Services

Supported

6.7.5 Director: Planning and Economic Development

Supported

6.7.6 Comments from the Municipal Manager

Supported

ANNEXURES

Annexure A: DRAFT IDP PROCESS PLAN FOR 2022 – 2027

Annexure B: REVISED SDF / IDP / BUDGET TIME SCHEDULE FOR 2022/23

FOR FURTHER DETAILS CONTACT:

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POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
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REPORT DATE	14 March 2022

6.3	DRAFT FIRTH GENERATION INTEGRATED DEVELOPMENT PLAN (IDP) 2022 – 2027 AND PUBLIC PARTICIPATION SCHEDULE FOR APRIL 2022
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Collaborator No: 72681
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: DRAFT FIRTH GENERATION INTEGRATED DEVELOPMENT PLAN (IDP) 2022 – 2027 AND PUBLIC PARTICIPATION SCHEDULE FOR APRIL 2022

2. PURPOSE

To table to Council for consideration and approval:

- (a) The Draft Firth Generation IDP 2022 – 2027, attached as **Annexure A**; and
- (b) The Draft IDP and Budget Public Participation Schedule, April 2022, attached as **Annexure B**.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

In terms of Section 25(1) of the Local Government Municipal Systems Act, 2000 (Act. No. 32 of 2000) (MSA), each municipal council must after the start of its elected term, within a prescribed period must adopt a single, inclusive strategic plan. This strategic plan will be the 5th Generation IDP 2022 – 2027. The IDP informs the budget of the municipality and also details the municipality's actions to address the vision, mission, strategic objectives and needs of the community.

The municipal IDP must:

- links, integrates and co-ordinate plans and considers proposals for the development of the municipality;
- aligns the resources and capacity of the municipality with the implementation of the plan;
- forms the policy framework and general basis on which annual budgets must be based; and
- is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.

Previously, Stellenbosch Municipality held online public participation meetings with a number of satellite venues. This hybrid model of public participation ensured that community members who do not have access to data and or a device can attend the meeting at a satellite venue within the ward. The challenges outlined below had to be considered in order to determine an appropriate approach to public participation as well as the health and safety of community members and municipal officials.

- Loadshedding, which occur intermittently during the day, impacts the reliability of internet connectivity and broadcasting of the live streaming event;
- Although emergency power alternatives (generators) could be explored for the satellite venues, the financial cost for renting generators and having electricians on standby will be costly. These costs will have to be covered irrespective of Eskom implementing loadshedding or not, because it will need to be on standby for the duration of the meetings at the satellite venues;

-
- The safety and security of community members and municipal officials need to be considered at all times. Community members and municipal officials travelling by car or walking home could be at risk due to inadequate street lighting and road safety during loadshedding periods, thus making them vulnerable to criminal elements;
 - With the steady increase in COVID–19 cases, the municipality needs to adhere to the COVID-19 regulations. Therefore, only 50% of the capacity of a hall may be used. Should loadshedding occur, community members cannot be accommodated outside of the venue, should the capacity of the hall have been reached; and
 - The month of April 2022 also allows a very limited time to consult the community, due to a number of public holidays within April 2022.

For the community to provide inputs and comments on the Draft 5th Generation IDP 2022 – 2027, the proposed mechanisms, processes and procedures for public participation is proposed to Council for approval:

- Members of the community and other interested and affected parties will be encouraged to attend the online public participation meeting for their ward / area;
- Should community members and other interested and affected parties wish to follow the online meeting and to provide written questions / submissions, a link to an electronic submission form to capture comments will be made available on the:
 - Live MS Teams meeting Q & A section;
 - Municipal Website: www.stellenbosch.gov.za;
 - Stellenbosch Citizen App: Download from Google Play Store, iStore, Windows Store and Java;
 - WhatsApp: 067 427 1556; and
 - Email: idp@stellenbosch.gov.za
- The link to the electronic submission form will be active from 4
April 2022 – 27 April 2022, on the above electronic platforms for the community to submit comments on the Draft 5th Generation IDP 2022 – 2027 and Budget.

5. RECOMMENDATIONS

- (a) that the Draft 5th Generation IDP 2022 – 2027 for Stellenbosch Municipality be approved in terms of Section 25(1) of the MSA for the purpose of obtaining public inputs and comments;
- (b) that an advertisement be placed on the official website of the municipality and local newspaper notifying the public that the Draft 5th Generation IDP 2022 – 2027 is open for public inputs and comments during April 2022 for a period of 21 days;
- (c) that the Draft 5th Generation IDP 2022 – 2027 be submitted to the Western Cape: Department of Local Government, Western Cape: Provincial Treasury, National Treasury and the Cape Winelands District Municipality; and
- (d) that the Draft 5th Generation IDP 2022 – 2027 and Budget Public Participation Schedule, April 2022 be approved.

6. DISCUSSION

6.1 Background

In terms of the provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA), each Council must, within the prescribed period after the start of its elected term, adopt a single, inclusive, strategic plan. The 5th Generation IDP 2017 – 2022 serves as this instrument for the next five years.

An Integrated Time Schedule was approved by Council in August 2021 to guide the planning and development of the 5th Generation IDP 2017 – 2022.

The following processes were followed in accordance with the time schedule:

DATE	ACTION(S)
July / August 2021	Approval of the mSDF / IDP / Budget Process Plan / Time Schedule
September 2021 – November 2021	<ul style="list-style-type: none"> Approval of the mSDF / IDP / Budget Process Plan / Time Schedule for 2022/23. Pre-recorded video presentations explaining the processes to be followed for the next five years of the 5th Generation IDP 2022 - 2027. Feedback was also provided on the implementation of projects per ward. A link to access the pre-recorded videos was published on the municipal Youtube Channel, shared via Facebook, Twitter, WhatsApp, Stellenbosch Citizen App and on the municipal website. An electronic written submission form was created on the municipal website for the community and stakeholders to provide input into the development of the 5th Generation IDP 2022 – 2027.
December 2021 - February 2022	<ul style="list-style-type: none"> An Online Sector Engagement was held in December 2021 to determine the community needs and collectively devise plans to address the needs. MayCo and management consider the external and internal analysis and strategies around the 5-year development priorities and operational strategies (programmes / projects / activities and actions).
March 2022 – April 2022	<ul style="list-style-type: none"> MayCo and Council will consider the draft 5th Generation IDP 2022 – 2027 and Budget. IDP / Budget / SDF public participation process within WCO24 will be from 4 April 2022 – 27 April 2022. Inputs received from the IDP and Budget public participation process will be collated and distributed to the directorates for inputs.
May – June 2022	<ul style="list-style-type: none"> Adoption of the final IDP and Budget, Tariffs and Budget-related policies. Submit adopted IDP to Cape Winelands District Municipality, Provincial Government and National Treasury. Approval of SDBIP by the Executive Mayor within 28 days after adoption of the IDP and Budget.

6.2 Financial Implications

There are no financial implications beyond that which was approved in the 2021/22 MTREF Budget.

6.3 Legal Implications

The recommendations in this report comply with all applicable legislation.

Section 25(1):

The municipal council must, within a prescribed period after the start of its elected term, adopt a single, inclusive and strategic plan for the development of the municipality which—

- links, integrates and co-ordinates plans and takes into account proposals for the development of the municipality;
- aligns the resources and capacity of the municipality with the implementation of the plan;
- forms the policy framework and general basis on which annual budgets must be based;

- (d) complies with the provisions of this Chapter; and
- (e) is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.

Section 26:

An integrated development plan must reflect—

- (a) the municipal council's vision for the long-term development of the municipality with special emphasis on the municipality's most critical development and internal transformation needs;
- (b) an assessment of the existing level of development in the municipality, which must include an identification of communities which do not have access to basic municipal services;
- (c) the council's development priorities and objectives for its elected term, including its local economic development aims and its internal transformation needs;
- (d) the council's development strategies which must be aligned with any national or provincial sectoral plans and planning requirements binding on the municipality in terms of legislation;
- (e) a spatial development framework which must include the provision of basic guidelines for a land use management system for the municipality;
- (f) the council's operational strategies;
- (g) applicable disaster management plans;
- (h) a financial plan, which must include a budget projection for at least the next three years; and
- (i) the key performance indicators and performance targets determined in terms of section 41.

Section 35(1):

An integrated development plan adopted by the council of a municipality—

- (a) is the principal strategic planning instrument which guides and informs all planning and development, and all decisions with regard to planning, management and development, in the municipality;
- (b) binds the municipality in the exercise of its executive authority, except to the extent of any inconsistency between a municipality's integrated development plan and national or provincial legislation, in which case such legislation prevails; and
- (c) binds all other persons to the extent that those parts of the integrated development plan that impose duties or affect the rights of those persons have been passed as a by-law.

Section 36:

A municipality must give effect to its integrated development plan and conduct its affairs in a manner that is consistent with its integrated development plan.

Section 34:**“Annual review and amendment of the integrated development plan**

A municipal council-

- (a) must review its integrated development plan-

- (i) annually in accordance with an assessment of its performance

measurements in terms of Section 41; and

(ii) to the extent that changing circumstances so demand; and

(a) may amend its integrated development plan in accordance with a prescribed process.”

The first review of the 5th Generation IDP 2022 - 2027 will be done during the 2022/23 financial year.

6.4 Staff Implications

This report has no additional staff implications for the municipality.

6.5 Risk Implication

This report has no direct risk implications for the municipality.

6.6 Previous / Relevant Council Resolutions

None.

6.7 Comments from Senior Management

6.7.1 Director: Community and Protection Services

Supported

6.7.2 Chief Financial Officer

Supported

6.7.3 Director: Infrastructure Services

Supported

6.7.4 Director: Corporate Services

Supported

6.7.5 Director: Planning and Economic Development

Supported

6.7.6 Comments from the Municipal Manager

Supported

ANNEXURES

Annexure A: The Draft 5th Generation IDP 2022 – 2027 **will be submitted under separate cover**

Annexure B: Draft IDP and Budget Public Participation Schedule, April 2022.

FOR FURTHER DETAILS CONTACT:

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POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 – 808 8025
E-MAIL ADDRESS	geraldine.mettler@stellenbosch.gov.za
REPORT DATE	15 March 2022

6.4	MEDIUM TERM REVENUE AND EXPENDITURE FRAMEWORK 2022/2023-2024/2025
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Collaborator No: 726759
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: MEDIUM TERM REVENUE AND EXPENDITURE FRAMEWORK 2022/2023-2024/2025

2. PURPOSE

The purpose of this report is as follows:

- a) The Executive Mayor to table the Medium-Term Revenue and Expenditure Framework (inclusive of property rates charges and taxes, tariffs and service charges), annexures and proposed amendments to the budget related policies and other policies to Council for approval in terms of Section 16(2) of the Municipal Finance Management Act, (Act 56 of 2003).
- b) That Council specifically note and consider the need to take up external loans to fund critically needed refurbishment of infrastructure to the amount of R441 million of which over the MTREF R140 million will be required in year one, R160 million in year two and R141 million in year three (refer to Section G: High Level Budget Overview and Table A1 Budget Summary) and confirms draft approval of same in order for the Chief Financial Officer to attend to the necessary legislative requirements.

3. DELEGATED AUTHORITY

FOR APPROVAL BY MUNICIPAL COUNCIL

EXECUTIVE SUMMARY

BUDGET

Attached as **APPENDIX 1** is an executive summary by the Accounting Officer.

4. RECOMMENDATIONS

- (a) that the Draft High Level Budget Summary, as set out in **APPENDIX 1 – PART 1 – SECTION C**; be approved for public release;
- (b) that the Draft Annual Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX 1 – PART 1 – SECTION D**, be approved for public release;
- (c) that the proposed Grants-In-Aid allocations as set out in **APPENDIX 1 – PART 2 – SECTION J**, be approved for public release;
- (d) that the three-year Capital Budget for 2022/2023, 2023/2024 and 2024/2025, as set out in **APPENDIX 1 – PART 2 – SECTION N**, be approved for public release;
- (e) that the proposed draft rates on properties in WCO24, tariffs, tariff structures and service charges for water, electricity, refuse, sewerage and other municipal services, as set out in **APPENDIX 3**, be approved for public release;

- (f) that the proposed amendments to existing budget related policies and other policies as set out in **APPENDICES 5 - 32**, be approved for public release;
- (g) that Council specifically note and consider the need to take up an external loan, needed for investment in income generating infrastructure to the amount of R441 millions of which R140 million will be required in year one, R160 million in year two and R141 million in year three (refer to Section G: High Level Budget Overview and Table A1 Budget Summary) and confirm approval of same;
- (h) that Council specifically take note of the fact that the proposed electricity charges and tariff structure is subject to NERSA approval that could change materially; and
- (i) that Council takes note of MFMA circulars 112 and 115 that was published to guide the MTREF for 2022/2023 to 2024/2025 as set out in APPENDICES 33 – 34.

5. DISCUSSION / CONTENTS

5.1 Background/ Legislative Framework

Section 16 of the MFMA states that:

- (1) The council of a municipality must for each financial year approve an annual budget for the municipality before the start of that financial year.
- (2) In order for a municipality to comply with subsection (1), the mayor of the municipality must table the annual budget at a council meeting at least 90 days before the start of the budget year.

Furthermore, section 17 of the MFMA states that:

- (1) An annual budget of a municipality must be a schedule in the prescribed format-
 - a) setting out realistically anticipated revenue for the budget year from each revenue source;
 - b) appropriating expenditure for the budget year under the different votes of the municipality;
 - c) setting out indicative revenue per revenue source and projected expenditure by vote for the two financial years following the budget year;
 - d) setting out-
 - i. estimated revenue and expenditure by vote for the current year;
 - ii. actual revenue and expenditure by vote for the financial year preceding the current year.

6. Discussion

Over the past year, rising vaccination rates have sustained confidence and the global economic recovery, despite the rapid spread of the Omicron virus. Looking ahead to this year, global growth will be slower as the rebound from the pandemic fades. Growth in emerging market and developing economies will continue to lag that in advanced economies, due to a slower pace of vaccinations and other headwinds. South Africa's economy rebounded strongly from the pandemic in 2021, but going forward the growth rate will, like global growth, slow and remain subject to various risks.

The Omicron variant of the coronavirus caused many countries to impose restrictions to manage its spread. In addition, continued imbalances in global value chains have limited the pace of the world's economic recovery.

The South African economy has not been shielded from these global developments. Statistics SA has revised South Africa's economic growth estimate for 2021 to 4.8 per cent, from 5.1 per cent at the time of the 2021 *Medium Term Budget Policy Statement* (MTBPS).

This revision reflects a combination of the impact of changes in the global environment, along with South Africa's own unique challenges. Commodity prices, which have supported South Africa's economic recovery, slowed in the second half of 2021.

Also, violent unrest in July, and restrictions imposed to manage the third wave of COVID-19 further eroded the gains South Africa made in the first half of the year.

Industrial action in the manufacturing sector, and the re-emergence of loadshedding, also slowed the pace of the recovery.

Real Gross Domestic Product (GDP) growth of 2.1 per cent is projected for 2022. Over the next three years, GDP growth is expected to average 1.8 per cent.

Headline inflation is expected to remain between 3 to 6 per cent target range over the 2022/23 MTEF.

Stats SA figures reflects the impact of the pandemic and slow recovery of the economy on a national level as follow:

- South Africa's gross domestic product (GDP) increased by 1,2% in the fourth quarter of 2021.
- The personal services industry increased by 2,7%, contributing 0,4 of a percentage point to GDP growth. Increased economic activities were reported for community and other producers.
- The manufacturing industry increased by 2,8% in the fourth quarter, contributing 0,3 of a percentage point to GDP growth. Eight of the ten manufacturing divisions reported positive growth rates in the fourth quarter. The petroleum, chemical products, rubber and plastic products division made the largest contribution to the increase in the fourth quarter. The food and beverages division and textiles, clothing, leather and footwear division also made significant contributions to growth.
- The trade, catering and accommodation industry increased by 2,9%, contributing 0,3 of a percentage point to GDP growth. Increased economic activities were reported for retail trade, motor trade, and catering and accommodation services.
- The agriculture, forestry and fishing industry increased by 12,2% and contributed 0,3 of a percentage point to GDP growth. The increase was mainly due to increased production of animal products
- The transport, storage and communication industry increased by 2,2%, contributing 0,2 of a percentage point. Increased economic activity was reported for land transport and transport support services.
- Manufacturing production increased by 2,9% in January 2022 compared with January 2021. The largest positive contributions were made by the food and beverages division (11,5% and contributing 2,5 percentage points);
- Mining production increased by 0,1% year-on-year in January 2022.
- After recording eighteen months of positive year-on-year growth, South African mineral sales at current prices pulled back in January 2022, decreasing by 8,2%.
- Electricity generation (production) decreased by 1,1% year-on-year in January 2022
- Electricity distribution (consumption) decreased by 0,2% year-on-year in January 2022.

The aforementioned are just some of the national points which reflects directly on our own economy and how it has been affected.

The 2022 Medium Term Budget Policy Statement (MTBPS) sets the course for fiscal consolidation and economic recovery as follow:

- Government expects to achieve a primary surplus – where revenue exceeds non-interest expenditure – by 2024/25. In 2024/25, main budget non-interest expenditure will grow slightly above CPI inflation.
- The consolidated budget deficit is projected to narrow from 6 per cent of GDP in 2022/23 to 4.2 per cent of GDP in 2024/25.
- Gross loan debt will stabilise at 75.1 per cent of GDP in 2024/25.
- Debt-service costs consume an increasing share of GDP and revenue and are expected to average R333.4 billion a year over the medium term.

The economy began to bounce back from the pandemic lockdowns in 2021, but the recovery weakened in the second half of the year. GDP growth is expected to average 1.8 per cent over the next three years. Significant risks to the outlook include the emergence of new COVID-19 variants in the context of low vaccination levels, rising global inflation, and continued disruptions to power supply.

Longstanding structural constraints entrench South Africa's high levels of poverty and unemployment. Government continues to advance a multifaceted strategy to achieve higher and sustained economic growth rates. These reforms are intended to build private-sector confidence and investment. The combined impact of structural reforms, support for small business and new infrastructure investment will enable higher rates of growth and job creation over the long term. Over the next three years, government will introduce additional measures to improve the delivery of public infrastructure and attract private capital.

Over the medium term, government will devote considerable attention to strengthening the fight against corruption flowing from the reports of the State Capture Commission, cutting red tape for small businesses and strengthening the green transition. In line with government's international and domestic commitments to climate change adaptation and mitigation, the National Treasury plans to pilot a climate budget tagging methodology, which can inform future spending priorities and budget reforms.

The 2022 Budget continues to consolidate the public finances while providing immediate support for the pandemic response, job creation and social protection, as outlined in the 2021 *Medium Term Budget Policy Statement (MTBPS)*.

The 2022 Budget Review extends government's support to poor and vulnerable South Africans, while staying on course to restore the health of the public finances. This approach is supported by economic reforms to bolster investment, growth and employment.

The key interventions outlined in the MTBPS to support growth are:

- Energy Security;
- Aligning with the National Development Plan's infrastructure goals;
- Promoting industrial growth;
- Strengthening enabling conditions

The President of South Africa, in his State of the Nation Address (SONA), on 10th February 2022 spoke about the fire that engulfed the Parliament, where the fire was symbolic of the devastation caused by the COVID-19 pandemic, by rising unemployment and deepening poverty. The President spoke to the devastation of a pandemic that over the past two years has taken the lives of tens of thousands of South Africans, put two million people out of work and brought misery to families.

The President stated that within 100 days a comprehensive social compact to grow our economy, create jobs and combat hunger will be finalised.

This work will be built on the foundation of the Economic Reconstruction and Recovery Plan (ERRP), which remains our common programme to rebuild the economy,

It will remain focused on the priorities identified in the SoNA last year:

- overcoming the COVID-19 pandemic,
- a massive rollout of infrastructure,
- a substantial increase in local production,
- an employment stimulus to create jobs and support livelihoods,
- the rapid expansion of our energy generation capacity.

During the SONA the President stated it is Government's intention to end the national state of disaster as soon as they have finalised other measures under the National Health Act, 2003 (Act 61 Of 2003) and other legislation to contain the pandemic.

Nearly all restrictions on economic and social activity have already been lifted.

The following focus areas were also highlighted, amongst others, during the State Of Nation Address:

- Covid-19 vaccinations;
- Address the challenges of unemployment, poverty and inequality;
- Electricity crises;
- Modernising VISA process;
- A comprehensive turnaround plan is being implemented to streamline the process for water use license applications;
- New small business loan scheme;
- Cutting red tape for business;
- Building bridges;
- Investment conference in March 2022;
- Regulating sale of scrap metal;
- Finalising mining exploration strategy;
- Formalising cannabis industry;
- Climate change;
- Social employment fund;
- Expand criteria for employment tax incentive;
- Extension of the R350 Social Relief of Distress (SRD) Grant for one further year
- Fill vacancies in security cluster;
- Hire extra 12 000 police officers.

Government's central economic policy priority remains to promote faster, job-creating growth. Various programmes and initiatives will be established and the existing one's improved upon to ensure effective implementation of the strategic priorities.

As a means to combat unemployment, the municipality will employ the following measures:

- Full participation in the Expanded Public Works Programme;
- Providing support to small businesses, which will create employment in the medium to long term;
- Establishment of Informal Traders;
- Promoting Internships and in-service training opportunities;
- Filling of critical vacancies within the municipality; and
- Developing partnerships with academic institutions for training opportunities.

The Western Cape Premier in his State of the Province address, on 15th February 2022, reiterated the following sentiments highlighted during the State of the Nation Address, including but not limited to, normalising our COVID-19 response, lessons learnt from COVID-19, ending the National State of Disaster, economic growth recovery initiatives, unemployment, especially the youth, education, building of safer communities, sustainable infrastructure development, implementation of related initiatives, provision of housing (dignified living), finding alternative energy sources to assist and reduce the strain on the electrical grid and provision of services to the poor households. The Premier stated that nearly two years of loss was caused by a global pandemic that not only took many loved ones away but took away many jobs and many hopes too.

He stated that this year, things have to change. We have to get up, get out, and “set sail” again.

The Premiers’ speech focused, amongst others, on the following areas:

- Normalising our COVID-19 response and looking to the future. The data provided by the Department of Health shows us that:
 - 90% of people surveyed in a seroprevalence study in November 2021 had protection against COVID-19, either through vaccination or through prior infection.
 - That the Omicron variant has caused less severe disease because of prior immunity and is less virulent than previous strains.
 - And that 59.7% of residents over 50, and 68.5% of residents over 60 specifically are now also fully vaccinated in the Western Cape.
- Dignity through jobs and safety.
- A new department of infrastructure to be created in the Western Cape: This Infrastructure Department will be tasked with leading the change, working together with local governments in the Western Cape, the National Government as well as the private sector to ensure that we collectively complete quality, catalytic infrastructure projects that will help create jobs in an inclusive way. They will also take forward the establishment of a Schedule 3D Infrastructure Entity.
- Health Infrastructure: Planning five mega health infrastructure projects over the medium-to-long term that will significantly modernise this platform to ensure that we have a pipeline right into the future. These include the Belhar, Klipfontein and Helderberg Regional Hospitals, the Tygerberg Central Hospital development and the Swartland District Hospital.
- Education Infrastructure: Investing in education infrastructure that will benefit generations to come, while creating jobs for our residents.
- Economic Infrastructure: The continuing of investment in economic growth over the next financial year by launching 3 new road upgrade projects. This is in addition to 91 road projects currently in progress in various phases, worth approximately R3 billion.
- Energy and resilience: One area of concern has been Eskom’s load shedding. A number of steps has been taken to ensure that the Western Cape Government leverage new, green infrastructure in the province to become energy resilient:
 - It is now legal in 24 Western Cape municipalities to produce Solar PV energy, with 19 of these municipalities allowing you to be compensated for feeding back into the grid.
 - Additionally, wheeling (which is the private-to-private trading of energy) across municipal networks is being explored in 7 Western Cape municipalities given the recent unlocking of national electricity regulations.
 - A successful Request for Information for the Municipal Energy Resilience (MER) initiative has been issued, which has solicited information from more than 100 potential energy generation projects.
 - This information has informed five potential pioneering projects based on Solar PV and wind energy. And a roadmap to implement these projects has been extensively defined through technical, financial and legal analysis.

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- Social Housing Infrastructure: Investment in social infrastructure will help address the painful legacy of our divided past, by improving basic service delivery, building integrated communities and enabling our residents to live with dignity.
 - Social Services infrastructure: investing in infrastructure that expands important government services to our people, so that residents are connected, informed and receive important social services.
 - Sustainable growth: The need to grow sustainably and respond to the challenges created by Climate Change, while protecting important ecosystems in our province.
 - Infrastructure projects supported by National Government: Five priority projects have been submitted for registration and are being considered for support by National Government, namely:
 - The Wingfield Interchange between the N1 and N7.
 - Investment in Saldanha Bay Port Infrastructure.
 - The Belhar and Klipfontein Regional Hospitals, which forms part of our health platform upgrade.
 - The Tygerberg Hospital public-private partnership, which I previously mentioned.
 - And enabling the expansion of Biovac by relocating our EMS building to another location, providing Biovac with the necessary space to expand.
 - Premier to take responsibility for coordinating response to joblessness pandemic through extended jobs cabinet.
 - Department of Community Safety to increase focus on Police Oversight
 - A first for South Africa: Violence Prevention Unit to be established in Western Cape Department of Health
 - Acceleration of the Province's response to Gender Based Violence in the Western Cape.
 - Focussing on recovering lost learning time, and comprehensive health services in the Western Cape.
 - Focussing on supporting the vulnerable with improved social services, using an all-of-society approach.

The Premier stated that while the challenges that face our province are serious and, at times, can seem overwhelming, we must never forget what a truly special place we live in and that we have everything we need to succeed.

Provincial treasury reiterated most of the challenges and focus areas highlighted in the Premier's State of the Province address, the SONA and the 2022 Budget Review.

National Treasury encourages municipalities to maintain tariff increases and adopt a tariff setting methodology at levels that reflects an appropriate balance between the affordability to poorer households and other customers, while ensuring the financial sustainability of the municipality. Municipalities must ensure that their budgets are funded from realistically anticipated revenues. This means that the municipality must refrain from assuming collection rates that are unrealistic and unattainable. Cost reflective tariff setting is a requirement of Section 74 (2) of the Municipal Systems Act, 2000 (Act No.32 of 2000), wherein it states that tariffs "must reflect the cost reasonably associated with rendering the service". The municipalities must therefore generate sufficient revenue to fully recover their costs, deliver services to customers sustainably and invest in the infrastructure that promises local economic development.

The municipality must first assess the budget, before the tariff setting process, to determine whether it is effective and efficient and must ensure that it is credible for financial sustainability. In sum, the cost considered when setting a cost reflective tariff must include day-to-day operations and maintenance costs, capital financing cost and provision for bad debt, which are collectively referred to as direct costs, and governance and administration costs referred to as indirect costs.

Tariff increases by Eskom and Water Boards is above inflation and should be considered as such while determining cost reflective tariffs. In the instance of bulk tariff increases for electricity, municipalities are encouraged to apply for electricity tariff increases that reflect the total cost of providing the service, to ensure that they are working towards achieving fully cost-reflective tariffs that will assist them to achieve financial sustainability. Municipalities should consider the following facts during the tariff setting process, namely, the costs of bulk purchases and the fluctuation in the seasonal cost thereof; the consumption patterns to enable better demand planning and management; and in the event that municipalities have been under recovering costs, embark on a process to correct their tariff structures over a reasonable time period so that cost reflective tariffs are achieved, which in turn will result in financial sustainability.

