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SECTION 67 OF THE MFMA: FUNDS TRANSFERRED BY MUNICIPALITIES TO ORGANISATIONS AND BODIES OUTSIDE THE GOVERNMENT

File Number:

Report By: LEROUXH

Item Reference Number: 13122887

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of the Item is to table Circular 131 dated 31 March 2025 regarding Section 67 of the MFMA: Funds transferred by Municipalities to Organisations and bodies outside the Government and to recommend a way forward in dealing with Section 67 payments.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

Attached as Annexure A is MFMA Circular 131 dated 31 March 2025.

In the Management Report of 2022/2023, the Auditor General included an audit finding on the expenditure made towards the Tourism, viewing it as irregular in other words no procurement processes were followed.

In 2023/2024, in order to avoid a repeat finding, it was decided on the 13 August 2025 by the Municipal Manager to classify all similar expenses as Irregular Expenditure. The process to deal with the Irregular Expenditure is still in process and will be finalised by 30 June 2025.

Circular 131 pre-empt the reasoning that the Municipality want to pursue as reasoning why these cannot be viewed as Irregular Expenditure. All expenditure encountered for the 2024/2025 will need to be classified again as Irregular Expenditure.

This provides the Accounting Officer no choice but to review all processes that leads up to expenditure made in terms of Section 67 of the MFMA. This includes the Council Policy, the structuring of Non-profit Companies and the serving of Councillors and employees on the Boards of Directors for these companies, As, soon as these processes changes to SCM processes, then no contract may be entered into if a Director is in the service of a state, because that too will lead to Irregular Expenditure.

The Auditor General get its guidance from the Accounting General, who is governed by National Treasury. It is imperative that the guidance provided by National Treasury in this regard be considered due diligently and any deviation from this guidance needs to be well structured supported by sound good governance principles.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

An extract from the Annual Financial Statements, note 45, provides the amounts expensed as transfers and subsidies:

Figures in Rand	2024	2023
45. Transfers and subsidies paid		
Bursary Scheme	150 000	200 985
Sport Council	131 330	131 330
SPCA	1 253 384	1 253 384
Subsidy: Benefit Discount Scheme	25 844	111 978
District Municipality	-	102 300
Tourism	6 249 600	6 358 924
Public Protection and Safety	3 050 000	3 050 000
Boggom's Bay Gholf Club	20 100	-
Other	110 000	319 633
	10 990 258	**11 528 534**

The marked donations in terms of Section 67 are viewed, in terms of the guidance, as the against the guidance provided by National Treasury. The same pattern exists for the 2024/2025 financial year, although not all the Section 67 payments have been released as yet.

These donations; Sport Council, SPCA, Tourism, Public Protection and Safety and Boggom's Bay Golf Club; were classified as Irregular Expenditure as per definition of the MFMA.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

An extract of Section 67 of the MFMA reads as follow:

67. (1) Before transferring funds of the Municipality to an Organisation or body outside any sphere of Government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the Organisation or body—

(a) has the capacity and has agreed—

(i) to comply with any agreement with the Municipality;

(ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;

(iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and

(iv) to submit its audited financial statements for its financial year to the accounting officer promptly;

(b) implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and

(c) has in respect of previous similar transfers complied with all the requirements of this Section.

(2) If there has been a failure by an Organisation or body to comply with the requirements of subSection (1) in respect of a previous transfer, the Municipality may despite subSection (1)(c) make a further transfer to that Organisation or body provided that—

(a) subSection (1)(a) and (b) is complied with; and

(b) the relevant provincial treasury has approved the transfer.

(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subSection (1).

(4) SubSection (1)(a) does not apply to an Organisation or body serving the poor or used by Government as an agency to serve the poor, provided—

(a) that the transfer does not exceed a prescribed limit; and

(b) that the accounting officer—

(i) takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and

(ii) certifies to the Auditor-General that compliance by that Organisation or body with subSection (1)(a) is uneconomical or unreasonable.

COMMENTS FROM FINANCIAL SERVICES

The MFMA circular provides guidance as to the interpretation of Section 67 of the MFMA, as well as guidance to what must be included in Council Policies and a Process Plan that must ensure transparency in the process leading up, to the approval of transfers.No further comments

MFMA circulars are only binding in terms of Section 168(3) once Council have adopted it.

In the case of MFMA Circular 131, it is clear from a financial perspective that the processes prescribed will ensure transparency and good financial practices.

Therefore, from the Finance Directorate, the principles and processes clarified in the Circular are supported. The Finance Directorate advises, Council to align all Policies and procedures to the clarity and guidance given in MFMA Circular 131 dated 31 March 2025.

It is also advised that these processes be amended for implementation as from the 1 July 2025, and that all expenses, not in compliance with the guidance up to 30 June 2025, be dealt with as Irregular Expenditure and that due processes be followed to deal with it in terms of Section 32 of the MFMA.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

No further comments.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

The purpose of this Circular is to guide Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, (i.e., non-Governmental Organisations, NGO's) which also include non-profit Organisations (NPO's).Comments provided via e-mail.

This Circular provides clarity regarding certain matters and with which can be associated such as that where a Municipality procures goods and services even from an NGO it must comply with the procurement processes as required in terms of Section 217 of the Constitution read with Chapter 11 of the MFMA, the Municipal Supply Chain Regulations (SCM Regulations) and other applicable procurement prescripts before appointing and NGO to provide goods and services to a Municipality.

A transfer within the context of Section 67 of the MFMA refers to instances where a Municipality does not buy any Item or pay for goods and services regardless of whether it is in the furtherance of a municipal assigned or unassigned function.

The Circular, however, proceeds to enter into grey areas which cannot be accepted on face value as such. The Annexure to the Circular for instance refers to specific donations to Organisations without taking the merits of each donation into consideration and measuring them against the principles. The broad statement in the Annexure that the specific types of donations mentioned should follow a Supply Chain Management Process could potentially negatively affect Municipalities should the Auditor-General utilise this Circular as a guide to audit Municipalities' donations and then deem them to be irregular.

In terms of Section 168 no guidelines(circulars) issued by National Treasury are binding on the Municipality unless Council adopts it. As a result, the comments above.

Legal opinion was sought as a result of the Circular received and based on the advice received and as a result of the comments above it is advised that the Circular not be adopted nor be considered binding on Council but that Council associates with the guidance to Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, (i.e. non-Governmental Organisations, NGO's) which also includes non-profit Organisations (NPO's).

Taking into consideration the Circular received providing guidelines it may be accepted that the Auditor-General may use this Circular as guidance to audit the Municipality in future. Donations should therefore be carefully considered on own merit and measured against the principles of Section 67 and the Circular.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

No further comments.

CONCLUSION / SAMEVATTING

The guidance provided by the MFMA Circular 131 dated 31 March 2025 is supported and therefore the Item is tabled to Council to take note of the content and to put measures in place to be in adherence to it.

RECOMMENDATION

1. That note is taken of the attached (Annexure A) MFMA Circular No. 131 received from National Treasury with regard to Section 67 of the MFMA: Funds transferred by Municipalities to Organisations and bodies outside of Local Government.

2. That it be noted that the purpose of this Circular is to guide Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, (i.e. non-Governmental Organisations, NGO's) which also includes Non-Profit Organisations (NPO's).

3. That Council takes note of the principles set out in Circular 131 and aligns itself with the guidance issued by National Treasury as it pertains to Section 67 of the MFMA and in particular:

    3.1 Transfers made under Section 67 must be non-commercial and not involve the supply of goods or services to the Municipality.

    3.2 All procurements of goods or services, even from NGOs or NPOs, must be processed in accordance with Section 217 of the Constitution and Chapter 11 of the MFMA.

    3.3 The use of Section 67 as a substitute for procurement procedures constitutes Irregular Expenditure and exposes the Municipality to risk of financial misconduct investigations and potential criminal liability.

4. That based on legal opinion Council takes note of the principles contained in the Circular and that it is recommended that the Municipality not adopt or consider the Circular as

binding, but associates with the guidance to Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, (i.e. Non-Governmental Organisations, NGO's) which also includes Non-Profit Organisations (NPO's).

5. That for remainder of the 2024/2025 financial year all outstanding donations be dealt with separately and that for each donation to be made it be measured against the principles contained in legislation, legal precedent/authority and Circular 131 and that a legal opinion be obtained on each of these donations prior to submission to Council for consideration.

6. That the Municipality's Donations and Grants Policy be reviewed to align with the guiding principles contained in the MFMA Circular 131 and that a Senior Counsil's opinion be obtained and that the serving of any Councillor or employee as a Director of a non-profit company be revisited, if and when required.

7. That the Municipality seeks declaratory relief in respect of donations or transfers to specific entities where uncertainty remains. These may include the Local Tourism Bureau, the Joint Operations Centre (JOC); and other similar beneficiaries as may be identified by the Municipality.

8. That the objective of the declaratory process is to secure clarity and reduce legal exposure in relation to such transfers.

9. That in the event that a donation does not meet the principles contained in Section 67 of the MFMA but is deemed to be a procurement of goods and services the applicable processes in terms of legislation be proceeded with or alternatives be investigated.

10. That Circular No. 131 as well as the recommendations contained under this Item also be brought under the attention of the Disciplinary Board and Audit Committee as well as all relevant officials within the Municipality by the Manager: Risk & Institutional Performance Management.

NATIONAL TREASURY

MFMA Circular No.131

Municipal Finance Management Act No. 56 of 2003

Section 67 of the MFMA: Funds Transferred by Municipalities to Organisations and Bodies Outside the Government

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1. Purpose of Circular

The purpose of this Circular is to guide municipalities on the implementation of section 67 in the Municipal Finance Management Act 56 of 2003 (MFMA) relating to instances when municipalities transfer funds to organisations or bodies outside of government, i.e. non-governmental organisations (NGOs), which also includes nonprofit organisation (NPOs). This Circular includes an Annexure, which outlines examples of instances where municipalities must follow procurement processes instead of making a transfer payment as contemplated in terms of section 67 of the MFMA. Note that the provisions of section 67 of the MFMA are not applicable to municipal entities.

2. Background

Section 67 of the MFMA outlines a process which must be followed before transferring funds to NGOs in instances where such transfers are not for the actual supply of goods or services. **Where a municipality procures goods and services, even from an NGO, it must comply with the procurement processes as required in terms of section 217 of the Constitution, read with chapter 11 of the MFMA, the Municipal Supply Chain Management (SCM) Regulations and other applicable procurement prescripts, before appointing an NGO to provide goods and services to a municipality.** Section 67 of the MFMA should, therefore, not be used as a mechanism to bypass official public sector procurement legal prescripts as it only enables municipalities to make transfers to NGOs in instances other than through the normal course of providing municipal services.

A transfer within the context of section 67 of the MFMA refers to instances where a municipality does not buy any item or pay for goods or services, regardless of whether it is in furtherance of a municipal assigned or unassigned function. Section 67 of the MFMA provides a mechanism for municipalities to make transfers to organisations or bodies outside of government, such as nonprofit organisations (which include non-governmental organisations and community-based organisations), to enable them to support projects and programmes of these organisations.

Municipalities should prioritise budgeting for sufficient service delivery municipal mandates over budgeting for unassigned functions. Irrespective of whether a municipality is performing an assigned or unassigned function, section 217 of the Constitution will apply to any procurement of goods or services in relation to the performance of the assigned or unassigned function. Therefore, section 67 of the MFMA cannot be used to procure goods and services from NGOs for unassigned functions.

In budgeting for section 67 transfers, municipalities must always take cognisance of sections 62(1)(a) of the MFMA, which stipulates that the accounting officer of a municipality is responsible for managing the financial administration of a municipality and must, for this purpose take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically. Service delivery must always be prioritised.

3. Council Policy

Municipalities should develop and approve a policy to transfer funds to NGOs in terms of section 67 of the MFMA to ensure transparency and accountability. This policy must govern how a municipality will provide financial assistance to NGOs. Below are some key elements that should be addressed in a section 67 transfer policy:

- **Purpose and objectives:** Clearly state the purpose, desired outcomes, and impacts that the funding aims to achieve.

- **Eligibility criteria:** Specify the eligibility requirements for potential recipients. These criteria may include jurisdiction, project alignment with funding priorities, and compliance with legal and financial standards.
- **Application process:** Outline the process for NGOs to apply for transfer funding. This should include details on the application form, submission deadlines, and required documentation associated with the application.
- **Selection criteria:** Describe the criteria and evaluation process used to assess transfer applications. Explain how applications will be scored and selected for transfer funding.
- **Funding amounts and duration:** Specify the minimum and maximum transfer amounts that can be awarded and the duration of funding support. Address any conditions or milestones that may affect funding levels.
- **Reporting and accountability:** Define the reporting requirements for transfer funding recipients. Explain how recipients will be held accountable for the spending of transferred funds. Outline the responsibilities of the municipality and the transfer funding recipients in ensuring compliance with the funding terms and conditions. Describe the monitoring processes to ensure funds are used appropriately.
- **Payment and disbursement:** Detail the method of disbursement. Specify how funds can be used. This may include budget categories, allowable expenses, and limitations on administrative costs.
- **Amendment and termination:** Address the circumstances under which a transfer agreement may be amended or terminated and the procedures for doing so.
- **Appeals and grievance procedures:** Establish a process for addressing disputes or grievances related to funding decisions or implementation, which should also include reference to a public process as part of the annual budget approval process.
- **Transparency and public information:** Discuss the level of transparency the municipality will maintain regarding funding decisions, recipients, and outcomes. Clarify how information about the transfer program will be communicated to potential applicants, stakeholders, and the public.
- **Legal and regulatory compliance:** Ensure that the policy aligns with all relevant laws, regulations, and guidelines governing grant-making activities.
- **Evaluation and review:** Specify how the section 67 policy will be periodically reviewed and updated to reflect changing needs, priorities, and best practices.
- **Conflict of interest:** Address conflict of interest guidelines for both the municipality's staff and transfer review committee members.

The municipality's section 67 transfer policy should align with its integrated development plan and legal requirements and be regularly reviewed and updated to meet evolving needs.

4. Meaning of "otherwise, than in Compliance with a Commercial or Other Business Transaction"

Section 67 of the MFMA makes reference to "otherwise than in compliance with a commercial or other business transaction". These terms have not been defined in the MFMA and should, therefore, be interpreted based on the ordinary meanings of the words within the context of the scope and purpose of section 67 of the MFMA, as well as the overarching principles in the MFMA. The word "commerce" in general, is defined as the exchange of goods and services between two or more persons and "commercial" generally means one is engaged in commerce. The general meaning of "business transaction" is the process of executing a transaction where goods and services are exchanged between two or more parties. Therefore,

this section was never meant to be applied to procuring goods and services for the municipality's own benefit or even in the case where it is not for the municipality's own benefit.

In *Agribee Beef Fund (Pty) Ltd and Another v Eastern Cape Development Agency and Another* [2023] ZACC 6, the Court confirmed that section 217(1) of the Constitution applies to all public procurement, even if the organ of state is not the direct beneficiary of the goods or services. In line with the principle that section 217(1) is "not confined to instances of procurement of goods and services by an organ of state for its own benefit or use," any arrangement in which an organ of state procures goods and services, must be done in terms of section 217(1) of the Constitution.

5. Irregular Expenditure due to Incorrect Application of Section 67 of the MFMA

Chapter 11 of the MFMA, read together with Municipal Supply Chain Management Regulations apply to the procurement of goods and services. In the context of section 67 of the MFMA, where a municipality receives or is due to receive goods or services from an NGO, the payment for those goods or services cannot be made in terms of section 67 of the MFMA. For a transfer to be in line with section 67 of the MFMA, it must be truly unrequited for the municipality in form and in substance - i.e. the municipality should not receive or have not received any goods and services in exchange for the transfer to the NGO.

Therefore, municipalities must not circumvent the procurement processes by procuring goods and services from NGOs under the guise that section 67 of the MFMA is applicable. Where the municipality procures goods and services in terms of section 67 of the MFMA, instead of the applicable procurement processes, the expenditure incurred will be classified as irregular as defined in the MFMA. If a municipality pays an NGO without following procurement processes, this irregular expenditure must be referred to the Municipal Public Accounts Committee (MPAC) for investigation in terms of section 32(2)(b) of the MFMA. MPAC's recommendations must then be tabled at the next available council meeting. Municipalities must, therefore, identify and address transactions where section 67 was incorrectly applied, as required in section 32 of the MFMA.

6. Financial Misconduct, Financial Offence and Other Offences

The irregular expenditure incurred must also be referred to the municipality's disciplinary board for a financial misconduct investigation in line with section 171 of the MFMA, read together with the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014. If there is suspected fraud or the conduct of the officials also amounts to a financial offence in terms of section 173 of the MFMA, then the matter must also be reported to the South African Police Service for investigation. Municipalities must also take cognisance of section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004, where there is suspicion of corruption involving an amount of more than R100,000.

7. The Requirement to Provide Audited Financial Statements

Section 67(1)(a)(iv) of the MFMA requires an NGO that will be receiving a transfer in terms of section 67 to submit its audited financial statements to the municipality. Given the various legal forms an NGO can take, not all NGOs are compelled to have audited financial statements. If the organisation is a nonprofit organisation, then the municipality may, subject to compliance with section 67(4) of the MFMA, enter into an agreement with the relevant organisation requiring that organisation to submit financial statements that comply with the requirements of the Nonprofit Organisations Act 71 of 1997 (NPO Act) instead of submitting audited financial statements as required by section 67(1)(a)(iv) of the MFMA. Note that the possible exemption from submitting audited financial statements is limited to NGOs serving the poor, as contemplated in and subject to section 67(4) of the MFMA.

8. General Budgeting Requirements of Section 67 Transfers

Section 67 of the MFMA read with section 17(3)(j)(iv) of the MFMA, requiring that an annual budget tabled under section 16(2) of the MFMA includes details of proposed allocations to NGOs. Consequently, the municipal council approves NGO transfers as part of the budget, contingent on affordability. The accounting officer, empowered by section 67 of the MFMA, implements these transfers according to the approved budget. Municipalities must ensure that the proposed NGO transfers are clearly indicated in the budget submission to the council, including names of NGOs intended to receive funds.

Municipalities should start the section 67 process by July of the preceding financial year, ensuring provisional NGO allocations are disclosed during consultations on the draft budget. The section 67 policy must state that NGO allocations are provisional and subject to public participation. If objections arise, NGOs must be given a chance to respond to objections, but if the municipality deems their response inadequate, no transfer should be made to an NGO.

9. NGOs Serving the Poor/ Indigent

NGOs serving the poor/ indigent are exempted from compliance with section 67(1)(a) of the MFMA as stated in section 67(4) of the MFMA, subject to the following:

- If the transfer does not exceed a prescribed limit;
- If the accounting officer takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and
- If the accounting officer certifies to the Auditor-General that compliance by that NGO with subsection (1)(a) is uneconomical or unreasonable.

Although section 67(4) of the MFMA might appear to fully exempt municipalities from section 67(1)(a), this exemption is limited and applies only to specific NGO agreement requirements. A funding agreement with the NGO remains necessary, and if compliance is relaxed, the accounting officer must certify in writing to the Auditor-General of South Africa (AGSA) why such compliance would be uneconomical or unreasonable. The certification contemplated in section 67(4) refers to at least a letter to the AGSA.

The minimum considerations that must be included in the AGSA certification are the following:

- The relevant factors behind the accounting officer's conclusion;
- Why compliance with section 67(1)(a) of the MFMA is deemed uneconomical or unreasonable; and
- The compensatory compliance measures the municipality will require from the NGO.

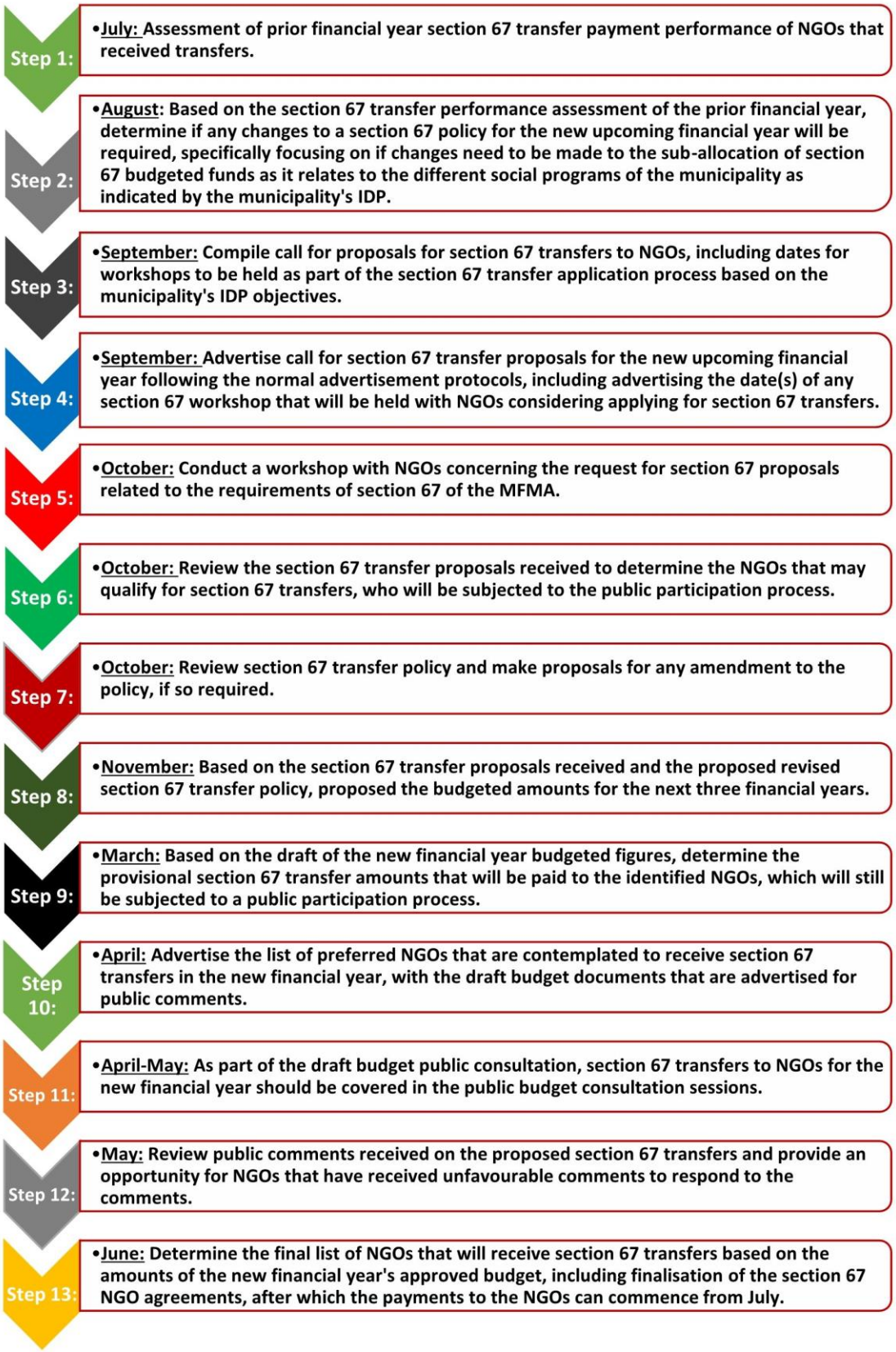
The accounting officer's conclusion must be justifiable, reasonable and fact-specific.

While section 67(4) does not prescribe a limit on the total transfer amount per year, municipalities must consider their budget constraints. Despite relaxed compliance requirements under section 67(1)(a), the accounting officer must ensure internal controls confirm that funds reach intended beneficiaries.

10. Section 67 Application Process Timeline

Transfers in terms of section 67 of the MFMA should be effected in terms of a budget-related policy, and should, therefore, follow a municipality's typical budget process. The following minimum steps are relevant to consider as part of a full-cycle section 67 transfer process.

Figure 1: Steps in a typical section 67 transfer full-cycle process:



11. Conclusion

The municipality's accounting officer must ensure that this Circular, including the Annexure to this Circular, are tabled in the next available Municipal Council meeting by submitting the Circular to the municipality's Speaker as an Annexure to a Council item. The contemplated Council item should explain the Circular and the impact of the Circular on the municipality's operations and policies. The Circular must also be brought to the attention of officials within the municipality, including the municipality's disciplinary board and the audit committee.

All clarification requests concerning this Circular should be emailed to mfma@treasury.gov.za.

Contact

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Mr W McComans
Chief Director: MFMA Implementation
31 March 2025

Annexure: Examples of NGO payments that do not qualify as section 67 transfers

Annexure: Examples of NGO payments that do not qualify as section 67 transfers

The National Treasury has observed certain payments made to NGOs in terms of section 67 of the MFMA for goods and services provided to municipalities by the NGO. Below are examples of section 67 payments that should have been subjected to a proper supply chain management process.

The following examples are covered in this Annexure:

- Payments to NGOs providing local tourism promotion/ facilities for the accommodation, care and burial of animal services for which municipalities are responsible;
- Payments to NGOs in the furtherance of crime prevention, including initiatives to support the South African Police Service;
- Sponsorships to sports teams;
- Payments to NGOs/ NPOs operating special rating areas/ City Improvement Districts (CIDs);
- Ward projects; and
- Festivals/ events.

Payments to NGOs providing local tourism promotion/ facilities for the accommodation, care and burial of animal services for which municipalities are responsible

Municipalities have a constitutional mandate to promote local tourism (Schedule 4B) and to provide facilities for the accommodation, care, and burial of animals (Schedule 5B). The National Treasury has noted that some municipalities outsource these services to NGOs in terms of section 67 of the MFMA instead of following a procurement process as required by section 217 of the Constitution. Where tourism promotion and animal care functions are outsourced in this manner, any expenditure incurred should be disclosed as irregular expenditure if not procured through the prescribed supply chain management processes.

Payments to NGOs in the furtherance of crime prevention, including initiatives to support the South African Police Service

Where provincial and national functions have not been assigned to municipalities, such as crime prevention services, and a municipality partners with security firms to procure, maintain, and operate cameras under crime prevention objectives (mandated to the South African Police Services), these services must be procured through a procurement process. Paying any service provider in terms of section 67 of the MFMA without following the legally required procurement process—constitutes non-compliance and must be disclosed as irregular expenditure.

Sponsorships to sports teams or sports organisers

National Treasury has observed that municipalities sponsor sports teams in terms of section 67 of the MFMA for various reasons, including promoting local economic development and tourism. In some instances, irrespective of whether the sports team uses municipal facilities or its own, in order to receive a sponsorship, there will be an obligation to advertise and market the municipality. This is the procurement of a service, and it must follow the necessary procurement process.

When a municipality sponsors a sports team, the sports team or sports organiser's may provide complimentary tickets (including food and beverages) to councillors and officials, which constitutes fringe benefits not covered by the upper limits of councillor remuneration or salary agreements. This non-compliance triggers irregular expenditure and contravenes Regulation 10 of the Municipal Cost Containment Regulations, 2019.

Payments to NGOs/ NPOs operating special rating areas/ City Improvement Districts (CIDs)

Section 22 of the Municipal Property Rates Act 6 of 2004 allows municipalities to designate special rating areas and levy additional rates to fund extra services exceeding the standard level of service in a specific municipal area. Once a special rating area is established, the municipality collects additional rates from property owners in that area. It then pays the collected additional rate over to a nonprofit company (NPC) managing the area.

