

NDLAMBE MUNICIPALITY



ADDENDUM

OPEN NDLAMBE COUNCIL MEETING

DATE: THURSDAY, 28 MARCH 2024

TIME: 10H00

**VENUE: COUNCIL CHAMBERS
CAMPBELL STREET,
PORT ALFRED.**

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

ADDENDUM to the AGENDA of an OPEN MEETING of the NDLAMBE COUNCIL to be held on THURSDAY, 28 MARCH 2024 at 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

PORT ALFRED
26 March 2024



DIRECTOR: CORPORATE SERVICES
for: **MUNICIPAL MANAGER**

TO: Councillor: A Marasi (In the Chair)

Councillors: KC Ncamiso, (Mayor) A. Bukani, S. T Dyakala, N. E. Haynes, W. Johannes, P. Y Kani, S. Kolosa, P. Khungwayo, T. Mbekela, N. F. Memani, M. Mgweba, Z. W. Myali, S. Melani, A Nyumka, X. Runeli, M. Sweli, S. Venene, E. H. K. Walker, S. Zweni.

Officials: Municipal Manager, Directors: Financial Management, Corporate Services, Infrastructural Development, Community / Protection Services.

Deputy Directors: Financial Management, Infrastructural Development (Port Alfred), (Alexandria), Community/Protection Services, Manager: Local Economic Development, Manager: Human Resources, Manager: Town Planning, Manager: Integrated Development Plan, Manager: Housing, Manager: Supply Chain Management Unit, Manager Water Services, Manager: Budget & Treasury Manager: Internal Audit Unit, Manager: Administration, Communication Officer, SAMWU and IMATU.

NCA022/03/2024

**REPORT DATED 26 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:
DEMOLITION NOTICE FOR THE FERRYMAN'S HOTEL**

PURPOSE

For the Council to take a decision on following the attorney's opinion to issue a demolition notice to the Ferryman's Hotel.

BACKGROUND

The Ferryman's Hotel complex has been in a state of disrepair for years and the owner received Council Notices and a meeting was held between Municipal officials, Councilor Schenk and Ratepayers Association Chairman and the owner of Ferryman's Mr. Kleyn in September 2019 who undertook to do repairs to the buildings. After the meeting Burglar bars were installed in the windows and verandah area. No further improvements were undertaken.

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The matter was handed over to Neave Stotter Inc. Mr. Grant Marais, who worked with Wheeldon, Rushmere & Cole Inc and Advocate Beyleveld to first get the access which was denied by Mr. Kleyn for the Engineer to do an inspection and give a formal report on all the structures and recommendations, an application was submitted through High Court by Advocate Beyleveld on behalf of Ndlambe Municipality and it was dismissed. After the Court ruling Wheeldon attorneys wrote a letter advising the Municipality to write a demolition Notice which will be served by them to the legal representatives of Ferryman's Hotel.

Section 12 of National Building Regulations and Building Standards Act 103 of 1977 (as amended) clearly states:-

12 Demolition or Alteration of Certain Buildings

(1) If the local authority in question is of the opinion that-

(a) any building is dilapidated or in a state of disrepair or shows signs thereof;

(b) any building or the land on which a building was or is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property,

it may by notice in writing, served by post or delivered, order the owner of such building, land or

earthwork, within the period specified in such notice to demolish such building or to alter or secure

it in such manner that it will no longer be dilapidated or in a state of disrepair or show signs thereof

or be dangerous or show signs of becoming dangerous to life or property or to alter or secure such

land or earthwork in such manner that it will no longer be dangerous or show signs of becoming

dangerous to life or property: Provided that if such local authority is of the opinion that the condition of any building, land or earthwork is such that steps should forthwith be taken to protect

life or property, it may take such steps without serving or delivering such notice on or to the owner

of such building, land or earthwork and may recover the costs of such steps from such owner.

(2) If the condition of any building or the land on which a building was or is being or is to be erected or

any earthwork is such that it is dangerous to life or property, the owner of such building, land or

earthwork shall forthwith notify the local authority in question thereof.

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(6) Any person who contravenes or fails to comply with any provision of this section or any notice issued thereunder, shall be guilty of an offence

See **Annexure C.09**

Section 12 of NBR & BS Act 103 of 1977

Sent Section 12 Notice

Court ruling & Attorneys opinion

Ward 10 minutes 01/03/2024

Communication between Mr. Kleyn & lawyers

RECOMMENDATIONS TO COUNCIL

1. THAT it **BE NOTED**, the attorneys, Neave and Stotter (Grant Marais), advised that the municipality must write a demolition notice and the lawyers will serve it to the owner(s) of the Ferryman's, namely Mr. Kleyn and other trustees.
2. That Council approves for the Municipality to write a Demolition Notice to the owners of Ferryman's Hotel that will be served by the Lawyers.

NCA023/03/2024

REPORT DATED 26 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL: ANNUAL REPORT 2022/2023

PURPOSE

To request Council to APPROVE the Annual Report for the 2022/2023 financial year as stipulated by both the Local Government: Municipal Systems Act (No: 32 of 2000) and the Local Government: Municipal Finance Management Act (No: 56 of 2003) and for submission to the Auditor General of South Africa and relevant departments. And to further request Council to allow for the Draft Annual Report to be used as a working document for Public Participation purposes.

BACKGROUND

Section 46 of the Local Government: Municipal Systems Act (No: 32 of 2000) read with Chapter 12 of the Local Government: Municipal Finance Management Act (No: 56 of 2003) and Municipal Finance Management: Circular 63 stipulate the process for the preparation and adoption of Annual Reports by all municipalities.

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DISCUSSION

The attached Annual Report contains the Audited Annual Performance Report, Audited Annual Financial Statements and the Auditor General Report for 2022/2023 financial year. The said legislation further provides for the interrogation of the Annual Report and public participation processes to happen before it is adopted as follow:

- The Mayor to table the draft Annual Report to Council and subsequent to tabling it to be submitted to the Auditor General for auditing by the 31 August and also to MPAC, Treasury and COTGA
- An advert be done to invite the stakeholder to make comments on the document.
- MPAC meeting to be facilitated by the Internal Audit unit to interrogate the document in order to produce the oversight report.
- The oversight report be sent to council for adoption and to be published no later than the end of December.
- Changes be done on the draft Annual report according to the recommendations of MPAC
- In January the Draft Audited Annual Report together with Financial Statements and Audit Report to tabled to Council and be sent out for public participation and sent out to relevant government department, Auditor General and MPAC for comments.

RECOMMENDATIONS TO COUNCIL

1. THAT the Annual Report for the 2022/2023 financial year BE APPROVED.
2. THAT the Oversight Report which forms part of the Annual Report be considered and approved by Council.
3. THAT it be noted that there were no comments from the stakeholders albeit the annual report was published.
4. THAT the Annual Report sent to the relevant government departments and the Auditor General of the Republic of South as stipulated by Section 46 of the Local Government: Municipal Systems Act (No: 32 of 2000) and Chapter 12 of Local Government: Municipal Finance Management Act (No: 56 of 2003).

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NCA024/03/2024

REPORT DATED 25 MARCH 2024 FROM THE MAYOR TO COUNCIL: DRAFT REVIEWED IDP/ TABLED BUDGET - 2024/2025

PURPOSE

To table the draft reviewed IDP for the 2024/25 financial year to Council for noting which will be used for public consultations.

For Council to consider the 2024/2025 Medium Term Revenue and Expenditure Framework (MTREF) for Council approval.

BACKGROUND

Section 34 of the Municipal System Act, 2000 requires municipalities to annually review their Integrated Development Plans (IDP) to cater for changing circumstances and section 30 (c) requires the Mayor to submit the draft plan to the Municipal Council

In terms of the Municipal Finance Management Act. No. 56 of 2003, a tabled budget is to be approved by Council by at least 90 days before the start of a financial year and the annual budget must be in a format as outlined in Schedule A of budget regulations in the Government Gazette No 32141 17 April 2009 issued by the Minister.

DISCUSSION

The budget assumptions and narrations are outlined in the 2024/25 draft Medium Term Revenue and Expenditure Framework document.

It must be stressed that the draft budget is based on the following important factors.

Factors relating to expenditure:

- 1 Salaries and wages were based on the current notching applying 6.3% increase. Forecasting 6.3% for 2025/26 and 6.3% for 2026/27. The increase in 2024/25 accommodates the notching and the job evaluation outcomes.
- 2 The increase in Bulk water purchase was projected at 23.7% to recover the under provision made in 2023/2024 financial year comparing the cost paid to bulk water in 2022/23. The increase for the outer years is reduced to reflect 6.1% in 2025/2026 and 6.5% in 2026/2027
- 3 The increase in Bulk electricity was projected at 14.2% for 2024/25, 6% for 2025/26 and 6.5% for 2026/27 budget years.

Revenue generated by tariffs:

- 1 For Trading services relating to water, wastewater and waste management a 6% increase was imposed on the current tariffs to determine the 2024/2025 draft

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budget however the 6% increase on water management yielded a deficit and the contributing factors to the deficit are:

- 1.1 Revenue decreased by 15 million as a result of the change in tariff used for billing of water consumption from drought to normal water tariff.
- 1.2 Water losses that are higher than a the norm of 30%
- 1.3 Expenditure on Bulk purchase increase of 23.7% effected on the draft budget,
- 1.4 The R4 million increase in contracted services the (costs of the service provider that is appointed to maintain and run the operations of the Reverse Osmosis plants)
- 1.5 Irrecoverable debt write off increased by R4 million.
- 1.6 The overall increase of R4 million on operational costs.

To balance a the trading service a cost of supply study will be developed to review the current tariff structure with the intentions of recovering the costs of delivering the service. Further that a water losses strategy be developed which can improve the current measures in place to reduce water losses. It must further be noted that the cost of free basic service which includes water availability charges, and the 6 kl of water consumption are subsidized by the equitable share.

- 2 In terms of Section 30 and 32 (1) (b) ii the municipality has affected its latest General Valuation roll for the 2024 to 2029 financial period. The total value of the 2024 General Valuation roll reflects a 30% increase from the total value of the 2019-2024 Valuation roll. The overall value of the 2019-2024 roll amounts to R14, 154m and the 2024 GV roll total amounts to R18,491. The table above-below reflects the various property categories, which comes from the valuation roll, and the draft cent in the rand rates tariff per category. These tariffs will be effective for the billing of rates from 1 July 2024. It is evident from the below rates cent in the rand tariff structure that the municipality has changed the rates tariff structure from a rebate format to each category having its own tariff as this came as a requirement from COGTA valuation department. Further it can be noted that the Business and residential tariffs have decreased by 14%. Business tariff decreased from 0.0139 to 0.0122 and the Residential tariff has decreased from 0.0125 to 0.0110.

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Category	Cent amount in the Rand rate determined for the relevant property category 2023/2024	Cent amount in the Rand rate determined for the relevant property category 2024/2025	Ratio tariff in relation to residential tariff 2024/2025	Percentage decrease or increase in tariff from 2023/2024 to 2024/2025
Residential	0.0125	0.0110	1:1	-14%
Vacant Land Vacant Residential	0.0125	0.0119	1:1.08	-5%
Business & Commercial	0.0139	0.0122	1:1:11	-14%
Vacant Land Vacant Business & Commercial	0.0139	0.0131	1:1.19	-6%
Industrial	0.0139	0.0122	1:1.11	-14%
Vacant Land Vacant Industrial	0.0139	0.0131	1:1.19	-6%
Agricultural Properties	0.0031	0.0028	1:0.25	-11%
Mining	0.0139	0.0122	1:1.11	-14%
Public Service Purposes	0.0139	0.0139	1:1.26	0%

Below find the revised pensioner rebate criteria:

RETIRED AND DISABLED OWNERS ON RESIDENTIAL PROPERTY WITH RATEABLE VALUE OF LESS THAN R3 000 000		
Category/Description	Proposed rebate	Based on:
Owner with income up to R 9 000 per month	45.0%	Residential rate
Owner with income between R 9 001 and R12 000	35.0%	Residential rate
Owner with income between R12 001 and R15 000	25.0%	Residential rate

3. The cost of supply study was performed for the electricity service and the study resulted in the tariff structure changing. The proposed structural tariff changes aim to ensure revenue neutrality for the municipality but it also tries to ensure sustainability of the electricity revenue in that it introduces fixed and variable charges for all tariff categories to ensure the municipality recovers at least its costs (bulk purchases and operational expenses) even when the electricity sales drop due to the implementation of load shedding and more customers installing solar panels to meet their energy needs. The electricity revenue 24/25 MTREF is based on the new tariff structure:

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2024/2025 NDLAMBE MUNICIPALITY TARIFF LIST						
DESCRIPTION	2023/2023	2023/2024	2024/2024	2024/2025	2024/2025	Rate description
	Actual	Actual	Full cost reflective	Rate 1 phase to with increase	Increase	
	VAT EXCL	VAT EXCL	VAT EXCL	VAT EXCL	VAT EXCL	
	1/7/2023	1/7/2023	1/7/2023	Increase		
				15.72%	%	
ELECTRICITY NDLAMBE						ELECTRICITY NDLAMBE
1. Scale 1: Domestic Credit						1. Scale 1: Domestic ≤ 20 Amp single phase: Prepaid & Credit
Applicable to all bona fide domestic Consumers			get 60 kWh/m for free'			Applicable to all bona fide domestic Consumers with capacity smaller or equal to 20 Amps single phase.
Basic Charge: R/m per point of supply (meter)	R 301.40	R 346.91	R -	R -	-100.0%	Basic Charge: R/m per point of supply (meter)
Energy Charge: R/kWh						Energy Charge: R/kWh
Block 1 (0 - 50 kWh)	R 1.3523	R 1.5565	R 1.5565	R 2.3157	48.8%	Block 1 (0 - 50 kWh)
Block 2 (51 - 350 kWh)	R 1.7386	R 2.0011	R 2.0011	R 2.3157	15.7%	Block 2 (51 - 350 kWh)
Block 3 (351 - 600 kWh)	R 2.4470	R 2.8165	R 2.8165	R 3.2593	15.7%	Block 3 (351 - 600 kWh)
Block 4 (>600 kWh)	R 2.8694	R 3.3027	R 3.3027	R 3.8219	15.7%	Block 4 (>600 kWh)
2. Scale 2: Domestic Pre-payment						2. Scale 2: Domestic: > 20 Amps single phase
Applicable to all bona fide domestic consumers in areas where vending is available						Applicable to all bona fide domestic consumers with capacity exceeding 20 Amps single phase Prepaid and credit.
Basic Charge: R/m per point of supply (meter)	R 301.40	R 346.91	R 57.83	R 299.94	-16.4%	Basic Charge: R/m per point of supply (meter)
			R 13.24	R 5.11	New	Capacity charge: R/Amp/phase/month
Energy Charge: R/kWh						Energy Charge: R/kWh
Block 1 (0 - 50 kWh)	R 1.3523	R 1.5565	R 1.9434	R 1.9504	25.3%	Block 1 (0 - 50 kWh)
Block 2 (51 - 350 kWh)	R 1.7386	R 2.0011	R 1.9434	R 2.2634	14.6%	Block 2 (51 - 350 kWh)
Block 3 (351 - 600 kWh)	R 2.4470	R 2.8165	R 1.9434	R 2.0225	3.8%	Block 3 (351 - 600 kWh)
Block 4 (>600 kWh)	R 2.8694	R 3.3027	R 1.9434	R 3.2975	-0.2%	Block 4 (>600 kWh)
3. Scale 3: Commercial						3. Scale 3: Commercial: Credit or Prepaid'
Applicable to non-domestic consumers with a demand not exceeding 56kVA.						Applicable to non-domestic consumers with a demand not exceeding 56kVA. Including municipal supplies
Basic Charge: R/m per point of supply (meter)	R 540.47	R 622.06	R 67.53	R 505.96	-18.7%	Basic Charge: R/m per point of supply (meter)
			R 19.47	R 7.51	New	Capacity charge: R/Amp/phase/month
Energy Charge: R/kWh	R 2.3960	R 2.7578	R 1.9411	R 2.8763	4.3%	Energy Charge: R/kWh