Local government confronts tough fiscal choices in the face of financial and institutional problems that result in service-delivery breakdowns and unpaid bills. Municipalities can offset these trends by improving their own revenue collections, working more efficiently and implementing cost-containment measures. In order to maintain a funded budget, municipalities need to not only focus on tariff increases, but also focus on how to eliminate expenditure that is unnecessary. Cost Containment Regulations were issued on 07 June 2019. The implementation of cost containment measures are important as it will assist municipalities to reprioritise expenditure and to free up resources targeted towards service delivery. It will also be used to eliminate wastage of public resources on non-service delivery items. The main object of the regulations is to ensure that the resources of municipalities are used in an effective, efficient and economical manner.

As a result of the COVID-19 pandemic, the economic landscape, weak tariff setting and increases in key cost drivers to provide basic municipal services, municipalities are under pressure to generate additional revenue. Additional revenue need to be generated because the consumer's ability to pay for services received, continues to decline, which in turn leads to limited revenue collection. The effects of slow growth and economic challenges experienced these past years coupled with the COVID pandemic since 2020, continues to place pressure on the finances of the average consumer (levels of disposable income and savings). This typically results in greater difficulty for the municipality with regards to the revenue collection, which have a direct impact on the municipality's ability to provide effective and efficient services, but also to budget accurately for service delivery over the short to medium term. It is as a result of above challenges, alongside continued unemployment and slow growth that a more conservative approach is advised for revenue projections.

Municipalities are required to consider the following during the compilation of the 2022/2023 MTREF budgets:

- Improving the effectiveness of revenue management processes and procedures;
- Cost containment measures to, amongst other things, control unnecessary spending on nice-to-have items and non-essential activities as highlighted in the Municipal Cost Containment Regulation read with MFMA Circular No.82;
- Ensuring value for money through the procurement process;
- The affordability of providing free basic services to all households;
- Not taking on unfunded mandates; and
- Curbing consumption of water and electricity by the indigents to ensure that they do not exceed their allocation.

The aforementioned were taking into account during the compilation of the municipality's budget.

The application of sound financial management principles for the compilation of the Stellenbosch's financial plan is essential and critical to ensure that the municipality remains financially viable and that municipal services are provided sustainably, economically and

equitably to all communities. As a result of excellent financial discipline, the Stellenbosch Municipality has taken the theme of “Driving efficiencies- doing more with less”, to heart. The municipality’s business and service delivery priorities were reviewed as part of this year’s planning, through the Integrated Development Plan (IDP), and the annual budget process.

Funds were shifted from low to high priority programmes so as to maintain sound financial stewardship. A critical review was also undertaken on non-core and ‘nice to have’ items with regards to expenditure. The municipality has embarked on developing a revenue enhancement strategy to optimize revenue, including the collection of debt owed by consumers. Furthermore, the municipality has undertaken various customer care initiatives to ensure the municipality truly involves all citizens in the process of ensuring a people lead government.

The main challenges experienced during the compilation of the 2022/2023 MTREF can be summarized as follows:

- The on-going difficulties in the national and local economy;
- COVID pandemic and the impact thereof on financial sustainability and the economy;
- Aging infrastructure;
- The need to reprioritise projects and expenditure within the existing resource envelope;
- The increased cost of bulk electricity and procuring water inventory, which is placing upward pressure on service tariffs to residents. Continuous high tariff increases are not sustainable - as there will be point where services will no-longer be affordable;
- Attracting economic investment;
- Water Conservation;
- Electricity/ Load shedding;
- Borrowing for multi-year capital projects and refinancing of existing loans;
- Reductions in allocations of some of the National and Provincial grants due to a worsening fiscal outlook;
- Limited resources to deal with all key priorities;
- Transitional period of newly elected council;
- Compilation of new five year Integrated Development Plan;
- Slowdown in new developments;
- Decline in reserves available to fund capital programmes.

The following budget principles and guidelines directly informed the compilation of the 2022/2023 MTREF:

- Integrated Development Plan was used to inform the measurable objectives, targets and backlog eradication goals;
- Tariff and property rate increases should be as affordable as possible and should ideally not exceed inflation as measured by the CPI, except where there are price increases in the inputs of services that are beyond the control of the municipality. However, tariffs need to remain or move towards being cost reflective, and should take into account the need to address infrastructure backlogs;
- National, provincial and local priorities;
- Headline inflation forecasts; and
- Funding choices and modelling.

The Integrated Development Plan (IDP) were used as a guiding strategic document to inform the budget compilation. The challenge however is still to deliver services more efficiently and effectively with the tight financial envelope.

Stellenbosch municipality's revenue strategy was based on the following fundamentals, namely, tariff policies of the municipality, economic outlook and development for Stellenbosch and surrounding areas, National Treasury's guidelines and macroeconomic policy, National, Provincial and Regional fiscal growth rates and electricity tariffs as approved by National Electricity Regulator of South Africa (NERSA).

The financial resources to fund the Operational Budget will and must consist of realistically anticipated revenue generated from property taxes, service charges and other income. The municipality were mindful of the estimated headline inflation for 2022/2023 of between 3% to 6% forming the basis of the extensive income modelling exercise, but also taking into account the principles of economical services that are cost reflective, trading services generating surpluses, the effect of escalating salary costs and bulk purchases. Inflation is forecast to fluctuate around 4.4% over the medium term in line with moderating inflation expectations.

The national budget focuses on fiscal consolidation. This means that we as municipalities must ensure that we do not borrow beyond our ability to repay and we do not spend money we do not have, until we ignite growth and generate revenue, we have to be tough on ourselves.

Russia's invasion of Ukraine and tightening sanctions on Russia have sent commodity prices soaring, and will have adverse implications for South Africa's headline consumer price inflation (CPI). The invasion has directly led to higher oil and grain prices, which directly push up prices of key goods within the CPI such as fuel and bread.

It is expected that fuel prices will increase substantially in the next financial year and this will be provided for in the budget.

The total budget quantum for the 2022/2023 year is R2 321 115 390 of which R1 996 416 243 (86%), is allocated to the operating budget and R324 699 147 (14%) to capital investment.

Budget documentation in line with the budget and reporting regulations is attached as **APPENDIX 1 – PART 1**. The report serves as an overview of the budget as a whole, budget assumptions used to compile the budget, funding sources used to fund the capital budget, different income categories to fund priorities of the municipalities, as well as the different expenditure items, including non-cash items.

DRAFT CAPITAL BUDGET 2022/2023 – 2024/2025

The draft capital budget is infrastructure orientated and addresses the huge backlog and urgent need to upgrade/refurbish Council's infrastructure as addressed by the different master plans. It is directed by the IDP (Integrated Development Plan) and the needs of the community. It's also aligned to the strategic priority in the State of the Nation Address of Infrastructure investment and the "back to basics" approach. Council's attention is however drawn to the fact that not all needs identified by the community can realistically be funded by the municipality. Critical and committed programmes/projects were the focal point for the capital budget.

The main capital projects that the municipality will be investing in, which constitute more than 70% of the capital budget, include:

- Expansion of the landfill site (New cells)
- New Reservoir & Pipeline: Vlottenburg
- Upgrade of WWTW Wemmershoek
- Bien don 66/11kV substation new
- Water Treatment Works: Idasvalley

-
- Bulk Sewer Upgrade: Dwarsriver Area (Kylemore, Boschendal, Pniel)
 - Kayamandi(Costa grounds)new substation 11 kV switching station
 - STB Switchgear (11kV) SF6
 - Landfill Gas To Energy
 - Enkanini Informal Phase 3
 - Transfer Station: Stellenbosch Planning and Design
 - Bulk Water Supply Pipeline & Reservoir - Jamestown
 - Sewerpipe Replacement: Dorp Straat
 - Bridge Construction
 - Lanquedoc Access road and Bridge
 - Reseal Roads - Stellenbosch & Surrrounding
 - Langrug Franschhoek Mooiwater Dam Rehab & Basic Services
 - Kayamandi: Zone O (±711 services)
 - Sewerpipe Replacement
 - Upgrade of WWTW: Klapmuts
 - Extension of Cemetery Infrastructure
 - Kayamandi Town Centre
 - Waterpipe Replacement
 - Laterra Substation
 - Upgrade of WWTW: Pniel & Decommissioning Of Franschhoek
 - Jamestown: Housing
 - Main Road Intersection Improvements: Franschhoek
 - Upgrade and Expansion of IT Infrastructure Platforms
 - Electrification INEP
 - Water Conservation & Demand Management
 - Franschhoek Sewer Network Upgrade
 - General Systems Improvements - Stellenbosch
 - Specialized Vehicles: Roads
 - New Development Bulk Sewer Supply WC024
 - Adam Tas - Technopark Link Road
 - Electricity Network: Pniel
 - Upgrade of Sport Facilities
 - Bulk Water Supply Pipe Line & Pumpstations: Franschhoek
 - Structural Improvement: General
 - Vehicles: Solid Waste
 - Replace Switchgear - Franschhoek
 - Network Cable Replace 11 Kv
 - Adhoc Reconstruction Of Roads (WC024)
 - Khayamandi Pedestrian Bridge (R304, River and Railway Line)
 - Substation 66kV equipment
 - Replace Control Panels 66 kV & Circuit breakers
 - Ad-Hoc Provision of Streetlighting
 - Dwarsriver Bulk Supply Augmentation and Network Upgrades

The detailed draft capital budgets for 2022/2023, 2023/2024 and 2024/2025 are attached as **APPENDIX 1**.

DRAFT OPERATING BUDGET 2022/2023 – 2024/2025

The basis of the operating budget is aligned to the principle of total potential income (less income forgone as an expense where applicable) from all our services as well as a projection of total direct income. The extent, to which tariffs and levies are proposed to increase, is in the main influenced by:

- The increase in bulk purchases (water and electricity)
- Employee related costs, as per SALGBC wage agreement
- Councillor remuneration, as per SALGA upper limits
- Service delivery challenges
- Repairs and maintenance
- Operational projects impacting job creation and economic development
- Contractual commitments
- Day to day operational costs (fuel & oil, telephones, bank costs, etc)
- Finance costs, influenced by level of borrowing

Taking all of these issues into consideration and to ensure the sustainability of our operations from realistically anticipated income flows, the following tariff and property tax increases are proposed for 2022/2023:

Electricity	7.6%
Sanitation	6%
Refuse removal	8%
Water	6%
Rates	6%

The impact of the proposed tariff increases on the monthly services account for the various consumer categories is summarized in **APPENDIX 2**.

HIGH LEVEL CAPITAL AND OPERATING BUDGET FOR 2022/2023 – 2024/2025

The draft high level budget depicting the total budget is attached as **APPENDIX 1 – PART 1 – SECTION C**.

TARIFFS

Council's attention is further drawn to the fact that the Tariff List attached as **APPENDIX 3** includes Sundry Tariffs as a basket of services and charges, i.e. Land Use Management Fees, Development contributions, Technical Charges, etc. In this regard, the proposed tariff list must be consulted for the detail.

BUDGET RELATED POLICIES & BY-LAWS

A summary of changes to budget related policies is attached as **APPENDIX 4**

The following budget related policies are new:

Development Charges Policy (**APPENDIX 5**)

The following budget related policies and by-laws were revised:

Rates Policy (**APPENDIX 6**)

Rates By-Law (**APPENDIX 7**)

Indigent Policy (**APPENDIX 8**)

Tariff Policy (**APPENDIX 9**)

Tariff By-law (**APPENDIX 10**)

Credit Control and Debt Collection Policy (**APPENDIX 11**)

Credit Control and Debt Collection By- Law (**APPENDIX 12**)

Special Ratings Area Policy (**APPENDIX 13**)

Irrecoverable Debt Policy (**APPENDIX 14**)

Travel and Subsistence Policy (**APPENDIX 15**)

Cash Management and Investment Policy (**APPENDIX 16**)

Supply Chain Management Policy (**APPENDIX 17**)

Wayleave Policy (**APPENDIX 18**)

Budget Implementation and Monitoring Policy (**APPENDIX 19**)

Accounting Policy (**APPENDIX 20**)

Asset Management Policy (**APPENDIX 21**)

Ward Allocation Policy (**APPENDIX 22**)

Unchanged Policies

Grants-In-Aid Policy (**APPENDIX 23**)

Special Ratings By-law (**APPENDIX 24**)

Petty Cash Policy (**APPENDIX 25**)

Cost Containment Policy (**APPENDIX 26**)

Virementation Policy (**APPENDIX 27**)

Borrowing, Funds and Reserves Policy (**APPENDIX 28**)

Financing of External Bodies performing municipal functions Policy (**APPENDIX 29**)

Liquidity Policy (**APPENDIX 30**)

Inventory Management Policy (**APPENDIX 31**)

Preferential Procurement Policy (**APPENDIX 32**)

OTHER SUPPORTING DOCUMENTATION

The additional information as prescribed by the budget and reporting regulations are attached as **APPENDIX 1 – PART 2 – SECTION P.**

6.1 Financial Implications

Financial impact already discussed above.

6.2 External Loan for 2022/2023

That Council specifically note and consider the need to take up external loans to fund critically needed refurbishment of infrastructure to the amount of R 441 million of which over the MTREF R140 million will be required in year one, R160 million in year two and R141 million in year three (refer to Section G: High Level Budget Overview and Table A1 Budget Summary).

6.3 Legal Implications**Legal Services**

The item at my disposal is compliant with the relevant legislative framework.

6.4 Staff Implications

None

6.5 Previous / Relevant Council Resolutions:**6.6 Risk Implications**

None

6.7 Comments from Senior Management:**6.7.1 Director: Infrastructure Services**

Noted

6.7.2 Director: Planning and Development Services

Noted

6.7.3 Director: Community and Protection Services:

Noted

6.7.4 Director: Corporate Services:

Noted

6.7.5 Chief Financial Officer:

Noted

6.7.6 Municipal Manager:

Noted

FOR FURTHER DETAILS CONTACT:

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<i>REPORT DATE</i>	<i>23 March 2022</i>

DIRECTOR: FINANCIAL SERVICES

6.5 MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR FEBRUARY 2022

Collaborator No: 726758
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR FEBRUARY 2022**2. PURPOSE**

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2021/2022 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2021/2022) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during February 2022.

5. RECOMMENDATION

that Council notes the deviations as listed for the month of February 2022.

6. DISCUSSION / CONTENTS**6.1 Background/Legislative Framework**

The regulation applicable is as follows:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations**Deviation from and ratification of minor breaches of, procurement processes**

36. (1) A supply chain management policy may allow the accounting officer—

(a) To **dispense with the official procurement processes** established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only—

(i) in an emergency;

(ii) if such goods or services are produced or available from a single provider only;

(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) acquisition of animals for zoos; or

(v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(b) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of sub regulation (1) (a) and (b) and **report them to the next meeting of the council**, or board of directors in the case of a municipal entity, and include as a note to the annual financial statements.

6.2 Discussion

Reporting the deviations as approved by the Accounting Officer for February 2022:
The following deviations were approved with the reasons as indicated below:

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACTOR	CONTRACT DESCRIPTION	REASON	SUBSTANTIATION WHY SCM PROCESS COULD NOT BE FOLLOWED	TOTAL CONTRACT PRICE R
D/SM 05/22	28 January 2022	STBB	To oppose the application for a rule Nisi to be issued for interdicting the municipality to act upon its decision to withdraw the award of tender B/SM73/21 to Securitem pending the finalisation of an appeal by Securitem.	Exceptional case and it is impractical or impossible to follow the official procurement processes	Securitem served a Notice of Motion on the Municipality on or about 28 January 2022 via email in which they intend applying for an interdict to restraining the Municipality in any way to act upon its decision to withdraw the award of Tender B/SM73/21 to Securitem and to award the tender to a qualifying tenderer unconditionally. The application was set to be heard on Monday, 31 January 2022 at 14h00. STBB Attorneys represented the Municipality in previous disputes by Security companies and the timeframe applicable was not sufficient to follow SCM process.	R 86 250
D/SM 06/22	25 February 2022	Adapt IT	CaseWare Financial Reporting System	Goods or services are produced or available from a single provider	Adapt IT holdings Ltd is the sole distributor of CaseWare software products in Africa. The municipality has used CaseWare as its financial reporting system since April 2010.	R 455 673,70
D/SM 07/22	25 February 2022	Longlands Village Property	Re-appointment of Longlands Village Proprietary Limited as implementing agent for the construction of top structures on phase 3 of portion B on	Exceptional case and it is impractical or impossible to follow the official procurement processes.	A deviation for the appointment of the Implementing Agent was concluded in the 2011/2012 financial year for the installation of services and the construction of top structures. The services has subsequently been installed after the MPT approval of the	R 21 700 000,00

			FARM 393, Stellenbosch		development. The Provincial department of Human Settlements only recently approved the funding for the top structures to the amount approximately R21 700 000. Due to fact that there was an initial appointment as implementing Agent of Longlands Holdings (Pty) Ltd and their successor in title Longlands Village, rights accrued to the Implementing Agent as far back as 2011. At the stage of appointment in 2011 the costs for the tops structures were unknown. The financial implications for the top structures only became known when the services were installed, and the funding approved. It is impractical to now follow an official supply chain process. given the history of the project and the rights they have already accrued.	
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6.3 Legal Implications

The regulation applicable is:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations: Deviations from and ratification of minor breaches of, procurement processes.

6.4 Staff Implications:

No staff implications

6.5 Previous / Relevant Council Resolutions:

None

6.6 Risk Implications

That the market may not be tested.

The measures in place to deal with deviations mitigate the risk to an acceptable level. The auditor general also audit the deviations during the yearly audit

6.7 Comments from Senior Management:

The item was not circulated for comment except to Municipal Manager

6.7.1 Municipal Manager

Supports the recommendations.

FOR FURTHER DETAILS CONTACT:

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<i>DIRECTORATE</i>	<i>Finance</i>
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<i>REPORT DATE</i>	<i>March 2021</i>

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER (MS)]
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7.1	COMMUNITY AND PROTECTION SERVICES: (PC: CLLR R BADENHORST)
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7.1.1	ESTABLISHMENT OF THE STELLENBOSCH COMMUNITY SAFETY FORUM
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Collaborator No: 725647
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: ESTABLISHMENT OF THE STELLENBOSCH COMMUNITY SAFETY FORUM

2. PURPOSE OF THE REPORT

To inform the Council of the establishment of the proposed Stellenbosch Community Safety Forum (CSF).

3. DELEGATED AUTHORITY

For Council's decision.

4. EXECUTIVE SUMMARY

4.1 This document provides the Terms of Reference for the Stellenbosch Community Safety Forum which is a multi-stakeholder forum to address matters of community safety and security in the Municipality's area of jurisdiction.

4.2 The purpose of Community Safety Forums (CSF) is to promote the development of communities where citizens live in a safe environment and have access to high-quality services at the Local Government level, through multi-agency collaboration between the spheres of government and communities.

4.3 The CSF is an inclusive multi-sectoral structure that would champion the coordination, integration, and implementation of crime and violence prevention community safety initiatives.

4.4 The founding document dates to the mid-nineties.¹

The National Cabinet instructed the establishment of Community Safety Forums in 2010/2011.

5. RECOMMENDATION

that Council approve the establishment of the Stellenbosch Municipality Community Safety Forum (CSF).

6. BACKGROUND

6.1 The CSF is designed to target the root causes of different types of crimes prevalent at Local Government level. It is common knowledge that crime stems from a host of factors such as lack of various opportunities and recreation, poor family structures, inadequate law enforcement, lack of police visibility, inadequate

housing infrastructure and unemployment. This suggests that greater coordination is required within and amongst all three spheres of government, especially relating to matters of safety and security in our affected communities.

- 6.2 The CSF is meant to facilitate the delivery of a multi-sectoral governmental approach to increase safety in communities. Its approach is broader than that of a Community Police Forum (CPF) in that it includes the responses from all the Departments in the Justice, Crime Prevention and Security (JCPS) cluster.
- 6.3 The South African Government strategic objective is that "All People in South Africa Are and Feel Safe". This is in line with the visions Stellenbosch municipality has for its residents. Furthermore, the Constitution bestows the right on all citizens to enjoy an accountable, effective, and service orientated criminal justice system. As such, Government has shifted its "silo" approach to a more holistic and collaborative approach and to strategically implement policies.
- 6.4 Thus, the need for a CSF is integral as it is designed to coordinate, integrate, and implement multi-sectoral crime and violence prevention/community safety initiatives within the Criminal Justice System (CJS) and Local Government, utilizing principles in the National Crime Prevention Strategy (NCPS) to enhance the quality of life within targeted communities.

7. DISCUSSION / CONTENT

- 7.1 Community Safety Forums needs to be established at the National, Provincial and Local Government levels. More specifically at the Local Government level as it is closer to the communities and will be in a better position to advise Government's economic, development and social policies for crime prevention.
- 7.2 As crime stems from factors such as inadequate access to basic services such as housing, education, health, and jobs; Local government is closest to the citizens it serves and in the ideal position to coordinate safety within the municipal boundaries. This then requires greater planning and coordination within the three spheres of Government.
- 7.3 The Local Municipality and the Western Cape Government have been inundated with a variety of Special Council Meetings of complex Humanitarian Emergencies that stems from social ills such as Poverty, Substance Abuse, Crime and Violence, Gang Violence, Land Invasions and Service Delivery protests. These incidences often escalate into vandalism of infrastructure which hurts communities.
- 7.4 This in turn filters down to disaster declarations whereby existing funds must be redirected and or reprioritised, to coordinate the response to Social Conflict or Complex Humanitarian Emergencies and to complement existing structures. The establishment of a CSF is needed on a municipal level to facilitate planning, monitoring, accounting, and coordination as it is closer to the communities at the grass-root level.
- 7.5 It will allow the Local Municipality to align its policies to Provincial and National Policies on CSF's. The structure is supported by the Western Cape Government, more specifically The Western Cape Department of Community Safety.
- 7.6 The CSF has three Custers namely.
 - 7.6.1 Law Enforcement Cluster:

- Law Enforcement Agencies (Law Enforcement, SAPS, Traffic Services, Neighborhood Watches'(NHW), Criminal Justice System Departments)
- Principles of collaboration is planned joint operations, joint solutions
- Safety and Security Technology

7.6.2 Social Cohesion:

- Plan Gender Base Violence & Feminism Workshops
- Drug and Substances Abuse Awareness Workshop
- Celebration of Women's Day
- Youth at Risk Workshop

7.6.3 Crime Prevention through Environmental Design:

- Road Infrastructure i.e., potholes, Traffic Calming Measurements, etc.
- Streetlights
- Public spaces and recreational parks
- Sewerage pipes and drainage
- Road signs
- Graffiti
- Crime prevention through Environmental Design

8. THE OBJECTIVES OF THE COMMUNITY SAFETY FORUM WILL BE:

- 8.1 Co-ordinate and promote co-operation and integrated planning and budgeting between all three Spheres of Government on matters of Community Safety.
- 8.2 Facilitate implementation of public-private partnerships where government and communities are seen to co-produce safety.
- 8.3 Strategically consult and engage through organised structures the development of local safety planning and monitoring of Safety and Security plans.
- 8.4 Strategically integrate communities' strengths to implement Provincial Government Programmes and achieve the objectives and strategic intent of the Local Municipality.
- 8.5 To provide for communities (through organisational structures) to participate in the development and local planning and monitoring of safety plans, at the grassroots level.
- 8.6 Promote closer co-operation and access to basic services at local grassroots level by the Ward Councillor to improve living conditions and community social cohesion.
- 8.7 Support and enhance crime and violence prevention through public education programmes.
- 8.8 Partnerships with relevant organs of state, communities and, internal and external stakeholders

9. LEGISLATIVE AND BY-LAW ENFORCEMENT FRAMEWORK

- 9.1 South African Constitution Act 108 of 1996, Chapter 11, Sec 198(a)
- 9.2 South African Police Services Act No 68 of 1995
- 9.3 Intergovernmental Relations Framework Act, 2005(Act No. 13 of 2005)
- 9.4 The Municipal Structures Act, Act No 117 of 1998
- 9.5 The Municipal Systems Act, Act No 32 of 2000
- 9.6 Criminal Procedure Act 51 of 1977
- 9.7 Western Cape Community Safety Act (Act 2013 Act 3 2013)
- 9.8 Civilian Secretariat for Police Service Act 2 of 2011
- 9.9 Social Assistance Act 13 of 2004
- 9.10 Immigration Act 13 of 2002
- 9.11 The National Crime Prevention Strategy 1996
- 9.12 The White Paper on Safety and Security 1998
- 9.13 Intergovernmental Relations Framework Act
- 9.14 South African Constitution, Act no 108 of 1996, Chapter 11, Sec 198(a)
- 9.15 And the various By-Laws which has been gazetted by Stellenbosch Municipal Council

10. ROLES AND RESPONSIBILITIES OF STELLENBOSCH MUNICIPALITY'S CSF

- 10.1 The Stellenbosch Municipality Community Safety Forum will assist in mobilizing resources of the National, Provincial and Local Government departments, as well as support through the Community Police Forums (CPF), Non-governmental and community-based organizations in the Stellenbosch Municipal area.
- 10.2 Review safety in Stellenbosch Municipality and develop appropriate safety interventions.
- 10.3 Facilitate linkages of the Local Crime and Violence Prevention Strategy and Plan.
- 10.4 The Western Cape developed its Safety Plan as part of its 5-year Provincial Strategic Plan of which Stellenbosch Municipality form part of the plan.
- 10.5 Three focus areas, Law Enforcement, Social Cohesion and Crime Prevention through Environmental Design.
- 10.6 Receive and consider regular reports on the safety plan implementation progress.
- 10.7 The Safety Plan has a Policing and Violence Prevention strategy that recognizes crime and cannot be reduced unless violence prevention and policing work hand in hand. This requires long-term area-based, multi-agency interventions, not just short-term law enforcement ones. It is an "inclusive" initiative where the police,

criminal justice system, Province, municipality, and communities work together in area-based teams. It will identify and implement strategies based upon outcomes.

- 10.8 Conduct regular meetings to inform internal and external stakeholders.
- 10.9 Communicate successes.
- 10.10 Establish and maintain a database of stakeholders.
- 10.11 Resolve conflict and build consensus.
- 10.12 Play an oversight role on the functioning of the various clusters by the Community Safety Forum.
- 10.13 Give input, guidance, and direction on appropriate strategic interventions to address the safety in Stellenbosch.
- 10.14 Responsible for research, problem solving, integrated planning, co-ordination, oversight, and project implementation.

11 EXTERNAL ROLE PLAYERS

The Stellenbosch Municipality Community Safety Forum will consist of representatives from all three Spheres of Governmental Departments, Non -Governmental Organisations (NGO's, Community Based organisations (CBO's) and stakeholders whose primary roles and responsibilities are to address the safety and security of Stellenbosch Municipality. The members of the Community Safety Forum must be designated persons from the various role players who would have the delegated authority in making decisions for those they represent. Further to this are the minimum responsibilities of the primary stakeholders of the CSF structure.