Payments to the NPC are not section 67 transfers as such payments are made in the normal course of business, e.g. paying a service provider for municipal waste collection or paying a security firm to provide security services for residents/organisations in the special rating area from the additional rates charged. As a result, the payment to the NPC is part of a standard business transaction, much like any other municipal service arrangement.

Ward projects

The basis of budgeting for ward projects lies in the municipality's Integrated Development Plan (IDP), with each ward identifying and prioritising local needs through its ward committee and councillor. These needs, such as youth camps, outreach programmes, and events for the elderly, are communicated to the municipal council as part of the budgeting process. Once the budget is approved, resources are allocated based on overall budgetary constraints, project priorities, and equitable distribution across the municipality.

Where the municipality appoints an NGO to implement ward projects, the required procurement processes must be followed to appoint the NGO. However, if the municipality donates funds to an organisation whose primary objective is to pursue social purposes, compliance with section 67 of the MFMA is required.

Festivals/ events

It has been observed that municipalities host annual events, such as festivals of lights and other cultural and heritage celebrations. Where a municipality appoints an NGO to execute the event, the NGO must be appointed via a procurement process before any payment is made to the NGO for the event services rendered. The municipality cannot simply pay the NGO via section 67 of the MFMA.

Where a municipality procures artists' or bands' services to perform at the festival or event, the artists or bands must be procured following a procurement process before any payment is made to the artist or band for the event services rendered. The municipality cannot simply pay the artist or band via section 67 of the MFMA.

E86-04/2025

WRITING-OFF IRRECOVERABLE DEBTS FOR THE PERIOD ENDING APRIL 2025

File Number: 5/13/1

Report By: CFO

Item Reference Number: 13127199

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of this report is for Council to consider writing off debts up to April 2025.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

Socio-economic conditions necessitated that more emphasis should be placed on debtor's ability to comply with their obligation towards the Municipality. Seeing that many of the debts have the probability of no collection and the Policy makes provision dat debts can be written off in certain cases, all the accounts were thoroughly checked.

The purpose and background regarding the writing off of these irrecoverable debts is detailed in full in the Annexures attached hereto.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

Writing off to the amount of R1 420 301.02.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The following is an extraction from the Debt and Recovery Policy:

"11 IRRECOVERABLE DEBT

The Municipal Council may, on recommendation from the Municipal Manager, or any duly delegated official, write off any debt or portion thereof, provided that the Municipal Council is satisfied that the debt or portion thereof is irrecoverable or that it will be in the best interest of the Municipality to accept part payment of the debt in full and final settlement.

The Executive Mayor may recommend to the municipal council that any outstanding debt or portion thereof be written off, if in his/her opinion it would be in the best interest of the Municipality, and that the writing off of the debt will not be contrary to the provisions of the Local Government: Municipal Finance Management Act, No. 56 of 2003.
The Executive Mayor and Municipal Manager also have the right to authorise write off, of debt if the amount falls within their delegated power.

11.1 Debt will be regarded as irrecoverable if:

The Accounting Officer has ensured that all avenues were utilized to collect the arrear debt.

Circumstances whereby a municipal Council may validate the termination of debt collection procedures as contemplated in Section 109(2) of the Municipal Systems Act:

(a) All reasonable notifications and cost-effective measures to recover a specific outstanding amount have been exhausted; or
(b) If the amount to be recovered is too small to warrant further endeavours to collect it; or
(c) The cost to recover the debt does not warrant further action, i.e. to summons in another country; or
(d) Inactive accounts where all the necessary steps have been taken with no success and/or the debtor has no assets;
(e) The amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate, sequestration, liquidation; or
(f) A deceased estate has no liquid assets to cover the outstanding amount; or
(g) Indigent household with no liquid assets (nulla bona) to cover the outstanding debt; or
(h) It has been proven that the debt has prescribed; or
(i) The consumer is untraceable or cannot be identified to proceed with further action; or
(j) It is impossible to prove the debt outstanding; or
(k) the outstanding amount is; (i) due to an irreconcilable administrative error by Council; (ii) as a result of an administration error by Council.
(l) When the debtor qualifies as an indigent household or household housing a person with a disability and are receiving a subsidy (this write-off will include all debt on the owner's / previous tenant's account on the property that have accumulated during the time the new applicant have been the occupier).;
(m) Clients in correctional care or clients who are imprisoned and there is no way of recovering the debt;
(n) Water leakages resulting in high water levies at registered indigent households or households housing a person with a disability.
(o) Fire brigade fees at registered indigent households or households housing a person with a disability;
(p) Blocked drains and sewerage at registered indigent households or households housing a person with a disability.

11.2 Criteria for the Determination of the Recoverability or Non-Recoverability of Debt

(i) All cases with the following classification "summons, judgment or execution" should be tested prior to the taking of action, with regard to the following:

1. Asset's Survey. To undertake a home visit to make a survey of the type of house, its contents and other assets like vehicles registered in the name of the account holder
2. as well as the combined income of the household. The result of this survey will determine whether further action is to be taken;

(ii) If the survey however reveals that the debt is still not recoverable after all necessary steps has been taken, it should be tabled together with the "write off compliance report" for consideration by Council to write off the debts.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

No further comments.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

Supported.

CONCLUSION / SAMEVATTING

The purpose and background regarding the writing off of irrecoverable debts is detailed in full on annexure A attached hereto.

The attached writing-off lists are detailed as follows:

- **INDIGENT HOUSEHOLDS (LEVEL 1) R1 134 878.48**
  If the debtor qualifies as an indigent household or household housing a person with a disability and are receiving a subsidy;
  "Debt Collection Policy Sec 11.1(L)"

- **INDIGENT HOUSEHOLDS (LEVEL 2)** **R 285 422.54**
  If the debtor qualifies as an indigent household or household housing a person with a disability and are receiving a subsidy;
  "Debt Collection Policy Sec 11.1(L)"

RECOMMENDATION / AANBEVELING

That the following recommendation is made to Council:

To write off the outstanding amounts as indicated here below, together with any interest or new levies up to date of approval:

Indigent households for February and March (level 1) *(24 Debtor accounts; Maximum Debtor of R91 421.01)*	R1 134 878.48
Indigent households for February and March (level 2) *(6 Debtor accounts; Maximum Debtor of R88 558.14)*	R 285 422.54
TOTAL	R1 420 301.02

Action Summary Report - COUNCIL

Debtpack

Debtpack		Elec Cut	Water Cut	Final	Summons	Cr Rep	Judmt	Warrant	R-Value
100023990013	14		X	X	Return of Service - Sheriff				
100023990013	15		X	X	Return of Service - Sheriff				
100023990013	16								
700103790012	49		X						
710095560023	4		X						
710095650014	8		X	X					
710100540019	12								
710101940016	3			X					
710105560010	10		X	X					
710106470015	8		X	X		X			
740086710014	9			X		X			
750091490018	18			X		X			
780036670012	11		X	X					
780036670012	12		X	X					
780036670012	13								

Action Summary Report - COUNCIL

Debtpack

Debtpack		Elec Cut	Water Cut	Final	Summons	Cr Rep	Judmt	Warrant	R-Value
790042840017	12		X	X	Return of Service - Sheriff				
790042840017	13								
790045820018	9		X						
790047060012	10		X	X	Return of Non-Service - Sheriff				
790047060012	11		X	X					
790048190020	3		X	X	Return of Non-Service - Sheriff				
790048190020	4		X	X	Return of Non-Service - Sheriff	X			
790048190020	2		X	X	Return of Service - Sheriff				
790048190020	5		X	X					
790055200026	2		X	X	Return of Non-Service - Sheriff				
790055200026	3		X	X	Return of Non-Service - Sheriff	X			
790055200026	4		X	X	Return of Service - Sheriff	X			
790055200026	1		X	X					
790055200026	5		X	X					
790060240013	8		X	X	Return of Service - Sheriff				
790060240013	9		X	X					



Action Summary Report - COUNCIL

Debtpack

Debtpack		Elec Cut	Water Cut	Final	Summons	Cr Rep	Judmt	Warrant	R-Value
790067280021	1		X	X	Return of Service - Sheriff				
790067280021	2								
800136290010	15		X	X					
810027640015	12		X	X	Return of Non-Service - Sheriff	X			
810027640015	11		X	X	Return of Service - Sheriff		X		
810027640015	13			X					
820017710013	9		X	X	Return of Non-Service - Sheriff				
820017710013	10		X	X					
830005120016	13		X	X	Return of Non-Service - Sheriff	X			
830005120016	14		X						
830006140011	10		X	X					
830008360019	14		X	X					
830027900010	13		X	X	Return of Non-Service - Sheriff				
830027900010	12		X	X	Return of Service - Sheriff		X		
830027900010	14		X	X	Return of Service - Sheriff	X	X		



Action Summary Report - **COUNCIL**

Debtpack

Debtpack		Elec Cut	Water Cut	Final	Summons	Cr Rep	Judmt	Warrant	R-Value
830027900010	15		X	X					
830027900010	16		X	X					
830027980014	6		X	X					
830028250015	10			X					
840201140013	4		X	X	Return of Non-Service - Sheriff				
840201140013	5		X	X					
840202530017	3		X	X	Return of Service - Sheriff				
840202530017	4		X	X					
950003360020	1		X	X	Return of Service - Sheriff	X			
950003360020	2								

Raad WRITEOFF FILE

INDIGENT (LEVEL 1) BM	R	1 134 878,48		
INDIGENT (LEVEL 2) BM	R	285 422,54	R	1 420 301,02
WATER	R	421 315,22		
ELECTRICITY	R	228 328,56		
REFUSE	R	327 985,29		
SEWERAGE	R	359 320,25		
RATES	R	29 832,34		
COLLECTION FEE	R	42 821,29		
SUNDRY	R	1 842,17		
TAMPER	R	8 855,90	R	1 420 301,02

					1 420 301,02	421 315,22	228 328,56	327 985,29	359 320,25	29 832,34	42 821,29	8 855,90	1 842,17
Debtpack No.	**Municipal Acc No**	**Suburb**	**Employer**	**Delegation**	**Totale**	**WATER**	**ELECTRICITY**	**REFUSE**	**SEWERAGE**	**RATES**	**COLLECTION FEE**	**TAMPER**	**Sundry**
39900/1	710101940016	D'ALMEIDA X8 (73)	65	RAAD	23 942,62	5 862,71	4 618,32	6 138,72	6 950,66	178,33	192,90	-	0,98
40051/1	790048190020	ASLAPARK (79)	66	RAAD	56 160,42	15 246,33	9 236,77	11 873,55	13 619,71	974,83	5 199,86	-	9,37
40233/1	830027980014	KHAYELITSHA (81)	66	RAAD	30 090,22	6 882,09	9 236,77	6 263,11	7 137,12	-	570,80	-	0,33
40305/1	830027900010	KHAYELITSHA (81)	66	RAAD	63 541,98	17 833,96	9 236,77	13 886,83	15 965,81	401,46	5 951,13	-	266,02
40203/1	840202530017	ALBERT LUTHULIPARK (84)	66	RAAD	31 881,95	7 446,00	9 093,16	6 263,11	7 137,12	-	1 941,70	-	0,86
40223/1	840201140013	ALBERT LUTHULIPARK (84)	66	RAAD	26 742,36	6 194,65	6 927,40	5 670,75	6 458,36	-	1 489,30	-	1,90
40229/1	780036670012	CIVIC PARK (78)	66	RAAD	56 858,50	21 326,44	6 927,40	13 039,30	13 338,16	1 160,55	1 033,90	-	32,75
40301/1	830028250015	KHAYELITSHA (81)	66	RAAD	91 421,01	40 343,68	9 236,77	20 518,59	21 243,14	-	-	-	78,83
39480/1	710105560010	D'ALMEIDA X8 (73)	66	RAAD	47 952,11	19 771,99	4 618,32	16 945,19	6 243,46	338,64	-	-	34,51
39569/1	820017710013	ELANGENI/SINETHEMBA (82)	65	RAAD	33 550,80	8 287,31	9 236,77	6 555,83	7 454,68	-	1 762,43	-	253,78
40083/1	100023990013	GREENHAVEN (10)	66	RAAD	63 036,79	18 020,85	9 236,77	14 568,85	15 787,93	1 810,09	3 584,31	-	27,99
INDIGENT	710100540019	D'ALMEIDA X7 (71)	65	RAAD	32 211,20	4 931,42	472,13	4 496,98	21 678,40	603,04	-	-	29,23
40401/1	700103790012	D'ALMEIDA X8 (73)	66	RAAD	84 157,60	43 000,64	9 688,31	19 787,87	11 106,01	502,54	-	-	72,23
40165/1	710095560023	D'ALMEIDA X7 (71)	65	RAAD	65 900,45	20 080,92	9 688,31	19 611,23	16 242,49	237,16	-	-	40,34
40708/1	710095650014	D'ALMEIDA X7 (71)	66	RAAD	79 220,21	27 572,21	9 688,31	20 818,23	20 834,61	246,32	-	-	60,53
39804/1	710106470015	D'ALMEIDA X7 (71)	66	RAAD	53 189,52	10 231,16	19 367,35	13 673,21	9 351,41	556,35	-	-	10,04
40810/1	740086710014	D'ALMEIDA X13 (74)	66	RAAD	31 170,58	-	-	-	23 824,67	7 136,31	184,00	-	25,60
41157/1	750091490018	D'ALMEIDA X23 (75)	66	RAAD	61 009,86	10 493,17	12 348,24	10 541,73	17 822,31	9 168,69	-	-	635,72
39155/1	790042840017	ASLAPARK (79)	66	RAAD	25 366,36	6 314,70	4 844,08	6 267,80	6 843,12	220,39	875,80	-	0,47
40149/1	790045820018	ASLAPARK (79)	66	RAAD	28 650,17	6 809,56	7 266,05	6 562,73	7 472,53	-	472,70	-	66,60
39798/1	790047060012	ASLAPARK (79)	66	RAAD	22 242,79	5 962,22	4 097,14	4 983,22	5 652,21	-	1 548,00	-	-
40181/1	790055200026	ASLAPARK (79)	65	RAAD	88 558,14	21 119,23	4 844,08	20 964,59	24 113,95	2 007,06	6 598,18	8 855,90	55,15
40099/1	790060240013	ASLAPARK (79)	66	RAAD	27 066,60	6 378,37	4 844,08	6 562,75	7 472,55	-	1 795,20	-	13,65
40227/1	790067280021	ASLAPARK (79)	66	RAAD	22 796,84	9 924,22	6 967,06	4 316,56	-	-	1 589,00	-	-
39762/1	800136290010	JOE SLOVO VILLAGE (80)	65	RAAD	41 259,33	18 653,09	9 688,31	6 768,26	6 083,23	-	-	-	66,44
41159/1	810027640015	KHAYELITSHA (81)	66	RAAD	69 371,38	21 418,25	9 688,31	19 984,01	14 624,94	1 188,04	2 423,53	-	44,30
40371/1	830005120016	KWANONQABA (83)	66	RAAD	47 341,22	11 006,04	9 688,31	10 955,16	12 413,03	1 204,20	2 069,90	-	4,58
40069/1	830008360019	KWANONQABA (83)	66	RAAD	30 783,74	6 168,81	9 688,31	6 596,13	7 291,93	1 038,16	-	-	0,40
40131/1	950003360020	HERBERTSDALE (95)	66	RAAD	44 109,32	13 370,62	-	12 715,70	14 484,15	-	3 538,65	-	0,20
Indigent	830006140011	KWANONQABA (83)	66	RAAD	40 716,95	10 664,58	7 854,96	10 655,30	10 672,56	860,18	-	-	9,37

E87-04/2025

MONTHLY REPORTS WITH REGARD TO SUPPLY CHAIN MANAGEMENT – FEBRUARY 2025

File Number:

Report By: ECHANDLER

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution FC18-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

That cognisance be taken of the Monthly Reports with regard to Supply Chain Management for February 2025."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The Monthly Report received from Supply Chain Management is hereby submitted to Council for cognisance.

RECOMMENDATION

That the following recommendation be made to Council:

That cognisance be taken of the Monthly Reports with regard to Supply Chain Management for February 2025."

NOTE:

Please consult the complete annexures as attached to the agenda for the Financial Services Committee Meeting which was held on 9 April 2025 (Item FC18-04/2025) for more details.

RECOMMENDATION TO COUNCIL

That cognisance be taken of the Monthly Reports with regard to Supply Chain Management for February 2025.

E88-04/2025

SUPPLY CHAIN MANAGEMENT MONTHLY REPORT FOR DEVIATIONS APPROVED – FEBRUARY 2025

File Number:

Report By: ECHANDLER

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution FC19-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

That cognisance be taken of the Supply Chain Management Monthly Report for Deviations Approved, February 2025."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The Monthly Report for Deviations Approved received from Supply Chain Management is hereby submitted to Council for cognisance.

RECOMMENDATION

That the following recommendation be made to Council:

That cognisance be taken of the Supply Chain Management Monthly Report for Deviations Approved, February 2025."

NOTE:

Please consult the complete annexures as attached to the agenda for the Financial Services Committee Meeting which was held on 9 April 2025 (Item FC19-04/2025) for more details.

RECOMMENDATION TO COUNCIL

That cognisance be taken of the Supply Chain Management Monthly Report for Deviations Approved, February 2025.

E89-04/2025

SERVICE LEVEL AGREEMENT: MOSSEL BAY MUNICIPALITY / DEBT MANAGER (PTY) LTD: MUNICIPAL FINANCE MANAGEMENT ACT, NO 56 OF 2003: SECTION 116

File Number: 7/2/1/3

Report By: JUTHEN

Item Reference Number: 13190458

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of this Item is for Council to consider the late response received from National Treasury in relation to comments solicited in terms of Section 116 of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

During the Council Meeting held on 27 March 2025, Item E74-03/2025 it was resolved as follows:

"1. That it be noted that notice has been given in terms of Section 116 of Local Government: Municipal Finance Management Act, Act 56 of 2003 to amend the agreement with Debt Manager (Pty) Ltd.

2. That it be noted that the total estimated additional contract value for the remainder of the contract term is R1,525,597.67 (One Million Five Hundred and Twenty-Five Thousand, Five Hundred and Ninety-Seven Rand and Sixty-Seven Cents) VAT inclusive, and that sufficient provision for the expenditure has been made in the budget and will be made in future budgets for the duration of the agreement.

3. That cognisance be taken of the comments from the Department of Cooperative Governance and Traditional Affairs as received on 5 March 2025 and that the feedback as per the discussion and motivation of this Item be accepted.

4. That it be noted that no comments, objections or representations were received from National Treasury, Provincial Treasury or the public and that all processes have been complied with.

5. That it be accepted and approved that the Municipality will derive a significant financial economic and service delivery benefit from the agreement due to the reasons stated under the motivation of this Item.

6. That the Addendum containing the proposed amendments, marked as Annexure C be accepted and approved by Council for the period 1 April 2025 to 30 June 2028.

7. That the Municipal Manager be authorised to finalise and sign the Service Level Agreement on behalf of the Municipality."

In terms of the aforementioned Resolution comments were received from the Department of Cooperative Governance and Traditional Affairs and were taken into consideration by Council.

The attached letter (Annexure A) dated, 28 March 2025 was received from National Treasury on Monday, 31 March 2025 after the Council Resolution was taken on 27 March 2025.

The comments can be summarised as follows:

2. There is no requirement in terms of Section 116(3) of the MFMA for the Municipality to consult the National Treasury on its intention to extend a contract.

3. The Municipality is extending the contract with a value of R1 311 752,32 VAT inclusive. The contract increase from the original contract value is 3.13% for a further

5-year period. It is crucial that the financial implications of this expansion align with the budgetary provisions of the Municipality and Section 116(3) of the MFMA.

4. That the new Service Level Agreement introduces new services to the contract, namely, Clause 5.7.4 Legal Services and Clause 5.7.5, Physical Disconnection Services and repair of minor water leakages. We trust the Municipality will ensure that these additional services comply with procurement regulations and do not alter the fundamental nature of the contract and also does not extend the scope of the original tender.

5. Section 116(1) of the MFMA requires the periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years. Section 116(2) of the MFMA requires the Municipality to monitor the performance of the contractor under the contract or agreement monthly. Please ensure that these aspects are addressed in the contract.

6. That the Municipality has sufficient in-house contract management capacity to ensure that any conditions or Service Level Agreements are managed appropriately consistent with Section 116 of the MFMA.

Feedback

7. This averment is correct, however that comments were initially sought from National Treasury during the prescribed process as determined in Section 33 of the Local Government: Municipal Finance Management Act, the views and recommendations of National Treasury were also solicited in relation to the amendment of the Service Level Agreement.

8. The total estimated additional contract value for the remainder of the contract term is R1,525,597.67 VAT inclusive. Provision for the expenditure has been made in the Operational Budget and will be made in future budgets for the duration of the agreement. It will have no impact on municipal tariffs and revenue.

9. The additional services advances the implementation of improved credit control measures already implemented by the Service Provider, the Municipality would merely be expanding on the services already offered and therefore followed the prescribed process in terms of Section 116 of Local Government: Municipal Finance Management Act, Act 56 of 2003, which served before Council on 27 March 2025.

10. This comment is noted. The initial Service Level Agreement makes provision for a periodic review of the agreement as per Clause 2.2 thereof.

11. The contract is indexed on the Municipality’s Collaborator System after signature and allocated to the responsible officials for implementation thereof as well as monitoring of the deliverables contained therein. The performance of contractors is monitored as per their deliverables and dealt with administratively. Any instances of poor performance are accordingly dealt with in terms of the Municipality’s Supply Chain Management Policy and contractual terms.

The comments received are not substantive and does not impact or influence Council Resolution E74-03/2025.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

None.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

Local Government: Municipal Finance Management Act, No 56 of 2003.

Local Government: Municipal Finance Management Regulations: Municipal Supply Chain Management Regulations.

CONCLUSION / SAMEVATTING

The late comments received from National Treasury are not substantive and does not impact or influence Council Resolution E74-03/2025.

RECOMMENDATION

1. That cognisance be taken of the late comments dated 28 March 2025 as received on 31 March 2025 from National Treasury attached hereto, marked as Annexure A.

2. That the comments are deemed to not be substantive and does not impact or influence Council Resolution E74-03/2025, due to the reasons stated under the feedback as per the discussion and motivation of this Item and that same be accepted.

3. That with due consideration of the above Council Resolution E74-03/2025 remains unchanged.

ANNEXURES

Yes

ANNEXURE A

national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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Email: mfma@treasury.gov.za

The City Manager
Mossel Bay Municipality
Private Bag X29
MOSSEL BAY
6500

For Attention: Mr CB Puren **Fax: (086) 202-9098**

Dear Sir

RE: SECTION 33 - SERVICE LEVEL AGREEMENT: MOSSEL BAY MUNICIPALITY/DEBT MANAGER (PTY) LTD: TENDER TDR426/2022/2023: DEBT COLLECTION AND SUBSIDY MANAGEMENT SERVICES FOR THE MOSSEL BAY MUNICIPALITY: MUNICIPAL FINANCE MANAGEMENT ACT, 56 OF 2003

The letter received on 13 February 2025 requesting the National Treasury's comments on the municipality's intention to extend a long-term contract, has reference.

We have noted the contents of the letter. The municipality intends to extend a debt collection and subsidy management services contract. Kindly note that there is no requirement in terms of section 116(3) of the MFMA for the municipality to consult the National Treasury on its intention to extend a contract. However, we have reviewed the amendments in comparison to the original contract.

We have noted the contract financial value adjustment. The municipality is extending the contract with a value of R1 311 752,32 VAT inclusive. The contract increase from the original contract value is 3.13% for a further 5-year period. It is crucial that the financial implications of this expansion align with the budgetary provisions of the municipality and section 116(3) of the MFMA.

Our observation is that the new service level agreement introduces new services to the contract, namely, clause 5.7.4 legal services and clause 5.7.5, physical disconnection services and repair of minor water leakages. We trust the municipality will ensure that these additional services comply with procurement regulations and do not alter the fundamental nature of the contract and also does not extend the scope of the original tender. Failure to do so creates the risk of non-compliance with the SCM regulatory framework and the potential to incur irregular expenditure.

Section 116(1) of the MFMA requires the periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years. Section 116(2) of the MFMA requires the municipality to monitor the performance of the contractor under the contract or agreement monthly. Please ensure that these aspects are addressed in the contract.

national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

It is our understanding that the municipality has sufficient in-house contract management capacity to ensure that any conditions or service level agreements are managed appropriately consistent with section 116 of the MFMA.

We trust that you will be guided accordingly.

Yours sincerely

Wayne McComans
Chief Director: MFMA Implementation
Date 28 March 2025

Cc: Chief Financial Officer
Cc: Municipal Legal Services
Cc: MFMA Coordinator: Western Cape Provincial Treasury

E90-04/2025

MINUTES OF THE DISCIPLINARY BOARD MEETING HELD ON 17 APRIL 2025

File Number: 13/B

Report By: PRINSN

Item Reference Number: 13195841

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The Disciplinary Board has been convened to consider a report pertaining to a Special Internal Audit Review of MFMA Section 67 Donations and Irregular Expenditure (hereafter "the Special Internal Audit Review Report") as well as MFMA Circular No. 131 issued by National Treasury on 31 March 2025.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

The Disciplinary Board was convened on Thursday, 17 April 2025 to consider a report pertaining to a Special Internal Audit Review of MFMA Section 67 Donations and Irregular Expenditure (hereafter "the Special Internal Audit Review Report") from the Internal Auditors, Moore Consulting Southern Cape dated 15 April 2025 as well as MFMA Circular No. 131 issued by National Treasury on 31 March 2025.

It must be noted that MFMA Circular No. 131 will also serve before Council in a separate Item in the Agenda.

The Minutes of the meeting is attached hereto as Annexure A.

An external Advocate also attended the meeting via Microsoft Teams and addressed the Board in respect of MFMA Circular 131 and the legal opinion in relation thereto.

The Advocate provided clarification and answered questions where there was uncertainty or clarification was needed.

Discussions in relation to both Items which served before the Board are briefly as follows:

ITEM DB2-03/2025

SPECIAL INTERNAL AUDIT REVIEW: MFMA SECTION 67 DONATIONS AND IRREGULAR EXPENDITURE

Moore conducted a special review to assess the irregular expenditure disclosed in Note 55 of the Audited 2023/2024 Annual Financial Statements (hereafter "AFS"). This expenditure relates to donations made in respect of Section 67 of the MFMA specifically in relation to tourism associations and other non-governmental Organisations during the 2022/2023 and 2023/2024 financial years.

The following table summarises the donations disclosed in Note 55 that were identified as irregular expenditure due to non-compliance with provisions of Section 67 of the MFMA.

Beneficiary	2023/2024	2022/2023
	Amount	Amount
Mossel Bay Tourism	R 6,149,600.00	R 6,358,924.00 *
Joint Operation Centre NPC	R 3,050,000.00	R 3,050,000.00
Garden Route Film Commission	R -	R -
Garden Route International Film Festival	R 100,000.00	R -
Garden Route Society for the Prevention of Cruelty to Animals	R 1,253,384.00	R 1,253,384.00
Mossel Bay Sport Council	R 131,330.00	R 131,329.93
Boggoms Bay Golf Club	R 20,100.00	R -
	R 10,704,414.00	R 10,793,637.93

**The irregular expenditure amount of R6,358,924 (2022/2023), relating to Mossel Bay Tourism, was already certified as irrecoverable and written off by Council in April 2024.*

The irregular expenditure in terms of the 2022/2023 financial year relating to Mossel Bay Tourism was dealt with during a Disciplinary Board meeting held on 17 April 2024 and thereafter by Council.