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5. Scale 7: Time of Use MV						5. Scale 7: Time of Use MV
Applicable to consumers with a demand normally exceeding 50kVA						Applicable to consumers with a demand normally exceeding 50kVA, supplied at MV, including municipal supplies.
Surcharge on all charges	12%	12%	Zero	Zero		Surcharge on all charges
Basic Charge: R/m per point of supply (meter)	R 990.82	R 1,140.21	R 792.79	R 1 291.00	13.2%	Basic Charge: R/m per point of supply (meter)
			R 79.6280	R 30.7152	New	Access charge: Highest of notified or actual MD
Demand Charges KVA (Peak & Standard only)	R131.52	R151.38	R96.07	R167.66	10.9%	Demand Charges KVA (Peak & Standard only)
Energy Charge: R/kWh (low season)						Energy Charge: R/kWh (low season)
Peak	R 1.7724	R 2.0401	R 2.2875	R 2.6451	29.7%	Peak
Standard	R 1.0933	R 1.2584	R 1.7075	R 1.7460	38.7%	Standard
Off-Peak	R 0.7787	R 0.8962	R 1.2390	R 1.2523	39.7%	Off-Peak
Energy Charge: R/kWh (High season - June to August)						Energy Charge: R/kWh (High season - June to August)
Peak	R 6.2121	R 7.1801	R 6.1314	R 8.5431	19.5%	Peak
Standard	R 1.6400	R 1.8878	R 2.1548	R 2.4822	30.4%	Standard
Off-Peak	R 1.3087	R 1.5084	R 1.3854	R 1.8263	21.4%	Off-Peak
			R 0.2511	R 0.0989	New	Reactive Energy Charge: R/kWh: R/kvarh (>85% PF per hour (Peak & Standard))
6. Scale 8: Time of Use Small: < 50 KVA						6. Scale 8: Time of Use Small: < 50 KVA
Applicable to consumers with a demand normally exceeding 50kVA						Applicable to consumers with a demand not exceeding 50kVA. Compulsory for SSEG consumers <50 kVA.
Surcharge on all charges			Zero			Surcharge on all charges
Basic Charge: R/m per point of supply (meter)			R 397.95	R 490.51	New	Basic Charge: R/m per point of supply (meter)
Capacity charge: R/Amp/phase			R 6.31	R 7.30	New	Capacity charge: R/Amp/phase
Energy Charge: R/kWh (low season)				R		Energy Charge: R/kWh (low season)
Peak			R 2.3189	R 2.8534	New	Peak
Standard			R 1.7389	R 2.0122	New	Standard
Off-Peak			R 1.2704	R 1.4701	New	Off-Peak
Energy Charge: R/kWh (High season - June to August)				R -		Energy Charge: R/kWh (High season - June to August)
Peak			R 6.1628	R 7.1316	New	Peak
Standard			R 2.1882	R 2.5296	New	Standard
Off-Peak			R 1.3968	R 1.6163	New	Off-Peak
7. Scale 9: SSEG FEEDIN						7. Scale 9: SSEG FEEDIN
Applicable to all SSEG consumers consumers irrespective of size.						Applicable to all SSEG consumers consumers irrespective of size.
Additional Basic Charge: R/m per point of supply (meter)			R 100.00	R 115.7200	New	Additional Basic Charge: R/m per point of supply (meter)
Energy Credits (low season)						Energy Credits (low season)
Peak			-R 1.6054	-R 1.6054	New	Peak
Standard			-R 1.1414	-R 1.1414	New	Standard
Off-Peak			-R 0.7668	-R 0.7668	New	Off-Peak
Energy Credit (High season - June to August)						Energy Credit (High season - June to August)
Peak			-R 4.8805	-R 4.8805	New	Peak
Standard			-R 1.4992	-R 1.4992	New	Standard
Off-Peak			-R 0.8877	-R 0.8877	New	Off-Peak
8. Scale 10: Public Lighting						8. Scale 10: Public Lighting
Applicable to non-domestic consumers with a demand not exceeding 55kVA.						Applicable to non-domestic consumers with a demand not exceeding 55kVA.
Maintenance charge: R/luminaire/month			R 218.18	R 252.45	New	Maintenance charge: R/luminaire/month
Energy Charge: R/kWh			R 2.9920	R 3.4523	New	Energy Charge: R/kWh
9. Scale 11: Municipal usage						9. Scale 11: Municipal usage
All municipal supplies < 50 kVA						All municipal supplies < 50 kVA
Basic Charge: R/m per point of supply (meter)			R 78.15	R 90.43		Basic Charge: R/m per point of supply (meter)
Capacity charge: R/Amp/phase/month/month			R 22.53	R 26.08		Capacity charge: R/Amp/phase/month/month
Energy Charge: R/kWh			R 2.2482	R 2.5693		Energy Charge: R/kWh
10. Scale 12: Availability						10. Scale 12: Availability
Applicable to serviced stands that is not connected. This includes SSEG consumers who have gone off the Grid.						Applicable to serviced stands that is not connected. This includes SSEG consumers who have gone off the Grid.
Fixed charge per month.		R348.9114	R 363.5205	R 407.8526	17.8%	Fixed charge per month.

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It must be noted that the operating deficit across 2024/2025 MTREF which are R31,456 million for 2024/25, R30,842 million for 2025/26 and R59,694 million 2026/27 is mainly as a result of the deficit realized by water management.

- 4 The capital budget submitted by directorates is R111 421 000 funded as follows:

2024/25 financial year

Amount	Funding Source
R7,014,000	Internal generated funds
R104,407,000	Capital transfers and subsidies
R111,421,000	

2025/2026 financial year

Amount	Funding Source
R206,000	Internal generated funds
R49,468,000	Capital transfers and subsidies
R49,674,000	

2026/27 financial year

Amount	Funding Source
R206,000	Internal generated funds
R56,532,000	Capital transfers and subsidies
R56,738,000	

The decisions Council needs to make are as follows.

That cost of supply studies be developed for all trading services (Water, Waste and Wastewater) which will determine the necessity of tariff structure changes to recover the costs of rendering the service where possible. Given economic pressures that are also affecting the costs on rendering a good quality service a cost reflective tariff may assist on the financial sustainability of the municipality.

The cost of supply outcomes must be made available for public participation after they have been endorsed by Council.

The following important aspects of the budget that need to be noted.

1. It must be noted that All budget related policies were reviewed however amendments were only made on the Rates policy for the 2024/25 MTREF.
2. All tariffs to be commented on
3. The capital and operating budget to be commented on

COMMENTS FROM OTHER DIRECTORATES

Nil

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RECOMMENDATION TO COUNCIL

1. **THAT** the Draft Reviewed Integrated Development Plan for 2024/2025, BE NOTED and be used for public consultations.
2. **THAT** the draft capital budget of R104,407,000 for 2025, (2026 R49,468,000) and (2027 R56,532,000) funded by external funding as outlined in Table A5 - Budgeted Capital Expenditure by vote, standard classification and funding source be NOTED.
3. **THAT** the draft capital budget of R7,014,000, (2025 R16 285 000) AND (2026 R9 640 000) funded by internal generated funds as outlined in Table A5 - Budgeted Capital Expenditure by vote, standard classification and funding source be NOTED.
4. **THAT** the draft operating budget for the 2024/2025 financial year as presented in Table A4 - Budgeted Financial Performance (revenue and expenditure) reflecting the operating deficit of R31,456,000, (2026 R30,842,000) and (2027 R59,694,000) be NOTED.
5. **THAT** the operating budget throughout the 2024/25 MTREF to reflect surpluses when the budget is adopted.
6. **THAT** the draft tariffs be NOTED as follows:

- I. The annual and monthly tariff of property rates be NOTED and be commented on:

Category	Cent amount in the Rand rate determined for the relevant property category 2023/2024	Cent amount in the Rand rate determined for the relevant property category 2024/2025	Ratio tariff in relation to residential tariff 2024/2025	Percentage decrease or Increase in tariff from 2023/2024 to 2024/2025
Residential	0.0125	0.0110	1:1	-14%
Vacant Land Vacant Residential	0.0125	0.0119	1:1.08	-5%
Business & Commercial	0.0139	0.0122	1:1:11	-14%
Vacant Land Vacant Business & Commercial	0.0139	0.0131	1:1.19	-6%
Industrial	0.0139	0.0122	1:1.11	-14%
Vacant Land Vacant Industrial	0.0139	0.0131	1:1.19	-6%
Agricultural Properties	0.0031	0.0028	1:0.25	-11%
Mining	0.0139	0.0122	1:1.11	-14%
Public Service Purposes	0.0139	0.0139	1:1.26	0%

- II. The pensioners rebate criteria be noted and commented on:

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RETIRED AND DISABLED OWNERS ON RESIDENTIAL PROPERTY WITH RATEABLE VALUE OF LESS THAN R3 000 000		
Category/Description	Proposed rebate	Based on:
Owner with income up to R 9 000 per month	45.0%	Residential rate
Owner with income between R 9 001 and R12 000	35.0%	Residential rate
Owner with income between R12 001 and R15 000	25.0%	Residential rate

III. A 6% increase effected on Water, Waste and Wastewater tariffs that have yielded to an operating deficit be NOTED

IV. A cost of supply study on Water, Wastewater and Waste management be developed and the outcomes be made available for public participation after they are presented to Council for endorsement.

V. THAT it be noted Electricity Services tariffs are awaiting NERSA approval :

4. Scale 7: Time of Use LV						4. Scale 7: Time of Use LV											
Applicable to consumers with a demand normally exceeding 80kVA						Applicable to consumers with a demand normally exceeding 80kVA supplied at LV, including municipal supplies.											
Surcharge on all charges						24%	24%	Zero				Surcharge on all charges:					
Basic Charge: R/m per point of supply (meter)						R 990.82	R 1 140.21	R 385.09	R 1,239.29	8.7%		Basic Charge: R/m per point of supply (meter)					
			R 118.43	R 44.91	New	Access charge: Highest of notified or actual MD											
Demand Charges KVA (Peak & Standard only)						R146.8132	R167.5984	R 137.41	R 213.33	27.3%	Demand Charges KVA (Peak & Standard only)						
Energy Charge: R/kWh (low season)											Energy Charge: R/kWh (low season)						
Peak						R 1.9823	R 2.2587	R 2.3048	R 3.0497	35.0%	Peak						
Standard						R 1.2105	R 1.3933	R 1.7248	R 1.9981	43.4%	Standard						
Off-Peak						R 0.8822	R 0.9922	R 1.2583	R 1.4338	44.5%	Off-Peak						
Energy Charge: R/kWh (High season - June to August)											Energy Charge: R/kWh (High season - June to August)						
Peak						R 6.8777	R 7.9162	R 6.1487	R 9.9445	25.6%	Peak						
Standard						R 1.8157	R 2.0899	R 2.1721	R 2.8371	35.8%	Standard						
Off-Peak						R 1.4489	R 1.6678	R 1.3827	R 2.1288	27.6%	Off-Peak						
			R 0.2511	R 0.0969	New	Reactive Energy Charge: R/kvarh (>85% PF per hour (Peak & Standard)											