- 11.1 **The South African Police Service:** Facilitating and maintaining a partnership between the community and the police. Facilitating communication between the police and the community. Improving the rendering of police services to the community at a local level. Joint identification of local policing priorities and co-ownership of problem-solving programmes at a local level. Conducting periodic reporting to the community (accountability meetings).
- 11.2 **The Department of Correctional Services** aims to contribute towards maintaining and just, peaceful, and safe society, by enforcing court-imposed sentences and detaining prisoners in safe custody. The Correctional Services with the South African Police Services should inform the Municipality and NHW's before parolees' are released. Facilitate the social acceptance and effective reintegration of ex-offenders into their communities. Facilitate parole release programmes (pre-release, protection supervision, and parole) with communities. Facilitate community service programmes. Develop and manage secure places of safety for petty offenders and children in conflict with the law. Develop and implement social crime prevention programmes in line with the mandate.
- 11.3 **Department of Justice and Constitutional Development (DoJCD)** aim is to uphold and protect the Constitution and the rule of law. To render accessible, fair, speedy, and cost-effective administration of justice, in the interests of a safer and more secure South Africa, facilitate and promote access to justice services available to the communities (e.g., legal aid board and Thuthuzela Care Centre's). Empower citizens to understand the Constitution, laws that impact their lives, and access all their rights. Ensure Restorative Justice and Alternative Dispute Resolution (ADR) initiatives. Ensure that victim empowerment and support

programmes are adopted and are run effectively to address victims' traumatic experiences. Conduct community sessions on bail and sentencing (accountability) at a local level for communities to be assisted in formulating a document by community leaders in giving reason to opposing bail in certain cases that affect the community.

- 11.4 **Social Development:** Implement comprehensive social security and integrated food security programs to the benefit of local communities. Implement a comprehensive health care program at the local level. Ensure proper housing and human settlement at the local level. Ensure sustainable livelihoods to improve the quality of life for local communities. Facilitate access to education and implement safer school programmes. Promote social cohesion at the local government level through various programmes. This will be in line with the redress of past imbalances.
- 11.5 **Community police forums** Identifying policing priorities with the Police. Joint identification and co-ownership of policing programmes. Reciprocal control of crime-fighting programmes. Ensuring police accountability to the community. Conduct other extended responsibilities on the CJS Presented earlier in the document.
- 11.6 **The National Prosecuting Authority** has the power to institute and conduct criminal proceedings on behalf of the State. Carry out any necessary functions incidental to instituting that and conducting such criminal proceedings (this includes investigation) and the discontinue of criminal cases / nolle-prosecute
- 11.7 **The Department of Home Affairs** is the body that registers professional immigration practitioners. These immigration practitioners are in turn provided by their clients with the power of attorney, to allow them to compile, submit and monitor their visa applications.
- 11.8 **Department of Cooperative Governance and Traditional Affairs (DCoGTA).** The DCoGTA is responsible for facilitating cooperative governance, supporting all spheres of government, and assisting the institution of traditional leadership with transforming itself into a strategic partner of government in the development of communities.
- 11.9 **Non-governmental organizations** play a vital role in the shaping and implementation of participatory democracy. Their credibility lies in the responsible and constructive role they play in society. Formal and informal organizations, as well as grassroot movements, can be recognized as partners in the implementation of people's agenda.
- 11.10 **Faith-based organizations** have also assumed a role in helping in promote housing and community development. Some fourteen per cent of community development corporations (CDC's) are faith-based. The activities of Habitat for Humanity in providing homeownership opportunities are well-known.
- 11.11 **Ward councillors** are elected by a specific geographically defined ward within the municipality. The ward Councillor, therefore, is expected to make sure that concerns related to his or her ward are represented on the council and CPF level.
- 11.12 **Corporate Social responsibility** means that businesses, in addition to maximizing shareholder value, must act in a manner that benefits society. Social responsibility has become increasingly important to investors and consumers who seek investments that are not just profitable but also contribute to the welfare of society and the environment.

- 11.13 All **internal departments of the Stellenbosch Municipality**, form key components to the CSF and add value to the Safety Plan.
- 11.14 **The University of Stellenbosch** in a collaborative effort between Stellenbosch University (SU) and Stellenbosch Municipality to improve student safety.
- 11.15 **Provincial Department of Community Safety (DOCS)**, responsible for planning, co-ordination, support, capacity building, mentoring, monitoring, oversight, and accountability.

12 CLUSTERS

- 12.1 Clusters are the working groups responsible to operationalize interventions.
- 12.2 All role-players will be divided into the three clusters based on their responsibility and function which in turn feeds into the CSF.
- 12.3 Clusters will be responsible to develop plans annually, informed by the safety priorities identified in the safety plan.

13 FINANCIAL IMPLICATIONS

Appointment of Project Manager / Coordinator from the Provincial Government Grant as agreed. This position is to be funded and applied for annually.

14. LEGAL IMPLICATIONS

None

15. STAFF IMPLICATIONS

Appointment of Project Manager / Coordinator for the functioning of the Community Safety Forum

16. PREVIOUS / RELEVANT COUNCIL RESOLUTIONS

None

17. RISK IMPLICATIONS

None

Annexures:

Civilian Secretariat for Police: Community Safety Forum Policy

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	2022-02-14

7.2	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
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7.2.1	DUALLING OF LOWER DORP STREET PROPOSED EXCHANGE OF LAND: REMGRO: PORTIONS OF ERVEN 705, 4080 AND 8719 FOR PORTIONS OF ERVEN 7592 AND 7596, STELLENBOSCH
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

23 March 2022

1. **SUBJECT: DUALLING OF LOWER DORP STREET PROPOSED EXCHANGE OF LAND: REMGRO: PORTIONS OF ERVEN 705, 4080 AND 8719 FOR PORTIONS OF ERVEN 7592 AND 7596, STELLENBOSCH**

2. **PURPOSE**

To inform Council of the need to dual lower Dorp street and to get council's approval of how the land that is needed will be obtained. One of the options is a possible land swap.

3. **DELEGATED AUTHORITY**

Council must consider the matter.

4. **EXECUTIVE SUMMARY**

During 2017 and 2018 Stellenbosch Municipality approved developments on erven 7586, 7588 and 7592, subject to certain conditions. One of the conditions was that lower Dorp street need to be dualling and for this purpose Stellenbosch Municipality need to acquire the land from the land owner, being Remgro.

Remgro is willing to exchange the land needed for other Council owned properties as an alternative to Council purchasing the land from them.

The Property Management Policy provide for exchange of Land Agreements to be concluded, subject thereto that reasons for justifying such a step is recorded in writing. The item served at Mayco in January and was referred back for the administration to obtain valuations for the various erven under discussion. We have received one valuation which is attached as **APPENDIX 5**. We are still waiting for the other valuation. The two valutors were appointed at the same time. Council must consider the proposal.

5. **RECOMMENDATIONS**

- (a) that the portions of erven 705, 4080 and 8719 Stellenbosch, as indicated on Fig 4, be identified as land not needed to provide the minimum level of basic services; and
- (b) for consideration.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Development of erven 7586, 7588 and 7592, Stellenbosch

During 2017 and 2018 Stellenbosch Municipality approved the development of Remgro's erven, subject to certain conditions.

According to the Directorate: Engineering Services, these developments would trigger the dualling of lower Dorp street from Adams Tas Road to the R44, which is registered for the broader community of Stellenbosch and not only for the development *per ce*.

See letters of approval attached as **APPENDIX 1**.

The Engineering Services Directorate state in their memo "*that the areas and land required for dualling of Dorp Street be surrendered by the developer to Stellenbosch Municipality, at his/her cost, in order for construction of the road to take place and that compensation from Stellenbosch Municipality for the aforementioned land required for the dualling of Dorp Street, if any, be based on the value of the land in terms of its current zoning, i.e. Specific Business*".

Find attached hereto as **APPENDIX 2** a plan illustrating the required road reserve for the proposed dualling of Lower Dorp Street.

6.2. DISCUSSION

6.2.1 Location and context

The area needed for the road widening is approximately 800m² and 2390m² in size, respectively, as indicated on **APPENDIX 2** and is shown on fig 1 and 2 below.

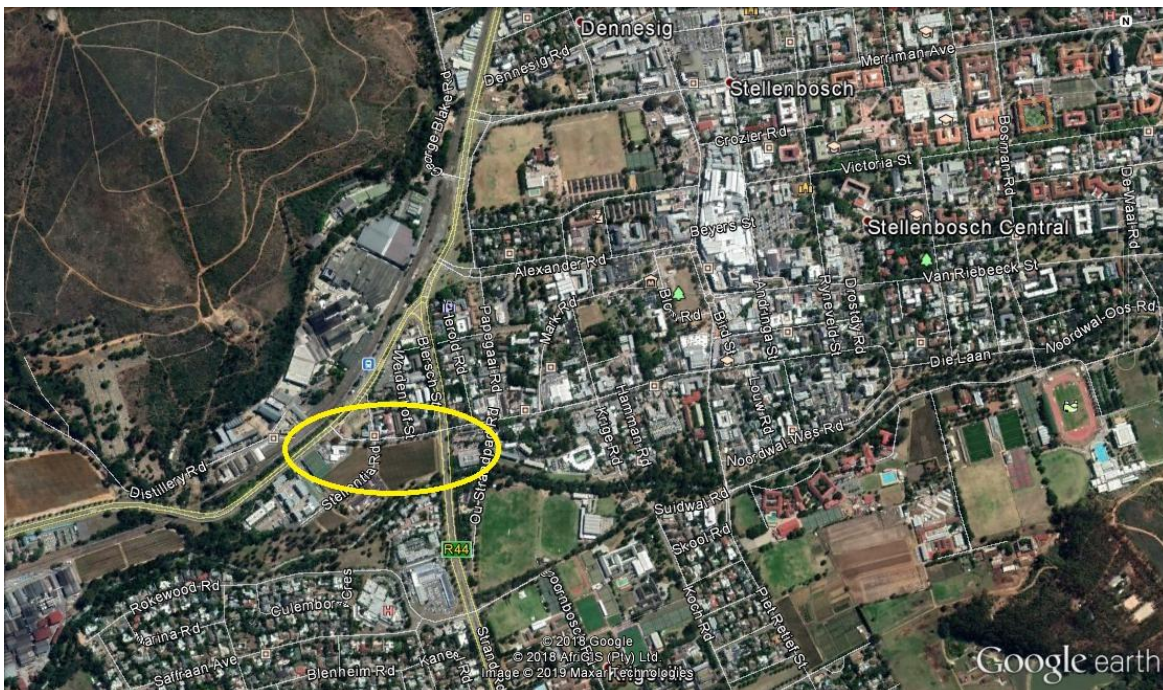


Fig 1: Location and context: erven 7586 and 7592



Fig 2: Extent of proposed road widening

6.2.2 Proposed land swap as an alternative to purchasing of land for road widening

Remgro is now in the process of finalising their development proposals in order to proceed with construction of these approved developments. However, this requires the dualling of Lower Dorp Street. For Council to compensate Remgro for the land needed for the dualling of lower Dorp street in order to accommodate the required dualling a property valuer must be appointed to determine the value of the land required for the dualling of Lower Dorp Street.

As an alternative to Council purchasing the land from Remgro, Remgro has indicated that they are willing to engage in a land swap agreement with Council. They have identified three municipal erven (i.e. Erven 705, 4080 and 8719, Stellenbosch) that are located on the Eerste River and which borders on Remgro's erven. They request that these erven be swapped for Remgro's land. The value of the 3 erven must first be determined before further engagements can take place. Find attached hereto as **APPENDIX 3** a possible land swap plan.

The public erven that has been identified as land that could be swapped, is located on the Eerste River. These public erven cannot (for environmental and flood line reasons) be developed. It is currently only a maintenance and security burden for Council.

The benefits of such a land swap agreement, is that:

- The land transaction will not cost the taxpayer any money;
- Undevelopable land will be exchanged for developable land (necessary for municipal traffic upgrades); and
- The maintenance and security burden of the river erven will become Remgro's responsibility.

Hereto attached as **APPENDIX 4** a self-explanatory letter/proposal received from TV3 Architects and Town Planners, on behalf of their client, Remgro.

The municipal land that is proposed for the land swop is approximately 3658m \pm , 4827m 2 , and 8871m 2 in extent, respectively, as shown on Fig 3 and 4 below.

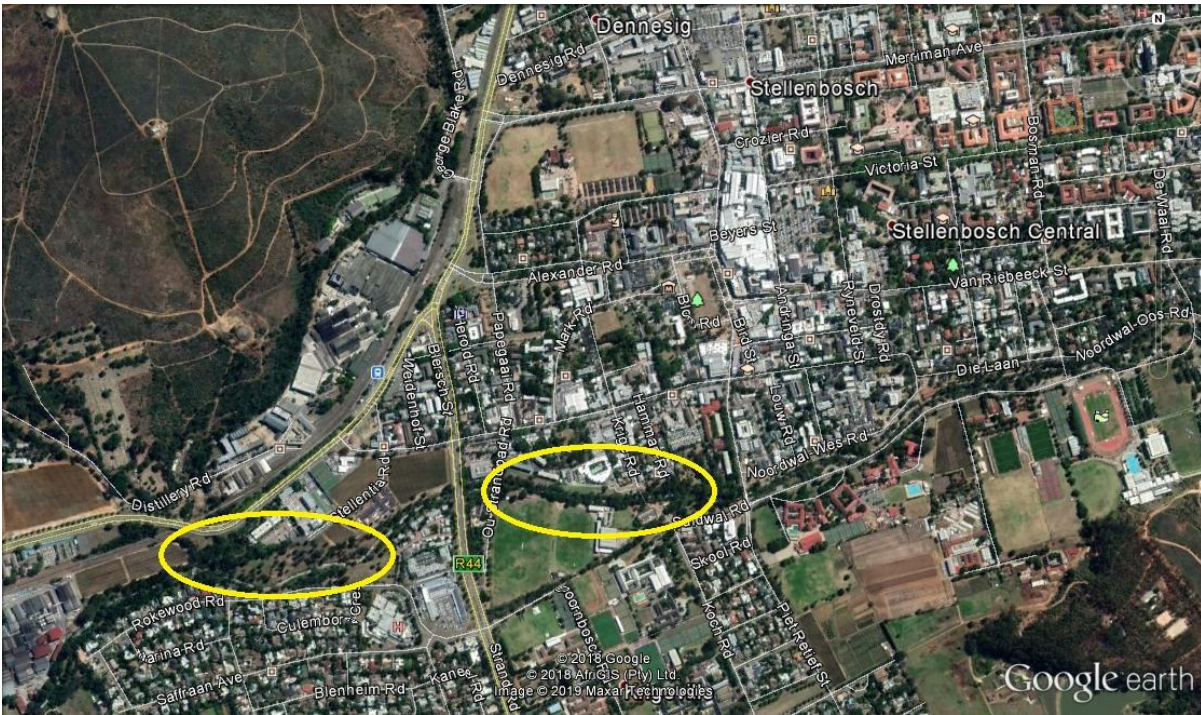


Fig 3: Location and context



Fig 4: Extent of land

6.2.3 Legal regime

6.2.3.1 Municipal Finance Management Act (MFMA)

In terms of Section 14 of the MFMA 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 services.

Further, in terms of Subsection (2), a municipality may dispose of land not needed to provide the main level of basic municipal services, but only if the 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 terms of sub-section (5) any such transfer must be **competitive** and consistent with the **SCM Policy**.

6.2.3.2 Asset Transfer Regulations

In terms of Regulation 5 (1) (b) of the Asset Transfer Regulations, a municipal Council may transfer or dispose of a non-exempted capital asset only after the Municipal Council:-

- (i) has **made the determination** required Section 14(2)(a) and (b); and
- (ii) has, as a consequence of such determination, **approved in principle** that the asset may be disposed of.

In terms of Regulation (7), when considering any disposal as contemplated above, a council must take into account:-

- (a) *whether the capital asset may be required for the municipality's own use at a later date;*
- (b) *the expected loss or gain that is expected to result from the proposed transfer or disposal;*
- (c) *the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the municipality;*
- (d) *the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;*
- (e) *the effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;*
- (f) *any limitation or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;*
- (g) *the estimated cost of the proposed transfer or disposal;*
- (h) *the transfer of any liabilities and reserve funds associated with the capital asset;*
- (i) *any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;*

-
- (j) *the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and*
 - (k) *compliance with the legislative regime applicable to the proposed transfer or disposal.*

In considering the above, Council should take into account the following:

- a) The property in question will not be required for the municipality's own use;
- b) There should be no loss as a result of the transaction;
- c) The compensation, if any, should not result in a significant economic or financial benefit to the municipality, as the proposed swap entails two portions of land equal in size ($\pm 100\text{m}^2$);
- d) There should be no risks associated with the proposed swap;
- e) The transactions will have no effect on the credit rating of the municipality;
- f) There are no limitations or conditions attached to the land in question;
- g) The cost of transfer and all associated cost, such as compilations of diagrams, closing of public streets, ect, will for the account of the applicant;
- h) There are no liabilities reserved funds associated with the land in question;
- i) No comment were solicited from the community;
- j) No organ of state is involved;
- k) All legal requirements will be met

Regulation 11 authorise a Council to approve conditions, when considering an in principle disposal, such as:

- (a) the way in which an asset is to be disposal of (e.g. tender, call for proposal, ect.);
- (b) a floor price or minimum compensation;
- (c) whether the capital asset may be transferred/disposal of for less than its fair market value (in which case the council must first consider the criteria set out in Regulation 12 (2))

6.2.3.3 Property Management Policy

In terms of paragraph 9.23 of the Property Management Policy the *"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. 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.***

*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".*

6.4 Financial Implications

Should Council approve the exchange of land, as proposed by Remgro there would be no exchange of money, but the value of the land swap must be considered. should be no financial implication. Should we, however, need to buy the land for road widening, then the municipality will have to make provision in the budget for the acquisition of the land.

A valuation report has been received from Rhode and Associates, which is attached as **APPENDIX 5**. We are still waiting for a further valuation.

6.5 Legal Implications

See par. 6.2.2 (*supra*). If the municipality agree to a land swap a public participation process must be followed to get inputs from the public on the intention of council to swap council owned land for private land. The exchange involves portions of erven 7592 and 7586, measuring $\pm 800\text{m}^2$ and $\pm 2390\text{m}^2$ in extent, as shown in Fig 2 (Remgro property) for portions of erven 705, 4080 and 8719, measuring $\pm 8571\text{m}^2$; 3658m^2 and 4827m^2 in extent, as shown on Fig 4 (Municipal land).

6.6 Staff Implications

An external valuation must be obtained as the capacity does not exist in house.

6.7 Previous / Relevant Council Resolutions

EXECUTIVE MAYORAL COMMITTEE: 2022-01-21: ITEM 7.2.2

RESOLVED

- (a) *that the item be referred-back for refinement and request that the item be returned when the valuation is available; and*
- (b) *that two independent valuations be obtained to determine the value of the respective portions of land before council make an in-principle decision.*

6.8 Risk Implications

The risks has been addressed in the item.

6.9 Comments from Senior Management

6.9.1 Director: Community Services

This section supports the recommendation for the proposed exchange of portions of erven 705, 4080 and 8719. The proposal is for the exchange of developable land for undevelopable land (undevelopable, largely due to its proximity to the Eerste River). Should the proposed land exchange be effected Remgro must take full responsibility for the maintenance of the relevant portions of land in a manner that supports the ecological functioning of the Eerste River.

ANNEXURES:

- Appendix 1 Letter of approval**
- Appendix 2 Plan illustrating the required road reserve**
- Appendix 3 Possible Land Swop plan**
- Appendix 4 Letter/proposal received from TV3**
- Appendix 5 Valuation Rhode and Associates.**

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>2020-03-16</i>

7.2.2	PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

23 March 2022

1. SUBJECT: PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER

2. PURPOSE

is to report back to the Executive Mayor and the Mayoral committee on the changes that was requested in regard to the property register and the different categories that is registered under the name of the Stellenbosch Municipality to allow Council to make strategic decisions on the future use of the properties.

3. DELEGATED AUTHORITY

The Municipal Manager as the Accounting Officer constituted a committee and delegated such a committee with authority to investigate and submit a report which relates to property register for MAYCO and Council on request of the Executive Mayor.

When decisions are made it will be by Council or where delegations has been approved by the body that is delegated to make such a decision.

4. EXECUTIVE SUMMARY

Council task the Municipal Manager on 31 March 2021 to compile a property register and present the register to Council for consideration. The Municipal Manager as the Accounting Officer constituted an inclusive committee of representatives from various departments and delegated such a committee with the task to investigate all the properties, compile a property register and submit a report which contains all the council properties for consideration as a reliable source on decision making processes in dealing with properties within the WCO24. This will identify all council owned properties and include all such properties an asset register. This will enable council to develop a property management strategy to determine the future of these properties.

The report served before the Executive Mayor and Mayoral committee in January 2022.

The report was referred back for refinement in the clustering of the property groups. The report is now resubmitted with the change in the property categories as follows:

Categories of properties:

1. Strategic properties

Defined as Buildings and land used for core Municipal Functions/Services

Including the following:

1.1 Office space and related buildings (previously under(f))

1.2 Engineering Service Build Infrastructure (previously under (d))

1.3 Heritage portfolio (previously under (c))

2. Properties used for Community Benefit (previously listed (e))
3. Rural Properties/Agricultural (containing all leases and land not under lease used for agricultural purposes)
4. Non- Core Assets (Land nor required for municipal purposes)
 - 4.1 Encroachments – outdoor dining
 - 4.2 Encroachments – gardening
 - 4.3 Encroachments – parking
 - 4.4 Leases (long/medium/short term) used for non -agricultural purposes
5. Other Properties to be considered

5. RECOMMENDATIONS

- (a) that the progress report be noted; and
- (b) For Consideration

6. DISCUSSION / CONTENT

6.1 Background

Council task the Municipal Manager on 31 March 2021 to compile a property register and present the register to Council for consideration. The Municipal Manager as the Accounting Officer constituted an inclusive committee of representatives from various departments and delegated such a committee with the task to investigate all the properties, compile a property register and submit a report which contains all the council properties for consideration as a reliable source on decision making processes in dealing with properties within the WCO24. The report served before the Executive Mayor and Mayoral committee in January 2022.

6.2 Discussion

The report was referred back for refinement by changing the clustering of the property groups. This report has identified the new different categories of the properties that will be further explained below. The categories are as follows:

1. Strategic Properties (Buildings and land used for Municipal Functions);
 - 1.1 Office space and related buildings
 - 1.2 Engineering Service Build Infrastructure
 - 1.3 Heritage portfolio
2. Community Benefit use properties
3. Rural Properties/Agricultural

All leases and land not under lease – used for agricultural purposes

4. Non-Core Assets (Land nor required for municipal purposes)
 - 4.1 Encroachments – outdoor dining

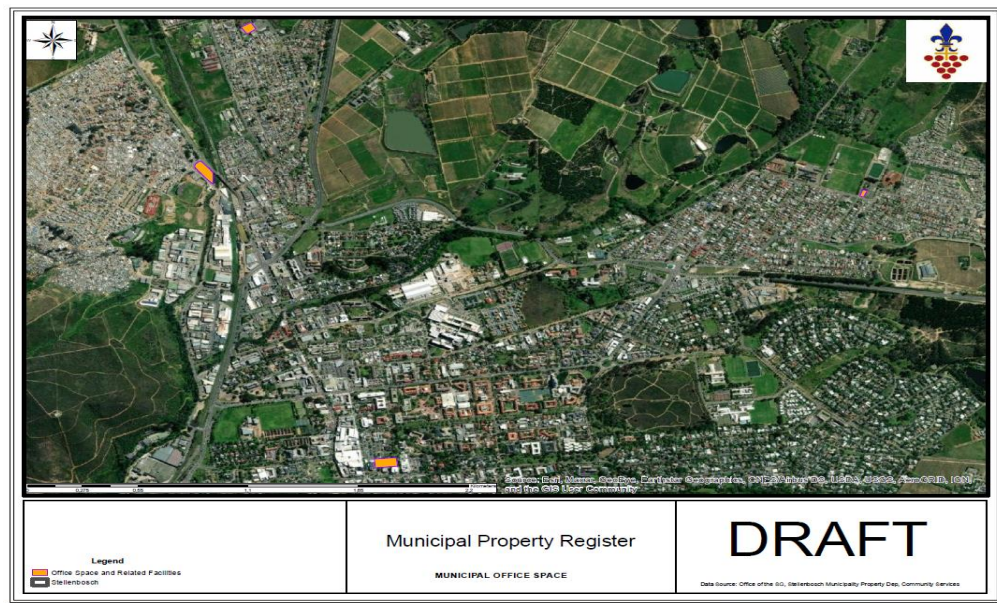
- 4.2 Encroachments – gardening
- 4.3 Encroachments – parking
- 4.4 Leases (long/medium/short term) used for non-agricultural purposes
- 5. Other properties to be considered

The rental stock was not been included in the report. There is currently another internal process dealing with staff housing policy that has not been finalized as yet. Rental stock that are not leased to municipal employees are leased to the public and the use of the rental stock are determined and would require a different process should Council want to change the use of those properties. Full information about rental stock is also readily available and is managed by Housing.