Moore's findings in relation to the 2022/2023 and 2023/2024 financial years were discussed and their recommendations taken into consideration and are contained in the recommendation to Council by the Disciplinary Board.

DB3-04/2025

NATIONAL TREASURY: MFMA CIRCULAR NO. 131: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003: SECTION 67 OF THE MFMA: FUNDS TRANSFERRED BY MUNICIPALITIES TO ORGANISATIONS AND BODIES OUTSIDE THE GOVERNMENT

The purpose of the Circular is to guide Municipalities on the implementation of Section 67 of the MFMA relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, i.e non-governmental Organisations (NGO's), which also includes Non-profit Organisations (NPO's). The Circular includes an Annexure, which outlines examples of instances where National Treasury is of the opinion that Municipalities must follow procurement processes instead of making a transfer payment as contemplated in terms of Section 67 of the MFMA.

The contents of the Circular was discussed by the Board and the external advocate addressed the Board and provided inputs and clarity in relation to the legal opinion sought in respect of the Circular.

The legal advice was taken into consideration and is contained in the recommendations to Council by the Disciplinary Board.

Attached, marked as Annexure A, please find the Minutes of the Disciplinary Board Meeting with firm recommendations to Council.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

Irregular expenditure of R10 704 414.00 in respect of the 2022/2023 Financial Year and R10 893 638.93 in respect of the 2023/2024 Financial Year

It must be noted that the 2022/2023 Financial Year includes an amount of R6 358 925.00 in respect of Mossel Bay Tourism already certified as irrecoverable and written off in terms of Resolution E76-04/2024.

As the 2024/2025 financial year already commenced on 01 July 2024 various donations in respect of the 2024/2025 financial year have already been paid out to beneficiaries and that following implementation of these Recommendations further irregular expenditure may be identified

RELEVANT LEGISLATION / RELEVANTE WETGEWING

Local Government: Municipal Finance Management Act, No. 56 of 2003.

Local Government: Municipal Finance Management Act, No. 56 of 2003: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

RECOMMENDATION

1. That cognisance be taken of the Minutes of the Disciplinary Board, dated 17 April 2025 (Annexure A) relating to an investigation into the irregular expenditure disclosed in Note 55 of the Audited 2023/2024 Annual Financial Statements relating to donations made in respect of Section 67 of the MFMA to tourism associations and other non-governmental Organisations during the 2022/2023 and 2023/2024 financial years and MFMA Circular No. 131 issued by National Treasury on 31 March 2025

2. ITEM DB2-03/2025: SPECIAL INTERNAL AUDIT REVIEW: MFMA SECTION 67 DONATIONS AND IRREGULAR EXPENDITURE

    2.1 That cognisance be taken of the report received from the Internal Auditors (Moore Consulting Southern Cape) dated 15 April 2025 and that it be accepted as a full investigation into the irregular expenditure disclosed in Note 55 of the Audited 2023/2024 Annual Financial Statements relating to donations made in respect of Section 67 of the MFMA to tourism associations and other Non-governmental Organisations during the 2022/2023 and 2023/2024 financial years.

    2.2 That as disclosed in Note 55 to the audited 2023/2024 Annual Financial Statements, irregular expenditure amounting to R10,704,414 (2023/2024) and R10,893,639 (2022/2023) was incurred due to the incorrect application of Section 67 of the Municipal Finance Management Act (MFMA). The 2022/2023 amount includes a restatement from the originally disclosed R10,793,638 as follows:

Beneficiary	2023/2024	2022/2023
	Amount	Amount
Mossel Bay Tourism	R 6,149,600.00	R 6,318,925.00 *
Joint Operation Centre NPC	R 3,050,000.00	R 3,050,000.00
Garden Route Film Commission	R -	R 40,000.00
Garden Route International Film Festival	R 100,000.00	R 100,000.00
Garden Route Society for the Prevention of Cruelty to Animals	R 1,253,384.00	R 1,253,384.00
Mossel Bay Sport Council	R 131,330.00	R 131,329.93
Boggoms Bay Golf Club	R 20,100.00	R -
	R 10,704,414.00	R 10,893,638.93

2.3 That it be accepted that no discrepancies were identified during the review indicating towards the possibility that the Councillors or officials responsible for the making, permitting or authorising the processes relating to the instances of irregular expenditure, did in fact act deliberately and/or negligently in the execution of their duties.

2.4 That it be accepted that Moore could not obtain proof that any official did not act in good faith.

2.5 That it be accepted that Moore could not obtain proof that any official acted in 'male fides' or personally benefited himself/herself.

2.6 That it be accepted that Moore could not obtain proof that Council suffered any financial losses due to the incident.

2.7 That it be accepted that no official is liable in law for the irregular expenditure.

2.8 That the irregular expenditure of R10 704 414.00 in respect of the 2022/2023 Financial Year and R10 893 638.93 in respect of the 2023/2024 Financial Year be certified as irrecoverable and be written off.

2.8.1 It must be noted that the 2022/2023 Financial Year includes an amount of *R6 358 925.00 in respect of Mossel Bay Tourism already certified as irrecoverable and written off in terms of Resolution E76-04/2024.

2.9 That cognisance be taken that Moore informed that this review was limited to the transactions disclosed in Note 55 of the 2023/2024 AFS and that in light of the guidance issued by the National Treasury in MFMA Circular No. 131 (dated 31 March 2025), Council should ensure that all similar transfers made during the 2022/2023, 2023/2024, and 2024/2025 financial years are reviewed. Any additional irregular expenditure identified should be dealt with in accordance with the requirements of Section 32 of the MFMA.

2.10 That with due consideration of point 2.9 above it be noted that as the 2024/2025 financial year already commenced on 01 July 2024 various donations in respect of the 2024/2025 financial year have already been paid out to beneficiaries and that following implementation of these Resolutions further irregular expenditure may be identified.

3. DB3-04/2025: NATIONAL TREASURY: MFMA CIRCULAR NO. 131: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003: SECTION 67 OF THE MFMA: FUNDS TRANSFERRED BY MUNICIPALITIES TO ORGANISATIONS AND BODIES OUTSIDE THE GOVERNMENT

3.1 That note be taken of MFMA Circular No. 131 received from National Treasury on 31 March 2025 with regard to Section 67 of the MFMA: Funds transferred by Municipalities to Organisations and bodies outside of Local Government.

3.2 That it be noted that the purpose of this Circular is to guide Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of government, (i.e. non-governmental Organisations, NGO's) which also includes non-profit Organisations (NPO's).

3.3 That the Disciplinary Board take note of the principles set out in Circular 131 and recommends that the Municipality aligns itself with the guidance issued by National Treasury as it pertains to Section 67 of the MFMA and in particular:

3.3.1 Transfers made under Section 67 must be non-commercial and not involve the supply of goods or services to the Municipality.

3.3.2 All procurements of goods or services, even from NGOs or NPOs, must be processed in accordance with Section 217 of the Constitution and Chapter 11 of the MFMA.

3.3.3 The use of Section 67 as a substitute for procurement procedures constitutes irregular expenditure and exposes the Municipality to risk of financial misconduct investigations and potential criminal liability.

3.4 That based on legal opinion the Disciplinary Board takes note of the principles contained in the Circular and that the Municipality does not adopt or consider the Circular as binding, but associates with the guidance to Municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when Municipalities transfer funds to Organisations or bodies outside of Government, (i.e. Non-governmental Organisations, NGO's) which also includes non-profit Organisations (NPO's).

3.5 That for remainder of the 2024/2025 financial year all outstanding donations be dealt with separately and that for each donation to be made it be measured against the principles contained in legislation, legal precedent/authority and Circular 131 and that a legal opinion be obtained on each of these donations prior to submission to Council for consideration.

3.6 That the Municipality's Donations and Grants Policy be reviewed to align with the guiding principles contained in MFMA Circular 131 and that a Senior Counsil's opinion be obtained and that the serving of any Councillor or employee as a Director of a non-profit company be revisited, if and when required.

3.6.1 That if deemed necessary other policies also be reviewed.

3.7 That the Municipality seeks declaratory relief in respect of donations or transfers to specific entities where uncertainty remains. These may include, the Local Tourism Bureau, the Joint Operations Centre (JOC); and other similar beneficiaries as may be identified by the Municipality.

3.8 That the objective of the declaratory process is to secure clarity and reduce legal exposure in relation to such transfers.

3.9 That in the event that a donation does not meet the principles contained in Section 67 of the MFMA but is deemed to be a procurement of goods and services the applicable processes in terms of legislation be proceeded with or alternatives be investigated.

3.10 That Circular No. 131 as well as the recommendations contained under this Item also be brought under the attention of Council and Audit Committee as well as all relevant officials identified by the Municipal Manager by the Manager: Risk & Institutional Performance Management.

APPENDIX / BYLAAG

Yes

MINUTES DISCIPLINARY BOARD MEETING HELD IN THE COUNCIL CHAMBER ON THURSDAY, 17 APRIL 2025 AT 10H00

OPENING OF MEETING

Mr. Dippenaar, Chairperson welcomed all present.

PRESENT

Mr. A Dippenaar, Chairperson
Adv. D J Block
Mr. A Saunders
Mr. N Prins, Senior Manager: Legal Services
Ms. M Smit (Invitee)
Mr. H Laufs (Invitee)
Ms. M Koen, Internal Audit (Invitee)

Adv. C van Eetveldt (via Microsoft Teams)

No conflicts of interest were declared.

APOLOGIES

None

ITEM DB2-03/2025

SPECIAL INTERNAL AUDIT REVIEW: MFMA SECTION 67 DONATIONS AND IRREGULAR EXPENDITURE

Reference Number: 4/7/2

The Disciplinary Board has been convened to consider a report pertaining to a special internal audit review of MFMA Section 67 Donations and Irregular Expenditure (hereafter "the Special Internal Audit Review Report").

The Special Internal Audit Review Report was received from Moore Consulting Southern Cape (hereafter "Moore") on 15 April 2025 and was referred to the Disciplinary Board by the Acting Municipal Manager in terms of Regulation 5(1) of the Local Government: Municipal Finance Management Act, No. 56 of 2003: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (hereafter "the Regulations").

Moore conducted a special review to assess the irregular expenditure disclosed in Note 55 of the Audited 2023/2024 Annual Financial Statements (hereafter "AFS"). This expenditure relates to donations made in respect of Section 67 of the MFMA specifically in relation to tourism associations and other non-governmental organisations during the 2022/2023 and 2023/2024 financial years.

The following table summarises the donations disclosed in Note 55 that were identified as irregular expenditure due to non-compliance with provisions of Section 67 of the MFMA.

Beneficiary	2023/2024 Amount	2022/2023 Amount
Mossel Bay Tourism	R 6,149,600.00	R 6,358,924.00 *
Joint Operation Centre NPC	R 3,050,000.00	R 3,050,000.00
Garden Route Film Commission	R -	R -
Garden Route International Film Festival	R 100,000.00	R -
Garden Route Society for the Prevention of Cruelty to Animals	R 1,253,384.00	R 1,253,384.00
Mossel Bay Sport Council	R 131,330.00	R 131,329.93
Boggoms Bay Golf Club	R 20,100.00	R -
	R 10,704,414.00	R 10,793,637.93

**The irregular expenditure amount of R6,358,924 (2022/2023), relating to Mossel Bay Tourism, was already certified as irrecoverable and written off by Council in April 2024.*

The irregular expenditure in terms of the 2022/2023 financial year relating to Mossel Bay Tourism was dealt with during a Disciplinary Board meeting held on 17 April 2024 whereafter recommendations were made to Council.

Council after considering the aforementioned recommendations resolved in terms of Council Resolution E76-04/2024.

The Special Internal Audit Review Report also discusses the Scope of the Review, Approach and Procedures, Limiting Conditions as well as the Legislative References and Policies.

2022/2023 FINANCIAL YEAR

The detailed findings in respect of the 2022/2023 Financial Year are briefly summarized as follows:

1. The following payments to tourism associations and other non-profit corporations as identified on the Collaborator workflow system and the Promun financial system did not correspond to the prior year figures (2022/2023) as disclosed in the Irregular Expenditure Note (Note 55) of the 2023/2024 audited AFS:

Beneficiary	2022/2023					
	Council Resolution Amount	Contract Amount	Promun Amount	2022/2023 AFS Amount	Difference (Contract vs Promun)	Difference (Promun vs AFS)
Mossel Bay Tourism	R 6,318,924.00	R 6,318,924.00	R 6,318,925.00	R 6,358,924.00	R -1.00	R -39,999.00
Joint Operation Centre NPC	R 3,100,000.00	R 3,100,000.00	R 3,050,000.00	R 3,050,000.00	R 50,000.00	R -
Garden Route Film Commission	R 40,000.00	R 40,000.00	R 40,000.00	R -	R -	R 40,000.00
Garden Route International Film Festival*	R 100,000.00	R 100,000.00	R 100,000.00	R -	R -	R 100,000.00
Total Difference	R 10,943,638.00	R 10,943,638.00	R 10,893,639.00	R 10,793,638.00	**R 49,999.00**	**R 100,001.00**

** The difference arose from incorrect year-end cut-off procedures. The transaction was incorrectly captured in June 2022, and, due to human error, was not included in the details for the 2022/2023 period.*

National Treasury issued MFMA Circular No. 131 on the 31st of March 2025 and the outcomes of Moore's evaluations of the donation agreements were conducted in line with the guidance provided in the Circular.

In summary Moore concluded that in all instances that the agreements specifies a specific monetary amount that the Municipality will pay in return for specific goods and/or services and that Section 67 therefore does not apply in respect of the donations made to Mossel Bay Tourism, Joint Operation Centre NPC, Garden Route Film Commission, Garden Route International Film Festival, Garden Route Society for the Prevention of Cruelty to Animals (SPCA) and the Mossel Bay Sport Council and that the expenditure must be disclosed as irregular.

2023/2024 FINANCIAL YEAR

National Treasury issued MFMA Circular No. 131 on the 31st of March 2025 and the outcomes of Moore's evaluations of the donation agreements were conducted in line with the guidance provided in the Circular.

In summary Moore concluded that in all instances the agreements specifies a specific monetary amount that the Municipality will pay in return for specific goods and/or services and that Section 67 therefore does not apply in respect of the donations made to Mossel Bay Tourism, Joint Operation Centre NPC, Garden Route International Film Festival, Garden Route Society for the Prevention of Cruelty to Animals (SPCA), the Mossel Bay Sport Council and Boggoms Bay Golf Club and that the expenditure must be disclosed as irregular.

The results of Moore's investigation in terms of Section 32 of the MFMA are contained in the report subsequent to which the following recommendations are made by Moore as follows:

1. No discrepancies were identified during our review indicating towards the possibility that the councillors or officials responsible for the making, permitting or authorising the processes relating to the instances of irregular expenditure, did in fact act deliberately and/or negligently in the execution of their duties.

2. Moore could not obtain proof that any official did not act in good faith.

3. Moore could not obtain proof that Council suffered any financial losses due to the incident.

4. Moore could not obtain proof that any official acted in *'male fides'* or personally benefited himself/herself.

5. Moore advises the Disciplinary Board that in their opinion:

    5.1 As disclosed in Note 55 to the audited 2023/2024 Annual Financial Statements, irregular expenditure amounting to R10,704,414 (2023/2024) and R10,893,639 (2022/2023) was incurred due to the incorrect application of Section 67 of the

Municipal Finance Management Act (MFMA). The 2022/2023 amount includes a restatement from the originally disclosed R10,793,638.

A breakdown of the irregular expenditure is provided below:

Beneficiary	2023/2024 Amount	2022/2023 Amount
Mossel Bay Tourism	R 6,149,600.00	R 6,318,925.00 *
Joint Operation Centre NPC	R 3,050,000.00	R 3,050,000.00
Garden Route Film Commission	R -	R 40,000.00
Garden Route International Film Festival	R 100,000.00	R 100,000.00
Garden Route Society for the Prevention of Cruelty to Animals	R 1,253,384.00	R 1,253,384.00
Mossel Bay Sport Council	R 131,330.00	R 131,329.93
Boggoms Bay Golf Club	R 20,100.00	R -
	R 10,704,414.00	R 10,893,638.93

The irregular expenditure amount of R6,358,924, relating to Mossel Bay Tourism (2022/2023), was already certified as irrecoverable and written off by Council in April 2024

5.2 No official is liable in law for the irregular expenditure;

5.3 That the irregular expenditure be certified as irrecoverable and be written off; and

5.4 Council should be informed that this review was limited to the transactions disclosed in Note 55 of the 2023/2024 AFS. In light of the guidance issued by the National Treasury in MFMA Circular No. 131 (dated 31 March 2025), Council should ensure that all similar transfers made during the 2022/2023, 2023/2024, and 2024/2025 financial years are reviewed. Any additional irregular expenditure identified should be dealt with in accordance with the requirements of Section 32 of the MFMA.

With due consideration of point 5.4 above it must be noted that as the 2024/2025 financial year already commenced on 01 July 2024 various donations in respect of the 2024/2025 financial year have already been paid out to beneficiaries and that following implementation of these Resolutions further irregular expenditure may be identified.

After a detailed discussion by the Board and after taking all information into consideration it was;

Unanimously

RESOLVED

1. That cognisance be taken of the report received from the Internal Auditors (Moore Consulting Southern Cape) dated 15 April 2025 and that it be accepted as a full investigation into the irregular expenditure disclosed in Note 55 of the Audited 2023/2024 Annual Financial Statements relating to donations made in respect of Section 67 of the MFMA to tourism associations and other non-governmental organisations during the 2022/2023 and 2023/2024 financial years.

2. That as disclosed in Note 55 to the audited 2023/2024 Annual Financial Statements, irregular expenditure amounting to R10,704,414 (2023/2024) and R10,893,639 (2022/2023) was incurred due to the incorrect application of Section 67 of the Municipal Finance Management Act (MFMA). The 2022/2023 amount includes a restatement from the originally disclosed R10,793,638 as follows:

Beneficiary	2023/2024 Amount	2022/2023 Amount
Mossel Bay Tourism	R 6,149,600.00	R 6,318,925.00 *
Joint Operation Centre NPC	R 3,050,000.00	R 3,050,000.00
Garden Route Film Commission	R -	R 40,000.00
Garden Route International Film Festival	R 100,000.00	R 100,000.00
Garden Route Society for the Prevention of Cruelty to Animals	R 1,253,384.00	R 1,253,384.00
Mossel Bay Sport Council	R 131,330.00	R 131,329.93
Boggoms Bay Golf Club	R 20,100.00	R -
	R 10,704,414.00	R 10,893,638.93

3. That it be accepted that no discrepancies were identified during the review indicating towards the possibility that the councillors or officials responsible for the making, permitting or authorising the processes relating to the instances of irregular expenditure, did in fact act deliberately and/or negligently in the execution of their duties.

4. That it be accepted that Moore could not obtain proof that any official did not act in good faith.

5. That it be accepted that Moore could not obtain proof that any official acted in *'male fides'* or personally benefited himself/herself.

6. That it be accepted that Moore could not obtain proof that Council suffered any financial losses due to the incident.

7. That it be accepted that no official is liable in law for the irregular expenditure.

8. That the irregular expenditure of R10 704 414.00 in respect of the 2022/2023 Financial Year and R10 893 638.93 in respect of the 2023/2024 Financial Yar be certified as irrecoverable and be written off.

   8.1 It must be noted that the 2022/2023 Financial Year includes an amount of *R6 358 925.00 in respect of Mossel Bay Tourism already certified as irrecoverable and written off in terms of Resolution E76-04/2024.

9. That cognizance be taken that Moore informed that this review was limited to the transactions disclosed in Note 55 of the 2023/2024 AFS and that in light of the guidance issued by the National Treasury in MFMA Circular No. 131 (dated 31 March 2025), Council should ensure that all similar transfers made during the 2022/2023, 2023/2024, and 2024/2025 financial years are reviewed. Any additional irregular expenditure identified should be dealt with in accordance with the requirements of Section 32 of the MFMA.

10. That with due consideration of point 5.4 above it be noted that as the 2024/2025 financial year already commenced on 01 July 2024 various donations in respect of the 2024/2025 financial year have already been paid out to beneficiaries and that following implementation of these Resolutions further irregular expenditure may be identified.

DB3-04/2025

NATIONAL TREASURY: MFMA CIRCULAR NO. 131: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003: SECTION 67 OF THE MFMA: FUNDS TRANSFERRED BY MUNICIPALITIES TO ORGANISATIONS AND BODIES OUTSIDE THE GOVERNMENT

The MFMA Circular No. 131 was issued by National Treasury on the 31st of March 2025 in respect of Section 67 of the MFMA. The Circular relates to funds transferred by municipalities to organisations and bodies outside the government.

The purpose of the Circular is to guide municipalities on the implementation of Section 67 of the MFMA relating to instances when municipalities transfer funds to organisations or bodies outside of government, i.e non-governmental organisations (NGO's), which also includes nonprofit organisations (NPO's). The Circular includes an Annexure, which outlines examples of instances where National Treasury is of the opinion that municipalities must follow procurement processes instead of making a transfer payment as contemplated in terms of Section 67 of the MFMA.

The Circular makes various important statements and continues to discuss financial misconduct, financial offence and other offences, the requirement to provide audited financial statements, general budgeting requirements of Section 67 transfers, NGO's serving the poor/indigent as well as providing a Section 67 application process timeline before concluding as follows:

"The municipality's accounting officer must ensure that this Circular, including the Annexure to this Circular, are tabled in the next available Municipal Council meeting by submitting the Circular to the municipality's Speaker as an Annexure to a Council item. The contemplated Council item should explain the Circular and the impact of the Circular on the municipality's operations and policies. The Circular must also be brought to the attention of officials within the municipality, including the municipality's disciplinary board and the audit committee."

The Disciplinary Board discussed the various aspects of the Circular as well as the important statements made with inputs from the members.

With due regard to previous Auditor-General findings of irregular expenditure with Section 67 donations being made by the Municipality the Circular was accordingly submitted for a legal opinion to external attorneys who also obtained an Advocate's opinion.

The Attorney was unfortunately not able to attend the Disciplinary Board Meeting, but the Advocate was available and connected via Microsoft Teams.

The Advocate provided clarification and answered questions where there was uncertainty or clarification was needed in relation the proposed way forward.

The opinion obtained is reflected in the recommendations from the Disciplinary Board as set out hereunder.

After a detailed discussion by the Board it was unanimously,

RESOLVED

1. That note be taken of MFMA Circular No. 131 received from National Treasury on 31 March 2025 with regard to Section 67 of the MFMA: Funds transferred by municipalities to organisations and bodies outside of local government.

2. That it be noted that the purpose of this Circular is to guide municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when municipalities transfer funds to organisations or bodies outside of government, (i.e. non-governmental organisations, NGO's) which also includes non-profit organisations (NPO's).

3. That the Disciplinary Board take note of the principles set out in Circular 131 and recommends that the Municipality aligns itself with the guidance issued by National Treasury as it pertains to section 67 of the MFMA and in particular:

    3.1 Transfers made under section 67 must be non-commercial and not involve the supply of goods or services to the Municipality.

    3.2 All procurements of goods or services, even from NGOs or NPOs, must be processed in accordance with section 217 of the Constitution and Chapter 11 of the MFMA.

    3.3 The use of section 67 as a substitute for procurement procedures constitutes irregular expenditure and exposes the Municipality to risk of financial misconduct investigations and potential criminal liability.

4. That based on legal opinion the Disciplinary Board takes note of the principles contained in the Circular and that it is recommended that the Municipality not adopt or consider the Circular as binding, but associates with the guidance to municipalities on the implementation of Section 67 in the Municipal Finance Management Act, No. 56 of 2003 (MFMA) relating to instances when municipalities transfer funds to organisations or bodies outside of government, (i.e. non-governmental organisations, NGO's) which also includes non-profit organisations (NPO's).

5. That for remainder of the 2024/2025 financial year all outstanding donations be dealt with separately and that for each donation to be made it be measured against the principles contained in legislation, legal precedent/authority and Circular 131 and that a legal opinion be obtained on each of these donations prior to submission to Council for consideration.

6. That the Municipality's Donations and Grants Policy be reviewed to align with the guiding principles contained in MFMA Circular 131 and that a Senior Counsel's opinion be obtained and that the serving of any Councillor or employee as a director of a non-profit company be revisited, if and when required.

   6.1 That if deemed necessary other policies also be reviewed.

7 That the Municipality seeks declaratory relief in respect of donations or transfers to specific entities where uncertainty remains. These may include, the Local Tourism Bureau, the Joint Operations Centre (JOC); and other similar beneficiaries as may be identified by the Municipality.

8. That the objective of the declaratory process is to secure clarity and reduce legal exposure in relation to such transfers.

9. That in the event that a donation does not meet the principles contained in Section 67 of the MFMA but is deemed to be a procurement of goods and services the applicable processes in terms of legislation be proceeded with or alternatives be investigated.

10. That Circular No. 131 as well as the recommendations contained under this item also be brought under the attention of Council and Audit Committee as well as all relevant officials identified by the Municipal Manager by the Manager: Risk & Institutional Performance Management.

The Meeting adjourned at 10:55

A DIPPENAAR
CHAIRPERSON

17/4/2025
DATE

E91-04/2025

APPLICATION FOR EXEMPTION OF COSTS PAYABLE FOR WATER CONNECTION DEPOSITS AND NEW WATER METER CONNECTIONS FOR IN BUISPLAAS

File Number:

Report By: NELE

Item Reference Number: 13125055

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of this Item is for Council to consider the exemption of costs related to the connection and installation of new water meters in Buisplaas. The Rural Development Office, with the assistance of the Buisplaas Residence Association, identified individuals / households who do not have access to their own water connections.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

Buisplaas is deemed as private land that belongs to the residents and not formalised yet, due to practical difficulties and owners being spread around the world. The community of Buisplaas is characterized by poverty and faces difficulties like unemployment and a large percentage of the residents, relies on social grants.

One of the challenges that the individuals/households are facing as communicated by the Buisplaas Residence Association to the Rural Development Office in March 2024 is that of the lack of water meters at 12 individuals/households. All households in Buisplaas are registered as indigent and therefore receive 6kl water for free each month. Since these 12 identified individuals to not have access to their own water connections, the get water from neighbours resulting in the neighbours using more than their allocated amount of free water. The neighbours then must pay additional costs for water they did not use.

The Rural Development Office together with the Buisplaas Residence Association, conducted a site visit in Buisplaas, and identified the following individuals / households that do not have their own access to a water meter:

NAME AND SURNAME	ID NUMBER
Maree Thompson	760520 0180 080
Nathan Jantjies	900214 6109 084
Michelle Baker	850513 0249 089
Allen Buis	700707 5909 083
Doney Buis	881118 0156 087

Lu Anne Bredenkamp	811023 0287 087
Marion Lodewyk	880725 0170 087
Westley Snel	901224 5132 085
Henry Frederick Buis	510131 5070 087
Jacobus Jantjies	750629 5149 081
Godfrey Prins	920711 5191 084
Maggie Pikaan	820722 0424 082

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

The cost for the deposit for a new meter is R1 220,00 and the cost for a new water meter is R4 300,00.