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

5. Scale 7: Time of Use MV						5. Scale 7: Time of Use MV					
Applicable to consumers with a demand normally exceeding 50kVA						Applicable to consumers with a demand normally exceeding 50kVA, supplied at MV, including municipal supplies.					
Surcharge on all charges		12%	12%	Zero	Zero	Surcharge on all charges					
Basic Charge: R/m per point of supply (meter)		R 990.62	R 1 140.21	R 792.79	R 1 291.00	13.2%	Basic Charge: R/m per point of supply (meter)				
				R 79.6260	R 30.7152	New	Access charge: Highest of notified or actual MD				
Demand Charges KVA (Peak & Standard only)		R131.52	R151.39	R96.07	R167.88	10.9%	Demand Charges KVA (Peak & Standard only)				
Energy Charge: R/kWh (low season)							Energy Charge: R/kWh (low season)				
Peak		R 1.7724	R 2.0401	R 2.2675	R 2.6451	29.7%	Peak				
Standard		R 1.0933	R 1.2584	R 1.7075	R 1.7460	39.7%	Standard				
Off-Peak		R 0.7787	R 0.8982	R 1.2390	R 1.2823	39.7%	Off-Peak				
Energy Charge: R/kWh (High season - June to August)							Energy Charge: R/kWh (High season - June to August)				
Peak		R 6.2121	R 7.1601	R 6.1314	R 8.5431	19.5%	Peak				
Standard		R 1.8400	R 1.9876	R 2.1548	R 2.4822	30.4%	Standard				
Off-Peak		R 1.3087	R 1.5064	R 1.3654	R 1.8283	21.4%	Off-Peak				
				R 0.2511	R 0.0969	New	Reactive Energy Charge: R/kWh: R/kvarh (>85% PF per hour (Peak & Standard))				
6. Scale 8: Time of Use Small: < 50 kVA						6. Scale 8: Time of Use Small: < 50 kVA					
Applicable to consumers with a demand normally exceeding 50kVA						Applicable to consumers with a demand not exceeding 50kVA. Compulsory for SSEG consumers <50 kVA.					
Surcharge on all charges						Zero	Surcharge on all charges				
Basic Charge: R/m per point of supply (meter)						R 397.95	R 460.51	New	Basic Charge: R/m per point of supply (meter)		
Capacity charge: R/Amp/phase						R 8.31	R 7.30	New	Capacity charge: R/Amp/phase		
Energy Charge: R/kWh (low season)							R		Energy Charge: R/kWh (low season)		
Peak						R 2.3189	R 2.6934	New	Peak		
Standard						R 1.7389	R 2.0122	New	Standard		
Off-Peak						R 1.2704	R 1.4701	New	Off-Peak		
Energy Charge: R/kWh (High season - June to August)							R		Energy Charge: R/kWh (High season - June to August)		
Peak						R 6.1628	R 7.1316	New	Peak		
Standard						R 2.1862	R 2.5288	New	Standard		
Off-Peak						R 1.3968	R 1.6163	New	Off-Peak		
7. Scale 9: SSEG FEEDIN						7. Scale 9: SSEG FEEDIN					
Applicable to all SSEG consumers consumers irrespective of size.						Applicable to all SSEG consumers consumers irrespective of size.					
Additional Basic Charge: R/m per point of supply (meter)						R 100.00	R 115.7200	New	Additional Basic Charge: R/m per point of supply (meter)		
Energy Credits (low season)									Energy Credits (low season)		
Peak						-R 1.6054	-R 1.6054	New	Peak		
Standard						-R 1.1414	-R 1.1414	New	Standard		
Off-Peak						-R 0.7666	-R 0.7666	New	Off-Peak		
Energy Credit (High season - June to August)									Energy Credit (High season - June to August)		
Peak						-R 4.6805	-R 4.6805	New	Peak		
Standard						-R 1.4992	-R 1.4992	New	Standard		
Off-Peak						-R 0.8677	-R 0.8677	New	Off-Peak		
8. Scale 10: Public Lighting						8. Scale 10: Public Lighting					
Applicable to non-domestic consumers with a demand not exceeding 55kVA.						Applicable to non-domestic consumers with a demand not exceeding 55kVA.					
Maintenance charge: R/luminaire/month						R 218.16	R 252.45	New	Maintenance charge: R/luminaire/month		
Energy Charge: R/kWh						R 2.9920	R 3.4623	New	Energy Charge: R/kWh		
9. Scale 11: Municipal usage						9. Scale 11: Municipal usage					
All municipal supplies < 50 kVA						All municipal supplies < 50 kVA					
Basic Charge: R/m per point of supply (meter)						R 78.15	R 90.43		Basic Charge: R/m per point of supply (meter)		
Capacity charge: R/Amp/phase/month/month						R 22.83	R 26.08		Capacity charge: R/Amp/phase/month/month		
Energy Charge: R/kWh						R 2.2462	R 2.5993		Energy Charge: R/kWh		
10. Scale 12: Availability						10. Scale 12: Availability					
Applicable to serviced stands that is not connected. This includes SSEG consumers who have gone off the Grid.						Applicable to serviced stands that is not connected. This includes SSEG consumers who have gone off the Grid.					
Fixed charge per month.		R346.9114				R 363.5205	R 407.9526	17.6%	Fixed charge per month.		

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

7. **THAT** the draft financial position for the 2024/2025 financial year as presented in Table A6-Budgeted Financial Position reflecting the community wealth/equity of R1,447,261,000 for 2024/2025, (2026 R1,473,602,000) and (2027 R1,473,602,000) be NOTED.
8. **THAT** the draft cash flow for the 2024/2025 financial year as presented in Table A7-Budgeted Cash Flow reflecting a positive cash and cash equivalent at the end of 2024/2024 financial year R36,923,000, (2026 R121,997,000) and (2027 R181,124,000) be NOTED.
9. **THAT** budget related policies reviewed with no amendments for 2024/25 MTREF be NOTED.

Policy	Policy Amended			Amendment Date
	Yes	No	New	
Rates Policy	Yes			
Indigent Policy		No		
Budget Policy		No		
Creditors, Staff and Councilors Payment Policy		No		
Credit Control and Debt Collection Policy		No		
Funding and Reserve Policy		No		
Virement Policy		No		
Subsistence and Travel Policy		No		
Policy and Procedures for Irregular and Fruitless Expenditure		No		
Fixed Asset Policy		No		
Supply Chain Management Policy		No		
Write-off of Irrecoverable Debt Policy		No		
Loans Policy		No		
Tariff Policy		No		
Management of Accumulated Surplus and Bad Debt Policy		No		
Loss Control Policy		No		
Fuel Card Policy		No		
Internship Programme Policy		No		
Costs Containment Policy		No		

10. **THAT** the draft procurement plans for 2024/25 budget be NOTED.
11. **THAT** the institutional organogram for 2024/25 which forms the annexure of the IDP be NOTED

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

NCA025/03/2024

REPORT DATED 26 MARCH 2024 FROM THE MUNICIPAL MANAGER TO THE COUNCIL: REQUEST FOR A REDUCTION IN THE PURCHASE PRICE: VACANT RESIDENTIAL PROPERTY ERF 801 MARSELLE: ESTATES SECTION

PURPOSE

For Council to consider reducing the purchase price applicable to Erf 801 Marselle Township as per the request from the applicant.

ADHERANCE TO POLICY FRAMEWORKS

In terms of legislation pertaining to the Municipal Finance Management Act, 2003; Ndlambe Municipality - Supply Chain Management Policy which drives from the Local Government: Municipal Finance Management Act (56/2003); Municipal Supply Chain Management Regulations; and Municipal Asset Regulation, 2008 and the Land Disposal Policy.

BACKGROUND

Council Resolution NCM022/10/2023 dated 27 October 2023 was initially adopted which states inter alia that the subject property be sold at the municipal value of R18 000.00 (VAT) included.

-See Annexure C10-

DISCUSSION

Letter dated 24 March 2024 from Mr. N. Ajah

-See Annexure C10-

In brief, the applicant, Mr. N Ajah is requesting Council to consider reducing the purchase price of R18 000.00 to R9 000.00 as his former employee, Sibanye Stilwater has indicated in their communication dated 28 November 2023, copy enclosed, that they are only authorised as per their Home Adaption Policy to build a dwelling for him and not to secure land for such purpose. Furthermore, it is stated that Council's approval to the request will enable him as an unemployed and disabled person to also settle the conveyancing fees attached to the subject property.

-See Annexures C.10-

RECOMMENDATIONS TO COUNCIL

- a) THAT it **BE NOTED** that Council does not anticipate that this property shall be required for purposes of providing basic municipal services as the necessary services already exists in the surrounding area.

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

- b) THAT it BE NOTED that the Land Disposal Policy adopted by Council on 26 June 2014 provides inter alia in terms of condition 9.6 for the out-of-hand sale of land and non-competitive process for purposes under exceptional circumstances.
- c) THAT the letter dated 24th of March 2024 from Mr. Ncedile Aja, requesting a reduction in the purchase price as approved by Council vide Council Resolution NCM022/10/2023 dated 27th of October 2023, and the letter dated 28th of November 2023 from his former employer, Sibanye Stilwater, BE NOTED.
- d) THAT it BE APPROVED that the vacant residential Erf 801 Marselle, measuring 350 m² in extent, ownership which vests in the Ndlambe Municipality vide Deed of Transfer No. T10801/2001, appearing on General Plan No. L48/1988, and as depicted on LOCALITY PLAN NO. ERF 801 MARSELLE, be sold to Mr Aja, Identity No. 671202 5328 083, subject to the following conditions:-
- i) The initial purchase price of R18 000.00 is reduced to R9 000.00 (VAT included).
 - ii) The conveyancing costs incidental to the transaction is borne by the applicant.
 - iii) The applicant submits a building plan in terms of the National Building Regulations and Building Standards Act 103 of 1977 before building operations are commenced with.
 - iv) The applicant first indicates in writing the acceptance of conditions (i) to (iii) before the transaction is proceeded with.
- e) THAT it BE NOTED that the reduction of the purchase price is due to the disability and unemployment status of the applicant.
- f) THAT it BE NOTED that the applicant will not require an RDP house from the Municipality as his former employer, Sibanye Still Waters will build a house for him and his family that will cater for his disability.
- g) THAT it BE APPROVED that the request be exempted from a Public Participation Process as the applicant is disabled with dependents.

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

NCA026/03/2024

REPORT DATED 26 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL: AUDIT AND PERFORMANCE CHARTER AND INTERNAL AUDIT CHARTER

PURPOSE

For Council to review and adopt the Audit and Performance Charter and Internal Audit Charter.

BACKGROUND

Audit and Performance Charter

This document sets out the rights, powers, and duties of the Ndlambe municipality's Audit and Performance Committee.

The Audit and Performance Committee is a sub-committee of the Ndlambe Municipality's Council, appointed to assist the Council in fulfilling its oversight responsibilities. The Audit and Performance Committee reports directly to the Council and is responsible to discharge its duties in terms of the Municipal Finance Management Act no. 56 of 2003 ("MFMA").

The Charter has been tabled in the Audit and Performance committee for review and is thus presented to the Council for adoption and approval.

Internal Audit Charter

Section 165 of the Municipal Finance and Management Act (MFMA) no. 56 of 2003 and the King IV report on Corporate Governance give rise to the establishment of the Internal Audit Activity.

This document sets out the purpose of the Internal Audit function. Internal Audit is to provide independent, objective assurance and consulting services designed to add value and improve the municipal's operations. This is accomplished by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

The Internal Audit Charter has also been tabled in the Audit and Performance Committee meeting held on 21 February 2024 for review and approval and is thus presented to the Council for noting.

DISCUSSION

Attached as **Annexure C.11**

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

RECOMMENDATIONS TO COUNCIL

- 1 THAT the Audit and Performance Charter BE REVIEWED AND ADOPTED;
- 2 THAT the Internal Audit Charter BE NOTED.

NCA027/03/2024
REPORT DATED 26 MARCH 2024 FROM THE MUNICIPAL MANAGER TO COUNCIL:
BUSHMANS RO PLANT TRANSFER

PURPOSE

To provide Council with an update on Bushmans RO Plant TRANSFER to the Municipality.

BACKGROUND

The current management of the bulk water supply scheme and Reverse Osmosis (RO) plant by the Amatola Water Board has regrettably failed to meet the essential minimum water supply requirement of 3.3 megalitres per day. There is a currently a shortfall of about 1ML. Despite prolonged collaboration with Amatola Water board, through a technical task team that involved local ratepayers, the Department of Water and Sanitation and the municipality, the persistent shortfall has necessitated the council's resolution to take over the Bushmans RO plant.

Ward 3 and 4 current water demand is in the region of 3.3ML per 24hours, which increases significantly during the holiday and festive seasons. Potable water is supplied from two sources namely, the Sea Water Reverse Osmosis Plant (SWRO) and the Diaz Wellfield, both at Bushman's River Mouth.

DISCUSSION.

Following a meeting that was held on the 12th of May 2023 with the Department of Water and Sanitation, Amatola Water Board, members of Technical Task Team and the municipality to take a decision on the matter to transfer the plant to the municipality, a task team comprised of the three parties, Department of Water and Sanitation, Ndlambe LM and Amatola Water representatives was established to deal with the process.

A draft agreement was received from Amatola Water, and comments were provided from the side of the municipality. Parallel to the transfer process by the parties involved, the

ADDENDUM TO THE AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON THURSDAY, 28 MARCH 2024 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

Department was also investigating the ownership of the plant realising that it is a critical factor in the finalisation of the transfer of the asset. Fortunately, the outcome of the investigation came before the signing of the agreement between Amatola and Ndlambe and the investigation revealed the RO plant was never transferred to Amatola Water Board therefore, it is an asset of the department. These revelations nullified the whole process that the parties have been busy with and now the opinion has recommended the Department to speed up the transfer of the plant by the minister to the Municipality. Currently Amatola Water Board is still responsible to produce water for the Ward 3 and Ward 4 communities.

Legal opinion is attached as Annexure C.12

RECOMMENDATIONS TO COUNCIL

1. For Council to NOTE the update on the transfer of Bushmans RO plant.
2. For Council to NOTE the Legal opinion from the Department of Water and Sanitation with the recommendations.
3. That it BE RECOMMENDED that the Mayor writes a request to the Minister of Water and Sanitation to speed up the transfer process.

OPEN NDLAMBE COUNCIL MEETING
HELD ON THURSDAY, 28 MARCH 2024

**REPORT DATED 26 MARCH 2024 FROM THE
MUNICIPAL MANAGER TO COUNCIL:
DEMOLITION NOTICE FOR THE FERRYMAN'S
HOTEL**

ANNEXURE C.09

SEE 13 - NOTICE TO THE OWNER



**NDLAMBE MUNICIPALITY
PORT ALFRED**

Causeway
P O Box 13
Port Alfred
6170

Phone: (048) 624 2500
Fax: (048) 624 2888
portalfred@ndlambe.co.za
http://www.ndlambe.co.za

Please address all correspondence to The Municipal Manager.

Our Ref: na - 39608
Your Ref: BY HAND
24 MAY 2019

Enquiries: Ms. V. Soyaman

OWNER OR TENANT
Erf 4774
Burch Road
Port Alfred
6170

FOR ATTENTION: OWNER OR TENANT
FERRYMAN'S TRUST/MR KLEYN

Dear Sir/Madam:

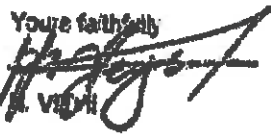
DILAPIDATED BUILDING : ERF 4774, BURCH ROAD, PORT ALFRED

Despite various notices and communications with you as the owner of the above mentioned property has reference, Ndlambe Municipality (being the Local Authority), has formed the opinion that the structures in this property is dilapidated, in a state of disrepair, unsafe and dangerous to life and adjoining properties.