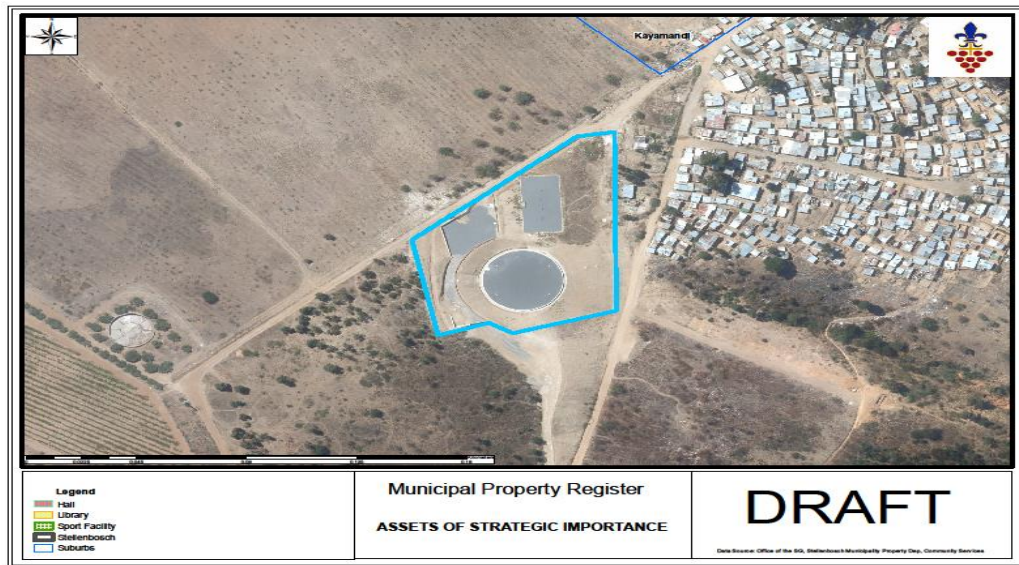
6.2.1 Categories of properties

6.2.1.1 **Office space and related buildings** for the purpose of this report Office Space and inter alia includes:

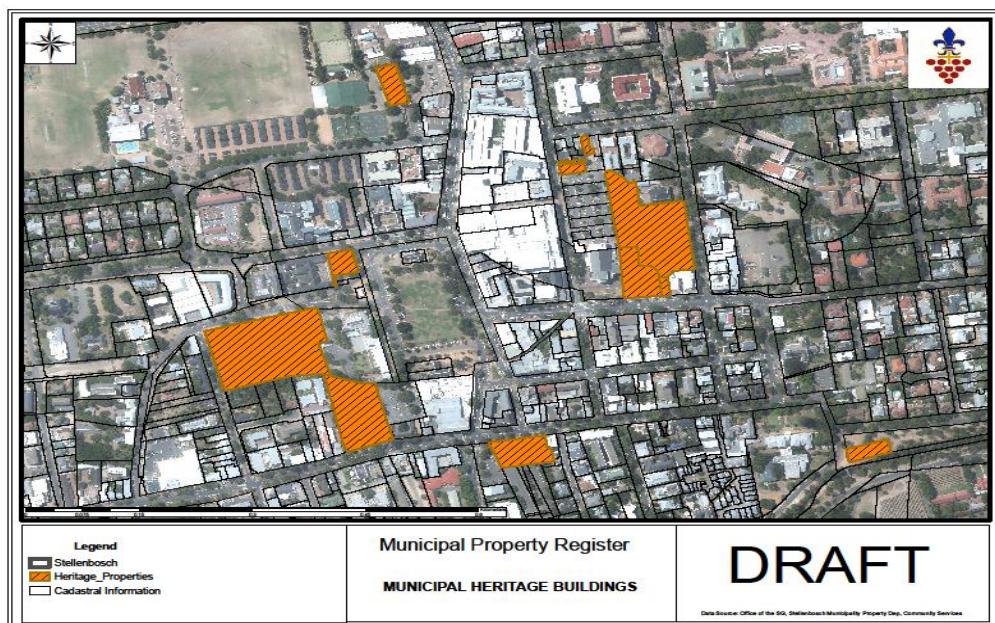
- a) The three Main Administrative Offices in Franschoek, Pniel and Stellenbosch, which is used by various Departments;
- b) Office Space used by specific Departments;
- c) Fire stations;
- d) Traffic Centre;
- e) Beltana depot



6.2.1.2 **Engineering Service Build infrastructure** means an asset that enhances the efficiency and effectiveness of public sector organisation and help the organisation meet the challenges of the future by enhancing strategic decision-making and better-informed policy. Water reservoirs are just but one examples of such assets



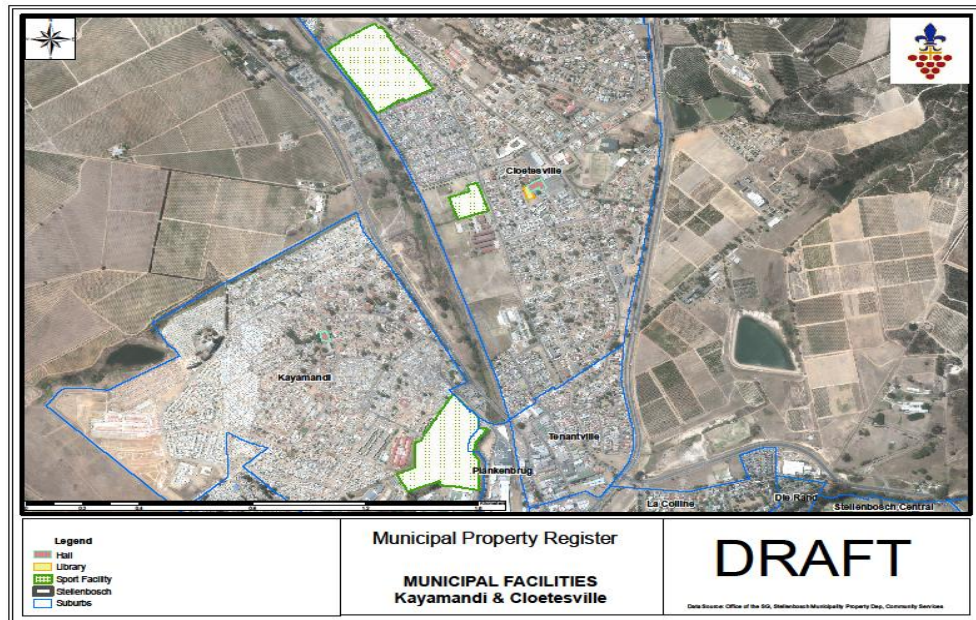
6.2.1.3 **Heritage Portfolio** - heritage assets are assets that have **cultural, environmental, historical, natural**, scientific, technologically, or artistic significance and are held indefinitely for the benefit of present and future generations. One of the key features of heritage essays is that they are held indefinitely for the purposes of preserving such assets for the benefit of present and future generations. This means that entities often incur expenditure to preserve and extend the life of an asset so that it can be enjoyed by future generations. As a result of the preservation of heritage assets, the value often increased over time, making the effect of the appreciation negligible. (This is in accordance with GRAP guidelines 103 on Heritage Assets.)



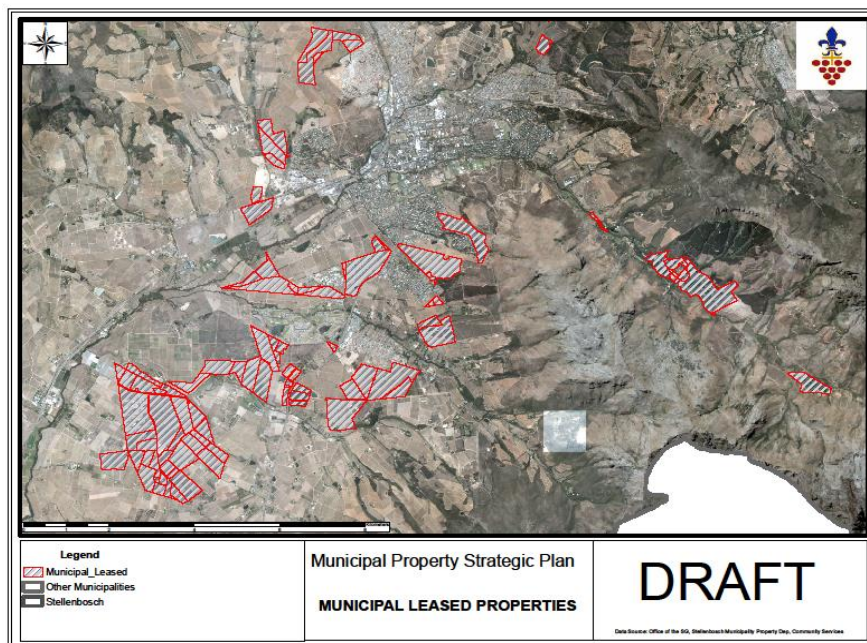
6.2.2 **Properties used for Community Benefit** means any asset of the municipality that improves the quality of community life. Such assets include:

- A physical structure or place such as a library, swimming pool, community halls, sport facilities

- There are 5 individual structures of which 4 have been identified for Local Economic Development (LED) Hubs. Additional to this is another 7 Informal Trading sites with Formal Structures which are using for informal businesses.



6.2.3 Rural Properties / Agricultural land mean assets that are leased on a long, medium or short term and for the specific use of agriculture. There are currently 40 long term leases for farming purposes and these leases expire in 2041. There are also 18 medium term farm leases which have different expiry periods in 5-year lease period until 31 July 2025 and others are 9 years 11 months lease period until 31 June 2029.



6.2.4 Non-Core Assets (Land not required for municipal purposes)

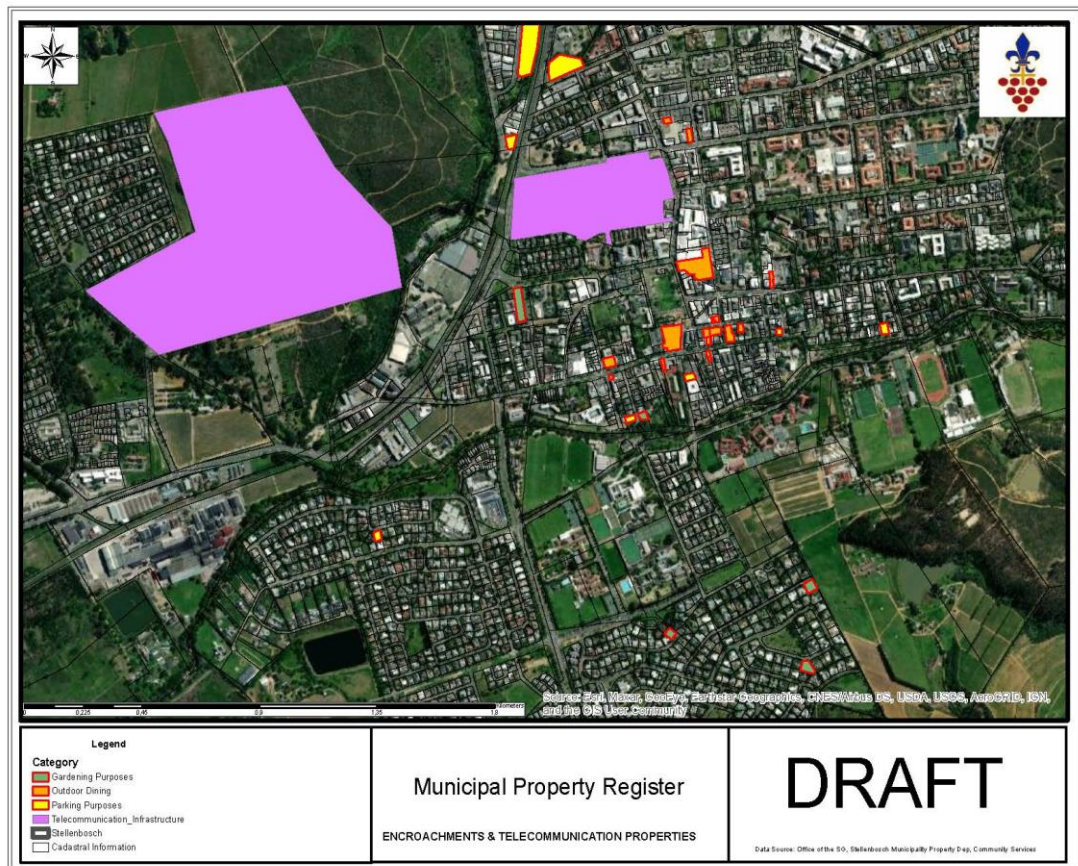
- 6.2.4.1 Encroachment – outdoor dining
- 6.2.4.2 Encroachment – gardening

6.2.4.3 Encroachment – parking

6.2.4.4 Leases (long/medium/short term) used for non-agricultural purposes

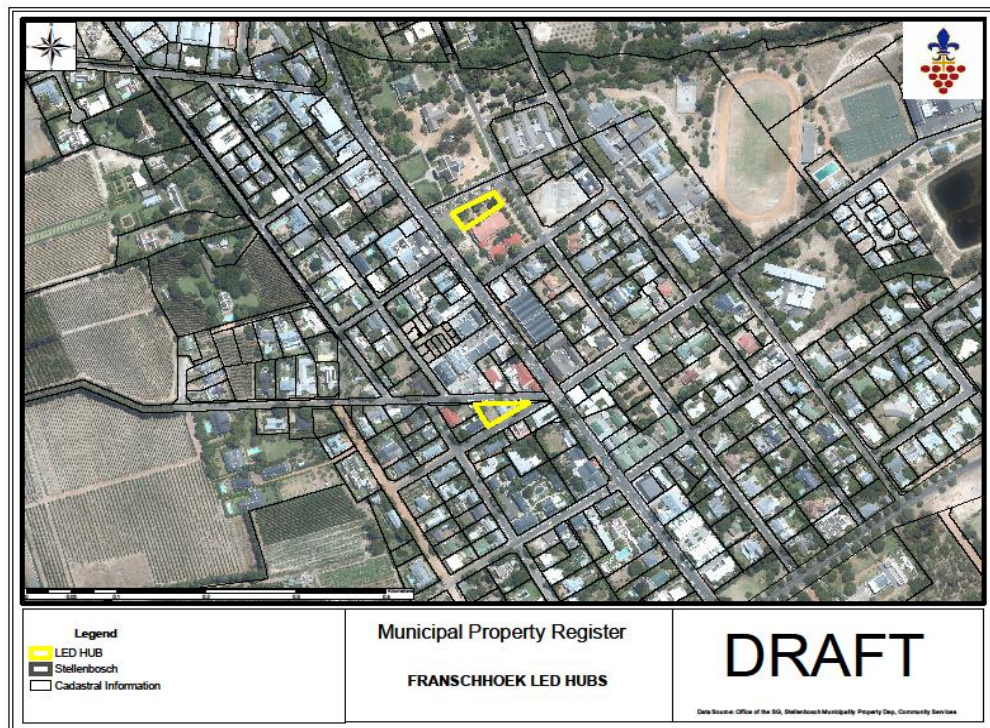
There are currently about 18 outdoor dining permits/agreements, 21 for parking purposes agreements and 87 agreements for garden purposes.

There are also 2 sporting bodies, Stellenbosch golf club and Paradyskloof tennis club and 8 buildings, such as Medi-clinic and taxi associations. The 2 sporting bodies leases expire in 2041 and the 8 buildings in 2023, 2032, 2033 and the other 3 with undetermined periods. The other 22 medium term leases are mainly the buildings rented out as either training centres or office spaces with different lease periods. There are 22 telecommunications infrastructure, of which 18 are base stations such cell phone towers and 4 are installed in municipal buildings or infrastructure.



6.2.5 Other Properties to be considered

This refers to all the properties does not naturally falls within any of the categories above and may be used for investment or other causes. An investment Property is held by the owner to earn income or for capital appreciation or both. Council should consider how they want to use these properties.



6.3 Legal Implications

Any decision to dispose of assets must adhere to the Asset Management Regulations under published under the MFMA.

6.4 Financial implications

Will only be determined once the strategic decision on each category is determined.

6.5 Staff Implications

There is currently one employee within the Contract Management unit under Corporate Services. Other Directorates manage the properties that is used by them to perform their functions.

6.6 Previous / Relevant Council Resolutions

41ST COUNCIL MEETING: 2021-03-31: ITEM 11.2.1

RESOLVED (majority vote)

a) that lease portions 528a and 529cc, known as Mountain Breeze Caravan Park, be identified as land not needed for own use during the period for which such rights are to be granted, as provided for in Regulation 36 of the Asset Transfer Regulations;

(b) that the lease agreement be extended on a month-to-month basis until a property register has been compiled and considered by Council to determine the future of Council properties per category;

(c) that the lessee be informed to strictly adhere to the conditions of the lease agreement;

(d) that the Caravan Park pay their municipal account and that the Municipal Manager be mandated to determine the lease amount;

(e) that the Municipal Manager be mandated to take the necessary steps to ensure the drafting and finalisation of the property register and submit it to Council by not later than December 2021; and

(f) that the item be brought back to Council as soon as the property register has been adopted by Council.

The following Councillors requested that their votes of dissent be minuted: Cllr F Adams; FT Bangani-Menziwa (Ms); G Cele (Ms); C Moses (Ms); RS Nalumango (Ms); N Sinkinya (Ms); P Sitshoti (Ms) and LL Stander

EXECUTIVE MAYORAL COMMITTEE: 2022-01-21: ITEM 7.2.1

RESOLVED

that the item be referred back to the Administration for further refinement, where after the same be resubmitted at the March 2022 Mayoral Committee Meeting.

6.7 Risk Implications

The risks is addressed though the content of the item

6.8 Comments from Senior Management

As this is refined item it was not distributed for input.

FOR FURTHER DETAILS CONTACT:

NAME	Mandlenkosi Mgogoshe
POSITION	Property Management
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088073
E-MAIL ADDRESS	Mandlenkosi.Mgogoshe@Stellenbosch.gov.za
REPORT DATE	2022-03-16

7.2.3	RETURN ITEM MOUNTAIN BREEZE CARAVAN PARK: CONSIDERATION OF PUBLIC INPUTS
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: RETURN ITEM MOUNTAIN BREEZE CARAVAN PARK: CONSIDERATION OF PUBLIC INPUTS

2. PURPOSE

The purpose of this report is two-fold:

- a) To inform Council in regard to the public inputs received after council requested the the public to provide inputs as to the possible future use of Portions 528 and 529C, measuring 20.3ha in size and
- b) To consider the inputs.

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

Stellenbosch Municipality and **Stellenbosch Caravan Park cc** (Malan) concluded a long term Lease Agreement during 1992 for a period of 30 years (1 April 1991-31 March 2021)

This Lease Agreement was later ceded to the **Mountain Breeze Caravan Park cc** (Visser). The lease Agreement expired on 31 March 2021 but was extended on a month to month basis until council was in a position to make an informed decision on the future use of the property. The lessee terminated the extension from 30 June 2021. Council then took over the day -to-day upkeep of the property, but closed it to the public.

The long term lessees that entered into lease agreements with the previous lessee has been given notice to vacate the property and break down their structures, but have not vacated the property. They obtained an interdict after the Municipality locked them out of the ablution facilities and legal action will have to be instituted to remove them from the property.

At the Council meeting held on 28 July 2021, Council decided to provide an opportunity for the public to submit written inputs on the most possible future use of the facility, before deciding on a way forward.

The public notice requested inputs on/before 3 September 2021. Due to the Elections the return item is only servicing now. Various written submissions were received. In council's deliberation the inputs can be considered. Whatever future is decided on is subject to section 34 and 35 of the Asset Transfer Regulations published under the MFMA. It will entail a further public participation process indicating the specific intent for the land. The combined municipal valuation for the land is R16.77 Million and the current Zoning is business taking into account that it is situated in an area surrounded by agricultural use and the airfield.

The item served before Mayco in January 2022 and was referred back to get the independent valuations. That has now being obtained and is attached as **APPENDIX 4 and 5**.

5. RECOMMENDATION

For consideration

6. DISCUSSION

6.1 Background

6.1.1 Lease Agreement

Stellenbosch Municipality and Stellenbosch Caravan Park cc (C.P Malan) concluded a long-term Lease Agreement on 18 May 1992 for the period 1 April 1991 to 31 March 2021.

This Lease Agreement, however, was later ceded to the Mountain Breeze Caravan Park cc (R.P. Visser) during 1995. During March 2021 Council approved the extension of the agreement on a month-to-month basis, whereafter the Lessee indicated that she would vacate the premises by 30 June 2021.

6.1.2 Interim management of facility

Following the termination of the agreement, Stellenbosch Municipality took over the day-to-day management of the facility (not open to the public). For this reason, four (4) staff members of the Lessee were continued for a period of 12 months.

6.1.3 Council resolution: Public inputs

On 28 July 2021 Council decided to afford the public an opportunity to submit written inputs in regard to possible future uses of the area. The submissions closed on 3 September 2021.

6.1.4 Public notice

Following the above Council resolution, an official notice was published in Die Burger and on the Municipal website, soliciting public inputs on the future use of the facility. A copy of the official notice is attached as **APPENDIX 1**.

6.2 Discussion

6.2.1 Locality and context

Mountain Breeze Caravan Park is situated on Lease Portions 528 and 529C, measuring 20.3ha in size, as indicated on Fig 1 and 2 below.

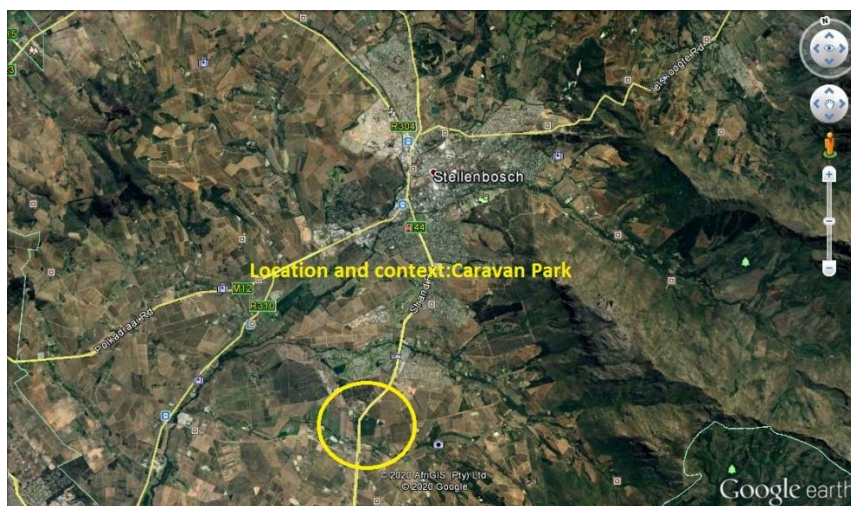


Fig 1: Location and regional context



Fig 2: Extent of property(s)

6.2.2 Ownership

The ownership of the two properties vests in Stellenbosch Municipality by virtue of Title Deeds STFH-891 and STFH6-4/1890, respectively. See Windeed records attached as **APPENDICES 2** and **3** respectively.

6.2.3 Access

Access to the property is *via* a **registered servitude** access off the R44, over a portion of Farm 1166, Stellenbosch as shown on Fig 3, below.

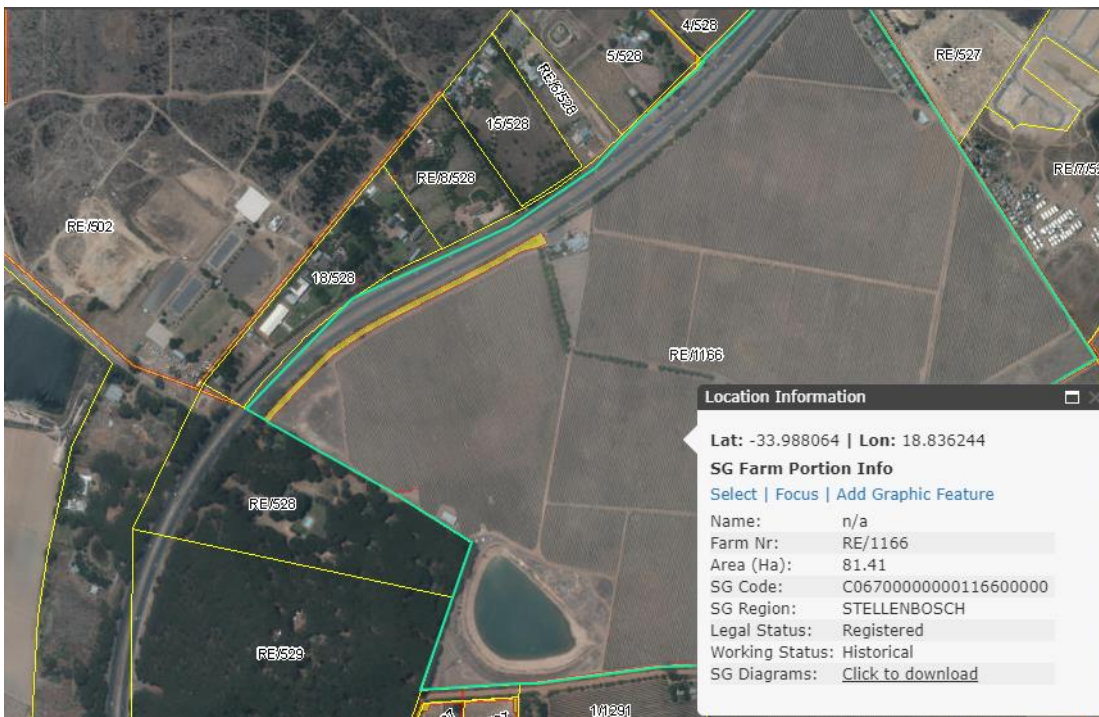


Fig 3: Access road

The servitude was registered at the Surveyor General in 1985, LG Diagram 8786/83.

6.2.4 Access to services

The property has access to irrigation water (Theewaterskloof) and is getting drinking water from a borehole situated on the neighbouring farm 1166.

Electricity is supplied by Eskom.

6.2.5 Improvements

There are various building and amenities on the site including some chalets, a swimming pool and a hall with a kitchen.

6.2.6 Legal requirements

Depending on whether Council is considering the disposal of the asset or whether to award long term rights, various sections/regulations of the Municipal Finance Act, No 56 of 2003, (MFMA), the Asset Transfer Regulations (ATR) and the Municipality's Policy on the Management of Council owned property, will apply.

6.2.7 Inputs received

Hereunder a summary of written inputs received:

1. Sarah Jane Strydom:

- Replace pine forest with indigenous trees
- Amble Side School
- A retreat/gateway

2. Kelly Botha & Fhatuwani Rasivhenge

- Boutique
- Glamping tents

3. Hendrik Bekker:

- Caravan Park in its current form

4. Jenifer Mackintosh:

- Small scale farming on a lease-basis

5. Stellenbosch Ratepayers Association:

- Eco-education and Adventure center for school groups along with overnight facilities
- Cycling and hiking groups
- Caravan park

6. Gabi Zetler, obo Mountain Breeze Farmers (Pty) Ltd:

- Residential development
- Caravan park
- Mountain bike track
- Agricultural

7. Richard Gordge:

- Cycle trail
- Eco education
- Energy efficiency & renewal hub and learning centre

8. Tiverton Family Trust:

- Caravan Park

9. Trevor Strydom (Audacia Wines):

- Keep portion A as forest – in – perpetuity
- Retain portion B as Caravan park

10. SAMI:

- School for learning and life skills

11. Dawid Botha:

- Cycling, hikers
- Training Centre with accommodation for cyclists and hikers

12. Carinus Lemmer:

- Cycling centric centre, with routes, tracks, bicycle shop, training accommodation

13 Brian Burgess (on behalf of Mr.Zetler,the neighbouring land owner):*

- Interested in buying the property

*Although Mr. Burgess's inputs were received before the period of advertising, the Municipal Manager has requested that his inputs be included in the item. He brought them to the attention of the Municipal Manager recently. His initial inputs were sent to the incorrect email address and was therefore not received.

Copies of the various inputs are available for viewing at the properties section, but is not attached as it contains personal information, we may not publish in terms of POPAI and some are marked as confidential.

From the above it is clear that the majority of inputs are:

- a) In favour of a caravan park; or
- b) In favour of a Cycle/hiking park with associated infrastructure

6.2.6.1 Disposal of fix properties**6.2.6.1.1 Municipal Finance Management Act (MFMA)**

In terms of the Section 14 of the MFMA,

“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 the 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.

(3) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.

(4) Municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection (2)(a) and (b) in respect of movable capital assets below a value determined by the council.

(5) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must

be fair, equitable, transparent, competitive and consistent with the supply chain management policy* which the municipality must have and maintain in terms of section 111”.

*For the purpose hereof, the Policy on the Management of Council-owned property is deemed to be the Supply Chain Management Policy, insofar as it relates to Disposal Management. See par. 6.2.6.1.3, below.

6.2.6.1.2 Asset Transfer Regulations (ATR)

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)(a) and (b) of the Act; and

(b) the municipal council—

(i) has made the determinations required by section 14(2)(a) 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) Sub regulation (1)(a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value capital asset” (i.e. in excess of R50M”).

6.2.6.1.3 Policy on the Management of Council owned property

In terms of paragraph 7.2.3 (general principles pertaining to the disposal of immovable property), of the policy;

“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”.

Further in terms of paragraph 8 of the policy:

*“ 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”.

Further, 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”.

In terms of paragraph 9.1 the Municipality may use any of the following methods, depending on the circumstances pertaining the specific Immovable property:

“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.

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.

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".

6.2.6.2 Granting of rights to use, Control or Manage a Capital asset

6.2.6.2.1 Asset Transfer Regulations (ATR)

In terms of Regulation 34, a municipality may grant a right to use, control or manage a capital asset only after:

"1) a) *The accounting officer has, in terms of Regulation 35, concluded a public participation process regarding the proposed granting of the right; and*

b) The municipal Council has approved in principle that the right may be granted.

2) *Sub-regulation (1)(a) must be complied with only if:*

a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R10m; and

b) a long-term right is proposed".

***Please note** that, for the purpose of this report, it will be assumed that the property falls within this category, i.e. value in excess of R10M, as the current Municipal valuation value the properties at R25M.