The total cost for 12 deposits and 12 new water meters is R66 240,00.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Systems Act No 32 of 2000.

The Local Government: Municipal Finance Management Act, No 56 of 2003.

COMMENTS FROM FINANCIAL SERVICES

Not supported - refer to informal comments.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

No further comments.

COMMENTS FROM TECHNICAL SERVICES

Supported.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

Supported.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted for exempting the 12 individuals/households in Buisplaas as listed above, from the costs of the water deposit and installation of new water meters.

RECOMMENDATION

1. That Council takes cognisance of the request received from the Buisplaas Residence Association for the exemption of the water connection deposit and new water meters.

2. That the following individuals/households were identified not to have their own water connections:

NAME AND SURNAME	ID NUMBER
Maree Thompson	760520 0180 080
Nathan Jantjies	900214 6109 084
Michelle Baker	850513 0249 089
Allen Buis	700707 5909 083
Doney Buis	881118 0156 087
Lu Anne Bredenkamp	811023 0287 087
Marion Lodewyk	880725 0170 087
Westley Snel	901224 5132 085
Henry Frederick Buis	510131 5070 087
Jacobus Jantjies	750629 5149 081
Godfrey Prins	920711 5191 084
Maggie Pikaan	820722 0424 082

3. That the amount of R1 220,00 per individual/household be exempted for the water connection deposit for the 12 affected individuals/households as listed in recommendation 2.

4. That the amount of R4 300,00 per individual/household be exempted for the new water meters for the 12 affected individuals/households as listed in recommendation 2.

5. That the water meters be installed as a matter of urgency for the 12 affected individuals/households as listed in recommendation 2.

E92-04/2025

REPLACEMENT OF ALDERLADY V FORTUIN ON THE LOCAL LABOUR FORUM

File Number:

Report By: PICKM

Item Reference Number: 12456366

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Council Resolution E329-11/2024 it was resolved that the following Councillors be appointed to serve on the Local Labour Forum:

The Speaker, Alderlady V Fortuin
Councillor A Janse van Rensburg
Councillor W Botha
Councillor N Le Roux
Councillor S Dubula
Councillor M Welman (Sec)

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

The above Council Resolution is now submitted to Council to replace Alderlady V Fortuin on the Local Labour Forum due to work related pressures associated with her role as Speaker and that a replacement for Alderlady V Fortuin as a member on the Local Labour Forum be appointed.

RECOMMENDATION

That a replacement for Alderlady V Fortuin be appointed to serve as a member on the Local Labour Forum.

E93-04/2025

SECTION 67: LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56 OF 2003: CONDITIONAL GRANT: 2024/2025: MOSSEL BAY SPORT COUNCIL

File Number:

Report By: SMIT M

Item Reference Number: 13186124

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of the Item is for Council to consider the request from Mossel Bay Sport Council in respect of the Annual Conditional Grant for the 2024/2025 financial year.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

The Municipality allocates a conditional grant to Mossel Bay Sport Council on an annual basis in terms of Section 67 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 ("MFMA") in accordance with the Municipality's objective to promote a safe and healthy environment as per Section 152 of the Constitution.

The Mossel Bay Sport Council was established during or about 2012 with their objectives of assisting sporting codes to *inter alia* Draft Constitutions, providing support and assistance with applications for funding and sponsorships and to promote sport and sport development in the Mossel Bay area.

An amount of R136 500.00 (VAT excluding) has been provided for the Mossel Bay Sport Council in the 2024/2025 budget under Vote 9/620-57-15015. The attached letter, marked as Annexure A was received from the Mossel Bay Sport Council indicating their request for a grant and their proposed expenditure thereof.

As a result of legal advice received that the outstanding donation applications received for the remainder of the 2024/2025 financial year be dealt with separately and be measured against the principles contained in legislation and Circular 131, the following external advice was received from counsel and summarized as follows.

Sponsorship to sport Organisations is co-incidentally dealt with in Circular 131. The examples highlighted by Treasury as irregular can in principle not be faulted. In both instances the subject Municipality involved procured a service concomitant with the grant. Firstly, by procuring advertising for the Municipality, and secondly, complimentary tickets for Councillors and officials (this is an egregious example of an abuse). But a grant to a sports organiser such as the Mossel Bay Sport Council (MSC) is in principle acceptable.

One of the objectives of the MSC is to assist the Municipality in developing and maintaining a sports programme and facilities (bullet one of the MSC application).

It is CounsIl's view that this is problematic as it does amount to providing a service to the Municipality. If the MSC is kept to an undertaking to do this the relationship is not unrequited

in substance. If this is a service that the Municipality requires it should follow a procurement process.

It can remain a constitutional objective for the MSC as it may conceivably perform such a function pursuant to a procurement process, but no such obligation must be included in any agreement, also not impliedly or tacitly.

Obviously, the activities of the MSC will benefit the Municipality indirectly as it will contribute to *inter alia*, the welfare of its residents. This indirect benefit does not constitute "goods or services" as envisaged in the procurement prescripts.

It is further counsel's view that the Municipality would be acting aligned with the provisions of Section 67 in respect of the grant to the MSC provided that that the aspects referred to have been addressed as they do amount to the provision of services and should be procured.

Counsel is not of the view that the substance of the grant amounts to the provision of services. The objective to assist the Municipality with sports planning seems insignificant and not a function that will be outsourced in any instance. It seems to be an incident of the grant and would not have influenced the grant. The wording of the agreement with the MSC can serve to mitigate the problem statement.

In accordance with Section 67 of the MFMA the accounting officer must be satisfied that the organization or body has the capacity and has agreed –

- To comply with any agreement with the Municipality;

- For the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;

- To report at least monthly to the accounting officer on actual expenditure against such transfer; and

- To submit its audited financial statements for its financial year to the accounting officer promptly;

The organization or body must also implement effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement and have in respect of previous similar transfers complied with all the requirements of this Section 67.

With due consideration of the aforementioned, the Municipality will enter into a conditional grant agreement with the Mossel Bay Sport Council setting out the terms and conditions of the grant and that the conditions contained in the agreements are aimed at ensuring that funds donated are utilized for its intended purpose.

COMMENTS FROM FINANCIAL SERVICES

No further comments.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

No further comments.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

No further comments.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

An amount of R136 500.00 VAT excluded has been provided for in the 2024/2025 budget under Vote 9/620-57-15015.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Constitution.

The Local Government: Municipal Finance Management Act, No. 56 of 2003.

CONCLUSION / SAMEVATTING

An application has been received from the Mossel Bay Sport Council in respect of a grant for the 2024/2025 financial year and as this will assist in promoting a safe and healthy environment as per the Municipality's objectives contained in Section 152 of the Constitution the following recommendations are for Council's consideration.

RECOMMENDATION

1. That the application received from the Mossel Bay Sport Council in respect of a grant for the 2024/2025 financial year as per Annexure A attached hereto be approved subject to the conditions set hereunder.

2. That an amount of R136 500.00 (VAT excluding) be allocated towards Mossel Bay Sport Council as a conditional grant in respect of the 2024/2025 financial year in

accordance with the Municipality's objective to promote a safe and healthy environment in terms of Section 152 of the Constitution.

3. That cognisance be taken that the allocation as per Point 2 above has been provided for under Vote 9/620-57-15015.

4. That an appropriate Conditional Grant Agreement be entered into between the parties as per the requirements of Section 67 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 setting out the terms and conditions of the grant

5. That the grant be utilized for the intended purposes as stated in the Mossel Bay Sport Council's application and that the conditions contained in the agreement are aimed at ensuring that funds donated are utilized for its intended purpose.

6. That in order to comply with the conditions of donations and in terms of the advice received from external counsel the following be specifically excluded from the donation and contained as such in the agreement namely:

    6.1 To assist the Municipality in developing and maintaining a sports programme and facilities or any other obligation to the Municipality whether implied or tacitly.

7. That as required in terms of Section 67 of the MFMA monthly reports be submitted to the accounting officer by the Mossel Bay Sport Council on actual expenditure against the donation and that the Director: Community Services ensure that Item 6 above be complied with.

8. That the Municipal Manager be delegated to conclude, negotiate and sign the Conditional Grant Agreement on behalf of the Municipality.

9. That no rights will vest prior to the signing of an appropriate Conditional Grant Agreement between the parties.

APPENDIX / BYLAAG

YES

ANNEXURE A

A1

Chairperson: Rustin Constance **Secretary: Charmaine Prins**
Email address: mbaysc@gmail.com

Ms Y van der Berg

Mossel Bay Municipality – Legal Services

101 Marsh Street

Per e-mail: yvanderberg@mosselbay.gov.za

CC: enel@mosselbay.gov.za

Dear Madam

MOSSEL BAY SPORT COUNCIL APPLICATION FOR GRANT FUNDING

The telecon of 12 March refers with the chairperson, Rustin Constance, refers.

The Mossel Bay Sport Council (MBSC) currently has approximately 50 fully paid-up sport and recreational clubs. These clubs represent sporting codes from the different areas in Mossel Bay from Friemersheim up to Herbertsdale. Various sporting codes are represented, not only the main stream sports like soccer, rugby & netball but it also includes arm wrestling, bowls, klawerjas, karate and sailing. Participating in any sporting code is promoted and new members are encouraged to join the MBSC.

The objectives, as per the constitution, are as follows:

- Assist the municipality in developing and maintaining sports programs and facilities.
- Promote coordination between members, civil society, the Department of Culture and Sport Affairs (DCAS), Eden Sport Council (ESC) and local government to advance sport development.
- Secure benefits for members, such as sponsorships and partnerships.
- Champion the interests of women, disabled athletes and school sports.
  Influence municipal policies to prioritize sports in Mossel Bay.
- Drive equity in sports for all citizens of Mossel Bay.
  Foster collaboration and create local associations across various sporting codes.

A2

Other initiatives & activities, which is mainly limited to the Mossel Bay Municipal area, includes:

- Hosting of the annual Mossel Bay Sport awards which acknowledges the sporting achievements of the participants across the various divers sporting codes.
- Providing financial support to athletes and clubs as per the MBSC financial criteria
- Training which may include first aid, governance & financial workshops, safeguarding. These events is aimed to be hosted in collaboration with the EDEN SPORT COUNCIL & the DEPARTMENT OF CULTURE AFFARS & SPORT. (We recently have had fruitful engagements with these stakeholders)
- Assist with the annual GARDEN ROUTE CASINO COMMUNITY TRUST disbursement of sporting equipment funding to clubs

Please refer to Annexture A for the schedule of payments breakdown of the grant funding.

The Mossel Bay Sport Council would like to apply for funding of R136,500 in support of the activities as Annexture A.

Sport greetings



Rustin Constance

13 March 2025

A3

ANNEXURE A

SCHEDULE OF PAYMENTS

	1 Jul – 30 Sep 2024	**1 Oct – 31 Dec 2024**	**1 Jan – 31 Mar 2025**	**1 Apr – 30 Jun 2025**
	Quarter 1	**Quarter 2**	**Quarter 3**	**Quarter 4**
Hosting of Annual Sport award event	R13,750	R13,750	R13,750	R13,750
Promoting and assisting sport development	R14,125	R14,125	R14,125	R14,125
Assisting with funding application	R1,250	R1,250	R1,250	R1,250
Special project: Sports Development Day	R5,000	R5,000	R5,000	R5,000
Total Amount (excl. VAT)	**R34,125**	**R34,125**	**R34,125**	**R34,125**

E94-04/2025

APPLICATION FOR THE RENEWAL OF THE LEASE AGREEMENT OF A PORTION OF ERF 6118, SITUATED AT THE CORNER OF UMTATA CRESCENT AND CARELSE STREET, ASLA PARK, KWANONQABA (±46M²): RICH REWARD LEASING PTY LTD

File Number: 15/4/31/15/5

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE40-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.
2. That Council Resolution E342-11/2024, be implemented as follows:

   "1. That approval be granted to the Applicant, Rich Reward Leasing (Pty) Ltd for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months, to be utilised for Communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior the date of escalation in terms of the Agreement.

   2. *That the applicable electricity tariff be levied as determined by the Directorate: Infrastructure Services.*

   3. *That, in the event of any changes to the installation, the necessary building plans be in an A3 format and be submitted to Directorate: Planning and Economic Development.*

   4. *That no other structures may be erected on the property without the prior written approval of the Municipality.*

   5. *That no structural changes or improvements may be effected without prior written approval of the Municipality.*

   6. *That the Applicant will not sublet the site or any portion thereof without the prior written approval of the Municipality.*

   7. *That the Applicant will be responsible for the maintenance of the site in good and tidy conditions to the satisfaction of the Municipality.*

8. *That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of Municipal services.*

9. *That the Applicant will be responsible for the payment of all Municipal services in respect of the site to the satisfaction of the Manager: Income Section.*

10. *That the Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.*

11. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

12. *That no rights and/or obligations be vested prior to final approval by Council and the Lease Agreement being signed by both parties."*

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"This Item is submitted to Council to acquire approval for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), to Rich Reward Leasing (Pty) Ltd, for a period of nine (9) years and eleven (11) months, to be utilised for Communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, since it is not required for basic municipal purposes.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

During Council Meeting held on 28 November 2024, Council Resolution E342-11/2024, it was resolved as follows:

"1. That approval be granted to the Applicant, Rich Reward Leasing (Pty) Ltd for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months, to be utilised for communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior the date of escalation in terms of the agreement.

2. That the applicable electricity tariff be levied as determined by the Directorate: Infrastructure Services.

3. That in the event of any changes to the installation, the necessary building plans be in an A3 format and be submitted to Directorate: Planning and Economic Development.

4. That no other structures may be erected on the property without the prior written approval of the Municipality.

5. That no structural changes or improvements may be effected without prior written approval of the Municipality.

6. That the Applicant will not sublet the site or any portion thereof without the prior written approval of the Municipality.

7. *That the Applicant will be responsible for the maintenance of the site in good and tidy conditions to the satisfaction of the Municipality.*

8. *That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of Municipal services.*

9. *That the Applicant will be responsible for the payment of all Municipal services in respect of the site to the satisfaction of the Manager: Income Section.*

10. *That the Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.*

11. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

12. *That the Public Participation Process, as prescribed in the relevant legislation, be followed.*

13. *That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.*

14. *That, after the completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.*

15. *That no rights and/or obligations be vested prior to final approval by Council and the Lease Agreement being signed by both parties."*

The prescribed Public Participation Process was duly followed and the Council Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received.

The property is not required for the rendering of the minimum level of basic municipal services and can therefore be leased.

A copy of the Locality Plan was annexed, marked 'B'.

In terms of Regulation 36 of the Asset Transfer Regulations R878, the Municipal Council must, when considering approval for any proposed granting of the right to use, control or manage a capital asset, take into account:

(a) whether the capital asset will be required for the Municipality's own use during the period for which the right is to be granted;

This portion of the asset is not required for Municipal use.

(b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the Municipality;

There will be financial benefit to the Municipality through the monthly rental to be received.

(c) the risks and rewards associated with the use, control or management of the capital asset in relation to the Municipality's interests;

No risks are involved, and the utilisation of the asset will be to the benefit of the community of Mossel Bay.

(d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;

The required Public Participation Process was followed and no objections were received to the application for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months.

(e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant Provincial Treasury;

The Municipal Valuer determined the market related value of this portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²) at R730 000,00 (VAT inclusive). The market related rental of this portion (±46m²) was determined at an amount of R4 860,00 (VAT inclusive) per month.

The lease period of the property is less than ten years. Therefore the written views and recommendations of the National Treasury and the relevant Provincial Treasury are not required.

(f) 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

The rental of the property is to the benefit of the local community.

(g) compliance with the legislative regime applicable to the proposed granting of the right.

The application is in compliance with:

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Assets Management Policy.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

The Municipality will gain by receiving monthly rental as well as services fees from the Applicant.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003; Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted to the Applicant, Rich Reward Leasing (Pty) Ltd for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months, to be utilised for Communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior the date of escalation in terms of the agreement.

RECOMMENDATION

That the following recommendation be made to Council:

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.

2. That Council Resolution E342-11/2024, be implemented as follows:

   "1. That approval be granted to the Applicant, Rich Reward Leasing (Pty) Ltd for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months, to be utilised for Communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior the date of escalation in terms of the Agreement.

   2. *That the applicable electricity tariff be levied as determined by the Directorate: Infrastructure Services.*

   3. *That, in the event of any changes to the installation, the necessary building plans be in an A3 format and be submitted to Directorate: Planning and Economic Development.*

   4. *That no other structures may be erected on the property without the prior written approval of the Municipality.*

   5. *That no structural changes or improvements may be effected without prior written approval of the Municipality.*

   6. *That the Applicant will not sublet the site or any portion thereof without the prior written approval of the Municipality.*

   7. *That the Applicant will be responsible for the maintenance of the site in good and tidy conditions to the satisfaction of the Municipality.*

   8. *That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of Municipal services.*

   9. *That the Applicant will be responsible for the payment of all Municipal services in respect of the site to the satisfaction of the Manager: Income Section.*

10. *That the Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.*

11. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

12. *That no rights and/or obligations be vested prior to final approval by Council and the Lease Agreement being signed by both parties."*

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE40-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.

2. That Council Resolution E342-11/2024, be implemented as follows:

"1. That approval be granted to the Applicant, Rich Reward Leasing (Pty) Ltd for the renewal of the Lease Agreement of a portion of Erf 6118, situated at the corner of Umtata Crescent and Carelse Street, Asla Park, kwaNonqaba (±46m²), for a period of nine (9) years and eleven (11) months, to be utilised for Communication purposes, at a market related rental amount of R4 860,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior the date of escalation in terms of the Agreement.

2. *That the applicable electricity tariff be levied as determined by the Directorate: Infrastructure Services.*

3. *That, in the event of any changes to the installation, the necessary building plans be in an A3 format and be submitted to Directorate: Planning and Economic Development.*

4. *That no other structures may be erected on the property without the prior written approval of the Municipality.*

5. *That no structural changes or improvements may be effected without prior written approval of the Municipality.*

6. *That the Applicant will not sublet the site or any portion thereof without the prior written approval of the Municipality.*

7. *That the Applicant will be responsible for the maintenance of the site in good and tidy conditions to the satisfaction of the Municipality.*

8. *That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of Municipal services.*

9. *That the Applicant will be responsible for the payment of all Municipal services in respect of the site to the satisfaction of the Manager: Income Section.*

10. *That the Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.*

11. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

12. *That no rights and/or obligations be vested prior to final approval by Council and the Lease Agreement being signed by both parties."*

E95-04/2025

ALIENATION OF ERF 12980, TARKA (±243M²), SITUATED IN STOMPSTERTJIE STREET, MOSSEL BAY, BY MEANS OF THE TENDER PROCESS

File Number: 7/2/2/3

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE41-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That, due to the demand for Residential property, approval be granted for the alienation of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, as indicated on the Locality Plan marked 'B', since it is not required for basic municipal purposes, by means of the Tender Process, as prescribed in terms of the Supply Chain Management Regulations and Policy, to be utilised for Residential purposes.

2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that Erf 12980, Tarka be utilised for Residential purposes only and should the successful Bidder fail to establish such building and obtain an Occupancy Certificate for the required purpose within thirty six (36) months from date of registration and not use the property as specified, the erf will revert back to the Municipality for the same amount as the original purchase price.

3. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.

4. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
5. That the alienation is subject to the approval of a Land Use Application in terms of the Mossel Bay By-Law on Municipal Land Use Planning, if applicable.
6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
7. That the successful Bidder will not alter or in any way disturb any existing services on the above-mentioned property, without permission from the Municipality.
8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.
9. That, as it would be in the public interest to alienate the property for residential purposes, no reserve price be determined and that the market related value be determined by the bids received.
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.
13. That no rights and/or obligations will vest herein before the Deed of Sale is signed by both parties."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The purpose of this Item is for Council to consider the alienation of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, since it is not required for basic municipal purposes, by means of the tender process in terms of the Supply Chain Management Regulations and Policy, to be utilised for Residential purposes.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

An application was received from CH Jones (hereinafter referred to as the Applicant), to purchase Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, to be utilised for Parking purposes.

A copy of the Application was annexed, marked 'A'.

The Town Planning Section stated the following:

"The proposed alienation is supported by the Town Planning Section. Whether the property is serviced or not, will be at the cost of the Applicant/or property Owner.

Due to the demand for residential erven, it is recommended that the property be put on tender."

Due to the demand for residential property, it is proposed that Erf 12980, Tarka be alienated by means of the Tender Process in terms of the Supply Chain Management Regulations and Policy to be utilised for Residential purposes. The Tender Process will ensure that the alienation is fair, equitable, transparent, competitive and cost-effective.

Erf 12980, Mossel Bay, is zoned as Single Residential Zone I.

A copy of the Locality Plan was annexed, marked 'B'.

The Municipal Valuer determined the market value of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, at R190 000,00 (VAT inclusive).

A copy of the Valuer's Report was annexed, marked 'C'.

Erf 12980, Mossel Bay (243m²), is listed on the Municipal Asset Register at a book value of R20 000,00 and classified as Investment Property.

This capital asset is not needed to provide the minimum level of basic municipal services and can therefore be alienated. The economic value will be the highest bid received and the community value is the provision of a residential opportunity to a successful Bidder.

In accordance with the provisions of Regulation 5(3)(b) of the Municipal Asset Transfer Regulations R878 of 2008, a request to the Municipal Council for authorisation of a Public Participation Process must be accompanied by an information statement stating:

(i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;

The current market value of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay to be sold was determined at R190 000,00 (VAT inclusive).

(ii) The reasons for the proposal to transfer or dispose of the capital asset;

The Municipality intends to alienate Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay by means of the Tender Process, to be utilised for Residential purposes.

(iii) any expected benefits to the Municipality that may result from the transfer or disposal;

The Municipality will benefit through the income of the purchase price as well as service fees and rates and taxes.

(iv) any expected proceeds to be received by the Municipality from the transfer or disposal; and

The Municipality will receive payment of the purchase price.

(v) any expected gain or loss that will be realised or incurred by the Municipality arising from the transfer or disposal.

Comments received from Directorate: Financial Services are as follows:

"Erf 12980, Mossel Bay (243m²) is listed on the Municipal Asset Register at a book value of R20 000,00 and classified as Investment Property."

Directorate: Financial Services has no objection to the proposed alienation by means of the Tender Process.

The Municipality will gain through the income of the purchase price as well as service fees and rates and taxes.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

Income to the Municipality by receiving the purchase price as well as service fees and rates and taxes.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Supply Chain Management Policy.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted for the alienation of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, as indicated on the Locality Plan marked 'B', since it is not required for basic municipal purposes, by means of the Tender Process, as prescribed in terms of the Supply Chain Management Regulations and Policy, to be utilised for Residential purposes.

RECOMMENDATION

That the following recommendation be made to Council:

1. That, due to the demand for Residential property, approval be granted for the alienation of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, as indicated on the Locality Plan marked 'B', since it is not required for basic municipal purposes, by means of the Tender Process, as prescribed in terms of the Supply Chain Management Regulations and Policy, to be utilised for Residential purposes.
2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that Erf 12980, Tarka be utilised for Residential purposes only and should the successful Bidder fail to establish such building and obtain an Occupancy Certificate for the required purpose within thirty six (36) months from date of registration and not use the property as specified, the erf will revert back to the Municipality for the same amount as the original purchase price.
3. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
4. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
5. That the alienation is subject to the approval of a Land Use Application in terms of the Mossel Bay By-Law on Municipal Land Use Planning, if applicable.
6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
7. That the successful Bidder will not alter or in any way disturb any existing services on the above-mentioned property, without permission from the Municipality.
8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.

9. That, as it would be in the public interest to alienate the property for residential purposes, no reserve price be determined and that the market related value be determined by the bids received.

10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.

11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.

12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

13. That no rights and/or obligations will vest herein before the Deed of Sale is signed by both parties."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE41-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That, due to the demand for Residential property, approval be granted for the alienation of Erf 12980, Tarka (±243m²), situated in Stompstertjie Street, Mossel Bay, as indicated on the Locality Plan marked 'B', since it is not required for basic municipal purposes, by means of the Tender Process, as prescribed in terms of the Supply Chain Management Regulations and Policy, to be utilised for Residential purposes.

2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that Erf 12980, Tarka be utilised for Residential purposes only and should the successful Bidder fail to establish such building and obtain an Occupancy Certificate for the required purpose within thirty six (36) months from date of registration and not use the property as specified, the erf will revert back to the Municipality for the same amount as the original purchase price.

3. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.

4. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.

5. That the alienation is subject to the approval of a Land Use Application in terms of the Mossel Bay By-Law on Municipal Land Use Planning, if applicable.

6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.

7. That the successful Bidder will not alter or in any way disturb any existing services on the above-mentioned property, without permission from the Municipality.

8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.
9. That, as it would be in the public interest to alienate the property for residential purposes, no reserve price be determined and that the market related value be determined by the bids received.
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.
13. That no rights and/or obligations will vest herein before the Deed of Sale is signed by both parties.

E96-04/2025

PROPOSED ALIENATION OF A PORTION OF ERF 2001, MOSSEL BAY (UNREGISTERED ERF 4181, KWANONQABA) (±1 558.36M²), SITUATED IN SIMANYANA STREET, KWANONQABA, MOSSEL BAY: ZION CHRISTIAN CHURCH

File Number: 7/2/2/3

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE42-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to Zion Christian Church, at ten percent (10%) of the market value, at a purchase price of R180 000,00 (VAT inclusive), in terms of Section 40(2)(b)(i) of the Municipal Supply Chain Management Regulations, to be utilised for Church purposes, since it is not required for basic municipal purposes.
2. That approval be granted for the rezoning of portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²) to Business Zone I with consent use as Place of Worship, at the Applicants' cost.

3. That the approvals in Item 1 and 2 above, are subject to the approval of building plans by the Municipality for the existing structures on the property.
4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.
5. That the Applicant be responsible for the costs of all Environmental Assessments and Town Planning Applications as required, including, but not limited to rezoning, subdivision and consolidation costs.
6. That any upgrades to the municipal water or sewer infrastructure, be for the Applicant's account.
7. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
8. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
9. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
10. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.
11. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
12. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
13. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the prospective purchaser and that following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.
14. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.
15. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The purpose of this Item is for Council to consider the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to Zion Christian Church, to be utilised for Church purposes, since it is not required for basic municipal purposes.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

An application was received from Mr MR Nonkumbi on behalf of Zion Christian Church, hereinafter referred to as the Applicant, to purchase a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to be utilised for Church purposes, since it is not required for basic municipal purposes.

A copy of the Application was annexed, marked 'A'.

The Applicant initially applied for two unregistered erven, Erven 4181 and 4182. However, due to the significant demand for unregistered Erf 4182, the property was not available to the Applicant. The Applicant has been occupying unregistered Erf 4181, kwaNonqaba for more than 17 years with no valid Lease Agreement or Title Deed. There is a structure erected on the property without approved building plans. The Applicant wishes to now purchase the property.

Erf 2001, Mossel Bay, is zoned as Open Space Zone II.

A copy of the Locality Plan was annexed, marked 'B'.