You are hereby notified that you have contravened SECTION 12(1) of the NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO 103 OF 1977 (AS AMENDED) and ordered by this Council to remove all persons occupying or being for any other purpose in these buildings there from, and to take care that any persons not authorized by such local authority does not enter such building.

Since you have ignored all our endeavours in resolving this matter, you are hereby given another chance by this Local Authority to rectify the above matter within 30 days on or before 23 JUNE 2019.

FAILING COMPLIANCE WITH THIS NOTICE, LEGAL PROCEEDINGS MAY BE INSTITUTED AGAINST YOU WITHOUT FURTHER NOTICE.

Yours faithfully

M. Vuyi

**DIRECTOR
INFRASTRUCTURAL DEVELOPMENT**

c.c. BUILDING CONTROL OFFICE

SECTION 12 Regulation

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO. 103 OF 1977 (as amended)

12 Demolition or Alteration of Certain Buildings

(1) If the local authority in question is of the opinion that-

- (a) any building is dilapidated or in a state of disrepair or shows signs thereof;
- (b) any building or the land on which a building was or is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property,

it may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork, within the period specified in such notice to demolish such building or to alter or secure it in such manner that it will no longer be dilapidated or in a state of disrepair or show signs thereof or be dangerous or show signs of becoming dangerous to life or property or to alter or secure such land or earthwork in such manner that it will no longer be dangerous or show signs of becoming dangerous to life or property: Provided that if such local authority is of the opinion that the condition of any building, land or earthwork is such that steps should forthwith be taken to protect life or property, it may take such steps without serving or delivering such notice on or to the owner of such building, land or earthwork and may recover the costs of such steps from such owner.

(2) If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous to life or property, the owner of such building, land or earthwork shall forthwith notify the local authority in question thereof.

(3)

(a) If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous or is showing signs of becoming dangerous to life or property, the local authority, irrespective of whether it was notified in terms of subsection (2), may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork to instruct at the cost of such owner an architect or a registered person to investigate such condition and to report to such local authority on the nature and extent of the steps to be taken, in the opinion of such architect or registered person, in order to render such building, land or earthwork safe.

[Para. (a) substituted by s. 3 (a) of Act 49 of 1995.]

(b) The local authority in question may by notice in writing, served by post or delivered, order that any activities be stopped or prohibit the performance of any activities which may increase the danger or hinder or obstruct the architect or registered person referred to in paragraph (a) from properly carrying out the investigation referred to in that paragraph.

[Para. (b) substituted by s. 3 (a) of Act 49 of 1995.]

(c) If it is brought to the attention of a local authority or appears that an architect or registered person instructed in terms of paragraph (a) to perform certain duties is for any reason not competent to carry out the duties in question, the local authority may require such architect or registered person to submit evidence of his or her competence to carry out such duties.

[Para. (c) added by s. 3 (b) of Act 49 of 1995.]

(d) If the architect or registered person contemplated in paragraph (c) is unable to satisfy the local authority of his or her competence to carry out the duties in question, the local authority may order the owner of the building, land or earthwork in question to instruct another architect or registered person to carry out the duties.

[Para. (d) added by s. 3 (b) of Act 49 of 1995.]

(4) If the local authority in question deems it necessary for the safety of any person, it may by notice in writing, served by post or delivered-

- (a) order the owner of any building to remove, within the period specified in such notice, all persons occupying or working or being for any other purpose in such building therefrom,

SECTION 12 Regulation

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO. 103 OF 1977 (as amended)

and to take care that any person not authorized by such local authority does not enter such building;

- (b) order any person occupying or working or being for any other purpose in any building, to vacate such building immediately or within a period specified in such notice.
- (5) No person shall occupy or use or permit the occupation or use of any building in respect of which a notice was served or delivered in terms of this section or steps were taken by the local authority in question in terms of subsection (1), unless such local authority has granted permission in writing that such building may again be occupied or used.
- (6) Any person who contravenes or fails to comply with any provision of this section or any notice issued thereunder, shall be guilty of an offence and, in the case of a contravention of the provisions of subsection (5), liable on conviction to a fine not exceeding R100 for each day on which he so contravened.



Wheeldon, Rushmere & Cole Inc.
ATTORNEYS • NOTARIES • CONVEYANCERS

Neave Stotter Inc
Grant Marais

PER E-MAIL: pslaw@pslaw.co.za

Date: 24 February 2022
Your ref: G Marais
Our ref: B Brody/Meghan/S23188
Direct dial: 046 622 7576
Direct fax: 046 622 6556
Cell: 082 657 1300
Email: lit6@wheeldon.co.za

Dear Grant

NDLAMBE / FERRYMAN'S HOTEL

1. It is now clear that the opposition will be doing nothing in respect of this property.
2. We advise that it is now for the Municipality to do a demolition notice and furnish us with a copy so that we can have that emailed to the opposition's legal representatives.
3. Once the notice is sent, we can then bring an application to have the property demolished. This is after all what the owner of the property wanted all along.
4. I look forward to receiving the notice to demolish in due course.

Yours sincerely
*Transmitted per e-mail
Original signed and retained*

BRIN BRODY
 Wheeldon, Rushmere & Cole

MATTHEW FOSI CHAMBERS, 119 HIGH STREET
PO BOX 80, GRAHAMSTOWN, 6140
DOCEX 8, GRAHAMSTOWN
VAT NUMBER: 4100270513
TEL: 046 622 7005 • FAX: 046 622 7084
WEBSITE: www.wrcattorneys.co.za

DIRECTORS BRIN BRODY BA LLB • MICHAEL VAN DER VEEN LLB
CONSULTANTS RICHARD LAING B.COM • SONETTE FRONEMAN BA LLB
PROFESSIONAL ASSISTANTS MEGHAN VON WILDEMANN
CANDIDATE ATTORNEY KATE RUTH YOUNG • CHANÉ PETRU KESE
ASSISTANT & OFFICE MANAGERESS SANDRA ANH
FINANCE MANAGERESS GERTHA KEELY • REG NO: 2015/164489/21
CERTIFIED B-BBEE COMPLIANT (Level 4)

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IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE DIVISION, GRAHAMSTOWN

CASE NO. 241/2021

In the matter between:

NDLAMBE LOCAL MUNICIPALITY

Applicant

and

**THE TRUSTEES FOR THE TIME BEING OF THE
FERRYMANS TRUST**

Mr Johan Kleyn N.O. and the remaining trustees N.O.

Respondent

JUDGMENT

Eloem J.

1. The applicant seeks an order that the respondent be compelled to grant it free and unhindered access to a certain erf and buildings thereat situated at Port Alfred. The applicant is a local municipality (the municipality) while the respondent is cited as the trustees for the time being of the Ferrymans Trust (the trust). All three trustees are aware of these proceedings and have deposed to affidavits in opposition of the application.
2. The trust is the owner of the above erf and the buildings thereat consisting of a triple story hotel and several outbuildings. The erf and the buildings shall hereinafter be referred to as "the property" unless the context requires otherwise.
3. The deponent of the municipality's main founding affidavit is its municipal manager who stated that the municipality "is of the view that the property is in a dilapidated state of disrepair and that a proper inspection needs to take place by the building

33. In the circumstances, neither section 12(1) nor (3) provides for a local authority, which is of the opinion that a building is dilapidated; is in a state of disrepair or shows signs thereof; or is dangerous or shows signs thereof, to approach a court for an order granting its employees or experts access to a building to determine the nature and extent of the dilapidation, state of disrepair or danger. Section 12 provides its own remedies where a local authority is of the opinion that a building is dilapidated, in a state of disrepair or shows signs thereof or is dangerous or shows signs of becoming dangerous to life or property. Those remedies are contained in section 12(1) and (3)(a) of the Act. The applicant should have utilised those remedies.
34. Mr Beyleveld, counsel for the applicant, submitted that this court should nevertheless exercise its discretion to grant the relief sought. The municipality approached this court on the basis that it was entitled to relief in terms of section 12 of the Act. That was the case that the trust was required to meet. The trust adopted the attitude that the municipality must lie on the bed that it made. In my view, it is premature for this court to intervene. This court may intervene only if the trust did not give effect to the order which the municipality could issue in terms of section 12 of the Act. Section 12 is in the hands of the municipality itself. It requires the municipality, and not the court, to order the trust to act in terms of section 12(1) or 12(3)(a).
35. The respondent was successful in its opposition of the application. I have considered Mr Kleyn's conduct leading up to the institution of the application. Despite the fact that a case might be made out that his conduct was reprehensible, it would be insufficient to deny the trust of its costs in the opposition of the application. Furthermore, the municipality allowed itself to be frustrated by Mr Kleyn for an extended period when it could easily have issued a notice in terms of section 12(1) or (3)(a) of the Act.
36. In the result, it is ordered that the application be and is hereby dismissed, with costs.


G H BLOEM
Judge of the High Court



SUPREME COURT OF APPEAL OF SOUTH AFRICA

**GPCASE NO: 1021/2021
ECG CASE NO: 241/2021**

BEFORE THE HONOURABLE JUSTICES PLASKET AND MBATHA JJA

On the 30th NOVEMBER 2021

In the application between:

**NDLAMBE LOCAL MUNICIPALITY
and**

Applicant

**THE TRUSTEES FOR THE TIME BEING OF THE
FERRYMANS TRUST
(Mr Johan Kleyn N.O. and the remaining Trustees)
Respondent**

Having considered the Notice of Motion and the other documents filed.

IT IS ORDERED THAT:

The application for leave to appeal is dismissed with costs on the grounds that there is no reasonable prospect of success in an appeal and there is no other compelling reason why an appeal should be heard.

BY ORDER OF THIS COURT


**COURT REGISTRAR
CL DE WEE (MS)**

REGISTRAR OF THE SUPREME COURT OF APPEAL
PO Box 249, Bloemfontein 9301
2021-12-01
SCA-008
SUPREME COURT OF APPEAL



COMPANY NO. 2003/613247/21
VAT NO. 4330108202

Neave Stötter Inc.

ATTORNEYS, NOTARIES
CONVEYANCERS AND
ADMINISTRATORS OF ESTATES

14 December 2020 .

OUR REF: G MARAIS
YOUR REF: JOHAN KLEYN

FERRYMAN'S TRUST

PER EMAIL

RE: FERRYMAN'S HOTEL / NDLAMBE MUNICIPALITY

I refer to the telephone conversation between yourself and the Building Inspector , Ms Seysman, last week and confirm that you refused to allow her officials access to the Ferryman's Hotel for an inspection.

Should you not permit Inspection of the Ferryman's Hotel and provide us with a set of keys (main and outbuildings), for this purpose, for three consecutive days between the 12th and 15th of January 2021 the Municipality will take the necessary legal action to compel you to allow access. You have until 12 noon on 18 December 2020 to confirm.

The Hotel , as you are well aware , is in a dilapidated state and now needs to be inspected for a host of legal reasons which will be amplified upon if the Municipality is required to bring an application to compel in the High Court.

Grant Marais
Director

25 Van der Riet Street,
Port Alfred
Phone: 046 6241163

&

Shop 3A "The Boardwalk" building,
Kenton Road, Kenton-on-Sea
Phone: 064 6481609

P O Box 76, Port Alfred, 6170
Docax 2, Port Alfred
Email: palaw@palaw.co.za

Director: Grant Marais

Zimbra

seysmanv@ndlambe.gov.za

Farryman's inspection

From : V Seysman <seysmanv@ndlambe.gov.za>

Thu, Dec 10, 2020 11:52 AM

Subject : Farryman's inspection**To :** kleyn <kleyn@grouptrading.co.za>**Cc :** grantmarais <grantmarais@palaw.co.za>

Good Day Mr Kleyn

Following our telephone conversation I saw a need to write this email since I will not be able to convey the message correctly to my Superiors.

We would like to have access to your premises for an inspection tomorrow morning 9:00am.

Your urgent response to this will be highly appreciated.

Kind Regards

Vuyi Seysman

Building Control Officer

Tel: 046-604-5588

Email: seysmanv@ndlambe.gov.za

Grant Marais Attorneys
PORT ALFRED
PER E-MAIL:

Date 10 December 2020
Your ref Mr Grant Marais
Our ref B Brody/Glyn/S
Direct dial 046 622 7576
Direct fax 046 622 6556
Cell 082 657 1300
Email: Lit4@wheeldon.co.za

Dear Grant

URGENT

NDLAMBE MUNICIPALITY / FAIRLIE'S HOTEL

1. Your letters dated the 9th instant refers.
2. I would suggest that the building inspector telephones the owner and request immediate access.
3. If this is refused, this must be followed up by a letter demanding the keys within 24 hours.
4. If that does not take place, we will then write a lawyer's letter indicating that we intend obtaining a court order for access.

MATTHEW FOST CHAMBERS, 119 HIGH STREET
PO BOX 88, GRAHAMSTOWN, 6140
DOCEX 8, GRAHAMSTOWN
VAT NUMBER: 4180270513
TEL: 046 622 7005 • FAX: 046 622 7084
WEBSITE: www.wrcattorneys.co.za

DIRECTORS BRIN BRODY BA LLB • MICHAEL VAN DER VEEN LLB
CONSULTANTS RICHARD LAING B.COM • SONETTE FRONEMAN BA LLB
PROFESSIONAL ASSISTANTS MEGHAN VON WILDEMAN • JACQUELINE ANNE L'ANCEF
CANDIDATE ATTORNEY KATE RUTH YOUNG
ASSISTANT & OFFICE MANAGERESS SANDRA AMH
FINANCE MANAGERESS GERTHA KEEVY • REG NO. 2015/104489/21
CERTIFIED E-DBE COMPLIANT (Level 4)

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5. I look forward to hearing from you in due course.

Yours sincerely

Sent per e-mail
Original signed and retained

BRIN BRODY

 Widdows, Paterson & O'Leary
Solicitors

Zimbra

seysmanv@ndlambe.gov.za

Re: Ferryman's Hotel

From : R. Dumezweni <rdumezweni@ndlambe.gov.za> **Wed, Mar 25, 2020 09:41 AM**
Subject : Re: Ferryman's Hotel

To : Siphon Babama <sbabama@ndlambe.gov.za>,
Nombulelo Booysen <nbooyesen@ndlambe.gov.za>
Cc : Vuyiseka Seysman <seysmanv@ndlambe.gov.za>,
Michael Mlungisi Klaas <mklaas@ndlambe.gov.za>

Good Day DD

I was visited by Ms Seysman who is Snr Building Control Officer who presented to me that our legal representative to the Ferrymans Hotel has done everything in his power to compel the owner of Ferrymans to comply but he has failed . The only option he is left with is to deal with this matter legally because he has exhausted amicable solution to the matter.