"3) a) **Only a Municipal Council may authorise the public participation process** referred to in sub-regulation (a)

*b) a request to the Municipal Council for the authorisation of a public participation process **must be accompanied by an Information Statement***, stating:*

i) the reason for the proposal to grant a long term right to use, control or manage the relevant capital asset;

- ii) *any expected benefit to the municipality that may result from the granting of the right;*
- iii) *any expected proceeds to be received by the municipality from the granting of the right; and*
- iv) *any expected gain or loss that will be realised or incurred by the municipality arising from the granting of the right”.*

NOTE: *At this stage it is not clear whether Council is going to dispose of the property or whether Council is considering the awarding of Long term rights. **Only after Council had decided on a way forward, an Information Statement will be prepared and submitted with the return-item.**

In terms of Regulation 35, “*if a Municipal Council has in terms of Regulation 34(3)(a) authorised the Accounting Officer to conduct a public participation process ... the Accounting Officer must, at least 30 days before the meeting of the Municipal Council at which the decision referred to in Sub-regulation (1)(b) is to be considered (i.e. in principle decision)*

- a) *In accordance with Section 21A of the Municipal Systems Act:*
 - i) *Make public the proposal to grant the relevant right together with the Information Statement referred to in Reg 34(3)(b); and*
 - ii) *invite the local community and interested persons to submit to the municipality comments or representations in respect of the proposed granting of the right; and*
- b) *solicit the views and recommendations of National Treasury or the relevant Provincial Treasury on the matter”*

In terms of Regulation 36, “*the Municipal Council must, when considering the approval of any such right, take into account:*

- a) *whether such asset may be required for the municipality’s own use during the period for which such right is to be granted;*
- b) *the extent to which any compensation to be received will result in a significant economic or financial benefit to the municipality;*
- c) *the risks and rewards associated with such right to use; and*
- d) *the interest of the local community”*

In terms of Regulation 40, “*an approval in principle in terms of Regulation 34(1) (b) that a right to use, control or manage a capital asset may be granted, may be given subject to any conditions, including conditions specifying: -*

- a) *The type of right that may be granted, the period for which it is to be granted and the way in which it is to be granted;*
- b) *The minimum compensation to be paid for the right, and*
- c) *A framework within which direct negotiations for the granting of the right must be conducted if applicable”*

In terms of Regulation 41, “*if an approval in principle has been given in terms of regulation 34 (1)(b), the municipality may grant the right only in accordance with the **disposal management system*** of the municipality, irrespective of:-*

- a) *the value of the asset; or*
- b) *the period for which the right is granted; or*
- c) *whether the right is to be granted to a private sector party or organ of state”.*

*The Policy on the Management of Council-owned property is regarded as the Municipality's Disposal Management System.

6.2.6.2.2 Policy on the Management of Council owned property

In terms of section 21 the public competitive methods of disposal are describe:

- i) Formal tender
- ii) Auction
- iii) Closed bid.

6.3 Financial Implications

The combined municipal valuation for the land is R16.77 Million and the current Zoning is business taking into account that it is situated in an area surrounded by agricultural use and the airfield. The valuations obtained in line with the last resolution is attached as **APPENDIX 4 and 5**.

6.4 Legal Implications

The recommendations in this report comply with the Council's policies and applicable legislation and is discussed under 6.2.6 above.

6.5 Staff Implications

There are currently four staff members employed on short term contracts until July 2022. They ensure maintenance including cleaning of the ablution facilities and access control;

6.6 Previous / Relevant Council Resolutions

On 28 July 2021 Council approved the public notice to afford the public an opportunity to submit written inputs in regard to possible future uses of the area. The submissions closed on 3 September 2021.

EXECUTIVE MAYORAL COMMITTEE: 2022-01-21: ITEM 7.2.3

RESOLVED

- (a) that this item be referred-back to Administration for further refinement; and
- (b) that two market related valuations be obtained of the property where after the item be resubmitted after the valuation is available.

6.7 Risk Implications

The risks are addressed through the item.

6.8 Comments from Senior Management

The item was not circulated for comments at this stage.

ANNEXURES:**Annexure 1: Public Notice****Annexure 2: Windeed records****Annexure 3: Windeed records****Annexure 4: Valuation Rhode and Associates****Annexure 5: Valuation Pendo Properties****FOR FURTHER DETAILS CONTACT:**

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Corporate Services</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>2022 – 03 -17</i>

7.2.4	RETURN ITEM: PORTION OF ERF 143, FRANSCHHOEK: CALL FOR PROPOSALS (EX LIFE CRAFT CENTER)
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: RETURN ITEM: PORTION OF ERF 143, FRANSCHHOEK: CALL FOR PROPOSALS (EX LIFE CRAFT CENTER)

2. PURPOSE

Is to provide feedback to council after the call for proposal was advertised on the future of a portion of erf 143, Franschhoek commonly known as the life craft center. Council published a notice to request the public to indicate their interest in leasing the area.

3. DELEGATED AUTHORITY

Council or the Executive Mayor in consultation with the Executive Mayoral Committee where it deals with a lease agreement of less than 10 years and the land value is below R10 Million.

4. EXECUTIVE SUMMARY

During 2004 Stellenbosch Municipality and the Life Craft Center concluded a Lease Agreement, in terms where they would lease a portion of erf 143, Stellenbosch for a period of 9 years and 11 months. That lease agreement terminated and Council resolved on 25 November 2020 not to enter into a new lease agreement with them and requested the department to publish a call for proposals to see what the community think the space should be used for or to get inputs from businesses who may be interested to use the space.

The notice was published in January 2021 and is attached as **APPENDIX 4**.

Only one application has been received – attached as **APPENDIX 5**. Subsequently we have received a further input from the Franschhoek Wine Valley Tourist Association who is interested to lease and upgrade the property. Their request is attached as **APPENDIX 7**. The life craft center was given notice of the council resolution, but have not vacated the property yet.

5. RECOMMENDATIONS

- (a) that Council identifies portion of erf 143, Franschhoek as property not required for Municipal Services at this time; and
- (b) that Council consider the future of the property.

For consideration.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Council resolution

On 25 November Council considered an application from the Life Craft Center an for the renewal of the Lease Agreement. Having considered the application, Council resolved as follows:

” RESOLVED (majority vote with 1 abstention)

(a) that a portion of Erf 143, Franschoek, be identified as land not needed for own use as provided for in Regulation 36 of the Asset Transfer Regulations;

(b) that Council does **not** approve the application;

(c) that the department be requested to **advertise for businesses** to provide proposals on the future use of the property, and that the proposals include an indication of the type of business, a business plan, and the number of employment opportunities;

(d) that Council will consider the proposals and then make a determination on which proposal to approve before a lease agreement will be entered into with a new lessee; and

(e) that the Life Craft Center be **given notice** to vacate the property by no later than 30 March 2021".

Hereto attached as **APPENDIX 1** and **2** respectively, the Agenda item that served before Council as well as the Minutes.

6.1.2 Letter of termination

Following the above resolution the Life Craft Center was informed of the termination of the Lease Agreement as from 1 April 2021. See letter attached as **APPENDIX 3**.

6.1.3 Public notice: Call for Proposal

A public notice, calling for proposals, was published, with closing date for submissions by not later than 25 January 2021. A copy of the notice is attached as **APPENDIX 4**.

6.1.4 Submission received

At the closing date only one submission was received, that of Mr Avery Arendse of Bike Life Café, a copy of which is attached as **APPENDIX 5**.

6.2. DISCUSSION

6.2.1 The Proposal

Bike Life Café is a Franschoek based cycling café, bicycle shop and service court with bicycle rentals. They want to relocate the business to erf 143. He is offering a monthly rental of R4 000.00.

The Franschoek Wine Valley Tourist Association send a proposal on 16 March 2022 requesting to lease the property for 5 years and do some upgrades to the property.

6.2.2 Fair market rental

Please find hereto attached as **APPENDIX 6** a valuation report compiled by Pendo Property Valuers, valuing the monthly rental R260/m². The rentable space is approximately 98m², resulting in a fair market rental is of R25 480.00 (Exclusive of VAT).

6.3 Financial Implications

Council must consider the offer of the rental against the market related rental for the space as indicated by the valuation report.

6.4 Legal Implications

See par. 6.2.2.1 of agenda item that served before Council.

6.5 Staff Implications

No additional staff implications.

6.4 Previous / Relevant Council Resolutions

(Appendix 1).

6.5 Risk Implications

The amount of rent offered is a lot lower than the market related rental. The business cannot be classified as a business for which council may lease at below market value. The area has been standing empty from 1 April which may lead to vandalism.

6.6 Comments from Senior Management

Senior management was requested to comment on the draft item – send out on 5 March 2021. Only the PMU unit commented on behalf of Infrastructure.

6.6.1 Director: Infrastructure Services

Agree with the recommendations.

6.6.2 Director: Planning and Economic Development

No comments received

6.6.3 Chief Financial Officer

No comments received.

6.6.4 Municipal Manager

Notes the proposals received.

ANNEXURES: Appendix 1 Agenda item

Appendix 2 Minutes from Council

Appendix 3: Letter of termination

Appendix 4: Public Notice

Appendix 5: Submission received

Appendix 6: Valuation report

Appendix 7: Letter from Franschoek Wine Valley Tourist Association.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Corporate Services</i>
<i>CONTACT NUMBERS</i>	<i>021-80881018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>2022 – 03 - 17</i>

7.2.5	APPLICATION TO LEASE A PORTION OF MUNICIPAL OFFICES AT PNIEL FOR THE PURPOSE OF A SATELITE CLINIC: WESTERN CAPE GOVERNMENT: DEPARTMENT OF TRANSPORT AND PUBLIC WORKS
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT:APPLICATION TO LEASE A PORTION OF MUNICIPAL OFFICES AT PNIEL FOR THE PURPOSE OF A SATELITE CLINIC: WESTERN CAPE GOVERNMENT: DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

2. PURPOSE

The purpose of this report is to consider a request from the Provincial Government of the Western Cape: Department of Transport and Public Works to use a portion of the Municipal Offices in Pniel for the purpose of a Satellite Clinic for the Dwarsrivier Area free of charge.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated authority to consider applications to lease council-owned property for a period shorter than 10 years on a contract value of less than R5M (See delegation EM85).

4. EXECUTIVE SUMMARY

The Provincial Government of the Western Cape requested the use of a portion of the Municipal Office in Pniel to be used as a Satellite Clinic for the Dwarsrivier area. The only other clinic is situated in Kylemore. They want to lease the property free of charge for a period of 9 years and 11 months with the option to renew. The request is attached as **APPENDIX 1**.

The Property Management Policy allows for direct negotiations in specific circumstances, where a public competitive process would not serve any purpose.

5. RECOMMENDATIONS

- (a) that the portion of the Municipal Offices in Pniel, as indicated on Fig 3, be identified as property not needed to for own use during the period that the rights are to be awarded;
- (b) For consideration

6. DISCUSSION / CONTENT

6.1.1 Background

6.1.1 Application to use a portion of the Municipal Offices for a Satellite Clinic

Hereto attached as **APPENDIX 1** self-explanatory request from the Provincial Department of Transport and Public Works for the use of a portion of the Municipal Offices in Pniel for the purpose of a satellite clinic, until such time as a new clinic has been constructed for the bigger Dwarsrivier area.

According to the Department the Dwarsrivier Valley is in desperate need of a health facility that will provide improved access with a full package of care for the Groot Drakenstein, Lanquedoc and Pniel communities. Currently Kylemore Clinic and Simondium clinics renders health services to the community, together with a mobile outreach.

A project has been registered for the construction of a satellite clinic in Pniel and possible land has been identified, but due to the financial constraints and the lengthy process to acquire such land, as well as to plan and construct a new building, it is unlikely that the new clinic will be operational before 2029.

For this reason the Municipal Building in Pniel has been identified as a possible site to be used as a satellite clinic, until such time a new clinic has been built (9 years and eleven months). They request that the subject property be let to the Western Cape Government at no cost. They, however, undertake to pay for the *pro-rata* use of Municipal Services and will undertake any upgrades/refurbishments at their cost.

6.2. DISCUSSION

6.2.1 Location and context

The Municipal building in Pniel is situated on a portion of erf 721, Pniel, as shown on Fig 1 and 2, below.



Fig 1: Location and context



Fig 2: The site

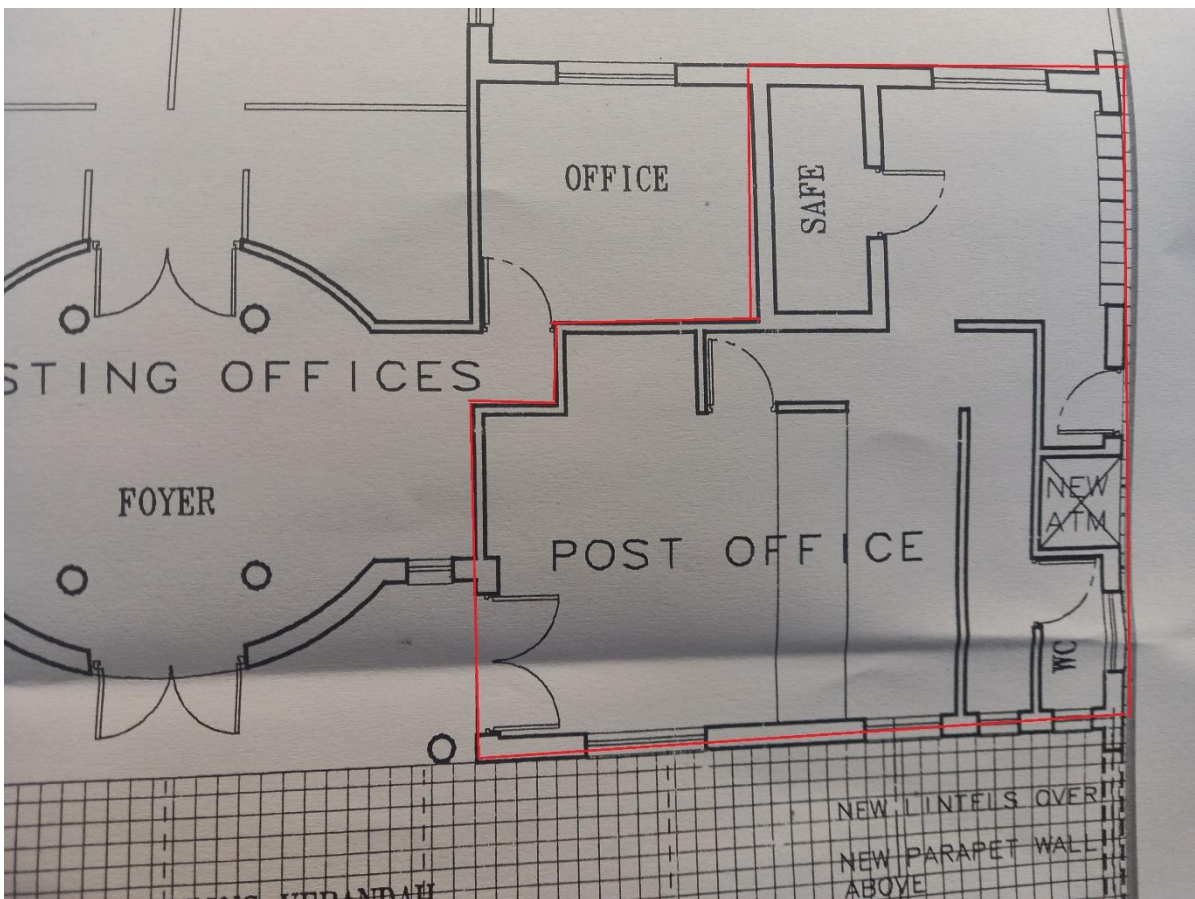


Fig 3: Area to be used as satellite clinic

6.2.2 Current/historic use of space

The area identified by the Department for use of a clinic was previously used as a satellite Post Office. The level of service, however has drastically lowered over the past few years to such an extent that less than 50 post boxes are currently in use.

During discussions with a representative of the Post Office, and following a site visit on 10 January 2022, the Post Office has indicated that they are willing to vacate the premises, on condition that they be allowed to put up a mobile post box (on the northern side of the building). As soon as we receive their application, it will be dealt with separately.

6.2.3 Legal requirements

6.2.3.1 Asset Transfer Regulation

In terms of Section 34 (1) of the ATR a Municipality may grant a right to use, control or manage a capital asset only after-

- a) The Accounting officer has concluded a public participation process*; and
- b) The municipal council has approved in principle that the right may be granted. *Sub regulation (1) (a) (public participation process), however, must be complied with only if-
 - The capital asset in respect of which the right is to be granted has a value in excess of R10M*; and
 - A long-term right is proposed to be granted (i.e. longer than 10 years).

*None of the assets has a value in excess of R10M.

In terms of Regulation 36, the municipal council must, when considering such approval, take into account:

- a) whether such asset may be required for the municipality's **own** use or to provide basic services during the period for which such right is to be granted;
- b) the extent to which any compensation to be received will result in a significant economic or financial benefit to the municipality;
- c) the risks and rewards associated with such right to use; and
- d) the interest of the local community

In terms of Regulation 41, if an approval in principle has been given in terms of regulation 34 (1)(b), the municipality may grant the right only in accordance with the disposal management system* of the municipality, irrespective of:-

- a) the value of the asset; or
- b) the period for which the right is granted

*The policy on the Management of Council owned property is deemed to be Stellenbosch Municipality's disposal management System.

6.2.3.2 Policy on the Management of Council owned property

9.2.3.2.1 Viable Property: Deviation from a Competitive process

The Municipal Council 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 Council's 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) in exceptional cases **where the Municipal Council 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 reasons for preferring such out of hand sale or lease to those by public competition; must be recorded

The reasons for any such deviation from the competitive disposal process must be recorded.

6.3 Financial Implications

The Provincial Government will attend to all upgrades at their cost. They request not to pay any rent. They should however be held liable for payment for all services.

6.4 Legal Implications

See paragraph 6.2.3, *supra*.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions

None

6.7 Risk Implications

The risks are addressed in the content of the item and the terms and conditions of a lease agreement will further address any risks for the Municipality.

6.8 Comments from Senior Management

6.8.1 Director: Infrastructure Services

We have recently taken over electricity within Pniel and Johannesburg. We are delivering all other services within Dwarsrivier area, but there is no dedicated complaint office. I, however, agree that a Clinic carries a bigger need than a services complaint office.

6.8.2 Director: Planning and Economic Development

I have no objection if a portion of the municipal building at Pniel is used for a clinic. The building is under-utilized and the portion previously used by the post office even more so. The area is in desperate need of a local clinic which will enable the public to receive much needed care locally and save many an unnecessary trip to Stellenbosch. The municipal offices is centrally located and very accessible to the public. I therefore support the request fully.

6.8.3 Chief Financial Officer

It is important that the Clinic pay for all services.

6.8.4 Municipal Manager

In IDP meetings the need for a clinic in the area was identified.

ANNEXURES: **Application from the Provincial Department of Transport and Public Works**

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
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<i>REPORT DATE</i>	<i>2022-03- 17</i>

7.2.6	APPOINTMENT OF COUNCILLORS TO SERVE ON EXTERNAL BODIES
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: APPOINTMENT OF COUNCILLORS TO SERVE ON EXTERNAL BODIES

2. PURPOSE

For Council to appoint Councillors to serve on External bodies

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The following external bodies have Councillors on representing Stellenbosch Municipality. Council appoints the representatives to these bodies. This item was placed on the first Council meeting and it was resolved that it will stand over to a later meeting in 2022.

External Body	Number or representatives	Name of representatives
Jan Marais Nature Reserve Advisory Committee	1	
Mont Rochelle Nature Reserve Advisory Committee	2	1. 2.
Pension and retirement Funds SALA LA Pension Fund CRF Councillor Pension fund (currently under curatorship)	1 representative dealing with all 4 funds. ¹	
Stellenbosch Tourism and Information Bureau	2	1. 2.
Stellenbosch Museum Trustee	1	
Franschhoek Museum	1	

¹ Councillor Esther Groenewald currently serving on the SALA board of trustees representing Western Cape until end of 2023. Elected due to her being the representative during the previous term.

Franschhoek Valley Tourism	2	1. 2.
Community Police Forum Stellenbosch	3	1. 2. 3
Community Police Forum Kayamandi	3	1. 2. 3.
Community Police Forum Franschhoek	2	1. 2.
Community Police Forum Klipmuts	2	1. 2.
Community Police Forum Cloetesville	2	1. 2.
Community Police Forum Groot Drakenstein	1	
SWOKK (Stellenbosch Welsyns en Ontwikkelings-koördinerings Komitee)	3	1. 2. 3.
FREMCO Trust	1	
Hospital Board	1	
University Board	1	
Winelands Water Utilisation Association	1	
District Health Committee	1	

5. RECOMMENDATIONS

For consideration

6. BACKGROUND

6.1. Discussion

The following external bodies have Councillors on representing Stellenbosch Municipality. Council appoints the representatives to these bodies. This item was placed on the first Council meeting, and it was resolved that it will stand over to a later meeting in 2022.

External Body	Number of representatives
Jan Marais Nature Reserve Advisory Committee	1
Mont Rochelle Nature Reserve Advisory Committee	2
Pension and retirement Fund	1
Stellenbosch Tourism and Information Bureau	2
Stellenbosch Museum Trustee	1
Franschhoek Museum	1
Franschhoek Valley Tourism	2
Community Police Forum Stellenbosch	3
Community Police Forum Kayamandi	3
Community Police Forum Franschhoek	2
Community Police Forum Klapmuts	2
Community Police Forum Cloetesville	2
Community Police Forum Groot Drakenstein	1
SWOKK (Stellenbosch Welsyns en Ontwikkelings-koördinerings Komitee)	3
FREMCO Trust	1
Hospital Board	1
University Board	1
Winelands Water Utilisation Association	1
District Health Committee	1

6.2 Financial Implications

As per the approved budget and the upper limits applicable to Councillors.

6.3 Legal Implications:

The representatives will be representing Stellenbosch Council on the different External bodies and must carry the mandate of the Stellenbosch Council into the meetings.

6.4 Previous Council Resolutions:**ADJOURNED 1ST COUNCIL MEETING: 2021-11-23: ITEM 6.11**

The Speaker **RULED**

that this matter stand over until the January 2022 Council meeting to enable the Political Parties to have more time to apply their minds as to which members they want to nominate to serve on the external bodies.

6.5 Risk Implications:

The risk are addressed in through the content of the item .

6.6 Comments from Senior Management:

The item was not circulated for comments.

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	<i>15 March 2022</i>

7.2.7	REPORT BACK ON THE REMOVAL OF RESTRICTIVE CONDITIONS AND FALL-BACK CLAUSE: ERF 6128, STELLENBOSCH
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: REPORT BACK ON THE REMOVAL OF RESTRICTIVE CONDITIONS AND FALL-BACK CLAUSE: ERF 6128, STELLENBOSCH

2. PURPOSE

The purpose of this report is to report back on the mandate given by Council to enter into discussions with the Owners of Erf 6128 as well to request Council to consider a request for the removal of restrictive conditions from the Title Deed of erf 6128, Stellenbosch, to allow the owner to apply for the rezoning of the erf from Light Industrial to General Business Zone, in order to accommodate the planned retail shops and offices, as per their application.

3. DELEGATED AUTHORITY

The Municipal Council must consider the matter.

4. EXECUTIVE SUMMARY

The current owners of erf 6128, Stellenbosch bought the property in 2013 for an amount of R12 000 000. The property was registered in their name on 3 March 2014.

They have subsequently demolished the existing buildings, with the view of redeveloping the site for retail shops and offices which will service the community and upgrade the visual impact of the entrance to Stellenbosch.

With the submission of their building plans, they were, however informed that the property must first be rezoned from Light Industrial to General Business Zone to accommodate the proposed development.

They have subsequently submitted a rezoning application to this effect, together with an application for the relaxation of the restrictive title deed conditions B.1 and 2, i.e. that the property may only be used for industrial purposes, failing which the property shall revert to the Municipality, subject to certain conditions. It should also be noted that the restriction on the title deed condition in terms of the fall-back clause is only applicable on a portion of the property. The proposed development also is in line with the Municipalities SDF.

The Planning and Development Department has requested that Council consider the matter, i.e. whether they are going to enforce the title deed conditions (buy back the property) or whether the conditions can be removed from the title deed of the erf.

Council at a Special in-committee meeting of 2021-09-29 item 12.4.2 mandated the Municipal Manager to enter into discussions with landowners to facilitate an amicable solution given by the buy-back clause. The Municipal Manager subsequently met with the owner on 10 March 2022. A mutual agreement was reached that an item will be re-submitted to Council to request Council to approve that the restrictive conditions contained in paragraph 2.B.1 and 2.B.2 of the title Deed T10083/2014, as set out in paragraph 6.2.1, be removed, subject thereto that the necessary processes set out in Section 33(4) of the Stellenbosch Land-use Planning By-law be followed.

The re-development of the property is in line with Council's approved SDF as well as the broader objectives of the IDP. It will service the Community of Stellenbosch, upgrade the visual

impact of the entrance to Stellenbosch and help with the prevention of crime and security in the area. It should also be noted that the property is currently on the market to be sold.

5. RECOMMENDATION

For Council's consideration.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Acquisition of erf 6128

During 2013 Lorax Property Investment (Pty) Ltd acquired erf 6128 at a purchase price of R12 000 000. The property was registered in their name on 2014.03.03. See Windeed record attached as **APPENDIX 1**.

6.1.2 Demolition of buildings

During 2018 the owner demolished the buildings on the site, due to vandalism, security as well as with the view of re-developing the site for retail shops and offices.

6.1.3 Building plan

Following the demolition of the buildings, building plans were submitted, with the view of redeveloping the site which will service the community and upgrade the visual impact of the entrance to Stellenbosch. The owner, however, was informed that they must first submit a rezoning application, allowing for retail shops and offices.

6.1.4 Rezoning application

During January 2019 the owner submitted a rezoning application to enable them to do the redevelopment. A copy of their application is attached as **APPENDIX 2**.

6.1.5 Restrictive conditions

Following the submission of the rezoning application, it became evident that there are specific restrictive title deed conditions prohibiting the rezoning of the property.

For this reason, the Planning Department has decided not to consider the Land-use application until such time as the restrictive conditions have been removed.

Seeing that the restrictive conditions are dealing with a property related issue, this Department was now requested to submit a report to Council.

See correspondence in this regard, attached as **APPENDIX 3**.

6.2 Discussion

6.2.1 Locality and context

Erf 6128 is situated off Bird Street, as indicated on Fig 1 and 2 below.



Fig 1: Location and regional context



Fig 2: Erf 6128

6.2.2 Restrictive title deed conditions

As indicated above, there are restrictive conditions registered against the title deed of the property, prohibiting it from being utilised/ developed as a General Business site, allowing for retail shops and offices, as set out in more detail below:

*2.B.1 “That the said land shall be solely used for **industrial purposes**, provided that the Transferee and his successors in title shall have the right to erect on dwelling house on a portion thereof as a residence for the present and future owner, his manager or representative”*

*2.B.2 “In the event of the land being no longer used by the Transferee or his successors in title for **industrial purpose** and such transferee fails to dispose of land to some Company,*

person or persons for industrial purposes within six months thereafter, then the said land shall revert to the said Municipality, who shall have the right to dispose of same against payment to the then registered owner of the value of the buildings erected thereon, such value to be fixed by two independent Sworn Appraisers, who shall have due regard to the state of the market at the same time of making the appraisal, the purpose for which the intending purchaser requires such buildings, also any other circumstances which may detrimentally affect the value thereof"

It should also be noted that the conditions as contained in the Deed of Transfer Number T5999 dated 5 June 1942 is only applicable on a portion of the property. A copy of the Title Deed is attached as **APPENDIX 4**.

This Department is of the view that the purpose of this restrictive condition was to deal with the land-use of the property. At the time (1942) it was standard practise to have these condition being registered against the title deed of a property.