The Municipal Valuer determined the market value of this portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay at R1 800 000,00 (VAT inclusive).

A copy of the Valuer's Report was annexed, marked 'C'.

In terms of Section 40(2)(b)(i) of the Municipal Supply Chain Management Regulations, immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.

It is submitted that the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay to the Applicant is in the public interest as it will be to the benefit the community. It is submitted that a deviation from the market related rental requirement is justified in this case, as provided for in Section 40(2)(b)(i).

It is therefore proposed that portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) be alienated to the Applicant at ten percent (10%) of market value, at a purchase price of R180 000,00 (VAT inclusive), as the property is utilised for Church purposes.

Erf 2001 (490.87 ha), Mossel Bay, is listed on the Municipal Asset Register at a book value of R1 919 900,80 and classified as Investment Property.

The property is not needed to provide the minimum level of basic municipal services and can therefore be alienated.

In accordance with the provisions of Regulation 5(3)(b) of the Municipal Asset Transfer Regulations R878 of 2008, a request to the Municipal Council for authorisation of a Public Participation Process must be accompanied by an information statement stating:

(i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;

The current market value of this portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, was determined at R1 800 000,00 (VAT inclusive).

(ii) The reasons for the proposal to transfer or dispose of the capital asset;

An application was received from Mr MR Nonkumbi on behalf of Zion Christian Church, hereinafter referred to as the Applicant, to purchase a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to be utilised for Church purposes, since it is not required for basic municipal purposes.

(iii) any expected benefits to the Municipality that may result from the transfer or disposal;

The Municipality will benefit through the income of the purchase price as well as service fees and rates and taxes.

(iv) any expected proceeds to be received by the Municipality from the transfer or disposal; and

The Municipality will receive payment of the purchase price.

(v) any expected gain or loss that will be realised or incurred by the Municipality arising from the transfer or disposal.

Comments received from Directorate: Financial Services are as follows:

"*Erf 2001 (490.87 ha), Mossel Bay is listed on the Municipal Asset Register at a book value of R1 919 900,80 and classified as Investment Property."*

The Municipality will gain through income of the purchase price as well as services fees and rates and taxes.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

Income to the Municipality by receiving the purchase price as well as service fees and rates and taxes.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted for the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to Zion Christian Church, at ten percent (10%) of the market value, at a purchase price of R180 000,00 (VAT inclusive), in terms of Section 40(2)(b)(i) of the Municipal Supply Chain Management Regulations, to be utilised for Church purposes, since it is not required for basic municipal purposes.

RECOMMENDATION

That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to Zion Christian Church, at ten percent (10%) of the market value, at a purchase price of R180 000,00 (VAT inclusive), in terms of Section

40(2)(b)(i) of the Municipal Supply Chain Management Regulations, to be utilised for Church purposes, since it is not required for basic municipal purposes.

2. That approval be granted for the rezoning of portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²) to Business Zone I with consent use as Place of Worship, at the Applicants' cost.

3. That the approvals in Item 1 and 2 above, are subject to the approval of building plans by the Municipality for the existing structures on the property.

4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.

5. That the Applicant be responsible for the costs of all Environmental Assessments and Town Planning Applications as required, including, but not limited to rezoning, subdivision and consolidation costs.

6. That any upgrades to the municipal water or sewer infrastructure, be for the Applicant's account.

7. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.

8. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.

9. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.

10. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.

11. That the Public Participation Process, as prescribed in the relevant legislation, be followed.

12. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.

13. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the prospective purchaser and that following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.

14. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

15. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE42-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That approval be granted for the alienation of a portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²), situated in Simanyana Street, kwaNonqaba, Mossel Bay, to Zion Christian Church, at ten percent (10%) of the market value, at a purchase price of R180 000,00 (VAT inclusive), in terms of Section 40(2)(b)(i) of the Municipal Supply Chain Management Regulations, to be utilised for Church purposes, since it is not required for basic municipal purposes.
2. That approval be granted for the rezoning of portion of Erf 2001, Mossel Bay (unregistered Erf 4181, kwaNonqaba) (±1 558.36m²) to Business Zone I with consent use as Place of Worship, at the Applicants' cost.
3. That the approvals in Item 1 and 2 above, are subject to the approval of building plans by the Municipality for the existing structures on the property.
4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.
5. That the Applicant be responsible for the costs of all Environmental Assessments and Town Planning Applications as required, including, but not limited to rezoning, subdivision and consolidation costs.
6. That any upgrades to the municipal water or sewer infrastructure, be for the Applicant's account.
7. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
8. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
9. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
10. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.
11. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
12. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.

13. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the prospective purchaser and that following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.

14. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

15. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties.

E97-04/2025

PROPOSED ALIENATION OF A PORTION (±216M²) OF ERF 11993, MOSSEL BAY, SITUATED ADJACENT TO ERF 5620, MOSSEL BAY, 6 MAROELA STREET, HEIDERAND: LJ DE LANGE

File Number: 7/2/2/3

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE43-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand to Ms LJ de Lange (the Owner of the adjacent property), at a market related purchase price of R47 500,00 (VAT inclusive), since it is not required for basic municipal purposes.

2. That this portion (±216m²) of Erf 11993, Mossel Bay be consolidated with the Applicant's adjacent property Erf 5620, Mossel Bay, at the Applicant's cost.

3. That, taking into consideration the peculiar history pertaining to this matter and that the Applicant, as the adjacent property Owner, is the only person to whom this property will have any practical use and will be consolidated with the Owner's existing property, Erf 5620, Mossel Bay, this small portion of property be alienated directly to the Applicant.

4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.

5. That no structures be erected on the property, without prior written approval of the building plans by the Municipality,

6. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.

7. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
8. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
9. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the prospective Purchaser and that, following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.
13. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.
14. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The purpose of this Item is for Council to consider the alienation of a portion (±216m²) of Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand to Ms LJ de Lange, the Owner of the adjacent property, in order to be consolidated with her adjacent property, Erf 5620, Mossel Bay, since it is not required for basic municipal purposes.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

An application was received from Rauch Gertenbach Inc Attorneys, on behalf of Ms LJ de Lange (hereinafter referred to as the Applicant), to purchase a portion (±216m²) of Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand, in order to consolidate with the Applicant's adjacent property, Erf 5620, Mossel Bay, since it is not required for basic municipal purposes.

A copy of the Application was annexed, marked 'A'.

Rauch Gertenbach Inc Attorneys received instructions in 2000 to transfer Erf 12262 (portion of Erf 11993) from the Municipality to Ms LJ de Lange and consolidate the property with Erf 5620, Mossel Bay, the property of Ms LJ de Lange. However, for some unknown reason, the transfer was never registered. There seems to be no record of the matter, except a Statement of Account addressed to Ms LJ de Lange.

Erf 11993, Mossel Bay, is zoned as Open Space Zone I.

A copy of the Locality Plan was annexed, marked 'B'.

The Municipal Valuer determined the market value of this portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand at R47 500,00 (VAT inclusive).

A copy of the Valuer's Report was annexed, marked 'C'.

In accordance with the provisions of Regulation 5(3)(b) of the Municipal Asset Transfer Regulations R878 of 2008, a request to the Municipal Council for authorisation of a Public Participation Process must be accompanied by an information statement stating:

(i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;

The current market value of this portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand, was determined at R47 500,00 (VAT inclusive).

(ii) The reasons for the proposal to transfer or dispose of the capital asset;

An application was received from Rauch Gertenbach Inc Attorneys on behalf of Ms LJ de Lange, hereinafter referred to as the Applicant, to purchase a portion (±216m²) of Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand, in order to consolidate with the Applicant's adjacent property, Erf 5620, Mossel Bay, since it is not required for basic municipal purposes.

(iii) any expected benefits to the Municipality that may result from the transfer or disposal;

The Municipality will benefit through the income of the purchase price as well as service fees and rates and taxes.

(iv) any expected proceeds to be received by the Municipality from the transfer or disposal; and

The Municipality will receive payment of the purchase price.

(v) any expected gain or loss that will be realised or incurred by the Municipality arising from the transfer or disposal.

Comments received from Directorate: Financial Services are as follows:

"*Erf 11993, Mossel Bay (7 819.78m²) is listed on the Municipal Asset Register at a book value of R300 000,00 and classified as Investment Property."*

The Municipality will gain through income of the purchase price as well as services fees and rates and taxes.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

Income to the Municipality by receiving the purchase price as well as service fees and rates and taxes.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted for the alienation of a portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand to Ms LJ de Lange (the Owner of the adjacent property), at a market related purchase price of R47 500,00 (VAT inclusive), in order to be consolidated with her adjacent property, since it is not required for basic municipal purposes.

RECOMMENDATION

That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand to Ms LJ de Lange (the Owner of the adjacent property), at a market related purchase price of R47 500,00 (VAT inclusive), since it is not required for basic municipal purposes.
2. That this portion (±216m²) of Erf 11993, Mossel Bay be consolidated with the Applicant's adjacent property Erf 5620, Mossel Bay, at the Applicant's cost.
3. That, taking into consideration the peculiar history pertaining to this matter and that the Applicant, as the adjacent property Owner, is the only person to whom this property will have any practical use and will be consolidated with the Owner's existing property, Erf 5620, Mossel Bay, this small portion of property be alienated directly to the Applicant.
4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.
5. That no structures be erected on the property, without prior written approval of the building plans by the Municipality,
6. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
7. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
8. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
9. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the

prospective Purchaser and that, following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.

13. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

14. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE43-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That approval be granted for the alienation of a portion (±216m²) Erf 11993, Mossel Bay, situated adjacent to Erf 5620, Mossel Bay, 6 Maroela Street, Heiderand to Ms LJ de Lange (the Owner of the adjacent property), at a market related purchase price of R47 500,00 (VAT inclusive), since it is not required for basic municipal purposes.

2. That this portion (±216m²) of Erf 11993, Mossel Bay be consolidated with the Applicant's adjacent property Erf 5620, Mossel Bay, at the Applicant's cost.

3. That, taking into consideration the peculiar history pertaining to this matter and that the Applicant, as the adjacent property Owner, is the only person to whom this property will have any practical use and will be consolidated with the Owner's existing property, Erf 5620, Mossel Bay, this small portion of property be alienated directly to the Applicant.

4. That the Applicant be responsible for the costs of any Land Use Applications, if required, as well as the Rezoning of the property.

5. That no structures be erected on the property, without prior written approval of the building plans by the Municipality,

6. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.

7. That the Applicant will be responsible for all costs of the application, including advertisement, transfer and service connection costs.

8. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.

9. That the Applicant will not alter or in any way disturb any existing services on the abovementioned property.

10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.

11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council

Resolution, failing which it will be accepted that there are no comments, objections or representations.

12. That cognisance be taken that, in terms of the Asset Management Policy, a re-active disposal of a lower value immovable capital asset may be effected directly to the prospective Purchaser and that, following the Public Participation Process, it will be deemed to be fair, equitable, transparent, competitive and cost effective.

13. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

14. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties.

E98-04/2025

APPLICATION FOR THE LEASE OF A PORTION (±7 400M²) OF ERF 2001, MOSSEL BAY FOR THE ESTABLISHMENT OF AN ECO KHOI VILLAGE: THE !GORI II AIS KHOI KHORANNA KRAAL

File Number: 7/2/1/3

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE44-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.

2. That Council Resolution E36-02/2024 be implemented as follows:

   "1. That approval be granted to the Gouriqua Khoi Cultural House on behalf of !Gori II Ais Khoi Khoranna Kraal, a Non-Profit Company to be registered, herein after referred to as the Applicant, to lease a portion (±7 400m²) of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months, to be utilised for the establishment of an Eco Khoi Village at a rental amount of R290,00 (VAT inclusive) per month, in terms of Section 40(2)(c)(i) of the Municipal Supply Chain Management Regulations, with an annual escalation equal to the CPI percentage, since it is not required for municipal purposes.

   2. That the Gouriqua Khoi Cultural House ensure that the !Gori II Ais Khoi Khoranna Kraal be registered as a Non-Profit Company, at its own costs, in order to enter into a Lease Agreement with the Municipality on the terms and conditions as contained in this Resolution and to manage the Eco Khoi Village.

3. *That the Applicant finalise the registration of the Non-Profit Company within six (6) months of the date of the final Council Resolution and provide the Municipality with the details thereof.*

4. *That the presentation made to Council on 21 November 2023, be regarded as the Business Plan for the Eco Khoi Village.*

5. *That the necessary land use and environmental applications be launched by the Applicant and approved to legalise the proposed use, at the cost of the Applicant, prior to the commencement of any activities on the leased property by the Applicant.*

6. *That the Applicant be responsible for all costs involved for the development of the Eco Khoi Village on the leased property, including all costs related to the provision of services.*

7. *That the Applicant ensures that the natural environment surrounding the property not be disturbed, nor impacted, in any manner by the implementation or operation of the Eco Khoi Village.*

8. *That the Applicant, at its own cost, submit building plans to the Municipality for approval and ensures that the building plans are approved by the Municipality before the commencement with any construction or erection of any structures.*

9. *That the Applicant will, at its own cost, erect and maintain a fence around the property to ensure the village does not encroach into the natural sensitive environment.*

10. *That the Applicant will, at its own costs, ensure that access to the property is controlled by means of a monitored security gate.*

11. *That the Applicant must ensure that waterwise gardening be applied on the property and the Applicant must take cognisance that potable municipal water is a scarce resource which is mainly provided for human consumption and not regular farming or irrigation activities.*

12. *That the Applicant ensures that proper alien vegetation control is maintained on the property and that all necessary preventative measures are taken against runaway fires to the satisfaction of the Municipality.*

13. *That the Applicant shall not remove or cause or permit to be removed from the land any fauna, flora, soil, clay, gravel, sand or other material upon or below the surface of the land without the prior written consent of the Municipality first being had and obtained.*

14. *That the Applicant shall be responsible for the maintenance of good order, behaviour and government on the land at all times.*

15. *That the Applicant will be responsible for the maintenance of the property at all times, at its own costs, including the maintenance of fences and structures, if any, thereon in good and effective order and condition to the satisfaction of the Municipality.*

16. *That the Municipality reserves the right of free access to the property, without prior notice, for the purpose of inspection, maintenance, renewal cleansing, repair and construction of municipal services.*

17. *That the Applicant indemnify and keep the Municipality indemnified against all actions proceedings, claims, demands, costs, compensation and expenditure which might be imposed on or claimed from the Municipality or which the Municipality might pay, contract or incur as a result of any willful or negligent act on the part of the Applicant, its employees or representatives.*

18. *That the Applicant may not sublet the property, or any portion thereof, without the prior written approval of the Municipality.*

19. *That the Applicant will not utilise any portion of the premises for the display of Outdoor Advertising and Signage without prior written approval of the Municipality.*

20. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

21. *That the Applicant takes cognisance that the establishment of the facility does not oblige the Municipality to consider extending the Lease Agreement in any way or form.*

22. *That the Applicant ensures that no person permanently or illegally occupies the property.*

23. *That, on termination or expiry, whichever occurs first, of the Lease Agreement, all structures and/or buildings be removed from the property and the property be restored and rehabilitated and delivered to the Municipality in a condition satisfactory to the Municipality.*

24. *That no rights and/or obligations be vested between the parties, prior to the final approval by Council and the Lease Agreement being signed by the Municipality."*

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The purpose of this Item is to consider the application received from the !Gori II Ais Khoi Khoranna Kraal to lease a portion (±7 400m²) of Erf 2001, Mossel Bay from the Municipality to be utilised for the establishment of an Eco Khoi Village.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

During Council Meeting held on 29 February 2024, Council Resolution E36-02/2024, it was resolved as follows:

"1. That approval be granted to the Gouriqua Khoi Cultural House on behalf of !Gori II Ais Khoi Khoranna Kraal, a Non-Profit Company to be registered, herein after referred to as the Applicant, to lease a portion (±7 400m²) of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months, to be utilised for the establishment of an Eco Khoi Village at a rental amount of R290,00 (VAT inclusive) per month, in terms of Section 40(2)(c)(i) of the Municipal Supply Chain Management Regulations, with an annual escalation equal to the CPIX percentage, since it is not required for municipal purposes.

2. That the Gouriqua Khoi Cultural House ensure that the !Gori II Ais Khoi Khoranna Kraal be registered as a Non-Profit Company, at its own costs, in order to enter into a Lease Agreement with the Municipality on the terms and conditions as contained in this Resolution and to manage the Eco Khoi Village.

3. *That the Applicant finalise the registration of the Non-Profit Company within six (6) months of the date of the final Council Resolution and provide the Municipality with the details thereof.*

4. *That the presentation made to Council on 21 November 2023, be regarded as the Business Plan for the Eco Khoi Village.*

5. *That the necessary land use and environmental applications be launched by the Applicant and approved to legalise the proposed use, at the cost of the Applicant, prior to the commencement of any activities on the leased property by the Applicant.*

6. *That the Applicant be responsible for all costs involved for the development of the Eco Khoi Village on the leased property, including all costs related to the provision of services.*

7. *That the Applicant ensures that the natural environment surrounding the property not be disturbed, nor impacted, in any manner by the implementation or operation of the Eco Khoi Village.*

8. *That the Applicant, at its own cost, submit building plans to the Municipality for approval and ensures that the building plans are approved by the Municipality before the commencement with any construction or erection of any structures.*

9. *That the Applicant will, at its own cost, erect and maintain a fence around the property to ensure the village does not encroach into the natural sensitive environment.*

10. *That the Applicant will, at its own costs, ensure that access to the property is controlled by means of a monitored security gate.*

11. *That the Applicant must ensure that waterwise gardening be applied on the property and the Applicant must take cognisance that potable municipal water is a scarce resource which is mainly provided for human consumption and not regular farming or irrigation activities.*

12. *That the Applicant ensures that proper alien vegetation control is maintained on the property and that all necessary preventative measures are taken against runaway fires to the satisfaction of the Municipality.*

13. *That the Applicant shall not remove or cause or permit to be removed from the land any fauna, flora, soil, clay, gravel, sand or other material upon or below the surface of the land without the prior written consent of the Municipality first being had and obtained.*

14. *That the Applicant shall be responsible for the maintenance of good order, behaviour and government on the land at all times.*

15. *That the Applicant will be responsible for the maintenance of the property at all times, at its own costs, including the maintenance of fences and structures, if any, thereon in good and effective order and condition to the satisfaction of the Municipality.*

16. *That the Municipality reserves the right of free access to the property, without prior notice, for the purpose of inspection, maintenance, renewal cleansing, repair and construction of municipal services.*

17. *That the Applicant indemnify and keep the Municipality indemnified against all actions proceedings, claims, demands, costs, compensation and expenditure which might be imposed on or claimed from the Municipality or which the Municipality might pay,*

contract or incur as a result of any willful or negligent act on the part of the Applicant, its employees or representatives.

18. *That the Applicant may not sublet the property, or any portion thereof, without the prior written approval of the Municipality.*
19. *That the Applicant will not utilise any portion of the premises for the display of Outdoor Advertising and Signage without prior written approval of the Municipality.*
20. *That the Applicant be responsible for all costs related to the application, including advertising costs.*
21. *That the Applicant takes cognisance that the establishment of the facility does not oblige the Municipality to consider extending the Lease Agreement in any way or form.*
22. *That the Applicant ensures that no person permanently or illegally occupies the property.*
23. *That, on termination or expiry, whichever occurs first, of the Lease Agreement, all structures and/or buildings be removed from the property and the property be restored and rehabilitated and delivered to the Municipality in a condition satisfactory to the Municipality.*
24. *That the Public Participation Process, as prescribed in the relevant legislation, be followed.*
25. *That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, following which it will be accepted that there are no comments, objections or representations.*
26. *That, after the completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.*
27. *That no rights and/or obligations be vested between the parties, prior to the final approval by Council and the Lease Agreement being signed by the Municipality."*

The prescribed Public Participation Process was duly followed and the Council Resolution referred to the Ward Councillor. A notice was also displayed on the frontage of the relevant property for the duration of the public participation period. No comments and or objections were received.

The property is not required for the rendering of the minimum level of basic municipal services and can therefore be leased.

A copy of the Locality Plan was annexed, marked 'B'.

In terms of Regulation 36 of the Asset Transfer Regulations R878, the Municipal Council must, when considering approval for any proposed granting of the right to use, control or manage a capital asset, take into account:

(a) whether the capital asset will be required for the Municipality's own use during the period for which the right is to be granted;

This portion of the asset is not required for municipal use.

(b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the

private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the Municipality;

There will be financial benefit to the Municipality through the monthly rental to be received.

(c) the risks and rewards associated with the use, control or management of the capital asset in relation to the Municipality's interests;

No risks are involved, and the utilisation of the asset will be to the benefit of the community of Mossel Bay.

(d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;

The required Public Participation Process was followed and no objections were received to the application for the renewal of the lease agreement of a portion of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months.

(e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant Provincial Treasury;

The Municipal Valuer determined the market value of this portion (±7 400m²) of Erf 2001, Mossel Bay at R595 700,00 (VAT inclusive). The market related rental was determined at an amount of R2 900,00 per month (VAT inclusive).

The lease period of the property is less than ten years. Therefore, the written views and recommendations of the National Treasury and the relevant Provincial Treasury are not required.

(f) 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

The rental of the property is to the benefit of the local community.

(g) compliance with the legislative regime applicable to the proposed granting of the right.

The application is in compliance with:

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Assets Management Policy.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

The Municipality will gain by receiving monthly rental as well as services fees from the Applicant.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003; Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted to the Applicant, Gouriqua Khoi Cultural House on behalf of !Gori II Ais Khoi Khoranna Kraal, a Non-Profit Company to be registered, to lease a portion (±7 400m²) of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months, to be utilised for the establishment of an Eco Khoi Village at a rental amount of R290,00 (VAT inclusive) per month, in terms of Section 40(2)(c)(i) of the Municipal Supply Chain Management Regulations, with an annual escalation equal to the CPI percentage.

RECOMMENDATION

That the following recommendation be made to Council:

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.

2. That Council Resolution E36-02/2024 be implemented as follows:

   "1. That approval be granted to the Gouriqua Khoi Cultural House on behalf of !Gori II Ais Khoi Khoranna Kraal, a Non-Profit Company to be registered, herein after referred to as the Applicant, to lease a portion (±7 400m²) of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months, to be utilised for the establishment of an Eco Khoi Village at a rental amount of R290,00 (VAT inclusive) per month, in terms of Section 40(2)(c)(i) of the Municipal Supply Chain Management Regulations, with an annual escalation equal to the CPI percentage, since it is not required for municipal purposes.

   2. That the Gouriqua Khoi Cultural House ensure that the !Gori II Ais Khoi Khoranna Kraal be registered as a Non-Profit Company, at its own costs, in order to enter into a Lease Agreement with the Municipality on the terms and conditions as contained in this Resolution and to manage the Eco Khoi Village.

   3. That the Applicant finalise the registration of the Non-Profit Company within six (6) months of the date of the final Council Resolution and provide the Municipality with the details thereof.

   4. That the presentation made to Council on 21 November 2023, be regarded as the Business Plan for the Eco Khoi Village.

   5. That the necessary land use and environmental applications be launched by the Applicant and approved to legalise the proposed use, at the cost of the Applicant, prior to the commencement of any activities on the leased property by the Applicant.

   6. That the Applicant be responsible for all costs involved for the development of the Eco Khoi Village on the leased property, including all costs related to the provision of services.

   7. That the Applicant ensures that the natural environment surrounding the property not be disturbed, nor impacted, in any manner by the implementation or operation of the Eco Khoi Village.

   8. That the Applicant, at its own cost, submit building plans to the Municipality for approval and ensures that the building plans are approved by the

Municipality before the commencement with any construction or erection of any structures.

9. *That the Applicant will, at its own cost, erect and maintain a fence around the property to ensure the village does not encroach into the natural sensitive environment.*

10. *That the Applicant will, at its own costs, ensure that access to the property is controlled by means of a monitored security gate.*

11. *That the Applicant must ensure that waterwise gardening be applied on the property and the Applicant must take cognisance that potable municipal water is a scarce resource which is mainly provided for human consumption and not regular farming or irrigation activities.*

12. *That the Applicant ensures that proper alien vegetation control is maintained on the property and that all necessary preventative measures are taken against runaway fires to the satisfaction of the Municipality.*

13. *That the Applicant shall not remove or cause or permit to be removed from the land any fauna, flora, soil, clay, gravel, sand or other material upon or below the surface of the land without the prior written consent of the Municipality first being had and obtained.*

14. *That the Applicant shall be responsible for the maintenance of good order, behaviour and government on the land at all times.*

15. *That the Applicant will be responsible for the maintenance of the property at all times, at its own costs, including the maintenance of fences and structures, if any, thereon in good and effective order and condition to the satisfaction of the Municipality.*

16. *That the Municipality reserves the right of free access to the property, without prior notice, for the purpose of inspection, maintenance, renewal cleansing, repair and construction of municipal services.*

17. *That the Applicant indemnify and keep the Municipality indemnified against all actions proceedings, claims, demands, costs, compensation and expenditure which might be imposed on or claimed from the Municipality or which the Municipality might pay, contract or incur as a result of any willful or negligent act on the part of the Applicant, its employees or representatives.*

18. *That the Applicant may not sublet the property, or any portion thereof, without the prior written approval of the Municipality.*

19. *That the Applicant will not utilise any portion of the premises for the display of Outdoor Advertising and Signage without prior written approval of the Municipality.*

20. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

21. *That the Applicant takes cognisance that the establishment of the facility does not oblige the Municipality to consider extending the Lease Agreement in any way or form.*

22. That the Applicant ensures that no person permanently or illegally occupies the property.

23. That, on termination or expiry, whichever occurs first, of the Lease Agreement, all structures and/or buildings be removed from the property and the property be restored and rehabilitated and delivered to the Municipality in a condition satisfactory to the Municipality.

24. That no rights and/or obligations be vested between the parties, prior to the final approval by Council and the Lease Agreement being signed by the Municipality."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE44-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That cognisance be taken that the prescribed Public Participation Process was duly followed and the Resolution referred to the Ward Councillor. A Notice was also displayed on the frontage of the relevant property for the duration of the Public Participation Period. No comments and or objections were received from the public.

2. That Council Resolution E36-02/2024 be implemented as follows:

"1. That approval be granted to the Gouriqua Khoi Cultural House on behalf of !Gori II Ais Khoi Khoranna Kraal, a Non-Profit Company to be registered, herein after referred to as the Applicant, to lease a portion (±7 400m²) of Erf 2001, Mossel Bay, for a period of nine (9) years and eleven (11) months, to be utilised for the establishment of an Eco Khoi Village at a rental amount of R290,00 (VAT inclusive) per month, in terms of Section 40(2)(c)(i) of the Municipal Supply Chain Management Regulations, with an annual escalation equal to the CPI percentage, since it is not required for municipal purposes.

2. That the Gouriqua Khoi Cultural House ensure that the !Gori II Ais Khoi Khoranna Kraal be registered as a Non-Profit Company, at its own costs, in order to enter into a Lease Agreement with the Municipality on the terms and conditions as contained in this Resolution and to manage the Eco Khoi Village.

3. That the Applicant finalise the registration of the Non-Profit Company within six (6) months of the date of the final Council Resolution and provide the Municipality with the details thereof.