You are therefore requested to me a letter instructing Mr Marais to deal with the matter legally . I am expecting to receive that letter no later than end of business tomorrow .

Regards
Rolly-MM

----- Original Message -----

From: "V Seysman" <seysmanv@ndlambe.gov.za>
To: "R. Dumezweni" <rdumezweni@ndlambe.gov.za>
Cc: "tmagawu" <tmagawu@ndlambe.gov.za>, "Siphon Babama" <sbabama@ndlambe.gov.za>
Sent: Tuesday, March 24, 2020 9:25:55 AM
Subject: Fwd: Ferryman's Hotel

Good Morning MM

Please see email correspondence below, in this meeting that was held at Community and Protection Service the owner of Ferryman's Hotel promised to install window panes, paint and burglar proof the main building and the Anex and he promised to have been finished 90% of the work by the 15th of December 2019 on the outside but he only installed few window panes in the Anex building in that week and no other work has been done since then so the Lawyer who is handling this matter Mr Grant Marais has tried writing to him to make him comply and he did not respond now the Lawyer has tried his best and wants to hear from the Council the way forward hence I am writing to the MM to make a decision.

Kind Regards
Vuyi Seysman

Zimbra

seysmanv@ndlambe.gov.za

RE: FERRYMANS HOTEL**From :** Grant Marais - Neave Stotter Inc
<grantmarais@palaw.co.za>

Mon, Mar 02, 2020 09:53 AM

Subject : RE: FERRYMANS HOTEL

4 attachments

To : 'Dawle van Wyk' <dawle@geocoal.co.za>**Cc :** V Seysman <seysmanv@ndlambe.gov.za>, rschenk@ndlambe.gov.za

Dawle.

I am copying Mrs. Seysman and Mr. Schenk on this mail.

Johan Kleyn has not responded to my letter of demand of November last year and as per your letter below not much is happening on site.

In the circumstances I await your instructions.

Kind Regards

Grant Marais | DIRECTOR

**Neave Stötter Inc.**ATTORNEYS-AT-LAW
1001 VAN DER RIET STREET
PORT ALFRED 6170Tel: +27 (0)46 624 1163
E-mail: grantmarais@palaw.co.za
Docex: 2, Port Alfred
25 Van Der Riet Street Port Alfred
P.O. Box 76, Port Alfred, 6170
www.neavestotter.co.za**Disclaimer**

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From: Dawle van Wyk [mailto:dawle@geocoal.co.za]

Zimbra

seysmanv@ndlambe.gov.za

Re: Ferryman's Hotel

From : V Seysman <seysmanv@ndlambe.gov.za>

Tue, Sep 17, 2019 03:26 PM

Subject : Re: Ferryman's Hotel**To :** Raymond Schenk <rschenk@ndlambe.gov.za>, grantmarais <grantmarais@palaw.co.za>, Sipho Babama <sbabama@ndlambe.gov.za>, Noluthando Vithi <nvithi@ndlambe.gov.za>, Nombulelo Booyesen <nbooyesen@ndlambe.gov.za>, Mcingeli Madlebe <mmadlebe@ndlambe.gov.za>, Mervyn A. Sauls <msauls@ndlambe.gov.za>, R. Dumezweni <rdumezweni@ndlambe.gov.za>, Willem Nel <wnel@ndlambe.gov.za>, Fanle Fouche <ffouche@ndlambe.gov.za>, Kholofelo Radingoana <kradingoana@ndlambe.gov.za>**Cc :** Janene Naude <jnaude@ndlambe.gov.za>, Anelisa Klaas <aklaas@ndlambe.gov.za>, J Nel <jnel@ndlambe.gov.za>, Tabisa Magawu <tmagawu@ndlambe.gov.za>, kleyn <kleyn@grouptrading.co.za>, sonja <sonja@grouptrading.co.za>, Nomawethu Matoni <nmatoni@ndlambe.gov.za>, Simphiwe Daniso <sdaniso@ndlambe.gov.za>

Good Day

This email serves to notify you about the meeting that will be held at Community and Protection Boardroom on Thursday 19th of September 2019 at 10:00am about Ferryman's Hotel, those who are attending and representing their departments can go to the hotel and do their inspection to see if their requirements are a concern and need to be rectified.

Kind Regards

Vuyi Seysman

Building Control Officer

Tel: 046-604-5588

Email: seysmanv@ndlambe.gov.za

----- Original Message -----

From: "Vuyiseka Seysman" <seysmanv@ndlambe.gov.za>
To: "Raymond Schenk" <rschenk@ndlambe.gov.za>, "grantmarais" <grantmarais@palaw.co.za>, "Sipho Babama" <sbabama@ndlambe.gov.za>, "Noluthando Vithi" <nvithi@ndlambe.gov.za>, "Nombulelo Booyesen" <nbooyesen@ndlambe.gov.za>, "Mcingeli Madlebe" <mmadlebe@ndlambe.gov.za>, "Mervyn A. Sauls" <msauls@ndlambe.gov.za>, "Ntomboxolo Ngxwashula" <nngxwashula@ndlambe.gov.za>, "R. Dumezweni" <rdumezweni@ndlambe.gov.za>, "Willem Nel" <wnel@ndlambe.gov.za>, "Fanle Fouche"

As we all know the buildings in this property posses danger to neighboring properties and is a health hazard and also the crime spot there are lot of people that needs to be present in this meeting internally and externally. Hence Cllr Schenk will be communicating with ratepayers and come up with a possible date that we can all meet and discuss the matter with Mr. Kleyn.

Your co-operation in this regard will be highly appreciated

Kind Regards
Vuyi Seysman
Building Control Officer
Tel: 046-604-5588
Email: seysmanv@ndlambe.gov.za



COMPANY NO. 2003/013247/01
VAT NO. 422008203

Neave Stötter Inc.

ATTORNEYS, NOTARIES
CONVEYANCERS, APPRAISERS AND
ADMINISTRATORS OF ESTATES

Our Reference: G MARAIS
Your ref : Johan Kleyn

28 August 2019

Mr. JE KLEYN

c/o Ferryman's Trust

via email

RE: Ferryman's Hotel / Erf 4774 Port Alfred

Good day Mr. Kleyn.

We act and are instructed by Ndlambe Municipality to address this letter to you.

We refer you to various formal notices sent to you over a number of years in terms of the National Building Regulations and Building Standards Act 103/1977, which notices have either been ignored or promises made and not kept by you. Copies can be furnished again if necessary.

Should you not demolish the parts of the buildings that have fallen into a state of disrepair and dilapidation referred to in earlier notices within 14 days from this letter we hold instruction to apply to the High Court in Grahamstown for a Demolishing order the legal cost and demolishing costs obviously for your account.

NEAVE, STOTTER INC
Per Mr Grant Marais -Director
Email: grantmarais@palaw.co.za

P O Box 76, Port Alfred, 6170
Dooex 2, Port Alfred
37 Campbell Street, Port Alfred
Ph: 046/6241163
Fax: 046/6244329
Email : palaw@palaw.co.za

Directors James Stuart Neave
Noll Stötter
Grant Johannes Marais

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

The NOTICE of the Ward 10 Committee meeting held in the Council Chamber, Port Alfred on Friday, 1 March 2024 at 10:00, **WAS TAKEN AS READ.**

PRESENT

TO:	Ward 10 Councillor (In the Chair)	Cllr. N. Haynes
Members:	1. Mr. S. Boucher	5. Mr. S. Furstenburg
	2. Dr. R. Pryce	6. Mr. D. Van Wyk
	3. Ms. A. Edwards	7. Mr. C. Millard
	4. Ms. L. Luppnow-Burrow	8. Mr. A. De Bruin
Officials:	Director: Community / Protection	Ms. N. Booysen-Willy
	Deputy: Community / Protection	Mr. F. Fouche
	Deputy: Infrastructure (P.A.)	Mr. S. Babama
	Manager: Town Planning	Mr. K. Radingoana
	Manager: Administration	Ms. J. Nel
Administration:	Clerk: Committee Support (Secretariat)	Ms. N. Mezned
Press:	The Announcer	Mr. J. Houzet
	Talk of the Town	Mr. M. Carrols

W10M001/03/2024

OPENING

- 1.1. The meeting was officially opened by the Chairperson: Councillor Nadine Haynes at 10:03 and she welcomed the members and officials, thanking all for their time and support.
- 1.2. Before starting, the chair requested that the Deputy Director: Infrastructure address the infrastructure issues first, as he needs to attend another meeting.
- 1.3. The chair apologised for any confusion surrounding the meeting postponements due to the Special Council meeting and voter registrations which clashed.

W10M002/03/2024

APPLICATIONS FOR LEAVE OF ABSENCE

3/2/4

- 2.1. Apologies were received for the meeting held on Friday, 01 March 2024 from:
 - a. Mr. D. Slabbert

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

b. Mr. Z. Nkwinti

2.2. That it BE NOTED that the Manger: Administration represented Corporate Services.

W10M003/03/2024

STATEMENTS OR COMMUNICATIONS BY THE CHAIRPERSON

- 3.1. Paying tribute to two community members, the Chair expressed her condolences to the late Mr. Jessen's family. Unfortunately, it was a very sad ending, but it revealed how quickly so many members of the community came together to find him and provide closure.
- 3.2. The chair also mourned the loss of Dave McGregor, who passed away while surfing on Kelly's beach. Dave was known for his kindness, caring, and contributions to the community.
- 3.3. The chair requested for Ms. Luppnow-Burrow's name to be included on the agenda.

W10M004/03/2024

DISCLOSURES OF INTEREST BY WARD 10 COMMITTEE MEMBERS

- 4.1. That it BE NOTED that Mr. S. Boucher submitted a declaration of interests form and recused himself at Item: W10M007/03/2024 – Job Progress Chart:
 - i. *Tahoe Spur Rental: Halyards Properties in Breach of Sublease*
 - ii. *Erf 5203, Small Boat Harbour: Spalling of Concrete Slab, Restrictive Title Conditions, Removing Fuelling Facilities*
 - iii. *Erf 5203, Small Boat Harbour: Halyards Dredging Obligations*

W10M005/03/2024

**CONFIRMATION OF PREVIOUS SPECIAL WARD 10 COMMITTEE MEETING MINUTES:
17 OCTOBER 2024**

- 5.1. The committee recommended that the minutes of the Special Ward 10 Committee meeting held on Tuesday, 17 October 2024, a copy which appeared as Annexure 2, **BE ADOPTED.**

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

W10M006/03/2024

EXECUTIVE COMMITTEE MEETING MINUTES: 28 NOVEMBER 2023

- 6.1. That the extract of the minutes of the Executive Committee meeting held on Wednesday, 28 November 2023 pertaining to the Ward 10 Committee meeting held on 17 October 2023, a copy which appeared as Annexure 3, **BE NOTED**.

W10M007/03/2024

REPORT TO UPDATE THE JOB PROGRESS CHART

- 7.1. That the Job Progress Chart, a copy which appeared as Annexure 4, **BE NOTED AND UPDATED**.
- 7.2. *That the Town Planning audit of municipal assets be sent to Councillors, including current valuations, and that vacant municipal stands be disposed of via Council resolutions in order to generate revenue for road repairs.*

W10M008/03/2024

**REPORT DATED JANUARY 2023 FROM DIRECTORATE: FINANCIAL MANAGEMENT TO
THE WARD 10 COMMITTEE: MASAKHANE REPORT – DECEMBER 2023**

5/7/2

- 8.1. That the Masakhane report for December 2023, a copy which appeared as Annexure 5, **BE NOTED**.

It was at this point that Mr. S. Furstenburg had to leave the meeting to attend another engagement, the time being 11:20.

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

W10M009/03/2024

**REPORT DATED JUNE 2023 FROM THE DIRECTORATE: COMMUNITY / PROTECTION SERVICES TO WARD 10 COMMITTEE: WATER SAMPLES RESULTS – JANUARY 2024
5/7/2**

RECOMMENDATION

- 9.1. THAT the latest RESAMPLING results be shared with the committee due to the seven non-compliant water samples from 10-January 2024, including Endlovini, New Rest, Nemato Tap, Nemato Reservoir Treated, Station Hill, PA East and West Banks, and Thornhill.
- 9.2. THAT the most UP-TO-DATE water sample results be tabled at each Ward Committee meeting.

* * *

W10M010/03/2024

REPORT DATED 29 JANUARY 2024 FROM THE DIRECTORATE INFRASTRUCTURAL DEVELOPMENT TO THE WARD 10 COMMITTEE: RENEWAL OF THE IMMOVABLE PROPERTY SITUATE ON A PORTION OF ERF 1404, PORT ALFRED: PORT ALFRED 177 ROUND TABLE: ESTATES SECTION

RECOMMENDATIONS

- 10.1. THAT it BE NOTED that as the property is specifically earmarked for recreational purposes and used by the applicant as such, Council does not anticipate that this property shall be required for purposes of providing any basic municipal services.
- 10.2. THAT the communication dated 06th of July 2023 from the Port Alfred 177 Round Table, to renew the lease agreement which expired on the 30th of June 2023, BE NOTED.
- 10.3. THAT it BE NOTED that no objections were received relating to the intent published in the Talk of the Town dated 14 December 2023 via Notice No. 303/2023.
- 10.4. THAT it BE APPROVED that a lease agreement be entered into with the Port Alfred 177 Round Table, 022-88-NPO (Non-Profit Organization) to continue utilizing the premises generally known as the Port Alfred Round 177 Table Club House, 136 m² in extent situated on Portion of Erf 1404 Causeway, Port Alfred as depicted on LOCALITY PLAN NO. PTN ERF 1404/PORT ALFRED, ownership which vests in the Ndlambe Municipality vide Deed of Grant No. 171/1958 and Title Deed No. T52570/2008, for the purposes of

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

- conducting meetings, gatherings for fund-raising and charity, subject to the following condition:
- a) The lease is entered into for a period not exceeding nine (9) years and eleven (11) months.
 - b) The current monthly rental of R439.23 is increased to R480.00 per month, escalating at 6% per annum.
 - c) The lessee is liable during the duration of the lease for the repairs, general up-keep and maintenance of the improvements and its surrounds.
 - d) The lessee is liable for the payment of all municipal services rendered.
 - e) A clause is inserted in the agreement preventing the lessee from claiming any compensation regarding condition (iii).
 - f) All standard conditions remain the same as those contained in similar lease agreement.
- 10.5. THAT it BE NOTED that the advertisement fee and valuation cost were settled by the applicant.
- 10.6. THAT is BE APPROVED that the applicant first indicates the acceptance of (a) above in writing before the transaction is concluded.
- 10.7. THAT BE NOTED that the lease is currently continuing on a month-to-month basis in order to perpetuate billing until such time that the applicant's request has been considered.