Now, however, there are other (Planning) legislation dealing with land-use issues. For this reason, the purpose of the restrictive condition is no longer applicable and should be removed, paving the way for the owner to apply for a rezoning of the property and ultimate redevelopment thereof.

6.3 Financial implications

There are no financial implications should the recommendation set out in the report be accepted.

6.4 Legal implications

In terms of Section 33 of the Stellenbosch Municipal Land-use By-law:

"33. (1) The Municipality may, on its own initiative or on application in terms of section 15(2), remove, suspend or amend a restrictive condition.

(2) The Municipality may remove, suspend or amend a restrictive condition—

(a) permanently;

(b) for a period specified in the approval; or

(c) subject to conditions of approval.

(3) In addition to the procedures set out in Chapter IV, the owner must □

(a) submit a copy of the relevant title deed to the Municipality; and

(b) where applicable, submit the bondholder's consent to the application.

(4) The Municipality must cause a notice of an application in terms of subsection (1) to be served on □

(a) all organs of state that may have an interest in the restrictive

condition;

(b) a person whose rights or legitimate expectations will be affected by the approval of the application; and

(c) all persons mentioned in the title deed for whose benefit the restrictive condition applies.

(5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:

(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;

(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;

(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed;

(d) the social benefit of the restrictive condition remaining in place in its existing form;

(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and

(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

(6) An approval to remove, suspend or amend a restrictive condition comes into operation—

(a) if no appeal has been lodged, after the expiry of the period contemplated in section 79(2) within which an appeal must be lodged; or

(b) if an appeal has been lodged, when the Appeal Authority has decided on the appeal.

(7) The Municipality must cause a notice of the decision to remove, suspend or amend a restrictive condition to be published in the Provincial Gazette after the decision comes into operation as contemplated in subsection (6) and notify the Registrar of the decision.”

6.5 Staff Implications

This report has no staff implications to the Municipality.

6.6 Previous / Relevant Council Resolutions

In-Committee meeting of Special meeting of Council: 2021-09-29 item 12.4.2.

6.7 Risk Implications

This report has no risk implications for the Municipality.

6.8 Comments from Senior Management

Municipal Manager

ANNEXURES:

Appendix 1: Windeed record

Appendix 2: Rezoning application

Appendix 3: Correspondence between Departments

Appendix 4: Copy of Title Deed

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	2020-03-16

7.2.8	ERF 13246, STELLENBOSCH: DUTCH REFORM CHURCH: WELGELEGEN: APPLICATION TO ENFORCE FALL-BACK CLAUSE: WAY FORWARD
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: ERF 13246, STELLENBOSCH: DUTCH REFORM CHURCH: WELGELEGEN: APPLICATION TO ENFORCE FALL-BACK CLAUSE: WAY FORWARD

2. PURPOSE

Is to inform Council of the outcome of negotiations, following Council's decision on 24 February 2021, *inter alia*, to mandate the Municipal Manager "to negotiate a mutually agreed price to buy back erf 13246, Stellenbosch from the Dutch Reform church: Welgelegen"

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

Stellenbosch Municipality and the Dutch Reform Church: Welgelegen concluded an Exchange of Land Agreement in 1995 in terms whereof erf 13246, Stellenbosch (municipal land) was exchanged for two residential erven in Die Boord, being erven 12758 and 12759 (church land) on an equal in value basis. The Agreement, however, has a fall-back clause, indicating that the land must be transferred back to the Municipality should it no longer needed for church purposes. Seeing that the Dutch Reform Church: Welgelegen does not want to use the property for church purposes they have requested that the fall-back clause be enforced, as per the Agreement. Council must agree to the value at which the property is bought back, as per the Agreement.

On 24 February 2021 Council considered the matter and, *inter alia*, decided to mandate the Municipal Manager "to negotiate a mutually agreed price to buy back erf 13246, Stellenbosch from the Dutch Reform Church, Welgelegen" The council resolution *inter alia* mandated the Municipal Manager to negotiate an agreed price with the church.

Following the above decision, a formal offer was made to the Dutch Reform church, based on the current municipal valuation. Following the above offer, the Dutch Reform Church as submitted a counter-offer, based on a valuation obtained by them. In terms of the council resolution the Municipal Manager is now reporting back on the negotiations.

The item served again before Council in May 2021 and was referred back to the administration for further discussion.

The Municipal Manager met with the Council of the church on 15 February 2022 where the fall-back clause was discussed and the necessary history pertaining the transaction was obtained. Options, as well as an updated counter-offer, approved by the Church's Council, was submitted after the meeting (**APPENDIX 1**). An agreement that Council should consider the way forward was reached.

5. RECOMMENDATION

For consideration

6. DISCUSSION / CONTENT

6.1 Background

During 1995 Stellenbosch Municipality and the Dutch Reform Church: Welgelegen concluded an Exchange of Land Agreement, in terms whereof erf 13246, Stellenbosch (municipal owned land at the time) was exchanged for two residential erven (church land) in Die Boord on an equal in value basis.

6.2 Application to enforce buy-back clause

During 2019 the Dutch Reform Church: Welgelegen requested the enforcement of the buy-back clause, as provider for in the Exchange of Land Agreement.

6.3 Council Resolution

On 24 February Council considered the matter, and resolved as follows:

a) that Council invokes the buy-back clause;

b) that the Municipal Manager be mandated to negotiate a mutually agreed price to buy back erf 13246, Stellenbosch, from Dutch Reform Church: Welgelegen; and

c) that the Municipal Manager reports back to Council on the price before a final decision is made and the sale agreement is signed".

A copy of the agenda item is attached as **APPENDIX 2**.

6.4 Offer to Dutch Reform Church

Following the above Council-resolution, the Municipal Manager formally submitted a written offer to the Dutch Reform Church, based on the current municipal valuation of R2 700 000.00. A copy of the Municipal Manager's offer dated 21 March 2021 is attached as **APPENDIX 3**.

6.5 Counter-offer received from the Dutch Reform Church: Welgelegen

Please find hereto attached as **APPENDIX 4** a counter-offer dated 22 April 2021 received from the Dutch Reform Church, based on a valuation obtained by them.

Following the above, the Municipal Manager has requested that the offer be put to Council for their consideration.

6.6 Discussion

6.6.1 Location and context

Erven 12758 and 12759 is situated in Rhodes-North Road, Die Boord, as indicated on Fig 1 and 2, below.



Fig 1: Location and context: Erven 12758 and 12759



Fig 2: Extent: Erven 12758 and 12759

Erf 13246 is located off Wildebosch Road, Paradyskloof, as indicated on Fig 3 and 4, below.



Fig 3: Location and context: erf 13246



Fig 4: Extent Erf 13246

6.6.2 Property description and Ownership

Erf 13246, measuring 9000m² in extent, is registered in the name of the Dutch Reform Church: Welgelegen, by virtue of Title Deed T4376/2001. Although erf 13246 was rezoned to Religious Purposes, this rezoning has lapsed. The zoning has therefor reverted back to Agricultural Use.

Erven 12758 and 12759 measuring 767m² and 720m² in extent respectively, are registered in the name of Stellenbosch Municipality by virtue of Title Deeds T4375/2001. The properties are zone single residential but is used for an early childhood development centre in term of a Lease Agreement (undetermined period).

6.6.3 Contractual situation

In terms of clause 1 of the Exchange of Land Agreement (Ruilooreenkoms) the parties agreed that the properties which were the subject of the exchange, are equal in value.

In terms of clause 13, should erf 13246 not be used for religious purposes by the church, it will be transported back to the Municipality at an amount to be agreed upon by the parties.

6.6.4 Valuation

In terms of valuations obtained from Pendo Property Valuers and DDP, they valued the property at R5 100 000.00 and R4 500 000, respectively. The weighted average is R4 800 000.00.

6.7 Financial Implications

The financial implications are directly linked to the agreed price. In terms of valuations obtained from Pendo Property Valuers and DDP, they valued the property at R5 100 000.00 and R4 500 000, respectively. The weighted average is R4 800 000.00. The valuation report also formed part of the item that served before council o 24 February 2021. The municipal valuation is R2 700 000.00.

6.8 Staff Implications

No additional staff implications

6.9 Previous / Relevant Council Resolutions

On 24 February Council considered the matter, and resolved as follows:

"a) that Council invokes the buy-back clause;

b) that the Municipal Manager be mandated to negotiate a mutually agreed price to buy back erf 13246, Stellenbosch, from Dutch Reform Church: Welgelegen; and

c) that the Municipal Manager reports back to Council on the price before a final decision is made and the sale agreement is signed".

EXECUTIVE MAYORAL COMMITTEE: 2021-05-19: ITEM 9.1

RESOLVED

that this item be referred back to administration for further discussions.

6.10 Risk Implications

The risks are addressed in the item and previous items that served before Council.

6.11 Comments from Senior Management

Seeing that this is a report back from the Municipal Manager no comment was requested from Senior Management.

ANNEXURES:

Appendix 1: Letter from Church

Appendix 2: Copy of Agenda item

Appendix 3: Copy of Council Minutes

Appendix 4: A copy of the Municipal Manager's offer

Appendix 5: A counter-offer received from the Dutch Reform Church

FOR FURTHER DETAILS CONTACT:

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<i>REPORT DATE</i>	<i>15 March 2022</i>

7.3	FINANCIAL SERVICES: (PC: CLLR P JOHNSON)
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7.3.1	REQUEST FOR PERMISSION TO IMPLEMENT INTERIM ARRANGEMENT ON PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT
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Collaborator No: 725647
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: REQUEST FOR PERMISSION TO IMPLEMENT INTERIM ARRANGEMENT ON PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

2. PURPOSE

To obtain Council approval for the adoption of an interim arrangement in terms of Preferential Procurement Policy Framework. The Constitution of the Republic of South Africa, 1996, provides in sections 152(1)(c) and 152(2) that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1).

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

On 2 November 2020, the Supreme Court of Appeal (SCA) in the case of Afribusiness NPC v The Minister of Finance declared the Preferential Procurement Regulation, 2017 invalid and set it aside. The SCA suspended the declaration of invalidity for 12 months. The Minister of Finance appealed to the Constitutional Court and by operation of section 18(1), the operation and execution of a decision of the SCA was suspended pending the appeal.

On 16 February 2022, the Constitutional Court in Minister of Finance v Afribusiness NPC, dismissed the appeal against the SCA judgement.

On 25 February 2022, the Director-General at National Treasury issued an Advisory Note to all organs of state (see attach Annexure A) wherein he "advised" that:

"While awaiting the outcome of the of the above guidance from the Constitutional Court, organs of state are advised that –

- *Tenders advertised before 16 February 2022 be finalized in terms of the Procurement Regulations.*
- *Tenders advertised on or after 16 February 2022 be held in abeyance; and*
- *No new tenders be advertised."*

The above "advice" are based on the Director-General at NT's view that there is uncertainty on the status of the SCA's order of suspension. According to the advisory Note of NT, the uncertainty arises due to a footnote in the minority judgement of the Constitutional Court.

The municipality differs with this view and decided that we will implement the Preferential Procurement Regulations, 2017, for 12 months until 15 February 2023 unless it is repealed sooner. The municipal manager will also send a letter to the Director-General at NT setting out the view above.

On 3 March 2022, the Director-General issued another advisory Note to organs of state to inform that its communication of 25 February 2022 was an "advisory note". It further advised that NT is developing draft regulations that will be published for comment on Monday 7 March 2022. It argued that organs of state who need any procurement above R30,000 must apply for exemption to the Minister in compliance with section 3(c) of the Preferential Procurement Policy Framework Act, 2000.

The Western Cape Provincial Treasury has subsequently also issued a Treasury Circular No.6 / 2022 (Annexure D) guiding the municipalities on the way forward. Stellenbosch Municipality is of the opinion that the route as identified by Western Cape Provincial Treasury hold the least risk and would allow the municipality to continue with procurement in the interim.

5. RECOMMENDATIONS

- (a) that Stellenbosch Municipality will maintain the status quo and apply the Preferential Procurement Policy Framework Regulations, 2017 (Annexure E) and exclude section 3, 4 and 9.
- (b) use the pre-existing points system with thresholds and associated formulas as per the PPPFR, 2017 i.e., 80/20 preference point system for procurement with a rand value equal to or above R30 000 up to R50million and the 90/10 preference point system for procurement above R50million (all applicable taxes included)
- (c) use the pre-existing mechanism to address the evidence requirements as it relates to the allocation of points for preference i.e., B-BBEE certificates and affidavits.
- (d) Implement sub-contracting conditions in line with the CIDB prescripts/regulations in terms of empowerments and continue implementing the sub-contracting contractor development program as approved by Stellenbosch Municipality.
- (e) that the status quo in terms of obtaining quotations, evaluation and awarding of quotations below R30 000 be maintained.
- (f) that this interim arrangement will be effective until the new Preferential Procurement Regulations is promulgated.
- (g) that all bids advertised before, 16 February 2022 must be finalized in terms of the Preferential Procurement Regulations, 2017
- (h) that all bids advertised after 16 February 2022 be evaluated in terms of Preferential Procurement Regulations, 2017 and only bids that included the sections as identified under point a.) be cancelled and re-advertised; and
- (i) that all new bids be advertised with the prescribes as identified above.

6. DISCUSSION / CONTENTS

To obtain Council approval for the adoption of a interim arrangement in terms of Preferential Procurement Policy Framework. The Constitution of the Republic of South Africa, 1996, provides in sections 152(1)(c) and 152(2) that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1).

Additionally, the Constitution further provides in section 217 that an organ of state must contract for goods or services in accordance with a procurement system which is fair,

equitable, transparent, competitive, and cost effective and to implement a policy to grant preferences within a framework prescribed by National Legislation.

On 2 November 2020, the Supreme Court of Appeal (SCA) in the case of Afribusines NPC v The Minister of Finance declared the Preferential Procurement Regulation, 2017 invalid and set it aside. The SCA suspended the declaration of invalidity for 12 months. The Minister of Finance appealed to the Constitutional Court and by operation of section 18(1), the operation and execution of a decision of the SCA was suspended pending the appeal.

The Supreme Court of Appeal (SCA) declared that the Preferential Procurement Regulations , 2017 were inconsistent with the Preferential Procurement Policy Framework Act 5 of 2000 and ruled that the regulations were invalid .The court exercised its powers in terms of section 172(1)(b)(ii) of the Constitution of the Republic of South Africa , 1996 and suspended the order of invalidity for a period of twelve months and to allow the Minister to correct the defects because the main finding was that the regulations were ultra vires the Ministers regulatory authority as set out in section 5 (1) of the PPPFA . The court held that the legislative scheme created by the PPPFA allocated points to bidders based on Specific goals as contemplated in section 2 of the Act. The application of Regulation 4 (Pre-Qualification) adopted a different approach by conferring a discretion on organs of state to impose certain Pre-qualification criteria as a condition of tender to advance designated groups. Not only was this contrary to section 2 of the PPPFA, but the Minister failure to provide organs of State with a framework for the application of pre-qualification criteria. The court held that the Ministers powers to make regulations were not unconstrained as he could only make regulations regarding the matter that may be necessary or expedient to prescribe to achieve the objects of the Act according to (Dr Peter Volmink and Dr Allison Anthony).

The Minister of Finance appealed to the Constitutional Court and by operation of Section 18(1) of the Supreme Court Act, the operation and execution of a decision of the SCA was suspended pending the appeal.

Section 18(1) states:

"(1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal."

On 16 February 2022, the Constitutional Court in Minister of Finance v Afribusines NPC, dismissed the appeal against the SCA judgement.

On 25 February 2022, the Director-General at National Treasury (NT) issued an Advisory Note to all organs of state (see attach Annexure A) wherein he "advised" that:

"While awaiting the outcome of the of the above guidance from the Constitutional Court, organs of state are advised that –

- *Tenders advertised before 16 February 2022 be finalized in terms of the Procurement Regulations.*
- *Tenders advertised on or after 16 February 2022 be held in abeyance; and*
- *No new tenders be advertised."*

The above "advice" are based on the Director-General at NT's view that there is uncertainty on the status of the SCA's order of suspension. According to the advisory Note of NT, the uncertainty arises due to a footnote in the minority judgement of the Constitutional Court.

The municipality differs with this view and decided that we will implement the Preferential Procurement Regulations, 2017, for 12 months until 15 February 2023 unless it is repealed sooner.

The National Treasury subsequently on 03 March 2022 (attached hereto marked Annexure B) issued a further letter indicating in summary that:

- a. the advice provided on 25 February 2022 excluded procurement with a Rand value less than R30 000 obtained through price quotations;*
- b. regulations will be issued providing for the thresholds for the points system.*

Note that draft regulations in this respect were subsequently issued on 10 March 2022, with the comment period closing on 11 April 2022 until the new regulations take effect that organs of state may in terms of section 3 (c) of the Act, request an exemption from the provisions of the Act for a specific procurement or category of procurement requirements limiting this to procurement that cannot await the new regulations or Constitutional Court's guidance.

The NT advisory notes were not issued in terms of section 168(1) of the Municipal Finance Management Act as only the Minister of Finance, acting with the concurrence of the Cabinet member responsible for local government, could issue such guidelines. In the current instance the advisory notes were issued by the Director-General at NT. This advisory notes therefore have no legal status and is neither peremptory on municipalities.

The initial and the subsequent advisory notes provides no time frame when the application will be launched nor whether the Constitutional Court might agree to hear it. It is our respected legal view that NT should have approached the SCA which granted the suspension order to provide clarity (if they were unclear) or ask for a further extension. It will be difficult for any court and the Constitutional Court to give clarity on something it did not pronounce.

The Western Cape Provincial Treasury has subsequently also issued a Treasury circular No.6 / 2022 (Annexure C) guiding the municipalities on the way forward. Stellenbosch Municipality is of the opinion that the route as identified by Western Cape Provincial Treasury hold the least risk and would allow the municipality to continue with procurement in the interim.

Holding our tenders and, by implication, our service delivery abeyance in the circumstances will amount to a dereliction of fiduciary duties and constitutional obligations. The Municipality need to urgently take up our external loans to finance our Capital projects and if we are non-compliant by not taking up the loan then it will directly impact service delivery and other service delivery projects. Therefor it is imperative that Council approve interim arrangements until the new Regulations comes into effect. The advisory notes as issued by National treasury cannot be implemented and that the most viable route and least disruptive approach in the procurement system would be to maintain the status quo with the necessary amendments to ensure compliance and consistency. The new Preferential Procurement Policy will replace the interim arrangement once approved.

6.3 Financial Implications

The financial implication based on the spending at February 2022.

Expenditure Budget	Approved Budget	Actual Expenditure	Commitments	Balance
Capital Expenditure	398 107 636	140 258 864	146 841 510	111 007 262
Operational Expenditure	1 977 195 012	940 611 507	89 608 122	946 975 383
Total Expenditure Budget	2 375 302 648	1 080 870 371	236 449 632	1 057 982 645

6.4 Applicable Legislation

1. Constitution of the Republic of South Africa, Section 217
2. Local Government: Municipal Systems Act, No. 32 of 2000 and Regulations, section 55
3. Local Government: Municipal Finance Management Act, No. 56 of 2003, Section 186 and section 61
4. Preferential Procurement Policy Framework Act, 2000, section 2, 3 and 5
5. Superior Courts Act, 2013, Section 18
6. Preferential Procurement Regulation, 2017 (entire regulations)

6.5 Staff Implications:

No staff implications

6.6 Previous / Relevant Council Resolutions:

None

6.7 Risk Implications

Holding our tenders and, by implication, our service delivery abeyance in the circumstances will amount to a dereliction of fiduciary duties and constitutional obligations.

6.8 Comments from Senior Management:

The item was not circulated for comment except to Municipal Manager

6.8.1 Municipal Manager

Supports the recommendations.

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	March 2022

7.4	HUMAN SETTLEMENTS: (PC: CLLR J FASSER)
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NONE

7.5	INFRASTRUCTURE SERVICES : (PC : CLLR Z DALLING (MS))
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7.5.1	UTILISING AN INDEPENDENT POWER PRODUCER (IPP) TO GENERATE ELECTRICITY FOR STELLENBOSCH MUNICIPALITY
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Collaborator No: 726787
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: UTILISING AN INDEPENDENT POWER PRODUCER (IPP) TO GENERATE ELECTRICITY FOR STELLENBOSCH MUNICIPALITY

2. PURPOSE

To inform council about the investigation launched by the Western Cape Government (WCG) municipal electricity resilience initiative to perform two pioneering projects to produce electricity within Stellenbosch, pioneering project 2, and pioneering project 5.

3. DELEGATED AUTHORITY

For consideration by Municipal Council

4. EXECUTIVE SUMMARY

Based on the assessment, as part of the MER Initiative, (including at least technical, financial, regulatory) two energy projects were selected and are proposed for implementation in collaboration with Stellenbosch Municipality. The value for money and affordability assessment indicated that the average cost of sale for implementing the new generation capacity projects will be lower than the current average cost of supply.

The MER Programme is an initiative of the Western Cape Government to assist municipalities in the Western Cape to achieve energy resilience, and thereby, contributing to alleviating the plight of load shedding and, furthermore, promoting the use of electricity generated from renewable energy sources. Stellenbosch Municipality identified the impact of the shortage of nationally available electricity and wishes to investigate and implement measures to lower the shortage of electricity and negate the need for load shedding. Stellenbosch Council commenced with the process of generating Alternate Electricity in order to counter the effect of Loadshedding. One of the possible projects identified as part of Alternative Energy for Stellenbosch stated: "Purchasing electricity from Independent Power Producers (IPPs).

The MER initiative followed a structured process to select candidate municipalities. Stellenbosch municipality is one of the MER candidate municipalities. The MER initiative followed a structured approach to identify potential pioneering projects. This included a Request for Information (RFI) process for private project developers and municipal developed projects. Two pioneering projects were evaluated and selected to a pre-feasibility level with Stellenbosch Municipality. These 2 pioneering projects were identified and assessed and reported in the Energy Projects Report. No absolute constraints to the

viability of the projects were identified at the pre-feasibility level. The implementation plan for the 2 pioneering projects with Stellenbosch municipality were developed and HR & Institutional capacity evaluated as reported in the Pioneering Projects Roadmap.

Pioneering Project 2 was found to be acceptable by the Municipality and it is proposed that this project be immediately commenced with. Pioneering Project 5 would however need further evaluation to determine its viability and effectiveness

5. RECOMMENDATIONS

- (a) that Council notes the investigation launched by the Western Cape Government, Municipal Electricity Resilience Initiative Attached as **ANNEXURE A**;
- (b) that Council notes the two Pioneering Projects proposed for Stellenbosch Municipality namely:
 - a. Pioneering Project 2: Stellenbosch Municipality Solar PV project
 - b. Pioneering Project 5: Joint Municipality Generation Project
- (c) that in terms of Pioneering Project 2, Council approves the setting up and issuing of a Request for Proposals (RFP) tenders to call for proposals from suppliers, to build multiple generating facilities and supply electricity to Stellenbosch up to a combined level of 51MW;
- (d) that all relevant process works as prescribed by Section 34 of the Electricity Regulation Act, Act 4 of 2006, as well as associated regulations, as amended, be commenced with up to the level prescribed, in addition to those already commenced with by the CSIR;
- (e) that, after further deliberation with the MER team and participating municipalities, a further report be submitted to Council to report on the feasibility and legal framework of Pioneering Project 5 where a number of Municipalities is proposed to jointly establish a process to purchase electricity from one or a number of Independent Power Producers; and
- (f) that it be endeavoured to also purchase electricity to cover the daily, weekly and seasonal requirements of Stellenbosch Municipality in its objective to be able to reduce the necessity to Load Shed during periods of reduced supply from Eskom

6. DISCUSSION / CONTENTS

6.1 Background

Council commenced with the process of generating Alternate Electricity in order to counter the effect of Loadshedding. Stellenbosch Municipality to commence with the investigation to generate at least sufficient electricity such that loadshedding up to Level 2 will have no impact on the business of Stellenbosch Consumers.

6.1.1 Stellenbosch Municipality concluded two MOUs with:

- a. University of Stellenbosch (US) and the Council of Scientific Industrial Research (CSIR) of SA
- b. Western Cape Government's Municipal Electricity Resilience (MER) team

6.1.2 In terms of the MOU with US & CSIR the following projects were launched

- a. Feasibility Study for Rooftop Solar generation (US) - completed
- b. Energy Master Plan Investigation (CSIR) – in progress
- c. Energy Storage (US) – in progress

6.1.3 In terms of the MER investigations the following were completed by the MER and other entities:

- a. Pre-Feasibility Study into the possibility of Alternative Electricity Generation within Stellenbosch Municipal Electricity Control areas
- b. Pre-Feasibility and Feasible study exercises on Rooftop PV installations done by the University of Stellenbosch.

6.1.4 The next steps will be followed:

- a. To call for a Request For Proposals (RFP) from prospective service providers to install, operate and sell electricity to Stellenbosch Municipality in a predetermined minimum amount of generation at several points on the municipal network and the total of which, not to exceed 51MW.
- b. Tenders to be inclusive of the process of only purchasing energy from such a provider or set of providers. The manufacturing and operations is to be for the account of the provider.
- c. The Tenderers will comply with all legislation pertaining to the Generation of Electricity via a Solar PV format, which shall include, but not be limited to, all matters pertaining to registering an Independent Power Producer, and associated matters as prescribed by the Electricity Regulation Act (ERA)
- d. The action of selling electricity will be done under the provision of a Power Purchase Agreement as is to be established as per the requirements of the ERA.
- e. MFMA Section 33 process to be followed since the purchasing of energy from such suppliers is seen to be for longer than 3 years and up to a period of 20 years.
- f. Drawing up of a contract and negotiating such a contract as is required by the MFMA, which is to be approved by Council in Draft form, prior to commencing with the full MFMA Section 33 process of public participation, National Government Department Participation and a full Financial Viability Exercise.

6.2. Discussion

6.2.1 SANITISED EXECUTIVE SUMMARY OF THE MER REPORT

Sanitised:- Sensitive detail pertaining to other participating municipalities, have been removed from the original report. Full reports are available on request from the Directorate.

(Full Sanitised Version attached as **ANNEXURE A**)

The MER Programme is an initiative of the Western Cape Government to assist municipalities in the Western Cape to achieve energy resilience, and thereby, contributing

to alleviating the plight of load shedding and, furthermore, promoting the use of electricity generated from renewable energy sources. Through the MER Programme the Western Cape Province ultimately seeks to contribute towards the achievement of the outcome to improve energy resilience with a target of an additional nominal capacity of 500 MW of lower carbon electricity implemented in the Western Cape province within 5 years.

During June and July 2021, the Western Cape Government undertook a Request for Information (RFI), soliciting information, from both municipalities and private sector developers, about electricity generation projects they may contribute to the generation of electricity for purchasing by Municipalities. Following an assessment of the responses to this RFI, the Western Cape Government selected five Pioneering Projects, namely, solar photovoltaic and/or wind projects in the Drakenstein Local Municipality, solar photovoltaic projects in each of Stellenbosch Local Municipality, Mossel Bay Local Municipality and Saldanha Bay Local Municipality, and a multi-jurisdictional utility project to serve the consolidated load demand in these four selected Candidate Municipalities (Pioneering Projects).