4. That the presentation made to Council on 21 November 2023, be regarded as the Business Plan for the Eco Khoi Village.

5. That the necessary land use and environmental applications be launched by the Applicant and approved to legalise the proposed use, at the cost of the Applicant, prior to the commencement of any activities on the leased property by the Applicant.

6. That the Applicant be responsible for all costs involved for the development of the Eco Khoi Village on the leased property, including all costs related to the provision of services.

7. *That the Applicant ensures that the natural environment surrounding the property not be disturbed, nor impacted, in any manner by the implementation or operation of the Eco Khoi Village.*

8. *That the Applicant, at its own cost, submit building plans to the Municipality for approval and ensures that the building plans are approved by the Municipality before the commencement with any construction or erection of any structures.*

9. *That the Applicant will, at its own cost, erect and maintain a fence around the property to ensure the village does not encroach into the natural sensitive environment.*

10. *That the Applicant will, at its own costs, ensure that access to the property is controlled by means of a monitored security gate.*

11. *That the Applicant must ensure that waterwise gardening be applied on the property and the Applicant must take cognisance that potable municipal water is a scarce resource which is mainly provided for human consumption and not regular farming or irrigation activities.*

12. *That the Applicant ensures that proper alien vegetation control is maintained on the property and that all necessary preventative measures are taken against runaway fires to the satisfaction of the Municipality.*

13. *That the Applicant shall not remove or cause or permit to be removed from the land any fauna, flora, soil, clay, gravel, sand or other material upon or below the surface of the land without the prior written consent of the Municipality first being had and obtained.*

14. *That the Applicant shall be responsible for the maintenance of good order, behaviour and government on the land at all times.*

15. *That the Applicant will be responsible for the maintenance of the property at all times, at its own costs, including the maintenance of fences and structures, if any, thereon in good and effective order and condition to the satisfaction of the Municipality.*

16. *That the Municipality reserves the right of free access to the property, without prior notice, for the purpose of inspection, maintenance, renewal cleansing, repair and construction of municipal services.*

17. *That the Applicant indemnify and keep the Municipality indemnified against all actions proceedings, claims, demands, costs, compensation and expenditure which might be imposed on or claimed from the Municipality or which the Municipality might pay, contract or incur as a result of any willful or negligent act on the part of the Applicant, its employees or representatives.*

18. *That the Applicant may not sublet the property, or any portion thereof, without the prior written approval of the Municipality.*

19. *That the Applicant will not utilise any portion of the premises for the display of Outdoor Advertising and Signage without prior written approval of the Municipality.*

20. *That the Applicant be responsible for all costs related to the application, including advertising costs.*

21. That the Applicant takes cognisance that the establishment of the facility does not oblige the Municipality to consider extending the Lease Agreement in any way or form.

22. That the Applicant ensures that no person permanently or illegally occupies the property.

23. That, on termination or expiry, whichever occurs first, of the Lease Agreement, all structures and/or buildings be removed from the property and the property be restored and rehabilitated and delivered to the Municipality in a condition satisfactory to the Municipality.

24. That no rights and/or obligations be vested between the parties, prior to the final approval by Council and the Lease Agreement being signed by the Municipality."

E99-04/2025

INITIATION OF THE PROCESS TO COMPILE THE MOSSEL BAY SPATIAL DEVELOPMENT FRAMEWORK 2027 (SDF)

Reference Number: 15/2/2/3

Report By: Susan Human

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE45-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

"1. That, in terms of Section 3(1) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Municipality proceed with the compilation process of the Mossel Bay Spatial Development Framework 2027, to be concluded during the 2026/27 financial year.

2. That, in terms of Section 5(1) and 5(2) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Council establish an Intergovernmental Steering Committee to assist in the compilation of the Municipal Spatial Development Framework, consisting of the following officials:

The Municipal Manager or Designated Official

Representatives of—

- ▲ the Municipality, nominated by the Municipal Manager;
- ▲ the Department, nominated by the Head of Department;
- ▲ the Provincial Department responsible for Environmental Affairs, nominated by the Head of that Department; and

- ▲ other relevant Organs of State, if any, who may have an interest in the compilation or amendment of the Spatial Development Framework of the Municipality.

3. It is recommended that the Municipality proceed in establishing the Intergovernmental Steering Committee and invite nominations by virtue of their qualifications and experience in, and knowledge of, Land Use Planning or Environmental Management for suitably qualified and experienced representatives.

4. That, in terms of Section 3(2)(a)(ii) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the SDF Process be aligned with the 2026/27 IDP and Budget Process Plan of Council and the following process be approved for such a purpose:

   - Inform the Provincial Minister in writing of the intention to compile the MSDF and decision in terms of SubSection (1)(b) - end of April 2025.
   - Publish a Notice in a newspaper circulating in the area of the intention to compile or amend the Municipal Spatial Development Framework; and the process to be followed - end of April 2025.
   - Establishment of an Intergovernmental Steering Committee - end of April 2025.
   - Development of a Status Quo Report - July 2025 to February 2026.
   - Council to adopt the Status Quo document as a base document for the development of the SDF 2027 (end of February 2026).
   - The Intergovernmental Steering Committee will develop a draft SDF 2027 which will be presented to the Municipal Council to approve the publication thereof for public comment (March 2026 - October 2026).
   - The Intergovernmental Steering Committee will consider all comments and representations during the mentioned process and submit a final draft SDF 2027 to the Municipal Council for adoption (November 2026).
   - Should the final draft SDF 2027 be materially different from the draft SDF 2022 that was Public Participated, a second Public Participation Process will be followed (January 2027 – March 2027) before the SDF 2027 is adopted by Council.
   - The final SDF 2027 will be presented to Council for adoption as part of the IDP and Budget and, within 14 days of its decision, a Notice will be published in the Provincial Gazette and media to inform the public of the adopted SDF 2027 (end May 2027).

5. That cognisance be taken that the approved Spatial Development Framework 2027 will be a legally binding document which will guide development in the Mossel Bay area for the period 2027-2032.

6. That, within the context of District and Regional Coordination, the Garden Route District Municipality be given the opportunity to comment on the respective draft documents developed throughout the process.

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The Municipality has an adopted Spatial Development Framework (SDF) in place. In terms of the Spatial Planning and Land Use Management Act, 2013, the Municipal Council of a Municipality must, by Notice in the Provincial Gazette, adopt a Municipal Spatial Development Framework (MSDF) as part of a Municipality's Integrated Development Plan (IDP), in accordance with the provisions of the Municipal Systems Act. The compilation of a SDF is therefore a legislated and mandatory process which must be followed every 5 years. Council must consider a new or amended SDF together with its next 5-year IDP. Consideration of these strategic documents must take place not later than May 2027 to coincide with the term of the newly elected Council. To make sure that the development of the new SDF complies to these set timelines, the Municipality must initiate the process in 2025.

The starting action will be to compile an updated Status Quo Report by 28 February 2026 and complete the SDF by 30 December 2026 for possible adoption by Council with the IDP and Budget. The SDF should be considered by Council as a Sector Plan as part of the 2027 Mossel Bay IDP.

The purpose of this Item is to inform Council of the envisage process to compile the SDF 2027 which is planned to start in July 2025 and it be done in terms of the Spatial Planning and Land Use Management Act (SPLUMA), (Act 16 of 2013), the Western Cape Land Use Planning Act (LUPA), 2014 (Act 3 of 2014) and the Mossel Bay Municipal Land Use Planning By-Law, 2021. A proposed process to be followed is presented to Council for adoption, with a proposed Intergovernmental Steering Committee.

DISCUSSION AND MOTIVATION

MSDF Compilation options to consider:

Council should note the following legislation requirements in terms of the abovementioned By-Law:

"3 (1) When the Council compiles or amends its Municipal Spatial Development Framework in accordance with the Municipal Systems Act, the Council must, as contemplated in Section 11 of the Land Use Planning Act—

(a) establish an intergovernmental steering committee to compile or amend its Municipal Spatial Development Framework; or

(b) refer its Draft Municipal Spatial Development Framework or Draft Amendment of its Municipal Spatial Development Framework to the Provincial Minister for comment."

It is recommended that the Municipality proceed with the above legislated option (a) to compile the SDF. The current SDF was developed via option (b) based on the 2018 SDF that was developed via option (a). Option (a) is more elaborate and time consuming. As most of the current SDF information will need to be updated for the new SDF option (a) is proposed since it will ensure intergovernmental integration in the drafting process.

Establishment of Intergovernmental Steering Committee

The By-Law further states in Section 5(1) and 5(2), if the Council establish an Intergovernmental Steering Committee to assist in the compilation of the SDF, such a Committee must consist of (Section 5(1)):

The Municipal Manager or Designated Official; and

Representatives of—

2. the Municipality, nominated by the Municipal Manager;

3. the Department, nominated by the Head of Department;

4. the Provincial Department responsible for environmental affairs, nominated by the head of that department; and

5. other relevant organs of state, if any, who may have an interest in the compilation or amendment of the Spatial Development Framework of the Municipality.

When the Council establishes an Intergovernmental Steering Committee, the Municipal Manager must (Section 5(1)): —

designate a municipal employee to represent the Municipal Manager;

nominate other representatives of the Municipality; and

in writing, invite written nominations for representatives from the persons or Organs of State contemplated in subSection 5(1).

The Land Use Planning Act, 2014 further states in Section 12(2) and 12(3) if the Council establish an Intergovernmental Steering Committee to assist in the compilation of the SDF (Section 5(1)):

The members of the Intergovernmental Steering Committee must be persons appointed by virtue of their qualifications and experience in, and knowledge of, Land Use Planning or Environmental Management.

(3) The Intergovernmental Steering Committee—

2.1. is chaired by the Municipal Manager or the municipal employee designated by the Municipal Manager, as the case may be;

2.2. determines its own procedures, which must make provision for at least a quorum and decision-making; and

2.3. may appoint Subcommittees and assign tasks to such Subcommittees.

It is recommended that the Municipality proceed in establishing this Committee and invite nominations for suitably qualified and experienced representatives.

Process to be followed:

Council should also note the following from the said By-Law:

"3 (2) The Municipality must—

(a) publish a Notice in three of the official languages of the Province most spoken in the area in a newspaper circulating in the area concerned of—

2. the intention to compile or amend the Municipal Spatial Development Framework; and

3. the process to be followed, in accordance with Section 28(3) and 29 of the Municipal Systems Act;

(b) inform the Provincial Minister in writing of—

2. *the intention to compile or amend the Municipal Spatial Development Framework;*

3. *its decision in terms of SubSection (1)(a) or (b); and the process contemplated in SubSection (2)(a)(ii); and*

(c) register relevant stakeholders, who must be invited to comment on the Draft

Municipal Spatial Development Framework or Draft Amendment of the Municipal Spatial Development Framework as part of the process contemplated in SubSection (2)(a)(ii).”

The intention of the Section 3(2)(a)(ii) is to align the SDF compilation process with the IDP Process Plan of Council. The following process will be followed and must be included in the next IDP/Budget Process Plan of Council, usually tabled in July/August each year (excluding Step 1 – 3, since it is the immediate next steps and will be concluded before the IDP/Budget Process Plan is presented to Council):

1. Inform the Provincial Minister in writing of the intention to compile the MSDF and decision in terms of SubSection (1)(b) - end of April 2025.
2. Publish a Notice in a newspaper circulating in the area of the intention to compile or amend the Municipal Spatial Development Framework; and the process to be followed - end of April 2025
3. Establishment of an Intergovernmental Steering Committee - end of April 2025.
4. Development of a Status Quo Report - July 2025 to February 2026.
5. Council to adopt the Status Quo document as a base document for the development of the SDF 2027 (end of February 2026).
6. The Intergovernmental Steering Committee will develop a draft SDF 2027 which will be presented to the Municipal Council to approve the publication thereof for public comment in accordance with the process adopted in terms of Sections 28(3) and 29 of the Municipal Systems Act (March 2026 - October 2026).
7. The Intergovernmental Steering Committee will consider all comments and representations during the mentioned process and submit a final draft SDF 2027 to the Municipal Council for adoption (November 2026).
8. Should the final draft SDF 2027 be materially different from the draft SDF 2022 that was public participated, a second Public Participation Process will be followed (January 2027 – March 2027) before the SDF 2027 is adopted by Council.
9. The final SDF 2027 will be presented to Council for adoption, as part of the IDP and Budget and within 14 days of its decision, a Notice will be published in the Provincial Gazette and media to inform the public of the adopted SDF 2027 (end May 2027).

District and Regional Coordination

Within the context of the Intergovernmental Relations Framework Act (No 13 of 2005) and alignment between district SDFs, local SDFs, and IDPs the Garden Route District Municipality be given the opportunity to comment on the respective draft documents developed throughout the process.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

The cost associated with the suggested process is estimated at R1 500 000,00 for the 2025/2026 financial year (Status Quo Report, Draft SDF) and R1 500 000,00 (Capital Expenditure Framework and finalisation of the SDF pending outcomes of the Status Quo Report, Public

Participation Process and comments) for the 2026/2027 financial year. The amount for the 2025/2026 financial year is included in the draft Budget of Council.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

Municipal Systems Act, 2000 (Act 32 of 2000) MSA.

Land Use Planning Act, 2014 (Act 3 of 2014) LUPA.

Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).

Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021.

Intergovernmental Relations Framework Act (No 13 of 2005).

INTEGRATED DEVELOPMENT PLAN IMPLICATIONS / GEÏNTEGREERDE ONTWIKKELINGSPLAN IMPLIKASIES

The Spatial Development Framework will be guided by the IDP vision and objectives.

COMMENTS FROM FINANCIAL SERVICES

No further comments.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

Recommendation is supported.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

No further comments.

CONCLUSION / SAMEVATTING

The Mossel Bay Spatial Development Framework 2027 will be compiled during 2025/2026 and 2026/2027. It is recommended that Council appoint an Intergovernmental Steering Committee for this purpose and the process must be aligned with the IDP/Budget Process Plan.

RECOMMENDATION

That the following recommendation be made to Council:

1. That, in terms of Section 3(1) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Municipality proceed with the compilation process of the Mossel Bay Spatial Development Framework 2027, to be concluded during the 2026/27 financial year.

2. That, in terms of Section 5(1) and 5(2) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Council establish an Intergovernmental Steering Committee to assist in the compilation of the Municipal Spatial Development Framework, consisting of the following officials:

   The Municipal Manager or Designated Official

   Representatives of—

   - ▲ the Municipality, nominated by the Municipal Manager;
   - ▲ the Department, nominated by the Head of Department;
   - ▲ the Provincial Department responsible for Environmental Affairs, nominated by the Head of that Department; and
   - ▲ other relevant Organs of State, if any, who may have an interest in the compilation or amendment of the Spatial Development Framework of the Municipality.

3. It is recommended that the Municipality proceed in establishing the Intergovernmental Steering Committee and invite nominations by virtue of their qualifications and experience in, and knowledge of, Land Use Planning or Environmental Management for suitably qualified and experienced representatives.

4. That, in terms of Section 3(2)(a)(ii) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the SDF Process be aligned with the 2026/27 IDP and Budget Process Plan of Council and the following process be approved for such a purpose:

   Inform the Provincial Minister in writing of the intention to compile the MSDF and decision in terms of SubSection (1)(b) - end of April 2025.

   Publish a Notice in a newspaper circulating in the area of the intention to compile or amend the Municipal Spatial Development Framework; and the process to be followed - end of April 2025.

   Establishment of an Intergovernmental Steering Committee - end of April 2025.

   Development of a Status Quo Report - July 2025 to February 2026.

   Council to adopt the Status Quo document as a base document for the development of the SDF 2027 (end of February 2026).

   The Intergovernmental Steering Committee will develop a draft SDF 2027 which will be presented to the Municipal Council to approve the publication thereof for public comment (March 2026 - October 2026).

   The Intergovernmental Steering Committee will consider all comments and representations during the mentioned process and submit a final draft SDF 2027 to the Municipal Council for adoption (November 2026).

   Should the final draft SDF 2027 be materially different from the draft SDF 2022 that was Public Participated, a second Public Participation Process will be followed (January 2027 – March 2027) before the SDF 2027 is adopted by Council.

   The final SDF 2027 will be presented to Council for adoption as part of the IDP and Budget and, within 14 days of its decision, a Notice will be published in the Provincial Gazette and media to inform the public of the adopted SDF 2027 (end May 2027).

5. That cognisance be taken that the approved Spatial Development Framework 2027 will be a legally binding document which will guide development in the Mossel Bay area for the period 2027-2032.

6. That, within the context of District and Regional Coordination, the Garden Route District Municipality be given the opportunity to comment on the respective draft documents developed throughout the process.

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE45-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That, in terms of Section 3(1) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Municipality proceed with the compilation process of the Mossel Bay Spatial Development Framework 2027, to be concluded during the 2026/27 financial year.

2. That, in terms of Section 5(1) and 5(2) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the Council establish an Intergovernmental Steering Committee to assist in the compilation of the Municipal Spatial Development Framework, consisting of the following officials:

   The Municipal Manager or Designated Official

   Representatives of—

   - ▲ the Municipality, nominated by the Municipal Manager;
   - ▲ the Department, nominated by the Head of Department;
   - ▲ the Provincial Department responsible for Environmental Affairs, nominated by the Head of that Department; and
   - ▲ other relevant Organs of State, if any, who may have an interest in the compilation or amendment of the Spatial Development Framework of the Municipality.

3. It is recommended that the Municipality proceed in establishing the Intergovernmental Steering Committee and invite nominations by virtue of their qualifications and experience in, and knowledge of, Land Use Planning or Environmental Management for suitably qualified and experienced representatives.

4. That, in terms of Section 3(2)(a)(ii) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, the SDF Process be aligned with the 2026/27 IDP and Budget Process Plan of Council and the following process be approved for such a purpose:

   Inform the Provincial Minister in writing of the intention to compile the MSDF and decision in terms of SubSection (1)(b) - end of April 2025.

   Publish a Notice in a newspaper circulating in the area of the intention to compile or amend the Municipal Spatial Development Framework; and the process to be followed - end of April 2025.

   Establishment of an Intergovernmental Steering Committee - end of April 2025.

Development of a Status Quo Report - July 2025 to February 2026.

Council to adopt the Status Quo document as a base document for the development of the SDF 2027 (end of February 2026).

The Intergovernmental Steering Committee will develop a draft SDF 2027 which will be presented to the Municipal Council to approve the publication thereof for public comment (March 2026 - October 2026).

The Intergovernmental Steering Committee will consider all comments and representations during the mentioned process and submit a final draft SDF 2027 to the Municipal Council for adoption (November 2026).

Should the final draft SDF 2027 be materially different from the draft SDF 2022 that was Public Participated, a second Public Participation Process will be followed (January 2027 – March 2027) before the SDF 2027 is adopted by Council.

The final SDF 2027 will be presented to Council for adoption as part of the IDP and Budget and, within 14 days of its decision, a Notice will be published in the Provincial Gazette and media to inform the public of the adopted SDF 2027 (end May 2027).

5. That cognisance be taken that the approved Spatial Development Framework 2027 will be a legally binding document which will guide development in the Mossel Bay area for the period 2027-2032.

6. That, within the context of District and Regional Coordination, the Garden Route District Municipality be given the opportunity to comment on the respective Draft documents developed throughout the process.

E100-04/2025

PROPOSED AMENDMENTS: MEMBERSHIP AND REGISTRATION OF DEPENDENTS ON ACCREDITED MEDICAL FUNDS POLICY

File Number:

Report By: RUITERSJ

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution CG15-04/2025 it was resolved as follows:

“That the following recommendation be made to Council:

That the Membership and Registration of Dependents on Accredited Medical Funds Policy be accepted by Council for approval and implementation from the 1st day of the month following Council’s approval.”

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"Policies must be continuously reviewed to ensure that it is aligned with legislation, procedures and can be applied effectively. The Membership and Registration of Dependents on Accredited Medical Funds Policy has been revised.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

Proposed amendments to the Membership and Registration of Dependents on Accredited Medical Funds Policy are indicated in red on the attachment. Executive Management accepted the proposed amendments to the Membership and Registration of Dependents on Accredited Medical Funds Policy on 16 September 2023 as per decision COR315-09/2023.

Inputs received from the Trade Unions that attended the workshop on 9 April 2024 are indicated and highlighted in yellow on the policy. Executive Management's feedback on the Trade Unions input is indicated on the policy under the Trade Unions inputs.

Amendments to clauses 8.8 and 8.9 are indicated and highlighted in blue after the Municipal Manager in consultation with the Directors referred the proposed amendments to the Membership and Registration of Dependents on Accredited Medical Funds Policy back for more clarity on the said clause on 29 April 2024. The amendments to clauses 8.8 and 8.9 were accepted by Executive Management on 13 May 2024.

The proposed amendments for the Membership and Registration of Dependents on Accredited Medical Funds Policy were referred to the Local Labour Forum who resolved per L26-06/2024 as follows:

"That the Item regarding the proposed amendments to the Membership and Registration of Dependents on Accredited Medical Funds Policy be referred back for further off-line discussion with both Trade Unions."

Further proposed amendments to the Membership and Registration of Dependents on Accredited Medical Funds Policy were made by the Trade Unions and referred to Executive Management, after the off-line discussion with both Trade Unions, and are indicated and highlighted in green on the attachment. Executive Management's feedback is indicated on the attachment with regards to the proposed amendments."

The Municipal Manager in consultation with the Directors resolved per POL374-11/2024 as follows:

"1. That Executive Management suffice with the definition of continued member in Clause 4 as follow: Continued Member: An employee who (a) was appointed before 1/7/2013 and retires according to the rules of his/her Retirement/Pension Fund or (2) who's services are terminated due to Ill Health / Incapacity which resulted in an approved claim, irrespective of years of service or (3) was appointed after 1/7/2013 who retires at age 65 with a minimum of 10 years uninterrupted service.

2. Executive Management do not support the Trade unions input at 5.8 "… with subsidy, when the remaining parent or Legal guardian can furnish the necessary proof stating

that they are the remaining parent or the appointed legal guardian" because it will not be financially sustainable and will create an administrative burden.

3. *Executive Management do not support the Trade Unions input at 5.9 because an employee dismissed for misconduct, poor performance or who resigned, retires or terminate his employment in terms of Section 11.1 of the Disciplinary Procedure Code Collective Agreement cannot expect the Benefit of continued membership of a Medical Fund.*

4. *Executive Management do not support the Trade Unions (IMATU) input for continued medical aid based on sliding scale due to financial implication and administrative burden.*

5. *That proposed amendments be referred to the LLF for acceptance and Council for approval and implementation."*

The proposed amendments were referred to the Local Labour Forum who resolved per L14-02/2025 as follows:

"1. That the Local Labour Forum accept the definition of continued member as per Executive Management outcomes. The definition of continued member in Clause 4 as follow: Continued Member: An employee who (a) was appointed before 1/7/2013 and retires according to the rules of his/her Retirement/Pension Fund or (2) who's services are terminated due to Ill Health / Incapacity which resulted in an approved claim, irrespective of years of service or (3) was appointed after 1/7/2013 who retires at age 65 with a minimum of 10 years uninterrupted service. That the Local Labour Forum take note that Executive Management do not support the Trade unions input at 5.8 "… with subsidy, when the remaining parent or Legal guardian can furnish the necessary proof stating that they are the remaining parent or the appointed legal guardian" because it will not be financially sustainable and will create an administrative burden. That the Local Labour Forum take note that Executive Management do not support the Trade Unions input at 5.9 because an employee dismissed for misconduct, poor performance or who resigned, retires or terminate his employment in terms of Section 11.1 of the Disciplinary Procedure Code Collective Agreement cannot expect the Benefit of continued membership of a Medical Fund.

2. *That the Local Labour Forum take note that Executive Management do not support the Trade Unions (IMATU) input for continued medical aid based on sliding scale due to financial implication and administrative burden.*

3. *That proposed amendments to the Membership and Registration of Dependants on Accredited Medical Funds Policy be accepted by the Local Labour Forum and referred to Council for approval and implementation from the 1st day of the month following Council's approval."*

NOTE: IMATU stated that they did take this matter up with their members at their general meeting and did submit a proposal. The IMATU Region also got involved where certain instructions were given. IMATU Local therefore withdrew their position. IMATU further stated that they only want to place on record that the employer's financial position and the implication with regards

to IMATU's mandate is acknowledged, but to consider the future possibility for a further opportunity to look at IMATU's proposal again.

IMATU proposed that the Policy be accepted as is.

Mr. C Puren seconded the proposal.

RECOMMENDATION

That the Membership and Registration of Dependents on Accredited Medical Funds Policy be accepted by Council for approval and implementation from the 1st day of the month following Council's approval.

NOTE:

Please consult the complete annexures as attached to the agenda for the Corporate and Governance Services Committee Meeting which was held on 9 April 2025 (Item CG15-04/2025) for more details.

RECOMMENDATION TO COUNCIL

That the Membership and Registration of Dependents on Accredited Medical Funds Policy be accepted by Council for approval and implementation from the 1st day of the month following Council's approval.

E101-04/2025

APPLICATION FOR THE RENEWAL OF THE LEASE AGREEMENT FOR A PORTION OF PORTION 8 OF THE FARM RIETVALLEY NO 225, MOSSEL BAY (±20 490M²) TO CAPE KAROO INTERNATIONAL (PTY) LTD

File Number: 15/4/31/15/5

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE47-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That approval be granted to the Applicant, Capekaroo International (Pty) Ltd, for the renewal of the Lease Agreement of a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), as indicated on the Locality Plan marked 'B', for a period of three (3) years at a market related rental amount of R7 045,00 per month

(VAT inclusive), with an annual escalation equal to the CPI percentage, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels), since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior to the date of escalation in terms of the Agreement.

2. That no other buildings/structures may be erected on the premises without the prior written approval of the Municipality.

3. That building plans be submitted to the Municipality for approval before commencement of any construction on the premises.

4. That the Applicant will not sublet the erf or any portion thereof without prior written approval of the Municipality.

5. That the Applicant be responsible for the maintenance of the buildings as well as the premises to the satisfaction of the Municipality.

6. That no structural changes or improvements may be affected without prior written approval of the Municipality.

7. That the Applicant will indemnify the Municipality against any claim which may originate as a result of its use of the property.

8. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleaning, repair and construction of municipal services.

9. That the Applicant will be responsible for the Insurance of its contents as well as to take out Public Liability Insurance, proof of which must be furnished to the Municipality.

10. That, at the termination of the Agreement, all the removable solar panels on the property be removed by the Applicant and the area utilised for this purpose, be rehabilitated to the satisfaction of the Municipality within 30 days.

11. That permanent improvements and structures on the property will become the property of the Municipality and the Applicant will have no claim for enrichment against the Municipality as a result of any permanent improvements made to the property.

12. The Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.

13. That the Applicant will be responsible for the payment of all municipal services in respect of the premises to the satisfaction of the Manager: Income Section.

14. That all wastewater from the premises must comply with the requirements as set by the Director: Infrastructure Services. The Applicant will be responsible to ensure that water destined for Pinnacle Point will not be contaminated or polluted by its activities.

15. That the Applicant be responsible for all costs related to the application, including advertising costs.

16. That the public participation process as prescribed in the relevant legislation be followed.

17. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee

and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which, it will be accepted that there are no comments, objections or representations.