* * *

W10M011/02/2024

REPORT DATED 15 JANUARY 2024 FROM THE DIRECTORATE INFRASTRUCTURAL DEVELOPMENT TO THE WARD 10 COMMITTEE: **APPLICATION FOR THE USE OF A PORTION OF ERF 1404 SITUATED ON THE EASTERN SIDE OF THE SUNSHINE COAST TOURISM & EVENTS AUTHORITY (SCTEA): ESTATES SECTION**

RECOMMENDATIONS

- 11.1. THAT it BE NOTED that as the property is developed, Council does not expect that this property shall be required for purposes of providing any basic municipal services.
- 11.2. THAT the communication dated 13th of July 2023 from Zenith Car Rental (Pty) Limited trading as Avis Rent A Car and Budget Rent A Car, BE NOTED.
- 11.3. THAT the letter of support dated 13th of July 2023 from Sunshine Coast Tourism &

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

Events Authority (SCTEA), relating to the request from Zenith Car Rental (Pty) Ltd, BE NOTED.

- 11.4. THAT it BE NOTED that no objections were received relating to the intent published in the Talk of the Town dated 14 December 2023 via Notice No. 302/2023.
- 11.5. THAT it BE APPROVED that an Encroachment Agreement be entered into with Zenith Car Rental (Pty) Limited trading as Avis Rent A Car and Budget Rent A Car, Registration Number 2019/420358/07 to encroach upon a portion of 225 m² of Erf 1404, Causeway, Port Alfred located on the eastern side of Sunshine Coast Tourism & Events Authority (SCTEA), and as depicted on LOCALITY PLAN NO. PTN ERF 1404/PA, ownership of Erf 1404 Port Alfred vest in the Ndlambe Municipality vide Deed of Grant No. 171/1958 and Title Deed No. T52570/2008 for the sole purpose of erecting a Clear/All View Fence Cage for parking purposes only, subject to the following condition:
- a) The Standard Encroachment Agreement is entered into for a period not exceeding four (4) years and eleven (11) months.
 - b) The prescribed encroachment tariff of R785.69/annum as per the Tariff List 2023/2024 is applicable to an encroachment area of 200 m² to 500 m², escalating at 5.30% per annum.
 - c) A building plan is submitted to the Building Section of the Directorate Infrastructural Development in compliance with the applicable Building Regulations and Standards Act 107 of 1977.
- 11.6. THAT it BE APPROVED that the applicant first indicates the acceptance of conditions (i) to (iii) in writing before the transaction is proceeded with.

W10M012/02/2024

REPORT DATED 15 JANUARY 2024 FROM THE DIRECTORATE INFRASTRUCTURAL SERVICES TO THE WARD 10 COMMITTEE: **APPLICATION FOR THE RENEWAL OF ENCROACHMENT AGREEMENT PERTAINING TO A PORTION OF ERF 2159 PORT ALFRED: ESTATES SECTION**

RECOMMENDATIONS

- 12.1. THAT it BE NOTED that as the property is specifically earmarked for parking purposes and used by the applicant as such, Council does not expect that this property shall be required for purposes of providing any basic municipal services.

**MINUTES OF THE WARD 10 COMMITTEE MEETING HELD ON FRIDAY, 01 MARCH
2024 AT 10H00 IN THE COUNCIL CHAMBER, PORT ALFRED**

- 12.2. THAT the letter dated 21 April 2023 from Harcourts on behalf of Sandawana Body Corporate, BE NOTED.
- 12.3. THAT it BE APPROVED that an Encroachment Agreement be entered into with Sandawana Body Corporate, the owner of Erf 3449 Port Alfred to continue encroaching upon a portion, 1450 m² of adjoining road reserve known as Erf 2159 West Beach Drive, Port Alfred, ownership which vests in the Ndlambe Municipality vide Title Deed No. T2269/996 for the present use of a parking area as it will bear no interest by the public as it is located adjacent to the applicant's property as depicted on LOCALITY PLAN NO. PTN ERF 2159/PORT ALFRED.
- a) The Standard Encroachment Agreement is entered into for a period not exceeding four (4) years and eleven (11) months.
- b) The prescribed encroachment tariff of R2084.27/annum as per the Tariff List 2023/2024 is applicable to an encroachment area of 1000 m² to 1500 m², escalating at 5.30% per annum.
- 12.4. THAT it BE APPROVED that the applicant first indicates the acceptance of conditions (i) to (iii) in writing before the transaction is proceeded with.

W10A013/02/2024

REPORT DATED 22 FEBRUARY 2024 TO THE WARD 10 COMMITTEE: FERRYMAN'S HOTEL PROGRESS

RECOMMENDATIONS

- 13.1. THAT it BE NOTED, the attorneys, Neave and Stotter (Grant Marais), advised that the municipality must write a Demolition Notice and the lawyers will serve it to the owner(s) of the Ferryman's, namely Mr. Kleyn and other trustees.
- 13.2. THAT, in accordance with a previous court order, the municipal Council takes a decision on issuing a Demolition Notice for the Ferryman's Hotel building at Beach Road, Port Alfred.
- 13.3. THAT it BE NOTED, the chair called for a vote by show of hands, with a majority of six members in favour, one opposed, and one member absent, resulting in the motion being adopted.

OPEN NDLAMBE COUNCIL MEETING
HELD ON THURSDAY, 28 MARCH 2024

**REPORT DATED 26 MARCH 2024 FROM THE
MUNICIPAL MANAGER TO THE COUNCIL: REQUES
FOR A REDUCTION IN THE PURCHASE PRICE:
VACANT RESIDENTIAL PROPERTY ERF 801
MARSELLE: ESTATES SECTION**

ANNEXURE C.10

NDLAMBE MUNICIPALITY

Port Alfred



EB13, Port Alfred 6170
Tel: (046) 634 1140
Fax: (046) 634 2669
http://www.ndlambe.co.za

RESOLUTION

MINUTES OF AN OPEN NDLAMBE COUNCIL MEETING HELD ON TUESDAY, 31 OCTOBER 2023 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.

NCM022/10/2023

REPORT DATED 10 OCTOBER 2023 FROM MUNICIPAL MANAGER TO COUNCIL; RE-SUBMISSION OF REQUEST TO ALLOCATE VACANT RESIDENTIAL PROPERTY ERF 801 MARSELLE TO THE APPLICANT; ESTATES SECTION

COUNCIL RESOLVED

- a) THAT it BE NOTED that Council does not anticipate that this property shall be required for purposes of providing basic municipal services as the necessary services already exists in the surrounding area.
- b) THAT it BE NOTED that the Land Disposal Policy adopted by Council vide Resolution NCM027/08/2014 on 26 June 2014 provides inter alia in terms of condition 9.6 for the out-of-hand sale of land and non-competitive process for purposes under exceptional circumstances.
- c) THAT the letter dated 17th of July 2023 from Mr. Ncedile Aja, BE NOTED to acquire a Municipal property, BE NOTED.
- d) THAT it BE APPROVED that the vacant residential Erf 801, 7 Main Street, Marselle, measuring 360 m² in extent, ownership which vests in the Ndlambe Municipality vide Deed of Transfer No. T10801/2001, appearing on General Plan No. L48/1988, and as depicted on LOCALITY PLAN NO. ERF 801 MARSELLE, be sold to Mr. Ncedile Aja, Identity No. 871202 6328 083, subject to the following conditions:-
 - i) The property is sold at the municipal value of R18 000.00 (VAT) included).
 - ii) The conveyancing costs incidental to the transaction is born by the applicant.
 - iii) The applicant submits a building plan in terms of the National Building Regulations

Signature : Date : 07/11/2023

and Building Standards Act 103 of 1977 before building operations are commenced with.

- iv) The applicant first indicates in writing the acceptance of conditions (I) to (III) before the transaction is proceeded with.
- e) THAT it BE NOTED that the applicant will not require an RDP house from the Municipality as his former employer, Sibanye Still Waters will build a house for him and his family that will cater for his disability.
- f) THAT it BE APPROVED that the request be exempted from a Public Participation Process as per condition (b) above as the applicant is disabled with dependents.

Signature :



Date :

07/11/2023

638 Marselle Township
BUSHMAN'S RIVERMOUTH
6190
01 March 2024

The Municipal Manager
Ndlambe Municipality
Causeway
PORT ALFRED
6170

Dear Adv Dumezweni

REQUEST FOR THE DISCOUNT FOR BUYING OF ERF 801 MARSELLE.

Your letter dated 09 November 2023 regarding proposed acquisition of vacant residential property Erf 801 Marselle has reference – attached herewith for ease of reference.

Council had approved that the plot be sold to me at an amount of R18 000. The letter was then sent to Sibanye Stillwater as they had requested me to provide them with the plot to build house for me and my family.

Sibanye Still Water has since come back to me and advised me that their policy provision is only meant to construct a house as a benefit for me as a former employee. Their policy (and my benefit) is not meant to buy the land in which they will build a house.

It is my humble request to the municipality that, considering my disability status and the fact that I do not have any other income, that the municipality considers my request to at least sell the said property (Erf 801) at half the price i.e. R9000 – 00. This will enable me to also be able to pay for the legal costs for the transfer of the property to my name.

For ease of reference, please find attached herewith the letter from Sibanye Still Water.

I look forward to your favourable consideration of my request

Yours truly


Ncedile Aja

Copies: Mr O Jobele - Ndlambe Municipality Housing Department



Sibanye Gold Limited
Rtno 2002/031431/06

Sibanye Gold Limited
Reg 2002/031431/06

Registered and Business Address:
Libanon Business Park
1 Hospital Street,
(Off Cedar Ave),
Libanon, Westonaria 1780

Postal
Address: Private
Bag X5
Westonaria, 1780

Tel +27 11 2789900
Fax +27 11 2789963

Memorandum

To Mr Aja Ncedile V0077212 (100% Disabled out of service)

28 November 2023

Eastern Cape

Sibanye Stillwater Home Maintenance Project

In accordance to the guidelines set out in the Sibanye Stillwater Home Adaptation Policy,
Sibanye Stillwater is not in the position to secure any land on behalf of the beneficiary.

Kindly note that we need to adhere to the Policy guidelines.

Yours faithfully,

Signed by: Hennie Mulder
Signed at: 2023-11-28 11:39:34 +02:00
Reason: I approve this document

HL MULDER
UNIT MANAGER HUMAN RESOURCES



NDLAMBE MUNICIPALITY
PORT ALFRED

Causeway
P O Box 19
Port Alfred
6173

Phone: (048) 624 2000
Fax: (048) 624 2000
Email: info@ndlambe.gov.za
<http://www.ndlambe.gov.za>

Please address all correspondence to The Municipal Manager.

Our Ref: 72/1/1

Enquiries: Shirley-Ann Boshoff

E-mail: info@ndlambe.gov.za

Mr. Ncedile Aja
535 1 10th Avenue
Marcelle Township
BOESMANSRIVERMOND
6181

09 November 2023

Dear Sirs

PROPOSED ACQUISITION OF VACANT RESIDENTIAL PROPERTY ERP 601 MARSELLE

Your letter dated 17th of July 2023 refers.

We are pleased to inform you that Council at its meeting held on the 27th of October 2023, Resolution NCM022/10/2023, resolved inter alia as follows:

- a) THAT it **REAPPROVED** that the vacant residential Erf 601, 7 Main Street, Marcelle, measuring 350 m² in extent, ownership which vests in the Ndlambe Municipality vide Deed of Transfer No. T10801/2001, appearing on General Plan No. L48/1988, and as depicted on LOCALITY PLAN NO. ERP 601 MARSELLE, be sold to Mr. Ncedile Aja, Identity No. 671202 6328 083, subject to the following conditions:-
- i) The property is sold at the municipal value of R18 000.00 (VAT) included).
 - ii) The conveyancing costs incidental to the transaction is born by the applicant.
 - iii) The applicant submit a building plan in terms of the National Building Regulations and Building Standards Act 103 of 1977 before building operations are commenced with.
 - iv) The applicant first indicates in writing the acceptance of conditions (i) to (iii) before the transaction is proceeded with.

You are hereby requested to inform this office in writing before or on Friday, 10 November 2023 if you accept the conditions as per condition (ii) above in writing, and if positive, to settle the full purchase price of R18 000.00 before or on the as 17 November 2023:-

Kindly note that the banking details for Ndlambe Municipality for Deposit and EFT payment purposes are as follows:

First National Bank, Account Holder: Ndlambe Local Municipality; Branch: Port Alfred; Branch Code: 210917; Account Number: 63403314007

In both instances (Deposit and EFT) kindly state reference 600216 - ERP 601/MARSELLE.

You are further kindly requested to submit this letter and proof of payment to the Estate Section of the Director's Infrastructural Services, Civic Centre, Causeway, Port Alfred or E-mail: info@ndlambe.gov.za with the aforesaid whom in turn will provide you with the original receipt within a period of approximately three (3) working days of payment.

Your co-operation in advance is very much appreciated.

Kind regards


DR. N. VITHI WASIZA
DIRECTOR: INFRASTRUCTURAL DEVELOPMENT

Land Parcel	Submit Q
Address	
SG Number	
Municipal	
Township/Holding: Title De	
Suburb: Financial	
Extension	
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OPEN NDLAMBE COUNCIL MEETING
HELD ON THURSDAY, 28 MARCH 2024

**REPORT DATED 26 MARCH 2024 FROM THE
MUNICIPAL MANAGER TO COUNCIL: AUDIT AND
PERFORMANCE CHARTER AND INTERNAL AUDIT
CHARTER**

ANNEXURE C.11

NDLAMBE MUNICIPALITY



AUDIT AND PERFORMANCE COMMITTEE CHARTER

2023/2024

AUDIT AND PERFORMANCE COMMITTEE CHARTER

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AUDIT AND PERFORMANCE COMMITTEE CHARTER

1. INTRODUCTION

This document sets out the rights, powers and duties of the Ndlambe Municipality's Audit and Performance Committee (hereinafter referred to as the "Audit Committee").