The Energy Projects Report seeks to address, amongst other matters, the following:

- to determine the potential load demand within the selected Candidate Municipalities.
- to identify substations within these municipalities where there is spare capacity to connect new renewable energy electricity generation and to assess the maximum potential capacity at these substations.
- to identify representative sites within these municipalities so as to determine the potential energy generation for each of the Pioneering Projects. It is to be noted that it was not the intention to select a specific site for locating an electricity generation project, but merely a site, in proximity to the substations, so as to assess the potential generation.
- to determine a cost of electricity generated for each Pioneering Project, including capital and operating expenditure and the cost of financing the project.
- to assess the municipalities' financial capacity to enter into a long-term power purchase agreement, in terms of each of their capacities as a buyer of electricity from an IPP; and
- to identify the key milestones from technical, financial, legal and economic development perspectives so as to inform an Energy Projects Implementation Roadmap.

From our assessment of the five Pioneering Projects, we note that none of the projects are absolutely constrained resulting in such a project being excluded from further consideration. We do, however, note that there are significant constraints on the spare capacity available at the substations limiting the overall capacity to procure new electricity generation by the Candidate Municipalities. Furthermore, we note that the Drakenstein Local Municipality have fiscal constraints which may further limit its financial capacity to enter into a long-term power purchase agreement. We have recommended further studies, as part of the Energy Projects Implementation Plan, to assess the impacts of these constraints. Consequentially, the outcome of these, and other further studies, may have a bearing on the decision as to which of the five Pioneering Projects are selected by the Western Cape Government, in consultation with the Candidate Municipalities, to continue into feasibility study phase of the MER Programme.

We summarise in the table below our assessment of the maximum new generation capacity that one may expect to procure through each of the Pioneering Projects. We also provide an indicative price of the electricity through such a procurement process – where through a properly structured procurement programme these indicative prices may indicate the upper end of a range of prices.

Description	Municipality	Combined
Off-taker	Stellenbosch Municipality	All selected Candidate Municipalities
Technology	Solar PV	Solar PV
Maximum capacity that can be procured	51,22 MW	204 MW1
Indicative price per MWh	626	535

We, therefore, recommend that all five Pioneering Projects be considered for inclusion in the next phase of the MER Programme – the Energy Projects Implementation Roadmap.

After Investigation to the viability of the largest generation the following table was generated.

Table 5: Summary of key technical considerations in relation to Stellenbosch Municipality

Municipality	Largest municipal POS	Estimated capacity at largest POS	Aggregate capacity for all POS's (PV generation)
Stellenbosch	Stellenbosch Devon Valley Substation	37,0 MVA	51,2 MVA

In terms of the maximum electricity that could be injected into the electricity grid of the Stellenbosch Municipal Electricity Network it is found that Stellenbosch could cater for a generation capacity peak of 37MVA at the largest point of supply, or Stellenbosch could have various intake points on its three networks, the total of which must not be larger than 51.2MVA.

The largest would be possible to inject near the Eskom/Devon Valley Main substation. It is close to various open grounds for the construction of PV Solar generation. The Devon valley substation would have the ability to absorb this energy and transfer this to the Stellenbosch networks along a network that is already suitable for this supply.

The injection of 37MVA would be equivalent of the absolute maximum simultaneous maximum demand of 75MVA which would then be 49% of the maximum demand of Stellenbosch usage, but would of course be available only during day time unless storage is used to transfer this to night time.

The storage feasibility is currently being addressed by US. Should various injection points be sought then the maximum energy that would be able to be injected would be 51MVA or then 68% of the maximum power needed by Stellenbosch at peak consumption.

The savings that Stellenbosch Municipality would see by buying electricity from this source instead of Eskom would be 7.4%. Stellenbosch currently has a total annual budget to purchase from Eskom of R400 million. 7.4% of this would be a saving of R29.6 million at the current February 2022 tariffs.

6.3 Financial Implications

This report has financial implications to the municipality but will only become known once some assessments have been done. Listed projects may also have security of supply benefits as well as savings due to generating own electricity. Various budgets have been created for the projects mentioned above. An estimate is made that the cost of day time electricity could be reduced in the order of 5% per kWh.

6.4. Legal Implications

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

6.5. Staff Implications

No staff positions are affected at this point in time.

6.6. Previous / Relevant Council Resolutions

"40TH COUNCIL MEETING: 2021-01-27: ITEM 11.5.1 RESOLVED (nem con)

- (a) that Council approves the investigation into alternate methods of electricity generation and purchases;*
- (b) that Council approves the joint investigation to be done by University of Stellenbosch, Council for Scientific and Industrial Research (CSIR), and the Western Cape Government;*
- (c) that Council accepts the initiating of the following processes as may be required:*
 - i. Municipal Systems Act, Section 78(1) processes*
 - ii. Municipal Finance Management Act, Section 33 investigation processes*
 - iii. Electricity Regulation Act, Section 13; and*
- (d) that Council considers the funding of such investigations and implementation"*

6.7. Risk Implications

Risks such as sufficient electricity supply and proper funding balancing are being mitigated.

6.8. Comments from Senior Management:

6.8.1. Director: Infrastructure Services

WRITER OF REPORT

6.8.2. Director: Planning and Economic Development

Accepted the report with no comment

6.8.3. Director: Community and Protection Services

No Comment

6.8.4. Director: Corporate Services

Commented. Adjustments were made related to comments.

6.8.5. Chief Financial Officer

Part of the Stellenbosch Alternate Energy Team.

ANNEXURES

Annexure A: ENERGY PROJECTS REPORT: 1 NOVEMBER 2021

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	22 February 2022

DIRECTOR: INFRASTRUCTURE SERVICES

7.6	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J JOON)
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7.6.1	MONT ROCHELLE NATURE RESERVE ENVIRONMENTAL MANAGEMENT PLAN
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Collaborator No: 720739
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. SUBJECT: MONT ROCHELLE NATURE RESERVE ENVIRONMENTAL MANAGEMENT PLAN (October 2021)

2. PURPOSE

The Mont Rochelle Nature Reserve (MRNR) Environmental Management Plan (EMP) (October 2021) (**ANNEXURE A**) has been prepared to establish a distinct vision and overarching goal for the management of MRNR in context off, and giving effect to, the relevant legislation and associated regulations. Following the Council resolution of April 2021 (included under section 6.6 below) a draft version of this document was advertised for public comment for a period of 21 days (**ANNEXURE B**). Comment received during this period (**ANNEXURE C**) has been considered and various amendments made (**ANNEXURE D**) culminating in the above document herewith presented to Council for approval.

3. DELEGATED AUTHORITY

For decision by the Council of Stellenbosch Municipality (the Municipality).

4. EXECUTIVE SUMMARY

MRNR, proclaimed as a Local Nature Reserve in 1982 (Provincial Notice 671/1982), is located at the top of Franschoek Pass 3km east of the town of Franschoek. The NR is approximately 1 760ha in size and mainly comprises of Farm no. 23, municipal property. MRNR falls within the Cape Floral Kingdom. It also falls within a small area known as a Strategic Water Source Areas (SWSA)² which is areas known to supply a disproportionate amount of mean annual runoff to a geographical region of interest. SWSA areas make up 8% of the land area across South Africa, Lesotho and Swaziland but provide 50% of the water in these countries. Since its proclamation MRNR has been managed without a formally approved EMP in place. Because of the area's ecological value, its value as public resource and its vulnerability to degradation due to past and present use it is important that an overarching management plan for the area be put in place to ensure that MRNR is managed in a sustainable manner.

5. RECOMMENDATION

that Council approves the Mont Rochelle Nature Reserve Environmental Management Plan (October 2021) as the document to guide the management of Mont Rochelle Nature Reserve.

² <http://bgis.sanbi.org/nfepa/SWSAmap.asp>

6. DISCUSSION / CONTENT

6.1 Background

As stated above MRNR falls within the Cape Floral Kingdom, which is inter-nationally recognised as one of the six Floral Kingdoms of the world. The unique Cape Floral Kingdom is the smallest, covering a mere 0,06% of the earth's surface, and is the only Floral Kingdom contained in its entirety within a single country. It also falls within a SWSA.

MRNR is currently used for a range of outdoor recreational activities. It is visited by an undetermined number of tourists for the purposes of picnicing, trail-running, mountain-biking and studying ecological manifestations. Wing-gliding and sight-seeing are also undertaken from specific sites within the reserve. Hiking is the activity that attracts most of the recreationists to MRNR.

MRNR is also unique in that a number of private properties are located within the reserve along with other municipal infrastructure associated with water supply to Franschoek and surroundings.

The primary threats to the ecology, aesthetic quality and catchment functions of MRNR include the following:

Inappropriate Fire Regime: The Fynbos vegetation in MRNR requires a fire regime that provides for high intensity fires at intervals that range from 8 to 20 years, occurring in late-summer (i.e. February-March). As stated above, MRNR is managed as part of the Hottentots Holland Mountain Catchment Area, the fire management of which is undertaken in accordance with a '*minimum interference*' policy. The latter policy essentially implies that controlled burning, as a management practice, is largely excluded and that the emphasis falls on controlling 'unnatural' wildfires. Due to the topography, climatic conditions, and factors such as land-uses on adjoining properties that are conducive to the starting of wildfires, and financial constraints that inhibit fire control activities, MRNR is particularly prone to wildfires that do not conform with its natural fire regime requirements. The latter could, in the long-term, have an adverse effect on the structure of the local plant communities, biodiversity in general, and the natural functioning of the reserve as a catchment area. In addition, an inappropriate fire regime could have immensely negative cost-implications in that it generally upsets management programs such as alien plant eradication.

Over-utilisation by visitors: MRNR is a particularly attractive natural area and provides for a broad spectrum of recreation opportunities. It is, subsequently, a popular attraction for eco-tourists and sports persons practicing specific nature-related activities. The main potential problems in this regard include pollution, trampling of plants, disturbing of animals, soil compaction leading to unnatural erosion, and degradation of the social environment. It is imperative that the carrying capacity (both social and ecological) of the reserve is not exceeded by visitors.

Alien Plant Infestation: The infestation of Fynbos areas by alien plants is known to be a primary threat to biodiversity in general (mainly due to habitat fragmentation), and catchment dynamics. In the latter regard, it is important to note that Fynbos has unique intrinsic water conservation capabilities and subsequently plays a critical role in the maintenance of the natural *water cycle*. In order to sustain the fundamentally important catchment function of MRNR it is, therefore, imperative to implement integrated eradication programs for alien plants.

Security and vandalism: MRNR is relatively secluded. Infrastructure, especially those located at the entrance complex is damaged and vandalised regularly.

Inappropriate development: The existence of the homesteads or private erven within the NR have been noted above. Development of these erven must fit with the scale, landscape and use of the area.

The core value of MRNR is the ecosystem goods and -services it provides to the area and its surroundings. It is therefore important that it be managed in a manner that addresses the challenges listed above, to maximize the value of MRNR's resources and ensure sustainability.

6.2 Discussion

The MRNR EMP (October 2021) has been prepared to establish a distinct vision and overarching goal for the management of MRNR in context off, and giving effect to, the relevant legislation and associated regulations. The EMP consist of management strategies and guidelines for the management of the area under the following themes:

- Administration
- Environmental Protection
- Land Use Management
- Environmental Auditing

6.3 Financial Implications

The EMP includes an in principle costing plan that provides for the basic management functions to be implemented. This costing plan is to guide the preparation of annual budgets for the management of the NR. A large portion of these items are already implemented by the MRNR Advisory Board with funds generated from visitor admission fees. A portion of the management cost of the NR will however have to be budgeted for by the Department: Community Services, Section: Environmental Management.

6.4 Legal Implications

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

6.5 Staff Implications

This report has no staff implications to the Municipality.

6.6 Previous / Relevant Council Resolutions

The 42nd Council Meeting: 2021-04-28: Item 11.6.1, Resolved (nem con):

- (a) that Council approves the advertisement of the draft Mont Rochelle Nature Reserve Environmental Management Plan (February 2021) for a period of 21 days for public input; and
- (b) that the inputs received during the above-mentioned public participation process be worked into a final draft Mont Rochelle Nature Reserve Environmental Management Plan, to be presented to Council for approval.

6.7 Risk Implications

This report addresses the risk implications for the Municipality.

6.8 Comments from Senior Management

This report and proposed MRNR EMP was circulated via e-mail on 29 October 2021 with a request for comment by 9 November 2021.

6.8.1 Director: Infrastructure Services

No comment received.

6.8.2 Director: Planning and Economic Development

No comment received.

6.8.3 Director: Community and Protection Services

No comment received.

6.8.4 Director: Corporate Services

No comment received.

6.8.5 Chief Financial Officer

No comment received.

6.8.6 Municipal Manager

No comment received.

ANNEXURES

Annexure A: Mont Rochelle Nature Reserve Environmental Management Plan (October 2021)

Annexure B: Eikestad News Advert

Annexure C: Public Input Received

Annexure D: Response Report

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	11 November 2021

7.7	PLANNING :(PC: CLLR C VAN WYK (MS)
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NONE

7.8	LOCAL ECONOMIC DEVELOPMENT AND TOURISM:(PC: CLLR R DE TOIT (MS)
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NONE

7.9	RURAL MANAGEMENT: (PC: CLLR J WILLIAMS)
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NONE

7.10	YOUTH, SPORT AND CULTURE: (PC: CLLR R ADAMS)
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NONE

7.11	MUNICIPAL MANAGER
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7.11.1	MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) TERMS OF REFERENCE
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. **SUBJECT: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) TERMS OF REFERENCE**

2. **PURPOSE OF REPORT**

For Council to approve the Municipal Public Accounts Committee (MPAC) Terms of Reference

3. **DELEGATED AUTHORITY**

Council

4. **EXECUTIVE SUMMARY**

In terms of Section 79 of the Structures Act, a municipal council may establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers and appoint the members of such Committee(s) from among its members.

Council at its meeting dated the 10 December 2022 established a new Municipal Public Accounts Committee (MPAC). Attached as **APPENDIX 1** find Council resolution of the establishment.

Section 79A of the Structures Act was amended (attached as **APPENDIX 2**) and became effective on the 1st of November 2021. This amendment added to the roles and responsibilities of the MPAC. This necessitated that a new terms of reference be drafted to comply with the amendment. This new terms of reference outlines the structure, roles, responsibilities, and functions of the MPAC. This will provide clear guidance for the MPAC in the execution of their duties. Attached as **APPENDIX 3** find the draft MPAC terms of reference for Council's approval.

5. **RECOMMENDATIONS**

(a) that Council approves the Municipal Public Accounts Committee (MPAC) Terms of Reference; and

(b) that Council notes the MPAC Annual Report Checklist.

6. **DISCUSSION AND BACKGROUND**

6.1 **Background**

Section 79A of the Structures Act was amended on the 1st of June 2021 and became effective on Municipalities on the 1st of November 2021. This amendment added to the roles and responsibilities of MPAC. This necessitated that a new terms of reference be drafted to comply with the amendment

6.2 The Local Government: Municipal Structures Amendment Act

Section 79A of the act was amended as follows:

Insertion of section 79A in Act 117 of 1998

29. The following section is hereby inserted in the principal Act after section 79:

“Establishment of municipal public accounts committee

79A. (1) A municipal council must establish a committee called the municipal public accounts committee.

(2) The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee.

(3) The municipal council must determine the functions of the municipal public accounts committee, which must include the following:

(a) review the Auditor-General’s reports and comments of the management committee and the audit committee and make recommendations to the municipal council;

(b) review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;

(c) initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;

(d) attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and

(e) on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.

(4) Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council.

(5) (a) For the purposes of this section ‘audit committee’ means the audit committee envisaged in section 166 of the Local Government Municipal: Finance Management Act.

(b) Each municipality and each municipal entity must establish an audit committee in accordance with that section.”.

6.3 Financial Implications

As per the approved budget.

6.4 Legal Implications

The recommendations are in line with the legislation

6.5 Staff Implications

N/A

6.6 Previous / Relevant Council Resolutions

None

6.7 Risk Implications

None

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

The recommendations are supported

6.8.2 Director: Planning and Economic Development

The recommendations are supported.

6.8.3 Director: Community and Protection Services

The recommendations are supported.

6.8.4 Director: Corporate Services

The recommendations are supported

6.8.6 Chief Financial Officer

Supports the recommendations

6.8.7 Municipal Manager

Supports the recommendations

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	<i>30 March 2022</i>

7.11.2	AMENDMENT OF MEMBERSHIP OF HUMAN SETTLEMENT AND RURAL MANAGEMENT SECTION 80 COMMITTEES
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: AMENDMENT OF MEMBERSHIP OF HUMAN SETTLEMENT AND RURAL MANAGEMENT SECTION 80 COMMITTEES

2. PURPOSE

To request Council to amend the decision taken on 23 February in relation to the membership of the Rural Management and Human Settlement section 80 committees.

3. DELEGATED AUTHORITY

Council establishes the section 80 committees and appoints the members, whilst the Executive Mayor appoints the Chairpersons.

4. EXECUTIVE SUMMARY

In terms of Section 80 of the Structures Act, if a municipality has an Executive Mayor, it may appoint Committees of Councillors to assist the Executive Mayor. Such Committees may not in number exceed the number of members of the Executive Committee (10, including the Deputy Executive Mayor).

The Executive Mayor, *inter alia*:-

- appoints a Chairperson for each Committee; and
- may delegate any powers and duties of the Executive Mayor to the Committee.

Such Committee(s) must assist the Executive Mayor in accordance with the directions of the Executive Mayor and in line with the provisions as indicated in section 80.

The members are appointed by council in accordance with the principle of representation amongst the amount of members allocated to each committee. Council at the meeting on 23 February established the committees and appointed the members of the different Committees. Councillor Mdemka was appointed to the Rural Development Committee and Councillor Serdyn to the Human Settlements Committee. They have subsequently requested that they swap.

5. RECOMMENDATIONS

- (a) that the council resolution to appoint councillor Mdemka to serve on the Rural Management Committee be amended and to appoint Councillor Mdemka to the Human Settlements Committee;
- (b) that the council resolution to appoint councillor Serdyn to serve on the Human Settlements Committee be amended and to appoint Councillor Serdyn to the Rural Management Committee;
- (c) that council notes that due to the changes the membership of the Human Settlements Committee and Rural Development Committee is now as follows:

Human Settlements, total 5 members:

DA – 3
Opposition – 2

J Fasser (DA) – Deputy Executive Mayor – Chairperson
E Vermeulen (DA)
X Mdemka (DA)
N Ntsunguzi (ANC)
M van Stade (GOOD)

Rural Management, total 4 members:

DA - 3
Opposition - 1

J Williams (DA) – Chairperson
J Serdyn (DA)
C Manuel (DA)
E Masimini (ANC)

6. DISCUSSION / CONTENTS**6.4 Background****Composition of Committees**

In terms of Section 160(8) of the Constitution of the Republic of South Africa, members of a municipal Council are entitled to participate in its proceedings and those of its Committees in a manner that, *inter alia*:-

- (a) allows parties and interests reflected within the Council to be fairly represented; and
- (b) is consistent with democracy.

The chairpersons of the section 80 Committees are appointed by the Executive Mayor and makes up the Mayoral Committee.

6.2 Discussion

In terms of Section 80 of the Structures Act, if a municipality has an Executive Mayor, it may appoint Committees of Councillors to assist the Executive Mayor.

Such Committees may not in number exceed the number of members of the Executive Committee (10, including the Deputy Executive Mayor).

The Executive Mayor, *inter alia*:-

- appoints a Chairperson for each Committee; and
- may delegate any powers and duties of the Executive Mayor to the Committee.

Such Committee(s) must assist the Executive Mayor in accordance with the directions of the Executive Mayor and in line with the provisions as indicated in section 80. Council approved the following committees on 23 November 2021.

- Corporate Services;

- Planning
- Financial Services;
- Human Settlements;
- Infrastructure Services;
- Protection Services
- Local Economic Development and Tourism
- Rural Management
- Youth, Sport and Culture
- Parks. Open Spaces and Environment

The members must be appointed by council in accordance with the principle of representation amongst the amount of members allocated to each committee.

The previous council accepted terms of references for each committee which are now outdated and needs to be revised.

Councillor Mdemka was appointed to the Rural Management Committee and Councillor Serdyn to the Human Settlements Committee. They have subsequently requested that they swap.

6.6 Financial Implications

Councillors are not remunerated additionally for attending the section 80 committee meetings. The intention is that the meetings mostly be on the electronic Teams platform. Councillors will only be allowed to claim for out of pocket expenses not already covered in their all-inclusive remuneration package.

6.4 Legal Implications

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

6.5 Staff Implications

3 support staff will be appointed to support the Mayco Councillors and Chief Whip

6.6 Previous / Relevant Council Resolutions:

SPECIAL COUNCIL: 2022-02-16: ITEM 8.11.1

RESOLVED (nem con)

(a) that it be noted that Council approved the following Section 80 portfolio committees on 23 November 2021:

- Corporate Services;
- Planning

- Financial Services;
- Human Settlements;
- Infrastructure Services;
- Protection Services
- Local Economic Development and Tourism
- Rural Management
- Youth, Sport and Culture
- Parks, Open Spaces and Environment

(b) that the following members be appointed to the section 80 Committees

Corporate Services, total 4 members:

DA – 3
Opposition – 1

L Nkamisa (DA) - Chairperson
J C Anthony (DA)
J Serdyn (DA)
M Rataza (ANC)

Planning total 5 members:

DA – 3
Opposition – 2

C van Wyk (DA) – Chairperson
A Hanekom (DA)
J C Anthony (DA)
M Danana (ANC)
R Hendrickse (GOOD)

Financial Services, total 5 members:

DA – 3
Opposition – 2

P Johnson (DA) – Chairperson
W Petersen (DA)
E Groenewald (DA)
A Tomose (ANC)
R Hendrickse (GOOD)

Human Settlements, total 5 members:

DA – 3
Opposition – 2

J Fasser (DA) – Deputy Executive Mayor – Chairperson
E Vermeulen (DA)
J Serdyn (DA)
N Ntsunguzi (ANC)

M van Stade (GOOD)

Infrastructure Services, total 5 members:

DA – 3
Opposition – 2

Z Dalling (DA) – Chairperson
R van Rooyen (DA)
N Mcombring (DA)
R Nalumangu (ANC)
Z Ndalasi (EFF)

Protection Services, total 5 members:

DA – 3
Opposition – 2

R Badenhorst (DA) – chairperson
C Manuel (DA)
A Hanekom (DA)
M Nkopane (ANC)
N Mkhontwana (EFF)

Local Economic Development and Tourism, total 4 members:

DA - 3 members
Opposition – 1 member

R Du Toit (DA) – Chairperson
N Mcombring (DA)
R Pheiffer (DA)
I De Taillerfer (VF)

Rural Management, total 4 members:

DA - 3
Opposition - 1

J Williams (DA) – Chairperson
X Mdemka (DA)
C Manuel (DA)
E Masimini (ANC)

Youth, Sport and Culture, total 5 members of which:

DA – 3
Opposition – 2

R Adams (DA) – Chairperson
R Pheiffer (DA)
R van Rooyen (DA)
C Noble (Good)
J Andrews (PA)

Parks, Open Spaces and Environment total 4 members –

DA – 3
Opposition – 1

J Joon (DA) – Chairperson
E Vermeueln (DA)

A Hanekom (DA)
M Nkopane (ANC)

- (c) that it be noted that the Executive Mayor have appointed the chairpersons to the committees on 23 November 2021;
- (d) that the current terms of reference for all section 80 committees be adopted; and
- (e) that the various terms of references be referred to the relevant section 80 committees for revision after which said items must be re-submitted to Mayco and subsequent to Council for final adoption.

6.7 Risk Implications

Risks has been addressed through the item.

6.8 Comments from Senior Management:

The Senior managers takes note of the changes.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	<i>Director</i>
DIRECTORATE	<i>Corporate Services</i>
CONTACT NUMBERS	<i>021 808 8018</i>
E-MAIL ADDRESS	<i>Annalene.deBeer@stellenbosch.gov.za</i>
REPORT DATE	<i>7/3/2022</i>

7.11.3	CONSIDERATION ON APPLICATIONS RECEIVED: FUNDING OF EXTERNAL BODIES PERFORMING A MUNICIPAL FUNCTION AS PROVIDED BY THE POLICY FUNDING OF BODIES PERFORMING A MUNICIPAL FUNCTION, READ WITH SECTION 80(2) OF THE LOCAL GOVERNMENT SYSTEMS ACT, 32 OF 2000, FINANCIAL YEAR 2021 / 2022: (Provision of training to Small Micro Medium Enterprises (“SMME”))
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Collaborator No: 724100
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 23 March 2022

1. **SUBJECT: CONSIDERATION ON APPLICATIONS RECEIVED: FUNDING OF EXTERNAL BODIES PERFORMING A MUNICIPAL FUNCTION AS PROVIDED BY THE POLICY FUNDING OF BODIES PERFORMING A MUNICIPAL FUNCTION, READ WITH SECTION 80(2) OF THE LOCAL GOVERNMENT SYSTEMS ACT, 32 OF 2000, FINANCIAL YEAR 2021 / 2022: (Provision of training to Small Micro Medium Enterprises (“SMME”))**

2. **PURPOSE OF MEETING**

To discuss and consider the funding applications for the 3rd and 4th Quarter of the 2021 / 2022 financial year received from external bodies performing a Municipal function as provided by the Policy for the Funding of External Bodies Performing a Municipal Function, read with Section 80(2) of the Municipal Systems Act No. 32 of 2000.

3. **DELEGATED AUTHORITY**

In terms of Section 7(2) of said policy the Grants Committee is delegated to allocate funds to External Bodies Performing a Municipal Function.

4. **EXECUTIVE SUMMARY**

In terms of Section 7(2) of the Policy relating to External Bodies Performing a Municipal Function of which budget allocation are delegated to the Grants Committee to make recommendations to Council, as approved by Council.

The notices of the applications for the funding of bodies performing a municipal function was advertised in the Eikestadnuus and the Paarl Post dated 09 December 2021, attached as **APPENDIX 1** of which the closing date to submit such applications was at 12:00 midday on 17 December 2021.

The following bodies submitted applications by the closing date for funding to perform the SMME Training function for Council for the 3rd and 4th quarter of the 2021 / 2022 financial year:

Applicant	2021 / 2022	
	Funding Requested in Rand Value	
Stellenbosch Network	253 000.00	
Re-Ignite Business Afrika	319 200.00	
Ranyaka	228 600.00	
Total Funding Requested	800	800.00

5. RECOMMENDATIONS

With due regard for the importance of the Development and Training of Small Micro and Medium Enterprises ("SMME's) to the South African economy it is necessary to give thought to Municipal funding against the desired outcomes, the capabilities and capacity of the funded entities to deliver quantifiable outcomes and practice safe stewardship of the funds granted.

In the light of the above and the reasons submitted in this report the following is recommended to the Grants Committee for endorsement to Council for decision:

- (a) that the amount of 235 000.00 be allocated to Stellenbosch Network for the 3rd and 4th quarter of the 2021 / 2022 financial year; and
- (b) that the amount of R228 600.00.00 be allocated to Ranyaka Community Transformation NPC for the 3rd and 4th quarter of the 2021 / 2022 financial year.

6. DISCUSSION /CONTENTS

The following applications for the funding to provide SMME Training were received.