18. That after completion of the prescribed Public Participation Process, this Item be referred back to the Municipal Manager for further consideration.

19. That no rights and/or obligations be vested prior to the Lease Agreement being signed by both parties."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"This Item is submitted to Council to acquire approval for the renewal of the Lease Agreement for a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), to Cape Karoo International (Pty) Ltd (hereinafter referred to as the Applicant), for a period of three (3) years, at a market related rental amount of R7 045,00 (VAT inclusive) per month, with an annual escalation equal to the CPI percentage, since is it not required for basic municipal purposes, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels).

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

An application was received from Cape Karoo International (Pty) Ltd (hereinafter referred to as the Applicant), to renew the lease of a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), for a period of three (3) years, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels).

A copy of the Application as well as the Locality Plan were annexed, marked 'A' and 'B' respectively.

Portion 8 of the Farm Rietvalley No 225, Mossel Bay, is currently zoned as Agricultural Zone 1.

The Municipal Valuer determined the market value of this portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²) at R2 300 000,00 (VAT inclusive). The market related rental was determined at an amount of R11 500,00 per month (VAT inclusive).

A copy of the Valuer's Report was annexed, marked 'C'.

The current lease amount is R6 646,52 per month. It is therefore recommended that the lease of the property be renewed at a rental amount of R7 045,00 per month (VAT inclusive), which is in line with the CPI percentage.

This property, Portion 8 of the Farm Rietvalley No 225, Mossel Bay (90,1617 hectares) is listed on the Municipal Asset Register at a book value of R8 000 000,00 and classified as Investment Property.

In terms of Regulation 34(3)(b) of the Asset Transfer Regulations R878, a request to the Municipal Council for authorisation of a Public Participation Process must be accompanied by an information statement stating:

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

The proposed lease period for the premises is only for three (3) years, therefore long term rights are not applicable.

(ii) any expected benefits to the Municipality that may result from the granting of the right;

The Municipality will benefit from the monthly rental to be received as well as service fees.

(iii) any expected proceeds to be received by the Municipality from the granting of the right; and

The Municipality will receive a monthly rental from the Applicant.

(iv) any expected gain or loss that will be realised or incurred by the Municipality arising from the granting of the right.

The Municipality will gain by receiving monthly rental from the Applicant.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

Comments received from Directorate: Financial Services are as follows:

"This property, Portion 8 of the Farm Rietvalley No 225, Mossel Bay (90,1617 hectares) is listed on the Municipal Asset Register at a book value of R8 000 000,00 and classified as Investment Property."

Directorate: Financial Services has no objection to the proposed renewal of the lease.

The Municipality will gain by receiving monthly rental from the Applicant.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

COMMENTS FROM FINANCIAL SERVICES

No further comments.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

Recommendation is supported.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

No further comments.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted to the Applicant, Capekaroo International (Pty) Ltd, for the renewal of the Lease Agreement of a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), as indicated on the Locality Plan marked 'B', for a period of three (3) years at a market related rental amount of R7 045,00 per month (VAT inclusive), with an annual escalation equal to the CPI percentage, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels), since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior to the date of escalation in terms of the Agreement.

RECOMMENDATION

That the following recommendation be made to Council:

1. That approval be granted to the Applicant, Capekaroo International (Pty) Ltd, for the renewal of the Lease Agreement of a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), as indicated on the Locality Plan marked 'B', for a period of three (3) years at a market related rental amount of R7 045,00 per month (VAT inclusive), with an annual escalation equal to the CPI percentage, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels), since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior to the date of escalation in terms of the Agreement.
2. That no other buildings/structures may be erected on the premises without the prior written approval of the Municipality.
3. That building plans be submitted to the Municipality for approval before commencement of any construction on the premises.
4. That the Applicant will not sublet the erf or any portion thereof without prior written approval of the Municipality.
5. That the Applicant be responsible for the maintenance of the buildings as well as the premises to the satisfaction of the Municipality.
6. That no structural changes or improvements may be affected without prior written approval of the Municipality.
7. That the Applicant will indemnify the Municipality against any claim which may originate as a result of its use of the property.
8. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleaning, repair and construction of municipal services.
9. That the Applicant will be responsible for the Insurance of its contents as well as to take out Public Liability Insurance, proof of which must be furnished to the Municipality.
10. That, at the termination of the Agreement, all the removable solar panels on the property be removed by the Applicant and the area utilised for this purpose, be rehabilitated to the satisfaction of the Municipality within 30 days.

11. That permanent improvements and structures on the property will become the property of the Municipality and the Applicant will have no claim for enrichment against the Municipality as a result of any permanent improvements made to the property.

12. The Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.

13. That the Applicant will be responsible for the payment of all municipal services in respect of the premises to the satisfaction of the Manager: Income Section.

14. That all wastewater from the premises must comply with the requirements as set by the Director: Infrastructure Services. The Applicant will be responsible to ensure that water destined for Pinnacle Point will not be contaminated or polluted by its activities.

15. That the Applicant be responsible for all costs related to the application, including advertising costs.

16. That the public participation process as prescribed in the relevant legislation be followed.

17. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which, it will be accepted that there are no comments, objections or representations.

18. That after completion of the prescribed Public Participation Process, this Item be referred back to the Municipal Manager for further consideration.

19. That no rights and/or obligations be vested prior to the Lease Agreement being signed by both parties."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE47-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That approval be granted to the Applicant, Capekaroo International (Pty) Ltd, for the renewal of the Lease Agreement of a portion of Portion 8 of the Farm Rietvalley No 225, Mossel Bay (±20 490m²), as indicated on the Locality Plan marked 'B', for a period of three (3) years at a market related rental amount of R7 045,00 per month (VAT inclusive), with an annual escalation equal to the CPI percentage, to be utilised for Business purposes (overnight pens, evaporation dams and erection of removable solar panels), since it is not required for basic municipal purposes. The applicable CPI percentage shall be the CPI of two (2) months prior to the date of escalation in terms of the Agreement.

2. That no other buildings/structures may be erected on the premises without the prior written approval of the Municipality.

3. That building plans be submitted to the Municipality for approval before commencement of any construction on the premises.

4. That the Applicant will not sublet the erf or any portion thereof without prior written approval of the Municipality.

5. That the Applicant be responsible for the maintenance of the buildings as well as the premises to the satisfaction of the Municipality.

6. That no structural changes or improvements may be affected without prior written approval of the Municipality.

7. That the Applicant will indemnify the Municipality against any claim which may originate as a result of its use of the property.

8. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleaning, repair and construction of municipal services.

9. That the Applicant will be responsible for the Insurance of its contents as well as to take out Public Liability Insurance, proof of which must be furnished to the Municipality.

10. That, at the termination of the Agreement, all the removable solar panels on the property be removed by the Applicant and the area utilised for this purpose, be rehabilitated to the satisfaction of the Municipality within 30 days.

11. That permanent improvements and structures on the property will become the property of the Municipality and the Applicant will have no claim for enrichment against the Municipality as a result of any permanent improvements made to the property.

12. The Applicant will not utilise any portion of the premises for the display of outdoor advertising and signage, or change existing signage, without prior written approval of the Municipality as well as approval in terms of the Mossel Bay Municipal By-Law Relating to Outdoor Advertising.

13. That the Applicant will be responsible for the payment of all municipal services in respect of the premises to the satisfaction of the Manager: Income Section.

14. That all wastewater from the premises must comply with the requirements as set by the Director: Infrastructure Services. The Applicant will be responsible to ensure that water destined for Pinnacle Point will not be contaminated or polluted by its activities.

15. That the Applicant be responsible for all costs related to the application, including advertising costs.

16. That the public participation process as prescribed in the relevant legislation be followed.

17. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which, it will be accepted that there are no comments, objections or representations.

18. That after completion of the prescribed Public Participation Process, this Item be referred back to the Municipal Manager for further consideration.

19. That no rights and/or obligations be vested prior to the Lease Agreement being signed by both parties."

E102-04/2025

PROPOSED ALIENATION OF A PORTION (±1 347.7M²) OF ERF 13800 (UNREGISTERED ERF 19617), KWANONQABA, SITUATED IN THEMBELIHLE AVENUE, KWANONQABA BY MEANS OF THE TENDER PROCESS

File Number: 7/2/2/3

Report By: D Steyn

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

In terms of Executive Mayoral Committee Resolution PE46-04/2025 it was resolved as follows:

"That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba, by means of the Tender Process in terms of the Supply Chain Management Regulations and Policy, to be utilised for the selling of vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.
2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles purposes only and should the successful Bidder not use the property as specified, the property will revert back to the Municipality for the same amount as the original purchase price.
3. That the successful Bidder be responsible for the costs of any Land Use applications, if required, as well as the rezoning of the property.
4. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
5. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
7. That the successful Bidder will not alter or in any way disturb any existing services on the abovementioned property.

8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.
9. That, as it would be in the public interest and in the interest of local economic development to alienate the property, no reserve price be determined and that the market related value be determined by the bids received
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.
13. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

The Item which served before the Executive Mayoral Committee on 15 April 2025 reads as follows:

"The purpose of this Item is for Council to consider the alienation of a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba by means of the tender process in terms of the Supply Chain Management Regulations and Policy, to be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

An application was received from the chairpersons of Uncedo and Mobta Taxi Association, hereinafter referred to as the Applicants, to purchase a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, to be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.

A copy of the Application was annexed, marked 'A'.

It is, however, proposed that it would be in the public interest and in the interest of local economic development to alienate the abovementioned property by means of the Tender Process to be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles. The Tender Process will ensure that the alienation is fair, equitable, transparent and competitive.

Erf 13800, kwaNonqaba is zoned as Transport Zone II.

A copy of the Locality Plan was annexed, marked 'B'.

The Municipal Valuer determined the market value of this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba at R1 350 000,00 (VAT inclusive).

A copy of the Valuer's Report was annexed, marked 'C'.

Erf 13800 (1.53ha), kwaNonqaba is listed on the Municipal Asset Register at a book value of R280 000,00 and classified as Community Facilities.

The property is not needed to provide the minimum level of basic municipal services and can therefore be alienated.

In accordance with the provisions of Regulation 5(3)(b) of the Municipal Asset Transfer Regulations R878 of 2008, a request to the Municipal Council for authorisation of a Public Participation Process must be accompanied by an information statement stating:

(i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;

The current market value of this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba, was determined at R1 350 000,00 (VAT inclusive).

(ii) The reasons for the proposal to transfer or dispose of the capital asset;

The Municipality intends to alienate this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, to be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles, by means of the Tender Process.

(iii) any expected benefits to the Municipality that may result from the transfer or disposal;

The Municipality will benefit through the income of the purchase price as well as service fees and rates and taxes.

(iv) any expected proceeds to be received by the Municipality from the transfer or disposal; and

The Municipality will receive payment of the purchase price.

(v) any expected gain or loss that will be realised or incurred by the Municipality arising from the transfer or disposal.

Comments received from Directorate: Financial Services are as follows:

"*Erf 13800 (1.53ha), kwaNonqaba is listed on the Municipal Asset Register at a book value of R280 000,00 and classified as Community Facilities."*

The Municipality will gain through income of the purchase price as well as services fees and rates and taxes.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIES

Income to the Municipality by receiving the purchase price as well as service fees and rates and taxes.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Local Government: Municipal Finance Management Act, No 56 of 2003.

The Local Government: Municipal Finance Management Act, No 56 of 2003: Municipal Asset Transfer Regulations, 2008.

Municipal Asset Management Policy.

CONCLUSION / SAMEVATTING

It is therefore proposed that approval be granted for the alienation of a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba, by means of the Tender Process in terms of the Supply Chain Management

Regulations and Policy, to be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.

RECOMMENDATION

That the following recommendation be made to Council:

1. That approval be granted for the alienation of a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba, by means of the Tender Process in terms of the Supply Chain Management Regulations and Policy, to be utilised for the selling of vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.
2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles purposes only and should the successful Bidder not use the property as specified, the property will revert back to the Municipality for the same amount as the original purchase price.
3. That the successful Bidder be responsible for the costs of any Land Use applications, if required, as well as the rezoning of the property.
4. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
5. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
7. That the successful Bidder will not alter or in any way disturb any existing services on the abovementioned property.
8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.
9. That, as it would be in the public interest and in the interest of local economic development to alienate the property, no reserve price be determined and that the market related value be determined by the bids received
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council Resolution, failing which it will be accepted that there are no comments, objections or representations.
12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

13. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties."

NOTE:

Please consult the complete annexures as attached to the agenda for the Planning and Economic Development Services Committee Meeting which was held on 9 April 2025 (Item PE46-04/2025) for more details.

RECOMMENDATION TO COUNCIL

1. That approval be granted for the alienation of a portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba, situated in Thembelihle Avenue Street, kwaNonqaba, by means of the Tender Process in terms of the Supply Chain Management Regulations and Policy, to be utilised for the selling of vehicle spare parts, wheels and as a Repair Centre for vehicles, since it is not required for basic municipal purposes.
2. That a reversion condition be included in the Deed of Sale as well as the Title Deed that this portion (±1 347.7m²) of Erf 13800 (unregistered Erf 19617), kwaNonqaba be utilised for selling vehicle spare parts, wheels and as a Repair Centre for vehicles purposes only and should the successful Bidder not use the property as specified, the property will revert back to the Municipality for the same amount as the original purchase price.
3. That the successful Bidder be responsible for the costs of any Land Use applications, if required, as well as the rezoning of the property.
4. That the Municipality reserves the right of free access to the property, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
5. That the successful Bidder will be responsible for all costs of the application, including advertisement, transfer and service connection costs.
6. That the Municipality be indemnified against any damages for any stormwater overflow/flooding or any other causes that may occur in the future. This precondition must also be included in the Title Deed.
7. That the successful Bidder will not alter or in any way disturb any existing services on the abovementioned property.
8. That building plans be submitted by the successful Bidder at the successful Bidder's cost for approval before commencing construction on the property.
9. That, as it would be in the public interest and in the interest of local economic development to alienate the property, no reserve price be determined and that the market related value be determined by the bids received
10. That the Public Participation Process, as prescribed in the relevant legislation, be followed.
11. That, in addition to the prescribed Public Participation Process, the Council Resolution be referred to the Ward Councillor to bring it under the attention of the Ward Committee and that any comments, objections or representations be submitted by the Ward Councillor to the Municipality within thirty (30) days from date of the Council

Resolution, failing which it will be accepted that there are no comments, objections or representations.

12. That, after completion of the prescribed Public Participation Process, this Item be referred back to Council for further consideration.

13. That no rights and/or obligations will vest herein before final approval by Council and the signing of the Deed of Sale by both parties.

E103-04/2025

SECTION 67: LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56 OF 2003: CONDITIONAL GRANT: 2024/2025: JOINT OPERATION CENTRE

File Number:

Report By: SMIT M

Item Reference Number: 13186157

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of the Item is for Council to consider the request from the Joint Operation Centre (hereafter "JOC") in respect of a further conditional grant for the 2024/2025 financial year.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

The establishment of a Joint Operation Centre was approved by Council during 2020 following which a Non-Profit Company (NPC) was also established and became operational. The NPC has since embarked on various safety related projects to the benefit of the Mossel Bay community.

During the Special Council Meeting held on 31 May 2024 in terms of Item E87-05/2024 Council resolved *inter alia* as follows:

"2. That an amount of R1 500 000.00 (VAT excluding) be allocated towards the JOC as a conditional grant in respect of the 2024/2025 financial year in accordance with the Municipality's objective to promote a safe and healthy environment as per Section 152 of the Constitution."

An agreement was duly concluded between the parties and the amount of R1 500 000.00 VAT excluding paid over to the JOC.

A further application for funding to an amount of R1 550 000.00 VAT excluding has been received and is attached hereto as Annexure A.

However, only an amount of R1 500 000.00 (VAT excluding) has been provided for the JOC in the 2024/2025 February Adjustment Budget under Vote 9/642-59-15040.

Prior to submission of this Item Circular 131 of the MFMA was received from National Treasury on 31 March 2025 providing guidance to Municipalities in respect of Section 67 donations.

As a result of legal advice received that the outstanding donation applications received for the remainder of the 2024/2025 financial year be dealt with separately and be measured against the principles contained in legislation and Circular 131, the following external advice was received from counsel and summarized as follows:

The JOC is positioned as an entity contributing to the safety and health of the Mossel Bay community. It seems that the Municipality was instrumental in its establishment in 2020.

Circular 131 also refers specifically to provision of crime prevention services which is a SAPS assigned function. The example provided for in Circular 131 as irregular is different as it relates to a Municipality partnering with security firms in respect of cameras. The partnership is an example of not being requited.

Nevertheless, the grant to the JOC needs to be carefully considered. It seems that the JOC also has other sources of income and functions independently and without being dictated to or supervised by the Municipality. Its functions are more related to providing a safe community than crime prevention. Independency of the grantee is an important consideration for a grant to qualify as a Section 67 grant.

There are three aspects of concern. Firstly, it seems that JOC monitor municipal assets as part of its functions. This is a service that can be and should be procured. If the Municipality provides the grant on the understanding that in exchange its assets will be monitored, that part of the grant is not aligned with Section 67.

It can remain a constitutional objective of the JOC as it may conceivably perform such a function pursuant to a procurement process, but no such obligation must be included in any agreement, also not impliedly or tacitly.

The second aspect relates to interfacing with Municipal Departments. If this refers to the monitoring of municipal assets it has been dealt with. If the JOC treats the Municipality as another “Joe citizen” in the performance of its mandate it is not problematic. This must be emphasised. What must be wholly absent is that relationship that creates or foster an understanding (written or unwritten) - the Municipality shall give the grant but expect the JOC to do this and that. There must be no strings attached to the grant to put it in simple terms.

In this regard it appears that the JOC operates Traffic/law Enforcement, Fire and Disaster Management Switch Board Services. These are *prima facie* municipal services. The same principles that apply in respect of the monitoring services apply in this respect. The Municipality can co-ordinate its services with those of the JOC but the JOC must not render a municipal service in exchange of the grant and the Municipality should not expect that to happen. The Municipality must also not transfer, as part of the grant, salaries to JOC staff responsible to provide a municipal service. Such an arrangement would be contrary to the substance of a Section 67 grant. There is no reason why the JOC cannot participate in a procurement process should the Municipality resolve to do so.

In Counsil's view the Municipality would be acting aligned with the provisions of Section 67 in respect of the grants to the JOC provided that the aspects referred to above have been addressed and where it does amount to the provision of services it should be procured.

It is Counsil's view that the substance of the grant does not amount to the provision of services. The JOC and monitoring of municipal assets/switch board may be different. If it is a function that the Municipality cannot do without, it illustrates the point that it is essentially a service. If it is immaterial, and would not have influenced the decision to provide the grant, the agreement must make it clear that there is no obligation or expectation.

In accordance with Section 67 of the MFMA the Accounting Officer must be satisfied that the organization or body has the capacity and has agreed –

- To comply with any agreement with the Municipality;

- For the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;

- To report at least monthly to the accounting officer on actual expenditure against such transfer; and

- To submit its audited financial statements for its financial year to the Accounting Officer promptly;

The organization or body must also implement effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement and have in respect of previous similar transfers complied with all the requirements of this Section 67.

As the Municipality allocates a conditional grant to the JOC on an annual basis in terms of Section 67 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 ("MFMA") in accordance with its objective to promote a safe and healthy environment as per Section 152 of the Constitution it is proposed that the additional request be considered.

With due consideration of the aforementioned, the Municipality will enter into an agreement with the JOC setting out the terms and conditions of the grant and that the conditions contained in the agreements are aimed at ensuring that funds donated are utilized for its intended purpose.

FINANCIAL IMPLICATIONS / FINANSIËLE IMPLIKASIE

An amount of R1 500 000.00 has been provided for in the 2024/2025 February Adjustment Budget under Vote 9/642-59-15040.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

The Constitution.

The Local Government: Municipal Finance Management Act, No. 56 of 2003.

COMMENTS FROM FINANCIAL SERVICES

No further comments.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

No further comments.

COMMENTS FROM TECHNICAL SERVICES

No further comments.

COMMENTS FROM LEGAL SERVICES

No further comments.

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

Supported.

CONCLUSION / SAMEVATTING

An application has been received from the JOC in respect of an additional grant for the 2024/2025 financial year and as this is an objective of the Municipality in terms of the Constitution the following recommendations are for Council's consideration.

RECOMMENDATION

1. That the application received from the Joint Operation Centre in respect of a further grant for the 2024/2025 financial year as per Annexure A attached hereto be approved subject to conditions set hereunder.

2. That as provision has only been made in the February Adjustment Budget 2024/2025 for an additional amount of R1 500 000.00 (VAT excluding) it be allocated towards the JOC as an additional conditional grant in respect of the 2024/2025 financial year in accordance with the Municipality's objective to promote a safe and healthy environment as per Section 152 of the Constitution.

3. That cognisance be taken that the allocation as per Point 2 above has been provided for under Vote 9/642-59-15040.

4. That an appropriate agreement be entered into between the parties as per the requirements of Section 67 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 setting out the terms and conditions of the grant

5. That the grant be utilized for the intended purposes as stated in the JOC's application and that the conditions contained in the agreement are aimed at ensuring that funds donated are utilized for its intended purpose.

6. That in order to comply with the conditions of donations and in terms of the advice received from external counsel the following be specifically excluded from the donation and contained as such in the agreement namely:

    6.1 The monitoring of municipal assets.

    6.2 Interfacing with municipal departments

    6.3 Operating a traffic/law enforcement, fire and disaster management switch board service.

7. That as required in terms of Section 67 of the MFMA monthly reports be submitted to the Accounting Officer by the JOC on actual expenditure against the donation and that the Director: Community Safety ensure that Item 6 above be complied with.

8. That the Municipal Manager be delegated to conclude, negotiate and sign the Conditional Grant Agreement on behalf of the Municipality.

9. That no rights will vest prior to the signing of an appropriate Conditional Grant Agreement between the parties.

APPENDIX / BYLAAG

Yes

ANNEXURE A

A1

"Safety as the Corner Stone for Exponential Growth for the Greater Mossel Bay Region"

FUNDING REQUEST TO MOSSEL BAY MUNICIPALITY 2024/2025

Mossel Bay JOC NPC -Board Of Directors

A2

Mossel Bay

JOINT OPERATION CENTRE

37 17th Avenue
Mossel Bay Golf Club House
Mossel Bay
6506







A3

Mossel Bay | JOINT OPERATION CENTRE

Safety as the Corner Stone for exponential growth, for the Greater Mossel Bay Region!

- Physical safety is a fundamental prerequisite for personal, societal, and economic growth, as it provides the necessary foundation upon which individuals, communities, and nations can thrive and prosper.
- When individuals feel physically safe and secure, they can focus on pursuing their personal goals, developing their talents and skills, and reaching their full potential.
- Safety allows for personal growth, self-actualization, and overall well-being without the constant fear of harm or violence.
- A safe environment fosters social cohesion and stability by reducing fear, mistrust, and conflict among members of society. When people feel secure, they are more likely to engage in social interactions, participate in community activities, and contribute to the collective well-being of their communities.
- Physical safety is essential for economic growth and development. Businesses and investors are more likely to operate and invest in areas where their physical safety and the security of their assets are guaranteed. A safe environment attracts talent, encourages entrepreneurship, and promotes productivity, all of which are crucial for economic prosperity.
- Physical safety enables access to essential services such as education and healthcare. When individuals feel secure, they are more likely to attend schools, seek medical attention, and engage in activities that promote their overall well-being and development.
- Physical safety is a fundamental responsibility of governance and the rule of law. When citizens feel protected by their government and the justice system, they are more likely to trust and support institutions, leading to greater social and political stability.
- Physical safety is a critical component of sustainable development. Without a secure environment, efforts to address other aspects of development, such as poverty alleviation, environmental protection, and gender equality, are significantly hindered.
- Physical safety is a fundamental human need and a prerequisite for personal growth, social cohesion, economic development, access to essential services, effective governance, and sustainable development. By prioritizing physical safety, societies can create an environment conducive to progress, innovation, and overall human flourishing.
- Other departments within the JOC are as follows: Rhino Action Group, SAPS, Switchboard/Call Centre, Red Ants, Law Enforcement/Traffic and Fire and Disaster Management

The Board of Directors wishes to express their sincere appreciation to the Mossel Bay Municipality, for their previous and continued support. We truly believe that our values are aligned, and that we can continue to add value to the GROW-Safety, GROW- Economy and GROW- Social Regeneration strategies of the Mossel Bay Municipality.

Directors: Leon Van Dyk, Lindie Edwards, Frederick Groenewald, Carri Terblanche

A4

Mossel Bay | JOINT OPERATION CENTRE

KEY ACHIEVEMENTS 2023/2024

During the 2023/2024 financial year, the JOC NPC achieved the following milestones:

- Appointment of First Operations Manager for the JOC NPC.
- Appointment of 7 initial CCTV Operators, ending the year with two operators in management positions.
- Deployment of 11 Chrysalis Students in the CCTV Room, through the EPWP program as well as 2 GRDM LED Students.
- Stabilization and the re-structure of the IT Network.
- Building of 12 additional High Sites to expand the JOC Network, to provide for allowing more partner cameras to the JOC.
- Through successful partnership development 168 Cameras added to the CCTV Room.
- Linkage of 55 cameras of ATKV/HVHV as well as the monitoring of Municipal Assets and Infrastructure.

A5

Mossel Bay | JOINT OPERATION CENTRE

As an example: Key Achievements- continued....