The Audit and Performance Committee is a sub-committee of the Ndlambe Municipality's Council, appointed to assist the Council in fulfilling its oversight responsibilities. The Audit and Performance Committee reports directly to Council, and is responsible to discharge its duties in terms of the Municipal Finance Management Act no. 56 of 2003 ("MFMA").

Per Section 166 of the MFMA, the Audit and Performance Committee advises Council specifically in matters relating to:

- Internal financial control and internal audits.
- Risk management.
- Accounting policies.
- Adequacy, reliability and accuracy of financial reporting and information.
- Performance management and evaluation.
- Effective governance.
- Statutory compliance.

In discharging its responsibilities, the Audit and Performance Committee shall make particular reference to:

- Municipal Finance Management Act no. 56 of 2003.
- Municipal Systems Act no. 32 of 2000.
- King IV Report on Corporate Governance and further related reports..
- Compliance with relevant accounting standards and tax legislation.
- Common Law.
- Annual Division of Revenue Act.
- Municipal Planning and Performance management regulations of 2001
- Other applicable Acts and regulatory considerations.

The Audit and Performance Committee shall make appropriate recommendations to Council on any of the above matters that it deems necessary.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

2. BENEFITS OF THE AUDIT AND PERFORMANCE COMMITTEE

The potential benefits are:

- Increased involvement of the Council in audit, control, risk management and governance activities.
- Improved communication of critical information from auditors and management to the Council.
- Effective and efficient audit, control, risk management and governance-related decisions by the Council.
- Improved systems of control, risk management and corporate governance.

3. COMPOSITION OF AUDIT AND PERFORMANCE COMMITTEE

- 3.1 The Audit and performance committee shall consist of at least three members with appropriate experience. Audit and performance committee members are appointed by Councils. All members may not be in the employ of the Municipality or another Municipality i.e. they must be independent, non-executive members.
- 3.2 The Chairperson shall:
- 3.2.1 be one of the members of the Committee and shall be appointed by Council
 - 3.2.2 be independent, be knowledgeable of the status of the position, have a requisite business, financial and leadership skills and may not be a political office bearer;
 - 3.2.3 ideally have requisite local government background and experience in finance, accounting, auditing and ICT matters.
- 3.3 The Audit and performance committee may, upon Council approval, co-opt any other person with the requisite expertise to participate in its meetings as an invited person or assist the Audit and performance committee in the execution of its duties.
- 3.4 Members of the Audit and performance committee should have an enquiring attitude and an understanding of the finances, operations and statutory requirements governing the Municipality.
- 3.5 Members should demonstrate sound judgement and objectivity.
- 3.6 No Councillors may serve as members of the Audit and Performance committee.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

- 3.7 Members shall be appointed by the Ndlambe Municipality Council to serve a minimum period of three years. Should a vacancy occur in the Audit and performance committee, the Chairperson of the Audit and performance committee shall notify Council without delay. Such a vacancy should be filled within a reasonable time frame.
- 3.8 Council may, at their discretion, review and change the composition and terms of reference of the Audit and performance committee from time to time, considering the need for adequate audit and financial expertise required to be represented thereon, while also considering the need to bring a fresh perspective to the Audit and performance committee.

4. MEETINGS

- 4.1 The Audit and performance committee shall meet at least four times per annum, at appropriate times, preferably preceding the submission of any audit matters to Council meetings.
- 4.2 Additional meetings may be held for the purpose of conducting any specific or special business deemed necessary. These additional meetings may be called by either the Chairperson or any member of the Audit and performance committee or the Councils, or by the external or internal auditors.
- 4.3 Notice of ordinary meetings shall be given to all members at least fourteen days prior to the date of any meeting, provided that a meeting may be convened for a shorter notice period if agreed to by members.
- 4.4 An agenda of items for discussion, together with any supporting documents and information, shall be distributed to all members of the Audit and performance committee, other interested members of the Council, and parties attending the meeting, at least seven days prior to the date of the meeting.
- 4.5 Supplementary agenda items shall only be permitted upon agreement of the members attending any Audit and performance committee meeting and/ or at the discretion of the Chairperson.
- 4.6 If a member, with or without an apology, does not attend two meetings of the Audit Committee of which due notice was given in terms of 4.3 above in succession, the Audit and Performance committee will consider the explanation provided by the

AUDIT AND PERFORMANCE COMMITTEE CHARTER

member and make recommendations to Council on whether or not the member should be replaced.

5. ATTENDANCE AND VOTING AT MEETINGS

- 5.1 The secretariat shall, at least seven days prior to any meeting, ensure that sufficient members shall be present at the meeting to satisfy the quorum requirement.
- 5.2 A quorum of any meeting will be two members of the Audit and performance committee, provided that no quorum shall exist at any meeting should members referred to in point 3.1 above be less than 50% plus 1.
- 5.3 If the Chairperson of the Audit and performance committee is absent from a specific meeting, the members present shall elect a Chairperson from the members present to act as Chairperson for that meeting.
- 5.4 The Chairperson of the Audit and performance committee shall invite the appropriate representatives of the external and internal auditors, to attend its meetings, while the Executive Mayor, MPAC Chair, Portfolio Head Finance, Municipal Manager, and Heads of Departments shall be standing invitees to meetings.
- 5.5 The Chairperson of the Audit and performance committee may also invite any other person(s) who might have meaningful input to the meeting, to attend such meetings.
- 5.6 The Audit and performance committee has the right to exclude from its meetings, any or all executives, where conflicts of interest are evident.
- 5.7 The Audit and performance committee has the right to meet separately, if so required, with the external and/ or internal auditors.
- 5.8 Only members of the Audit and performance committee shall be entitled to vote at duly constituted meetings of the Audit and performance committee.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

6. MINUTES OF MEETINGS

- 6.1 The secretariat shall ensure that proper minutes of the proceedings of every Audit and performance committee meeting are recorded and retained as per Municipal and statutory requirements.
- 6.2 Minutes of every meeting shall be recorded within fourteen days of any meeting. Copies of the minutes shall be timeously circulated to all members of the Audit and Performance committee, the Speaker of Council, Executive Mayor, internal and external audit, the Municipal Manager, HOD's and the head of finance (CFO).
- 6.3 At every meeting of the Audit and Performance committee, the Chairperson shall ensure that the minutes of the preceding meeting are approved, whether with amendment(s) or not, and signed as being a true record of the proceedings at such meeting.

7. RIGHTS AND AUTHORITY

- 7.1 The Audit and Performance committee shall have direct and unobstructed lines of communication to all the Management and Staff, the external and internal auditors and Council.
- 7.2 The Audit and Performance committee shall have the right of access to any Municipality records containing information required to properly and effectively discharge its responsibilities.
- 7.3 The Audit and Performance committee shall have the right to obtain any required legal or professional advice during the course of discharging its responsibilities, as well as the right to initiate any special investigations required to effectively discharge its duties, and may obtain special counsel to assist in such matters.
- 7.4 When seeking third-party professional advice and/ or initiating investigations, the Audit and Performance committee must take cognisance of the procurement/ supply chain management processes of the Municipality, as well as consulting with the Municipal Manager on such matters.
- 7.5 The Audit and Performance committee shall have the right to review any matter relating to audits, systems of control, risk management and governance, and make appropriate recommendations to Council for their consideration and final approval.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

8. CONFLICT OF INTEREST

- 8.1 The chairperson of the Audit and Performance committee shall excuse from any meeting or part thereof, any member or attendee who could, in his/her opinion, have any potential conflict of interest.
- 8.2 Any member of the Committee who is aware of an existing or potential conflict of interest between his/her work in the Committee and his/her private work shall promptly inform the Chairperson of such conflict.
- 8.3 At each Audit and Performance committee meeting, members shall declare whether or not they have interest in any of the items to be discussed/ considered.
- 8.4 Members shall declare their interest annually.

9. DUTIES AND RESPONSIBILITIES

The Audit and Performance committee shall:

Strategic Plan

- 9.1 Keep the Municipality's "Strategic Plans/ IDP's" under review insofar as it relates to the audit of the Municipality.

Internal Control, Risk Management and Compliance

- 9.2 Assist management in evaluating the adequacy, and effectiveness of the risk management process followed and the development, maintenance and enhancement of the fraud prevention plans
- 9.3 Evaluate adequacy of management response to fraud risks
- 9.4 The Chairperson of the Audit and Performance committee will communicate to Council any allegation of fraud or gross negligence implicating the Accounting Officer
- 9.5 All fraud investigations will be communicated to the Auditor General
- 9.6 Evaluate and ensure that Management has implemented effective and efficient systems of control, risk management and governance.
- 9.7 Gain an understanding of the areas of greatest risk to the Municipality, and review management's plans to minimise significant risk exposures.
- 9.8 Provide assurance in respect of integrated risk management in the municipality.
- 9.9 In order to carry out this responsibility, the Audit and Performance committee should be informed of and consider the following matters:

AUDIT AND PERFORMANCE COMMITTEE CHARTER

- 9.9.1 The overall risk management process
- 9.92 The typical risk inherent to the municipality's function and activities as well as the management and control of such risks;
- 9.9.3 Areas where there have been major changes in the risk factors; and
- 9.9.4 Details of the action plan of management to control the level of risk.
- 9.10 Satisfy itself that effective systems are in place to provide reasonable assurance that assets are in existence and are adequately safeguarded.
- 9.11 Satisfy itself that adequate arrangements are in place to promote economy, efficiency and effectiveness throughout the Municipal operations.
- 9.12 Consider how management ensures the security of computer systems, applications and records, and the contingency plans in place to ensure business continuity.
- 9.13 Audit and Performance Committee shall seek assurances that Management have set an appropriate "control culture" and have communicated the importance of systems of control and risk management, so that all employees have an understanding of their roles and responsibilities relative to risk management.
- 9.14 Monitor and advise the Municipality to prepare financial statements in compliance with all applicable legislative requirements.
- 9.15 Monitor the ethical conduct of Council, Management and Staff, and encourage the imposition of discipline and control, thus reducing the opportunity for inefficiency, resource wastage, fraud, etc.

External Audit and Financial Statements

- 9.16 Consider and advise Council on the external audit process, including the audit fee, and the provision of any non-audit services (e.g. forensic investigations) by the external auditor.
- 9.17 Discuss with the external auditor, before the audit commences the nature and scope of the audit and ensure that no unjustified restrictions or limitations have been placed on the auditor, and also ensure that the audit plan effectively addresses the critical risk areas of the Municipal business.
- 9.18 Discuss problems and reservations arising from (interim and final) audits, and any other matters which the auditor may have reported.
- 9.19 Monitor the required timing of the submission of financial and other reports to Government, Municipal funders and as may be required by legislation.

- 9.20 Monitor the performance, effectiveness and independence of the external auditors, including the extent of non-audit services provided to the Municipality.
- 9.21 Review and make recommendations on the draft and final annual financial statements. Such a review would, inter alia, include the adequacy of provisions, changes in accounting policies, the appropriateness of accounting policies, complex and/or unusual transactions, judgemental areas, the adequacy of appropriate disclosures and legal requirements governing the preparation of the financial statements.
- 9.22 Have discussions with Management and External Auditors on any material adjustments to the annual financial statement.
- 9.23 Have discussions with Management on any unusual issues identified by the Audit Committee in the annual financial statement.
- 9.24 Review the findings of the external auditors and ensure that Management timeously responds to these findings and adequately addresses significant reported items. In addition, previously reported matters should be reviewed to ensure that these have been adequately addressed.
- 9.25 Review any material and/or unresolved audit findings and significant accounting adjustments, which were identified during the audit.
- 9.26 Consider any differences of opinion between Management and external audit.
- 9.27 Review the audited financial statements and make recommendations to Council for their approval.
- 9.28 Review the extent of co-ordination of efforts between external audit and internal audit.
- 9.29 Recommending to the Accounting Officer such measure as in the opinion of the Committee may serve to enhance the credibility of the financial statements and annual reports.
- 9.30 Audit and Performance committee will have quarterly meetings with the External Auditors.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

Internal Audit

- 9.31 Review and approve the "Internal Audit Charter", which sets out the status, rights and responsibilities of internal audit.
- 9.32 Review the activities, internal audit plan, organisational structure and reporting lines of internal audit and ensure that no unjustified limitations and restrictions are placed on internal audit's work.
- 9.33 Review and approve the:
- 9.33.1 rolling three-year strategic internal audit plan based on its assessment of key areas of risk for the Municipality, having regard to the current operations of the Municipality, those in the strategic plan and risk management strategies.
 - 9.33.2 annual internal audit plan for the first year of the rolling three-year strategic internal audit plan and any subsequent revision thereof.
 - 9.33.3 the quarterly reports submitted by Internal Audit detailing performance against the annual audit plan
 - 9.33.4 Review the major findings of internal audit and the adequacy and implementation of management's responses thereto.
- 9.34 Review the independence, resources, scope and effectiveness of the internal audit function.
- 9.35 Consider any differences of opinion between Management and internal audit function. Direct investigations are required to be performed by internal audit.
- 9.37 Direct and determine the level of internal audit's participation in the risk management process.
- 9.38 Review all non-internal audit services rendered by internal audit, and the impact of these services on internal audit coverage and internal audit's independence.
- 9.39 Review the extent of co-ordination of efforts between internal audit and external audit
- 9.40 Review and concur with the appointment or dismissal of the Head of Internal Audit] Chief Audit Executive (i.e. person heading the Internal Audit function).
- 9.41 Evaluate the overall efficiency and effectiveness of the internal audit function in the municipality considering the following:
- 9.41.1 The audit approach,
 - 9.41.2 The scope and depth of internal audit coverage,

AUDIT AND PERFORMANCE COMMITTEE CHARTER

- 9.41.3 The quality of reports issued,
- 9.41.4 Quality of personnel employed,
- 9.41.5 Training of personnel,
- 9.41.6 Co — operation with external auditors,
- 9.41.7 Internal audit budget,
- 9.41.8 Internal audit's compliance with the Institute of Internal Auditor for Professional Practice of Internal Audit and
- 9.41.9 Management satisfaction.
- 9.42 Ensure that no restrictions by management are placed upon the internal auditors.