6.1 Stellenbosch Network (APPENDIX 2)

Stellenbosch Network		% of Funding
Training Programmes for SMME	185 000.00	79%
Databse for SMME	50 000.00	21%
TOTAL	235 000.00	

Compliance checks

Stellenbosch Network		Amount requested: R235 000.00
The following MUST accompany this application:		
1. A copy of the latest, audited financial statements.	✓	31 December 2020
2. A copy of the Organisation's Constitution or Memorandum of Incorporation as well as the resolutions/minutes adopting the Constitution or Memorandum of Incorporation.	✓	
3. A copy of a project/programme description and/or a business plan for the ensuing financial year. Including the following:	✓	

<ul style="list-style-type: none"> • Full details of the proposal or project including its objectives, the number of people who will benefit and how the project will contribute or enhance the strategic objectives of Stellenbosch Municipality. • Commencement and completion dates of the project. • Information on the total cost of the project budget, including a breakdown of costs and an outline of any contribution by fundraising and/or own contribution. • A list of all other sources of funding together with the assessments. • A summary of past achievements. • References independent of the applicant and its executive. • Existing SMME Database 		
4. An original copy of a correctly completed creditors control form of Stellenbosch Municipality.	✓	
5. If the Organisation received funding from Stellenbosch Municipality in the preceding financial year, you need to account for the expenditure of the funding received with your new application.	n/a	
6. If the Organisation received funding from other bodies, please identify and list the amounts received.	✓	
7. If the Organisation is a non-profit company as defined in the section 1 of the Companies Act, 2008, a certificate/letter issued by the Companies and Intellectual Property Commission (CIPC) confirming registration must be attached.	✓	
8. If the Organisation has been registered as a "non-profit" organisation in terms of the Non-Profit Organisation Act, 1997, a certificate/letter issued by the Department of Social Development confirming registration as a non-profit organisation must be attached.	n/a	
9. If the Organisation has been registered as a "Public Benefit Organisation" in terms of the Income Tax Act, 1962, a certificate/letter issued by SARS confirming the Organisation's tax exemption status must be attached.	n/a	
10. Valid Tax Clearance Certificate issued by SARS.	✓	

The following performance indicators was submitted by Stellenbosch Network programmes description of the programmes; objective to be achieved; the deliverables; the potential outcomes; and the budget sought for the 3rd and 4th quarter of the 2021 / 2022 financial year in the below table:

AIM / OBJECTIVES	DESCRIPTION	AMOUNT in Rand	Other Funding & Source	DEPARTMENTAL COMMENT	Recommended Funding
Improved Business Knowledge & Skills	Business Training at the USB Small Business Academy	0.00	400 000.00 (Distell & US)	The Department <u>support and recommend the funding.</u>	Funding amount supported.
	Mentorship Training including in SBA	20 000.00	20 000.00 (Distell & US)		
	Stellenbosch Network Mentorship (2022 Programme)	20 000.00	20 000.00 (Department of Science & Innovation)		
	Marketing CANVA Digital Design	7 500.00			
Sub-total		47 500.00			47 500.00
Improved Operational Management & Efficiency	Legal Support (IP Registration)	15 000.00	No co-funding.	<u>It is recommended that this programme be funded.</u>	
	Digital Marketing	7 500.00			
	Geoogle App Training (Technology)	50 000.00			
Sub-Total		72 500.00			72 500.00
Increased Customer Profile	Access to Market through Business Network Subscription	15 000.00	No co-funding	<u>It is recommended that this programme be funded.</u>	
	Business Training (Website/App Design and / or Update)	7 500.00			
	Google my Business Profile (Marketing)	7 500.00			
	Google my Business Profile (Marketing)	35 000.00			
Sub-Total		65 000.00			65 000.00
SMME Database	Co-Funding of the platform taht serve as a database of Stellenbosch Businesses	50 000.00	100 000.00 (Department of Science and Innovation)	Funding recommended.	
Sub-Total		50 000.00			50 000.00
TOTAL FUNDING		235 000.00			235 000.00

Stellenbosch Network included all the required documentation and information to be considered and therefore it is thus proposed that the programmes as noted in the above table be funded in terms of the said policy for the 3rd and 4th Quarter of the 2021 / 2022 financial year which amount to **R235 000.00**.

6.2 Reignite Business Afrika (APPENDIX 3)

Reignite Business Afrika		% of Funding
SMME Training Budget	319 200.00	100%
TOTAL		319 200.00

Compliance checks

Reignite Business Afrika		Amount Requested R319 000.00
The following MUST accompany this application:		
1. A copy of the latest, audited financial statements.	X	Indicated new Ventrue and therefore does not have audited financial statements
2. A copy of the Organisation's Constitution or Memorandum of Incorporation as well as the resolutions/minutes adopting the Constitution or Memorandum of Incorporation.	X	No documentation submitted other than Directors' Meeting Minutes.
3. A copy of a project/programme description and/or a business plan for the ensuing financial year. Including the following: <ul style="list-style-type: none"> • Full details of the proposal or project including its objectives, the number of people who will benefit and how the project will contribute or enhance the strategic objectives of Stellenbosch Municipality. • Commencement and completion dates of the project. • Information on the total cost of the project budget, including a breakdown of costs and an outline of any contribution by fundraising and/or own contribution. • A list of all other sources of funding together with the assessments. • A summary of past achievements. • References independent of the applicant and its executive. 	✓	
4. An original copy of a correctly completed creditors control form of Stellenbosch Municipality.	✓	
5. If the Organisation received funding from Stellenbosch Municipality in the preceding financial year, you need to account for the expenditure of the funding received with your new application.	n/a	
6. If the Organisation received funding from other bodies, please identify and list the amounts received;	n/a	
7. If the Organisation is a non-profit company as defined in the section 1 of the Companies Act, 2008, a certificate/letter	✓	

issued by the Companies and Intellectual Property Commission (CIPC) confirming registration must be attached;		
8. If the Organisation has been registered as a “non-profit” organisation in terms of the Non-Profit Organisation Act, 1997, a certificate/letter issued by the Department of Social Development confirming registration as a non-profit organisation must be attached;	n/a	
9. If the Organisation has been registered as a “Public Benefit Organisation” in terms of the Income Tax Act, 1962, a certificate/letter issued by SARS confirming the Organisation's tax exemption status must be attached;	n/a	
10. Valid Tax Clearance Certificate issued by SARS.	X	

The following performance indicators was submitted by Reignite Business Afrika programmes description of the programmes; objective to be achieved; the deliverables; the potential outcomes; and the budget sought for the 2021 / 2022 financial year in the below table:

PROJECT	PERFORMANCE TARGETS	BUDGET	DEPARTMENTAL COMMENT	RECOMMENDED BUDGET
Facilitation and Training for Business Stokvels.	Develop Business Stokvels (Module 1)	36 200.00	The Department does not support this proposal, as other than business stokvels, the programme does not present any credible programmes.	0.00
	Module 2	36 200.00		
	Module 3	27 200.00		
	Module 4	27 200.00		
	Module 5	27 200.00		
	Module 6	5 600.00		
Sub-Total		159 600.00 319 200.00 (twice a month)		0.00

Reignite Business Afrika excluded a number of the required documentation and information and was also not clear regarding their programmes and the funding, therefore it is recommended that the programmes as noted in the above table in terms of the said policy for the 3rd and 4th Quarter of the 2021 / 2022 financial year **not be funded**.

6.3 Ranyaka Community Transformation (APPENDIX 4)

Ranyaka		% of Funding
Training Programmes for SMME	185 000.00	79%
Database for SMME	50 000.00	21%
TOTAL		235 000.00

Compliance checks

Stellenbosch Network		Amount requested: R235 000.00
The following MUST accompany this application:		
11. A copy of the latest, audited financial statements.	✓	31 December 2020
12. A copy of the Organisation's Constitution or Memorandum of Incorporation as well as the resolutions/minutes adopting the Constitution or Memorandum of Incorporation.	✓	
13. A copy of a project/programme description and/or a business plan for the ensuing financial year. Including the following: <ul style="list-style-type: none"> • Full details of the proposal or project including its objectives, the number of people who will benefit and how the project will contribute or enhance the strategic objectives of Stellenbosch Municipality. • Commencement and completion dates of the project. • Information on the total cost of the project budget, including a breakdown of costs and an outline of any contribution by fundraising and/or own contribution. • A list of all other sources of funding together with the assessments. • A summary of past achievements. • References independent of the applicant and its executive. • Existing SMME Database 	✓	
14. An original copy of a correctly completed creditors control form of Stellenbosch Municipality.	✓	
15. If the Organisation received funding from Stellenbosch Municipality in the preceding financial year, you need to account for the expenditure of the funding received with your new application.	n/a	
16. If the Organisation received funding from other bodies, please identify and list the amounts received.	✓	
17. If the Organisation is a non-profit company as defined in the section 1 of the Companies Act, 2008, a certificate/letter issued by the Companies and Intellectual Property Commission (CIPC) confirming registration must be attached.	✓	
18. If the Organisation has been registered as a "non-profit" organisation in terms of the Non-Profit Organisation Act, 1997, a certificate/letter issued by the Department of Social Development confirming registration as a non-profit organisation must be attached.	n/a	

19. If the Organisation has been registered as a "Public Benefit Organisation" in terms of the Income Tax Act, 1962, a certificate/letter issued by SARS confirming the Organisation's tax exemption status must be attached.	n/a	
20. Valid Tax Clearance Certificate issued by SARS.	✓	

The following performance indicators was submitted by Ranyaka Community Transformation NPC programmes description of the programmes; objective to be achieved; the deliverables; the potential outcomes; and the budget sought for the 3rd and 4th quarter of the 2021 / 2022 financial year in the below table:

AIM / OBJECTIVES	DESCRIPTION	AMOUNT in Rand	Other Funding & Source (Nedbank)	DEPARTMENTAL COMMENT	Recommended Funding	
Improved Pricing & Costing Models	Business Training: Costing, Pricing & Breakeven	15 000.00	None	The Department <u>support and recommend the funding.</u>	Funding amount supported.	
	Business Support Services	0.00	16 000.00			
Sub-total		15 000.00	16 000.00		15 000.00	
Improved Business Knowledge and Skills	Business Plan Development	15 000.00	No Co-funding	<u>It is recommended that this programme be funded.</u>	Funding amount support.	
	Marketing Plan Development	20 000.00				
	Compliance Support	15 000.00				
	USB Formal Business Training	No municipal funding required.				25 000.00
	Business Plan Review					12 000.00
	Management Controls					10 000.00
	Marketing Plan Review					24 000.00
	Business Training by Nedbank					5 000.00
	Mentorship Programme	Stellenbosch Network				
	Marketing	CANVA Design by Stellenbosch Network				
Sub-Total		50 000.00	76 000.00		50 000.00	
Improved Finances	Financial Management: Banking Advice by Nedbank	0.00	0.00	<u>Programmes at no cost to the Municipality</u>		

	Financial Management: Access to Credit	0.00	30 000.00		
Sub-Total		0.00	30 000.00		0.00
Improved Operations	Financial Management: Record-keeping Support	24 000.00	0.00	<u>It is recommended that this programme be funded.</u>	It is recommended that funding be supported.
	Retail Management Training: Wholesaling and Retailing	15 000.00	0.00		
	Financial Templates (Quoting, Invoicing, Record-Keeping Tools)	0.00	0.00		
	Employment Contracts	0.00	0.00		
	Employment Contract Support		9 000.00		
	Code of Conduct Templates	0.00	0.00		
	Insurance Workshop by Nedbank	0.00	0.00		
	Legal Support: Client Terms of Engagement, agreements, IP Registrations, Asset Evaluation	0.00	18 000.00		
	Marketing: Promotional Material & Signage	0.00	75 000.00		
	Photo Shoot	0.00	10 000.00		
	Digital Marketing: Agency Retainer for 6 months	0.00	60 000.00		
	Google App Training		Stellenbosch Network		
	Sub-Total	39 000.00	172 000.00		
Improved Quality Offering	Customer relationship Management	0.00	7 500.00	Programmes at no cost to the Municipality	
	Marketing: Packaging	0.00	22 500.00		
Sub-Total	0.00	30 000.00			0.00

Increased Customer Profile	Access to Market: Market Research	0.00	8 000.00	Programmes at no cost to the Municipality.	
	Access to Market: Business Network Subscription	Stellenbosch Network			
	Social Media Training	Stellenbosch Network			
	Marketing: Google my Business Profile Training	Stellenbosch Network			
	Business Premises Access: hot-desking	0.00	80 000.00		
Sub-Total		0.00	88 000.00		0.00
Improved Business Compliance	CIPC / Business Registration	45 000.00	45 000.00	<u>It is recommended that this programme be funded.</u>	It is recommended that funding be supported.
	PAYE Registration				
	UIF & Ufiling				
	SARS Company Income TAX Registration				
	CIPC Annual Returns				
	B-BEEE affidavit / certificate				
	Workers Compensation				
	SARS Annual Returns				
	TAX Clearance Certificate				
	Industry Compliance				
	Financial Clean-Up: Annual Financial Statements historic				
	Annual Financial Statements				
Sub-Total		45 000.00	45 000.00		45 000.00
Increased Supply-Chain Inclusion	Assistance to register on CSD, Local Supply Chains	15 000.00	0.00	<u>It is recommended that this programme be funded.</u>	It is recommended that funding be supported.

Sub-Total	<u>15 000.00</u>	<i>0.00</i>		<u>15 000.00</u>
Monitoring and Evaluation Officer	40 000.00	150 000.00	It recommended that funding be supported.	
Ranyaka Management Fee	24 600.00	68 550.00		
Sub-Total	<u>64 600.00</u>	<i>218 550.00</i>		<u>64 600.00</u>
TOTAL FUNDING	228 600.00	675 550.00		<u>228 600.00</u>

Ranyaka included all the required documentation and information to be considered for funding. The organisation also noted that it has generated additional funding of R675 550.00 from Nedbank and also co-host free training sessions with Stellenbosch Network.

6.4 Evaluation of funding requests

Based on the factors mentioned in point 5 & 6 of this report, it is clear that only two (2) organisations have submitted applications and also qualified to be considered for funding, which is Stellenbosch Network and Ranyaka Community Transformation NPC.

6.5 Financial Implications

A current available budget approved for the allocation of external bodies performing a function of Council is R661 393.00 as per ukey 20210705087386. The proposed budget to be allocated to Stellenbosch Network and Ranyaka Community Transformation is R463 600.00. The Department therefore has sufficient budget for the 3rd and 4th quarter of the 2021 / 2022 financial year to fund the proposals.

6.6 Legal Implications

The recommendations in this report comply with Council's policies and applicable legislation and the approved Policy for the Financing of External Bodies Performing a Municipal function.

The successful applicants are required to submit quarterly reports reflecting accurately the application of the funds allocated and using the reporting template which will be provided by Council to them as specified in the Memorandum of Agreement ("MOA") which they are required to enter into with the Municipality.

6.7 Staff Implications

None

6.8 Risk Implications

Stellenbosch Network and Ranyaka Community Transformation NPC are entities funded to undertake a function of Council and is therefore also subject to reporting to the Auditor-General in terms of their Annual Financial Statements ("AFS") in terms of the Municipal Finance Management Act, Act 56 of 2000. Therefore, the Department will draft a reporting template to ensure that the financial reporting will be in accordance with the required financial reporting in terms of the relevant Generally Recognised Accounting Practices ("GRAP") and the MOA as signed with Council.

GRANTS-IN-AID COMMITTEE MEETING: 2022-02-18: ITEM 3.1

RECOMMENDATIONS

- (a) that the amount of 235 000.00 be allocated to Stellenbosch Network for the 4th quarter of the 2021 / 2022 financial year; and
- (b) that the amount of R228 600.00.00 be allocated to Ranyaka Community Transformation NPC for the 3rd and 4th quarter of the 2021 / 2022 financial year.

APPENDICES

- Appendix 1:** Advertisement
Appendix 2: Stellenbosch Network Submission
Appendix 3: Reignite Business Afrika Submission
Appendix 4: Ranyaka Community Transformation NPC Submission

FOR FURTHER DETAILS, CONTACT:

NAME	Craig Alexander Pr Pln
POSITION	Senior Manager: Development Planning
DIRECTORATE	PLANNING AND ECONOMIC DEVELOPMENT
CONTACT NUMBERS	021 808 8196
E-MAIL ADDRESS	Craig.Alexander@stellenbosch.gov.za
REPORT DATE	08 February 2022

7.11.4	ADOPTION OF THE REVISED RISK MANAGEMENT POLICY FOR THE 2022/23 FINANCIAL YEAR
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: ADOPTION OF THE REVISED RISK MANAGEMENT POLICY FOR THE 2022/23 FINANCIAL YEAR

2. PURPOSE

To submit the Risk Management Policy for the 2022/23 financial year to Council for approval.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Municipal Governance best practice as well the Municipal Finance Management Act (MFMA), Act 56 of 2003, requires municipalities to have an effective risk management mechanism to stay abreast of prevalent risks and to determine the risk appetite. To ensure effectiveness, a municipality must focus its attention and resources on the areas of most significant risk and concern to stakeholders. To this end, Stellenbosch Municipality has undertaken the practice of adopting a Risk Management Policy which identifies, explains and gives structure to risk management in the Municipality.

Due to the changing dynamics in the external environment which impacts municipal services, amendments and revisions had to be done to the Risk Management Policy as necessitated to ensure that the municipalities remain appropriately responsive to the risk environment. The Stellenbosch Municipality is committed to effective risk management to achieve the municipality's vision, service delivery, and strategic objectives and to ensure appropriate outcomes for the community.

5. RECOMMENDATION

that Council Adopts the Revised Risk Management Policy for the 2022/23 financial year.

6. DISCUSSION

Municipal Governance best practice as well the Municipal Finance Management Act (MFMA), Act 56 of 2003, requires municipalities to have an effective risk management mechanism to stay abreast of prevalent risks and to determine the risk appetite. To ensure effectiveness, a municipality must focus its attention and resources on the areas of most significant risk and concern to stakeholders.

The Stellenbosch Municipality is committed to effective risk management in order to achieve the municipality's vision, service delivery, and strategic objectives and to ensure appropriate outcomes for the community.

Effective risk management requires a cultural shift in favour of continuous risk identification and mitigation. This requires risk management to be culturally mainstreamed into the general practice of local government at all levels. This Risk Management Policy aims to provide a framework of risk management that enables this.

6.1 Background

In terms of Section 60 of the MFMA the Municipal Manager must take reasonable steps to ensure that the municipality maintain effective financial and risk management as well as internal controls.

The principal aim of the risk assessments process is to:

- Identify the risks threatening the achievement of the IDP's objectives of each directorate;
- Assess the key risks facing each directorate; and
- Identify the processes / functions / directorates / persons the municipality and top management relies upon to manage the identified risks.
- Align the mentioned risk management process with processes as established by provincial and national government (as communicated to the municipality).

6.2 Financial Implications

The financial impact will be quantified as part of the 2022/23 approved budget and adjustment budget.

6.3 Legal Implications

Section 62 of the MFMA

General Financial Management Functions

- (1) The accounting officer of a municipality is responsible for the managing of financial administration of the municipality, and must for this purpose take all reasonable steps to ensure –
 - (a) That the resources of the municipality are used effectively, efficient and economically;
 - (b) That full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
 - (c) that the municipality has and maintains effective, efficient and transparent systems–
 - (i) of financial and **risk management** and internal control.

6.4 Staff Implications

None.

6.5 Risk Implications

As indicated in the annexed Risk Management Policy.

6.6 Comments from Senior Management:

Supported.

ANNEXURES

Annexure A: Revised Risk Management Policy for the 2022/23 financial year.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	<i>Helena Priem</i>
<i>POSITION</i>	<i>Chief Risk Officer</i>
<i>DIRECTORATE</i>	<i>Office of the Municipal Manager</i>
<i>CONTACT NUMBERS</i>	<i>X8035</i>
<i>E-MAIL ADDRESS</i>	<i>Helena.priem@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>8 March 2022</i>

7.11.5	ADOPTION OF THE REVISED RISK MANAGEMENT FRAMEWORK FOR THE 2022/23 FINANCIAL YEAR
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: ADOPTION OF THE REVISED RISK MANAGEMENT FRAMEWORK FOR THE 2022/23 FINANCIAL YEAR

2. PURPOSE

To submit the Local Government Risk Management Framework for the 2022/23 financial year to Council for approval.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

In terms of section 62(c)(ii) of the MFMA, "The accounting officer of a municipality is responsible for managing the financial administration of the Municipality and must for this purpose take all reasonable steps to ensure - (c) that the Municipality has and maintains effective, efficient and transparent systems of risk management.

National Treasury issued the Local Government Risk Management Framework that has been developed in response to the requirements of the MFMA for municipalities and municipal entities to implement and maintain effective, efficient, and transparent systems of risk management and control.

The Provincial Treasury continually focuses on systematically achieving higher levels of governance maturity through the capacitation of risk officials for an effective system of risk management within municipalities

The Stellenbosch Municipality is committed to effective risk management in order to achieve the municipality's vision, service delivery, and strategic objectives and to ensure appropriate outcomes for the community.

5. RECOMMENDATION

that Council adopts the Risk Management Framework for the 2022/23 financial year.

6. DISCUSSION

The adoption of the framework is to raise awareness w.r.t municipal risk management in the workplace and proper implementation of the revised National Treasury Local Government Risk Management Framework and to provide practical examples of its implementation. Focus is on the following:

- Supporting municipalities to leverage effective risk management practices to protect against adverse outcomes and optimise opportunities, thereby improving institutional performance and enhancing value for citizens.
- Capacitate risk officers and champions with practical tools to incorporate risk and opportunity in the daily functioning of the Municipality.
- The development of the risk appetite and tolerance levels/statement aligned to best practice.

6.1 Background

In terms of Section 60 of the MFMA the Municipal Manager must take reasonable steps to ensure that the municipality maintain effective financial and risk management as well as internal controls.

The principal aim of the risk assessments process is to:

- Identify the risks threatening the achievement of the IDP's objectives of each directorate;
- Assess the key risks facing each directorate; and
- Identify the processes / functions / directorates / persons the municipality and top management relies upon to manage the identified risks.
- Align the mentioned risk management process with processes as established by provincial and national government (as communicated to the municipality).

6.2 Financial Implications

The financial impact will be quantified as part of the 2022/23 approved budget and adjustment budget.

6.3 Legal Implications

Section 62 of the MFMA

General Financial Management Functions

- (2) The accounting officer of a municipality is responsible for the managing of financial administration of the municipality, and must for this purpose take all reasonable steps to ensure –
- (c) That the resources of the municipality are used effectively, efficient and economically;
- (d) That full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
- (d) that the municipality has and maintains effective, efficient and transparent systems–
 - (ii) of financial and **risk management** and internal control.

6.4 Staff Implications

None.

6.5 Risk Implications

As indicated in the annexed Risk Management Framework.

6.6 Comments from Senior Management:

Supported.

ANNEXURES

Annexure A: Revised Risk Management Framework for the 2022/23 financial year.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Helena Priem</i>
POSITION	<i>Chief Risk Officer</i>
DIRECTORATE	<i>Office of the Municipal Manager</i>
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REPORT DATE	<i>8 March 2022</i>

7.11.6	ADOPTION OF THE REVISED STRATEGIC AND OPERATIONAL RISK REGISTER FOR THE 2021/22 FINANCIAL YEAR WITH RISK APPETITE
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

23 March 2022

1. SUBJECT: ADOPTION OF THE REVISED STRATEGIC AND OPERATIONAL RISK REGISTER FOR THE 2021/22 FINANCIAL YEAR WITH RISK APPETITE

2. PURPOSE

To submit the Strategic and Operational Risk Register for the 2021/22 financial year for Council approval.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Municipal Governance best practice as well the Municipal Finance Management Act (MFMA), Act 56 of 2003, requires municipalities to have an effective risk management mechanism to stay abreast of prevalent risks and to determine the risk appetite. To ensure effectiveness, a municipality must focus its attention and resources on the areas of most significant risk and concern to stakeholders. To this end, Stellenbosch Municipality has undertaken the practice of adopting a Strategic Risk Register which identifies strategic and operational risk at a corporate level to ensure that risks which could hamper service delivery and the strategic objectives are identified and linked to appropriate actions to mitigate the risks.

Due to the changing dynamics in the external environment with impact municipal services, amendments to the Strategic Risk Register was necessitated to ensure that the municipalities remain appropriately responsive to the risk environment.

The Stellenbosch Municipality is committed to effective risk management in order to achieve the municipality's vision, service delivery, and strategic objectives and to ensure appropriate outcomes for the community.

5. RECOMMENDATION

that Council Adopts the Strategic and Operational Risk Register for the 2021/22 financial year.

6. DISCUSSION

Municipal Governance best practice as well the Municipal Finance Management Act (MFMA), Act 56 of 2003, requires municipalities to have an effective risk management mechanism to stay abreast of prevalent risks and to determine the risk appetite. To ensure effectiveness, a municipality must focus its attention and resources on the areas of most significant risk and concern to stakeholders. To this end, Stellenbosch Municipality has undertaken the practice of adopting a Strategic Risk Register which identifies strategic and operational risk at a corporate level to ensure that risks which could hamper service

delivery and the strategic objectives are identified and linked to appropriate actions to mitigate the risks.

Due to the changing dynamics in the external environment with impact municipal services, amendments to the Strategic Risk Register was necessitated to ensure that the municipalities remain appropriately responsive to the risk environment.

The Stellenbosch Municipality is committed to effective risk management in order to achieve the municipality's vision, service delivery, and strategic objectives and to ensure appropriate outcomes for the community.

6.1 Background

In terms of Section 60 of the MFMA the Municipal Manager must take reasonable steps to ensure that the municipality maintain effective financial and risk management as well as internal controls.

The principal aim of the risk assessments process is to:

- Identify the risks threatening the achievement of the IDP's objectives of each directorate;
- Assess the key risks facing each directorate; and
- Identify the processes / functions / directorates / persons the municipality and top management relies upon to manage the identified risks.
- Align the mentioned risk management process with processes as established by provincial and national government (as communicated to the municipality).

6.2 Discussion

During the first and second quarters of the current financial year and during November 2021 extensive risk assessments were completed due to the pandemic as well as management and the accounting officer agreeing to adopt a new format and methodology for the risk register.

Changes were example the risk ratings changes from 1 – 5 now reflects 1- 10. In changing the said directorates have more ratings to consider and evaluate which in the end results in a better and more accurate rating.

A better picture how actual and identified risks are managed as measurements and calculations were adopted to reflect this and bringing the picture to the identified risks after controls were put in place. These include:

- Perceived control effectiveness
- Current Controls
- Control Ratings
- Residual Risk
- Residual Risk Exposure

Certain risks has also been revised to ensure that the municipality can appropriately respond to the impact of these risks to municipal service delivery taking into account the changing external and internal factors. Provision was also made for ineffective service delivery due to geopolitical Instability and impact of the Ukraine and Russian war on global commodities in particular fuel.

These risks include (see annexed Risk Register for detail):

Strategic Risks:

- Availability and cost of electricity – moved up to number one;
- Corona-19 Pandemic – moved up to 2nd highest strategic risk;
- Increased risk of land invasion – moved up to 3rd highest strategic risk;
- Scarcity of landfill space.

Operational Risks:

- Insufficient burial space in the greater Stellenbosch – amended to take into account increased COVID-19 burials; remain the highest operational risk.

6.3 Financial Implications

The financial impact will be quantified as part of the 2021/22 approved budget and adjustment budget.

6.4 Legal Implications**Section 62 of the MFMA****General Financial Management Functions**

- (3) The accounting officer of a municipality is responsible for the managing of financial administration of the municipality, and must for this purpose take all reasonable steps to ensure –
- (e) That the resources of the municipality are used effectively, efficient and economically;
 - (f) That full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
 - (e) that the municipality has and maintains effective, efficient and transparent systems–
(iii) of financial and **risk management** and internal control.

6.5 Staff Implications

None.

6.6 Risk Implications

As indicated in the annexed Strategic and Operational Risk Register.

6.7 Comments from Senior Management:

Supported by All directors

ANNEXURES

Annexure A: Strategic and Operational Risk Register for the 2020/21 financial year.

8.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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