- 1772 incidents were reported to various safety partners:

Date

1,772 responses, 890 not shown

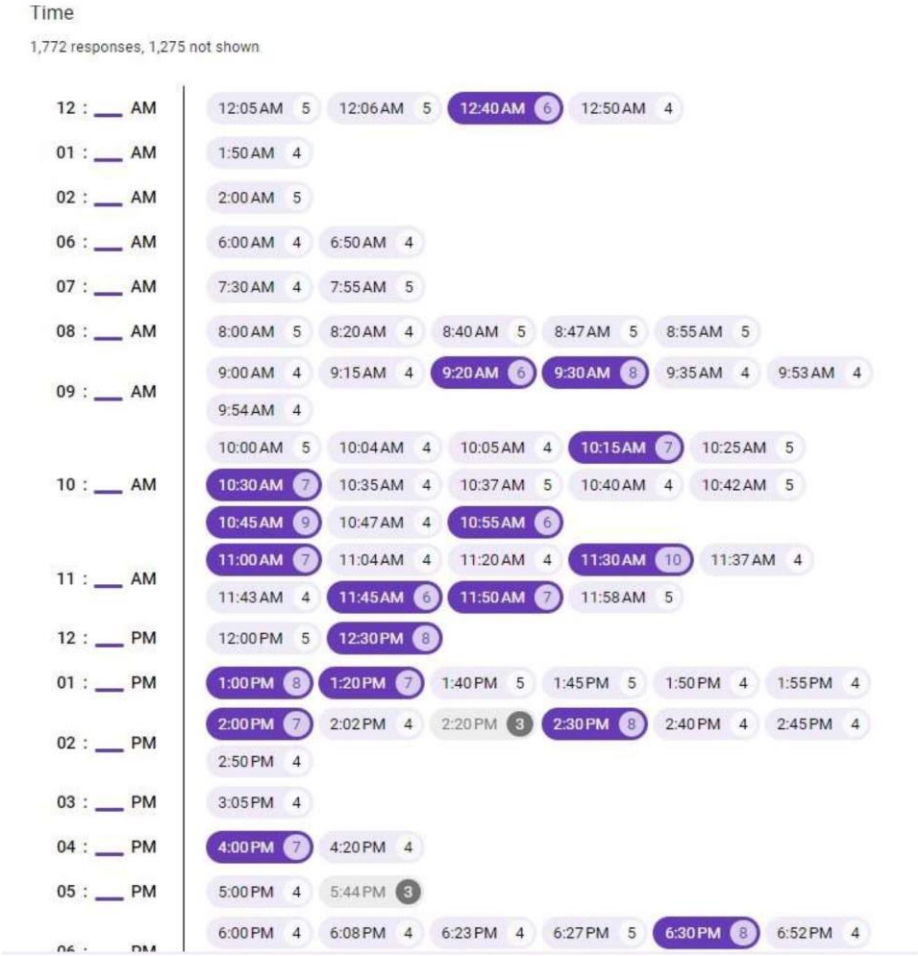
May 2023	9 6 10 6 16 6 18 8 20 8 22 6 27 7 29 7
Jun 2023	3 7
Jul 2023	28 6
Aug 2023	3 6 9 11 18 7 19 6 25 8 29 10
Sep 2023	3 8 16 7 26 9 27 10
Oct 2023	18 8 27 11 28 13
Nov 2023	6 7 7 7 8 8 11 7 13 8 15 8 20 7 22 11 25 10 27 9 28 10
Dec 2023	10 9 11 7 13 12 16 8 19 8 21 17 22 14 27 7 30 11
Jan 2024	7 8 11 9 12 7 15 7 23 8 25 8 26 7 30 7 31 8
Feb 2024	1 7 2 10 8 10 11 7 14 12 15 12 16 9 23 10
Mar 2024	8 7 11 8 16 9 18 8 26 11
Apr 2024	2 16 3 8 5 10 6 9 7 8 9 7 10 10 11 8 12 7 13 11 15 13 16 7 18 7 19 9 22 7 23 11 24 7 25 7 27 10 28 10
May 2024	2 11 3 11 4 8 5 7 6 9 7 12 8 10 9 8 10 9 13 10 15 9 17 11 18 9 19 10 20 11

A6

Mossel Bay | JOINT OPERATION CENTRE

Key Achievements- continued....

- The reported data is useful in the analysis of incidents across various criteria, i.e. Time of Incidents.

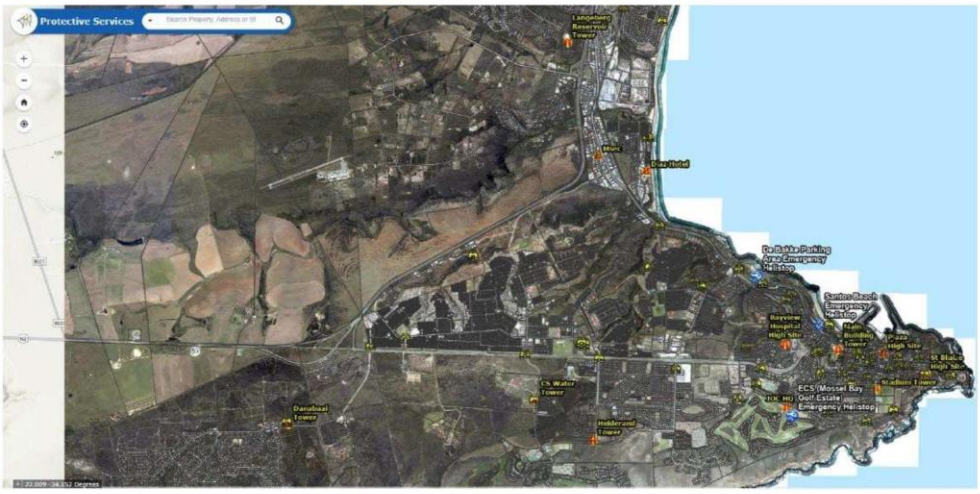


A7

Mossel Bay | JOINT OPERATION CENTRE

Key Achievements- continued....

- This improved record keeping and statistics, offers credibility of systems, figures, and protocols.
- The data is crucial in identifying and motivating new projects.
- Centralized application through the JOC for new camera installation results in optimal co-ordination between external and internal partners.



A8

Mossel Bay | JOINT OPERATION CENTRE

Key Achievements- continued.... Example of management of application processes

PROJECT NAME:	Estimate			R.A.G.-STRATEGIC SAFETY	NPC TREASURY	C.T. NPC BUDGET	C.T.NPC ACTUAL	NETWORK ENGINEER	MBM CO APPROV.	NAVIC CONTRIB/	MOA SIGNED	BOD APPROV.	MBM ELECT.	SCHEDULED INST.	NPC ASSET	ACTUAL INSTALLATIO	SERVICE & INSPECT	EFFECT CCTV OP	END Term-	LEGAL OWNER
WARD	Item Price	Quantity	TOTAL	IMPORTANCE	CODE			APPROV.	RESO.	APPLIC.	JOC/MBM	RESO.	APROV	DATE	REQUISITION	DATE:	FREQ	CAPACITY	Life Cycle	
CCTV POINTS																				
PROJECT DESCRIPTION:						R0.00														
Bland & Mitchell																				
Network Engineer Comments																				
EQUIPMENT NEEDS:																				
P8E-5AC-Gen2	R2 995.00		R0.00																	
Mikrotik RB750Gr3	R1 315.00		R0.00																	
4 Port POE	R275.00		R0.00																	
Golnix AP2	R1 100.00		R0.00																	
Victron Blue Smart 24/13	R3 700.00		R0.00																	
Victron Orion-Tr 24/12-10	R800.00		R0.00																	
Double Plug	R170.00		R0.00																	
BlueNova BN13V-22-286Wh	R3 010.00		R0.00																	
10m x 2.5mm Flat Twin	R350.00		R0.00																	
3m x 2.5mm Twin Flex	R50.00		R0.00																	
Lugs	R50.00		R0.00																	
SD Card	R399.00		R0.00																	
Battery Night Pole	R4 200.00		R0.00																	
Battery Day Pole	R2 000.00		R0.00																	
Labour	R1 350.00		R0.00																	
Camera: 1 x 4MP 42x	R30 522.00		R0.00																	
Camera: 1 x 4MP ANPR	R10 757.00		R0.00																	
Camera: 1 x 4MP AcuSense 2.8	R2 513.00		R0.00																	
Camera: 1 x 4MP AcuSense 4.0	R2 901.00		R0.00																	
Other:			R0.00																	
INVERTER	R2 500.00		R0.00																	
High Sites Battery Packs (Phase 5 and 6)			R0.00																	
3			R0.00																	
HIGH SITE CONNECTION POINT:																				
MBM ELECTRICITY ACCESS POINTS:																				
ELECTRICITY CONSUMPTION P/DAY/MONTH																				
TRENCHING REQUESTS:																				

New Applications for cameras feeding into the JOC are important to be co- ordinated through the Operations Manager, as this affects the scheduling and preparation of installations with our Network Engineer, as well as various departments within the Municipal Administration. It assists with recordkeeping and ensures legal compliance and transparency.

A9

Mossel Bay | JOINT OPERATION CENTRE

Key Achievements- continued....

- A Board focuses on the importance continuous improvement of Good Governance and Transparency, and financial governance achieved an unqualified audit from Moore Southern Cape (Pty) Ltd
- Received donation of 27 cameras from the Central Improvement District
- Expansion and improvement of partner equipment
- Improved imaging through the installation of state-of-the-art video wall



Directors: Leon Van Dyk, Lindie Edwards, Frederick Groenewald, Carri Terblanche

A10

Mossel Bay | JOINT OPERATION CENTRE

JOC Business System - Adopted August 2023

- The JOC NPC Board adopted the following business system and base all decisions made in accordance with the following criteria. It forms the basis for budgeting and prioritization of decisions to be made:
- JOC Agenda:
- 1. Human Resources
- 2. Administration
- 3. Finance
- 4. SHEQ
- 5. Communication
- 6. Legal
- 7. Media
- 8. Investment Funding
- 9. Projects Identification, Motivation and Progress Reports
- 10. Suppliers
- 11. Operational Safety Plans
- 12. Partnership Developments

The following budgets are based on the result of the planning for 2024/25.

A11

Project Budget - Annexure A

PROJECT BUDGET - ANNEXURE A

Financial Year (01/07/2024 - 31/06/2025)

FINANCIAL BUDGET FOR PROJECTS 2024/2025

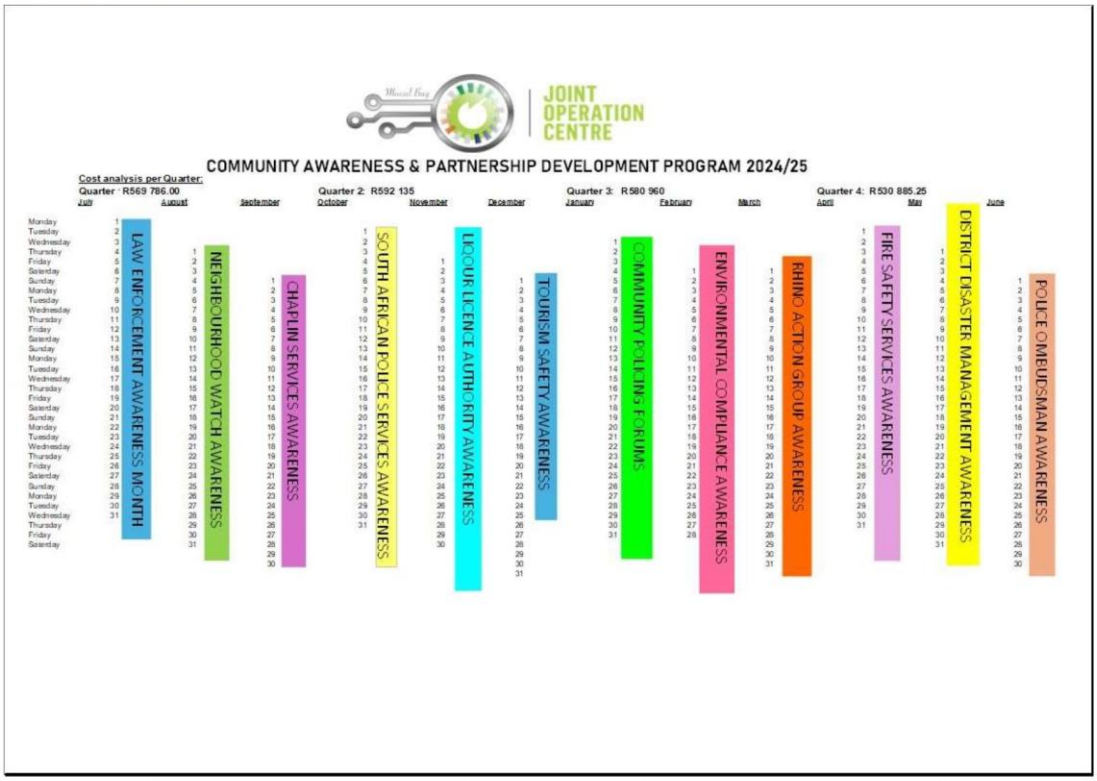
Donation amount requested from the Mossel Bay Municipality

PROPOSED PROJECT / PROGRAM BUDGET	
RURAL EXPANSION - 25%	**R939 007,47**
Expansion of Network Infrastructure to enab le connectivity with Rural areas ie. Brandwacht, Wolwedans, Freimersheim & Herbertsdale.	
License Plate Recognition Cameras for Rural areas - Herbertsdale - 2	
Overview Cameras for Herbertsdale - 6	
License Plate Recognition Cameras for Rural areas - R328 - 2	
Overview Cameras for Rural areas ie. Wolwedans - 13	
PTZ Cameras for Rural areas ie. Wolwedans - 2	
License Plate Recognition Cameras for Rural areas ie. Wolwedans - 2	
Overview Cameras for Rural areas ie. Freimersheim - 10	
PTZ Cameras for Rural areas ie. Brandwacht - 2	
CENTRAL - 11%	**R96 000,00**
Louis Fourie Corridor Phase 1	
louis Fourie Corridor Phase 2	
PARTNERSHIP DEVELOPMENT - 9%	**R195 251,00**
Expansion of CCTV Monitoring Screens in Law Enforcement- & Fire Departement Kiosks	
Installation of Overview Cameras in Disadvantaged Communities	
NETWORK ABILITY - 25%	**R71 941,53**
Expansion ofn PTZ Equipment on High Masts ie. Islandview, Green Tanks, Freimersheim High Site	
More access points inside the JOC	
INFRASTRUCTURE - 30%	**R247 800,00**
Expansion of Hikvision License to 700 cameras	
TOTAL BUDGET	**R1 550 000,00**

A12

Mossel Bay | JOINT OPERATION CENTRE

Community and Partnership Development Program 2024/25 - Annexure B



The Board of Directors recently approved the setup of a website, and social media platforms. This will enhance the image of the JOC NPC, and partnership. We anticipate that the targeted approach on platforms such as Linked Inn can attract external investment funding, which will be one the core focus areas for the Board, to achieve in the upcoming financial year.

A13

Mossel Bay | JOINT OPERATION CENTRE

We hereby request from the Municipality a donation of R1 550 000. 00 per annum that is expected to fund the continuous achievements to this critical project in Community Safety. The funding is used for projects and overhead and is split 50% to affect all services to the community. **The actual grant donation amount = R3 050 000.00 per annum which is requested to run both projects and overheads, which constitutes this amount. In July 2024 only 50% of the funding which was received and the JOC only received R1 500 000.00. The JOC thus has a shortage of R1 550 000-00 for the remainder of the financial term ending June 2025.**

The following items/aspects need to be addressed which are not included and budgeted for and even the R3 050 000-00 would not be sufficient:

1. Expansion of Permanent Personnel as there is an increase in the number of cameras to monitor;
2. Effective IT Platform;
3. Implementation of Artificial Intelligence Programmer;
4. Development of Interns/Training/Registrations;
5. Maintenance and expansion of building;
6. Green energy – sustainability;
7. Research and Development;
8. Establishment and upgrades: High Points & Fiber Network;
9. Monthly **overheads** consist of +-R170 000.00 per month, thus R2 040 000.00 per annum. This amount excludes projects. **To enable Project Development, the JOC needs at least R2 000 000.00 per annum, thus a total budget of R4 100 000.00 should be considered for 2026/2027.**

Letter from the Chairman - Leon Van Dyk

It is imperative in the new financial year to focus on marketing, attracting new partners, raising awareness, and acquiring new and or additional financial investment into the JOC. We are pleased to report that some of these discussions have already started.

The most pertinent shift was to split two senior posts to ensure underlying support. and independent financial- and operational command and control.

The JOC wishes to thank the Municipality for their valuable financial and ongoing support, to ensure safety in all 15 Wards of Mossel Bay.

The focus area in the next year will be to implement and construct high sites in rural / outlying areas with the creation of a phase 1 to create a CCTV operations system.

Directors: Leon Van Dyk, Lindie Edwards, Frederick Groenewald, Carri Terblanche

A14

The other key area would be to enhance mast CCTV expansion.

The JOC is convinced that the network system will allow a doubling up of the resources in the next 2 years.

E104-04/2025

DONATION OF DECOMMISSIONED 11KV SWITCHGEAR PANELS TO HESSEQUA MUNICIPALITY

File Number:

Report By: OLIVIERM

Item Reference Number: 13185006

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of this Item is to obtain Council's approval for the donation of six 11kV panels and switchgear to Hessequa Municipality.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

The attached letter dated 11 March 2025 for the donation of six decommissioned switchgear panels has been received from the Hessequa Municipality. The switchgear has been removed from the Pinnacle Point 11kV substation. The switchgear panels have been in service for over 20 years and are no longer cost effective to main/repair. They can only be used by Municipalities/utilities with similar 11kV distribution networks. The old equipment has been replaced with modern, SF6 gas insulated type switchgear which are maintenance free and safe to operate. The panel consists of six (6) 11kV switches with a total asset value of R91,487.58.

The description of the assets are as follows:

Reyrolle RES -779P [LMR]
Reyrolle RES -780P [LMR]
Reyrolle RES -781P [LMR]
ABB RES -1149P [LMR]
ABB RES – 1150P [LMR]
ABB RES – 1151P [LMR]

Asset No.	Description	Carrying value
546366	Substation Circuit Breaker 11kV Oil Insulation	R44,544.37
11774	Electricity Medium Voltage MV Substation Circuit Breaker 11kV Oil Insulation	R46,943.21

That it be noted that the transfer of obsolete/redundant assets between the Mossel Bay Municipality and Hessequa Municipality is allowed in terms of Section 14(6) of the MFMA.

The Electricity Department has no objections for the reuse of the old switchgear if they are refurbished by an accredited Service Provider and are operated by competent electricians.

The carrying value of the municipal assets and the related disposal loss will accordingly be reflected in the municipal records as per the Asset Management policy.

COMMENTS FROM CORPORATE SERVICES

No further comments.

COMMENTS FROM DEVELOPMENT AND PLANNING SERVICES

Supported.

COMMENTS FROM TECHNICAL SERVICES

Supported.

COMMENTS FROM LEGAL SERVICES

COMMENTS FROM COMMUNITY SERVICES

No further comments.

COMMENTS FROM COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS FROM MUNICIPAL MANAGER

Supported.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

Section 14(6) of the MFMA.

RECOMMENDATION

1. That approval be granted in terms of Section 14(6) of the MFMA for the following redundant panels & switchgear from the Pinnacle Point substation to be donated to the Hessequa Municipality:

Asset No.	Description	Carrying value
546366	Substation Circuit Breaker 11kV Oil Insulation	R44,544.37
11774	Electricity Medium Voltage MV Substation Circuit Breaker 11kV Oil Insulation	R46,943.21

Reyrolle RES -779P [LMR]
Reyrolle RES -780P [LMR]
Reyrolle RES -781P [LMR]
ABB RES -1149P [LMR]
ABB RES – 1150P [LMR]
ABB RES – 1151P [LMR]

2. That the Hessequa Municipality be notified that the above equipment can only be reused after they have been refurbished, tested, commissioned and certified by an accredited contractor.

Rig alle korrespondensie aan die Munisipale Bestuurder
Address all correspondence to the Municipal Manager

HESSEQUA

Munisipaliteit / Municipality / U Masipala

TEGNIESE DIENSTE
TECHNICAL SERVICES

Tel:(028) 713 8000
Faks / Fax: 086 4015 118
Posbus / P.O. Box 29, RIVERSDAL(E), 6670
E-pos / E-mail: info@hessequa.gov.za
www.hessequa.gov.za
Van den Bergstraat
RIVERSDAL(E)

Verw. / Ref: 16/2/R

Navrae/Enquiries: Mr. S. Chikamhi

11 March 2025

The Municipal Manager
Mossel Bay Municipality
Private Bag X29
MOSSEL BAY
6500

Attention: Mr. Puren

Sir

FORMAL REQUEST FOR DONATION OF DECOMMISSIONED 11KV SWITCHGEAR PANELS

I trust this correspondence finds you in good health and high spirits.

Hessequa Municipality has become aware that eight (8) 11kV switchgear panels have recently been decommissioned and removed from the Pinnacle Point Substation of Mossel Bay Municipality. Given the operational requirements within our municipality, we hereby formally request that six (6) of these panels be donated to Hessequa Municipality for integration into our existing infrastructure.

The details of the panels in question, including their respective serial numbers, are outlined below:

1. ABB RES -1149P (LMR)
2. Reyrolle RES -779P (LMR)
3. Reyrolle RES -780P (LMR)
4. Reyrolle RES -781P (LMR)
5. ABB RES -1150P (LMR)
6. ABB RES -1151P (LMR)

HESSEQUA
Munisipaliteit / Municipality / U Masipala

TEGNIESE DIENSTE
TECHNICAL SERVICES

Rig alle korrespondensie aan die Munisipale Bestuurder
Address all correspondence to the Municipal Manager

Tel:(028) 713 8000
Faks / Fax: 086 4015 118
Posbus / P.O. Box 29, RIVERSDAL(E), 6670
E-pos / E-mail: info@hessequa.gov.za
www.hessequa.gov.za
Van den Bergstraat
RIVERSDAL(E)

Verw. / Ref: 16/2/R

Navrae/Enquiries: Mr. S. Chikamhi

Hessequa Municipality has had the privilege of receiving similar donations from Mossel Bay Municipality in the past, which have played a crucial role in enhancing our electrical infrastructure and improving service delivery to our residents. We deeply appreciate the continued spirit of inter-municipal cooperation and collaboration that exists between our respective municipalities. The successful acquisition of these additional switchgear panels would further bolster our electrical network's reliability and operational efficiency.

Should this request be favourably considered, we would welcome the opportunity to engage in further discussions regarding the necessary arrangements for the transfer of these assets. We remain at your disposal to facilitate any required processes and are amenable to any terms and conditions that may accompany such a donation.

We extend our sincere gratitude for your time and consideration of this request. We look forward to your response and remain hopeful for a favourable outcome. Please do not hesitate to contact us should any further information or clarification be required.

Yours faithfully

.....

A.S.A. DE KLERK
MUNICIPAL MANAGER
SC/lc
Copy: Mr. S. Chikamhi / R. Manho
Collab ref.: 2142417 (Correspondence)

E105-04/2025

ALLEGED BREACH OF CODE OF CONDUCT: COUNCILLOR L COETZEE

File Number: 3/3/1

Report By: N PRINS

Item Reference Number: 13189437

PURPOSE AND BACKGROUND / DOEL EN AGTERGROND

The purpose of the Item is to consider the report of the Speaker, Alderlady V Fortuin, regarding the alleged breach of the Code of Conduct by Councillor L Coetzee with regard to Item 2 of the Code in respect of a Facebook post made on or about the 14th of February 2025.

DISCUSSION AND MOTIVATION / BESPREKING EN MOTIVERING

In terms of Item 15(1) of the Code of Conduct the Speaker of a Municipal Council must, if on reasonable suspicion that a provision of the Code has been breached, authorise an investigation of the facts and circumstances of the alleged breach and report the matter to the Municipal Council after the investigation has been complied with.

It was brought under the attention of the Speaker that Councillor L Coetzee may have breached Item 2 of the Code of Conduct for Councillors with the content of his Facebook post on or about the 14th of February 2025.

A report was received from the Speaker, attached hereto marked as Annexure A, for consideration.

RELEVANT LEGISLATION / RELEVANTE WETGEWING

Schedule 7 of Local Government: Municipal Structures Act, No. 117 of 1998.

CONCLUSION / SAMEVATTING

A report was received from the Speaker, attached hereto marked as Annexure A, for consideration, regarding the alleged breach of the Code of Conduct for Councillors by Councillor L Coetzee.

RECOMMENDATION

1. That cognisance be taken of the report as received from the Speaker, attached marked as Annexure A, and that it be accepted.

2. That the matter be referred to the Code of Conduct Committee to investigate and make a finding on the alleged breach of the Code of Conduct by Councillor L Coetzee and to make an appropriate recommendation to Council.

3. That it be noted that the composition of the Code of Conduct Committee is as follows Councillor J Bavuma (Chairperson), Councillor W Botha, Councillor M Welman, Councillor N le Roux, Councillor Z Matyesini, Councillor V Porter, Councillor L van Dyk (secundi), Councillor A Janse van Rensburg (secundi) and Councillor M Mkonto (secundi).

4. That the outcome of the investigation be reported to the MEC for Local Government by the Speaker.

ANNEXURE / BYLAAG

Yes

OFFICE OF THE
SPEAKER

MEMORANDUM

REF NO	:	3/3/1
DATE	:	14 APRIL 2025
TO	:	MUNICIPAL MANAGER
FROM	:	SPEAKER
SUBJECT		ALLEGED BREACH OF CODE OF CONDUCT: COUNCILLOR L COETZEE

In terms of Item 15(1) of the Code of Conduct for Councillors (Schedule 7 of the Local Government: Municipal Structures Act, No. 117 of 1998), I wish to report as follows:

Transgressions

It is alleged that Councillor L Coetzee may have breached the Code of Conduct for Councillors Items 2 in that his conduct was not in good faith, and he did not act in the best interest of the Municipality when he allegedly.

On or about the 14th of February 2025 made a post on the social media platform Facebook, which was derogatory and/or insulting and/or offensive towards the Afrikaans community as follows:

"I am ashamed of the actions of my culture as a Afrikaner. God placed me in this time is history, because if I were to be an adult during the apartheid years I would have been the same as Beyers Naude and other Afrikaners that stood up against their own.

Think again at how you raise your children, God teaches us that we should love our neighbour as ourselves. The Afrikaner often sees themselves as a Christian people, then live it!"

The post received adverse reaction and caused divided opinion within the Mossel Bay community.

The allegations were referred for an independent investigation into the incident pertaining to the alleged conduct where it was concluded on *prima facie* grounds that there is a reasonable suspicion that the Councillor may have contravened Items 2 of the Code of Conduct for Councillors.

The Councillor's conduct is deemed contrary to Items 2 of the Code of Conduct which states the following:

- that a Councillor must perform the functions of office in good faith, honestly and a transparent manner; and
- at all times act in the best interest of the Municipality and in such a way that the credibility and integrity of the Municipality are not compromised.

From the supporting documentation and Code of Conduct for Councillors it appears that Councillor L Coetzee may have contravened the Code of Conduct for Councillors.

A letter was addressed to Councillor L Coetzee on 18 March 2025 wherein the Councillor was given reasonable opportunity to reply in writing to the alleged transgressions by not later than Tuesday, 01 April 2025.

The Councillor via his attorney of record duly submitted his response to the Office of the Speaker on 01 April 2025 which was referred for an independent and objective opinion.

The Councillor in his response *inter alia* asserts as follows:

- That he categorically denies that he had breached the Code of Conduct for Councillors as alleged;
- That he made the comments in his private capacity on his private (and restricted) Facebook page;
- That his comments amounted to self-critic.

It is the independent investigator's opinion that this matter warrants further investigation due to *inter alia* the following reasons:

- That the comments not only amounted to self-criticism as it was clear that reference was made to the whole "Afrikaner culture" and it is the opinion that the comments singled out one demographic group/culture.

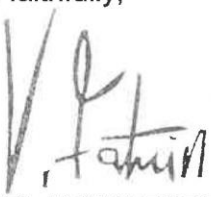
- That it is not appropriate to aver that the comments made was made in his private capacity and not in his representative capacity. The Councillor is an elected member of Council and cannot waive his duties and responsibilities to adhere to the Code.

- The Councillor's response should be carefully considered and weighed against the subsequent retraction of the Facebook post and the written apology whereby it was admitted:
    - That he made an error of judgement
    - That he generalized his opinion/comments towards and/or of the "Afrikaansprekendes"
    - That his comments were unsensitive and damaging; and in addition thereto;
    - Unconditionally tendered his apology.

Taking all this information into consideration, I am of the opinion that the matter should be referred to the Code of Conduct Committee for further investigation and that the Committee should make an appropriate recommendation to Council.

I therefore request that the matter be referred to the Code of Conduct to investigate and make a finding on the alleged breach of the Code and to make an appropriate recommendation to Council.

Yours faithfully,



ALDERLADY V FORTUIN
SPEAKER