10. REPORTING

In addition to any reporting obligations described above, the Audit and Performance committee shall:

- 10.1 Be accountable to Council for its performance and report on a quarterly basis.
- 10.2 At any time of the year, report and make recommendations to the Council.
- 10.3 Reports of the Chairpersons of the Committee shall be included in the agenda and meeting "packs" for the Council meetings once every quarter.
- 10.4 The Chairperson of the Audit and Performance committee shall be present at the Council meetings where the Annual Financial Statements, Annual Report and the external auditor's report are tabled for Council approval. At this Council meeting, the Audit and Performance Committee Chairperson shall also deliver a report on the activities of the Audit and Performance committee for the year.
- 10.5 The Audit and Performance committee must respond to the Council on any issues raised by the Auditor General in the audit report.

11. REMUNERATION AND DISBURSEMENTS

- 11.1 Remuneration paid to any Audit and Performance committee member(s) for services rendered shall be at the entire discretion of the Council, and in compliance with any statutory regulations governing such payment for services rendered and prevailing Council-approved rates/ tariffs.

AUDIT AND PERFORMANCE COMMITTEE CHARTER

11.2 Reimbursement for any reasonable expenditure incurred by Audit and Performance committee members shall be considered by the Municipality at the conclusion of every meeting. Such reimbursement shall also be at the entire discretion of the Council, and in compliance with any statutory regulations and Council-approved rates/ tariffs governing such payment for expenditure incurred, and shall be paid against documentary proof thereof.

12. EVALUATION OF PERFORMANCE

11.3 Council shall evaluate the Audit and Performance Committee's performance, both individually and collectively on annual basis using COGTA's Performance Committee Evaluation Tool approved by Council.

13. REVIEW AND AMENDMENT

13.1 Any amendments to these terms of reference shall only be effective if approved by Council in consultation with the Audit and Performance committee, the Head of Internal Audit and the management of the municipality.

13.2 The charter shall be reviewed at least annually.

14. APPROVAL AND ADOPTION

This 2023/2024 Audit and Performance Committee Charter is hereby adopted as the guiding document for the existence and operation of the Audit and Performance committee.

SUBMITTED BY.....
INTERNAL AUDIT MANAGER

Date.....

ACKNOWLEDGED BY.....
MUNICIPAL MANAGER

Date.....

APPROVED BY:.....
SPEAKER ON BEHALF OF COUNCIL

Date.....

NDLAMBE MUNICIPALITY



INTERNAL AUDIT CHARTER

2023/2024
financial year

INTERNAL AUDIT CHARTER

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INTERNAL AUDIT CHARTER

1. PURPOSE

The purpose of the internal audit function of Ndlambe Local Municipality is to provide independent, objective assurance and consulting services designed to add value and improve the Local Municipality's operations. It helps the Local Municipality accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. The Internal Audit Activity (IAA) intends to function in a manner that ensures that:

- Risks are appropriately identified and managed;
- Interaction with the various governance groups occurs as needed;
- Significant financial, managerial, and operating information is accurate, reliable, and timely;
- Employees' actions are in compliance with policies, standards, procedures, and applicable laws and regulations;
- Resources are acquired economically, used efficiently, and adequately protected;
- Programs, plans, and objectives are achieved;
- Quality and continuous improvement are fostered in the organization's control process; and
- Significant legislative or regulatory issues impacting the organization are recognized and addressed appropriately.

Opportunities for improving management control, operations, and the organisations image may be identified during audits. The IAA shall communicate identified opportunities and risks to the appropriate levels of management.

2. LEGISLATIVE MANDATE

Section 165 of the Municipal Finance Management Act (MFMA) no 56 of 2003 and the King IV Report on Corporate Governance give rise to the establishment of the Internal Audit Activity.

3. OBJECTIVE AND MISSION

The primary objective of Internal Audit is to assist the Municipal Manager and the Audit and Performance Committee in the effective discharge of their responsibilities. Internal audit will provide them with independent analysis, appraisals, recommendations, counsel and information concerning the activities reviewed, with a view to improving accountability and performance.

The mission of the Internal Audit Activity is to provide the Municipality with a value-added internal audit function by assisting management in controlling risk, monitoring compliance, corporate governance and improving efficiency and effectiveness of the internal control system.

4. SCOPE

Internal Auditors shall at all times conduct the work or any other tasks assigned to them in accordance with the International Standards for Professional Practice of Internal Auditing and shall further comply with the Code of Ethics for internal auditors, as published by the Institute of Internal Auditors (IIA).

Internal Audit follows an integrated approach, which places emphasis on the identification of risks, the prioritising thereof and testing of controls over key risk areas. The integrated audit approach combines two types of audit engagements, i.e. assurance and consulting services.

4.1 ASSURANCE ENGAGEMENTS

These refer to the evaluation of the adequacy, effectiveness and efficiency of the Municipality's risk management, control and governance processes. The purpose of this is to provide reasonable assurance that these processes are functioning as intended and will enable the Municipality to achieve its goals and objectives, as well as provide recommendations on improving the organization's operations. Business systems, processes, operations, functions and activities within the organisation shall be subjected to internal audit's evaluation. Examples of assurance engagements to be provided are as follows:

- Financial;
- Performance;
- Compliance;

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- IT
- Forensic

4.2. CONSULTING ENGAGEMENTS AND REQUESTS FOR SPECIAL PROJECTS

These refer to advisory and related engagements, the nature and scope of which should be agreed upon with the auditee management. The following categories of consulting engagements may be performed:

- Formal consulting engagements: planned and subject to written agreement;
- Informal consulting engagements: routine activities such as participating on standing committees, limited life projects, ad hoc meetings and routine information exchange;

The Internal Auditors should, however, maintain their objectivity when drawing conclusions and offering advice to management. The following consulting services may be provided:

- Counsel;
- Advice;
- Facilitation; and
- Training.

The comprehensive scope of work of Internal Audit should provide reasonable assurance that the organisation's risk management; control and governance systems are effective and efficient. In areas where, in the opinion of the Internal Audit Manager, specialised audit skills are lacking within the unit, the services of external service providers may be employed.

All requests for the assistance by Internal Audit in the execution of special projects must be submitted in writing to the Internal Audit Manager and will be considered in relation to the availability of internal audit in accordance with the annual internal audit plan.

5. ACCOUNTABILITY

The Internal Audit Manager, in the discharge of his/her duties, shall be accountable to the Municipal Manager and the Audit Committee to:

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- Provide annually an assessment on the adequacy and effectiveness of the Ndlambe Local Municipality's processes for controlling its activities and managing its risks in the areas set forth under the mission and scope of work;
- Report significant issues related to the processes for controlling the activities of the organisation and its affiliates, including potential improvements to those processes, and provide information concerning such issues through resolution;
- Periodically provide information on the status and results of the annual audit plan and the sufficiency of organisations resources; and
- Coordinate with and provide oversight of other control and monitoring functions (risk management, compliance, ethics, external audit).

6. INDEPENDENCE

To provide for the independence of the IAA, its personnel shall report to the Internal Audit Manager, who reports administratively to the Municipal Manager and functionally to the Audit Committee.

Additionally, the IAA shall not:

- Have direct operational responsibility or authority over any of the activities they review;
- Develop nor install systems or procedures, prepare records, or engage in any other activities that would normally be audited;
- Initiate or improve accounting transactions external to the organisation

7. AUTHORITY

The Internal Audit Manager and internal audit staff are authorised to:

- Have unrestricted access to examine all information, both paper-based documents and electronic information residing on computer systems, and to inspect all physical assets. However they must safeguard any assets or information that is examined and maintain the confidentiality thereof.
- Have full and free access to the Audit and Performance Committee, Executive management, Council, Management and staff
- Allocate resources, set frequencies, select subjects, determine scope of work, and apply the techniques required to accomplish audit objectives; and

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- Obtain the necessary assistance of personnel in units of the organization where they perform audits, as well as other specialised services from within or outside the organization.
- Implement a control to ensure that each project team member shall declare interest before commencement of an audit project.

The Internal Audit is not authorised to:

- Perform any operational duties for the municipality;
- Initiate or approve accounting transaction external to the internal auditing unit.
- Direct the activities of any municipal employee not employed by the internal auditing activity, except to the extent such employees have been appropriately assigned to auditing teams or to otherwise assist the internal auditors.
- Participate in the design, development and implementation of new financial or other systems or policy within the municipality other than on advisory and consulting capacity.

8. RESPONSIBILITY

The IAA must prepare the following:

- A rolling three-year strategic IA plan based on its assessment of key areas of risk for the institution, having regard to its current operations, those proposed in its strategic plan and its risk management strategy;
- A flexible annual audit plan using appropriate risk-based methodology, including any risks or control concerns identified by management; and submit that plan to the Audit Committee for review and approval; and
- Plans indicating the proposed scope of each audit in the annual IA plan.

The IAA will be responsible to:

- Assess the operational procedure and monitoring mechanisms over all transfers made and received, including transfers in terms of the annual Division of Revenue Act;
- Evaluate and assess new or changing services, processes, operations and control processes, (information technology-based or otherwise), coincident with their development, implementation, and / or expansion;

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- Assist, facilitate or execute investigations of suspected fraudulent / irregular activities within the organization;
- Issue at least quarterly reports to the Audit Committee summarizing results of audit activities and any other report(s) as circumstances may dictate;
- Maintain a professional audit staff with sufficient knowledge, skills and experience to meet the requirements of this charter.

8.1. PLANNING

The IAA shall submit to the Audit and Performance Committee for approval, an internal audit plan, setting out the recommended scope of their work. This plan should be based on the results of the annual risk assessment process and should allocate internal audit resources to the areas where the greatest risks are present. In addition it should identify the costs of resources necessary to fulfil the plan. The plan should indicate the timing and frequency of the audit activities.

The annual internal audit plan should be developed with reference to a longer-term strategic outlook for internal audit work, prepared in conjunction with management and supported by them, and should have regard to the business plans and strategic outlook of the organisation as a whole.

8.2. REPORTING RESPONSIBILITY

As required by the International Standards for the Professional Practice of Internal Audit (ISPPA), Internal Audit reports functionally to the Audit and Performance Committee and administratively to the Accounting Officer.

After each audit, Internal Audit shall immediately issue a draft audit report on issues/findings to the Head of Department concerned. Management's comments and action plans should be received within 7 days from issuing the draft audit report.

A written final audit report will be issued to the Head of the Department within 5 days of receiving management's comments and an Executive Summary of the report will be submitted to the Municipal Manager. Internal audit reserves the right to report any critical or significant issue directly to the Municipal manager or

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the Chairperson of the Audit and Performance Committee before consulting with management.

Internal Audit will report every quarter to the Audit and Performance Committee and Municipal Manager on the:

- Status of the Internal Audit activities;
- Significant findings and management action plans;
- Follow-up on previously reported audit findings;
- Internal Audit budgets and variances;
- Internal Audit resources requirements
- Any significant deviations from the approved audit plan, staffing plans and financial budgets as well as reasons therefore.

Internal Audit will report every quarter to the Audit and Performance Committee and Municipal Manager on the Audit of Performance information

8.3 RELATIONSHIP WITH EXTERNAL AUDITORS AND REGULATORY BODIES

Internal audit co-ordinates its work with other assurance providers. The external auditors are consulted in determining the activities of internal and external audit in order to minimise duplication of audit effort. This may involve:

- Periodic meeting to discuss the planned activities
- The exchange of audit work-papers including systems documentation
- The exchange of management letters
- The forming of joint team where appropriate
- Internal audit carrying out certain (financial) audit work
- Evaluating the quality of services rendered to the company, by the external auditors and
- Other aspects of the relationship between the organisation and the external auditors.

To the extent that it is necessary, relationship with regulatory bodies must be maintained by internal audit.

9. QUALITY ASSURANCE MATTERS

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The Internal Audit Manager will establish and maintain a quality assurance programme to evaluate the operations of the internal auditing function. Quality control in internal audit will include the following:

- The Internal Audit Manager shall maintain an ongoing system to measure performance of Internal Audit staff;
- A structured training programme shall be followed in order to develop the technical, conceptual and management abilities of the Internal Audit personnel;
- The audit approach followed shall be regularly evaluated to ensure that it conforms to the developments taking place within the Internal Audit field; and

As far as possible, the Internal Audit Manager and the IAA staff shall be members of the Institute of Internal Auditors and Chartered Institute of Government Finance Audit and Risk Officers.

An external assessment of the IAA should be conducted as prescribed by an independent qualified reviewer or review team. Assessment of the Internal Audit function should include the evaluation of:

- Compliance with the IIA Standards and Code of Ethics;
- Adequacy of the Internal Audit Charter, policies and procedures;
- Contribution to the organisation's risk management, governance and control processes;
- Compliance with applicable laws, regulations and government standards; and
- Whether the IAA adds value and improves the organisation's operations.

10. STANDARDS FOR PROFESSIONAL PRACTICE

Internal Audit shall at all times meet or exceed the *Standards for the Professional Practice of Internal Auditing* and the Code of Ethics, as published by the Institute of Internal Auditors when conducting their work or any other tasks assigned to them.

11. AUDIT COMMITTEE MEETINGS

The IAA shall provide secretarial services to the Audit and Performance Committee. An agenda of items for discussion, together with any supporting

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documents and information shall be distributed to all members of the Audit and Performance Committee, other interested members of Council and parties attending the meeting at least seven days prior to the date of the meeting. Any person who is going to attend a meeting may, not less than seven days prior to the meeting, request the Secretariat to add such items, as deemed necessary, to the agenda.

Draft minutes of the meeting shall be prepared for review by the Chairperson of the Audit Committee within seven (7) days of the date of the meeting. Copies of the revised minutes must be distributed to all members and other relevant parties within 14 days of the date of the meeting.

12. EVALUATION OF PERFORMANCE

The Assessment of the Internal Audit shall be evaluated on an annual basis as follows:

- 12.1 Internal Audit to perform a self assessment in terms of this charter;
- 12.2 Management shall also perform an evaluation at the end of each project and at the end of each financial year for all projects performed during the financial year.
- 12.3 The Audit Committee to perform a final evaluation of the effectiveness of the internal audit activity.

Results of annual assessment by the Internal Audit, Management and Audit and Performance Committee shall be summarised into one report and be presented to the Audit and Performance Committee for discussion and formulation of recommended improvements.

13. THE ROLE OF THE INTERNAL AUDIT FUNCTION IN THE RISK MANAGEMENT PROCESS.

Internal auditors must assist both management and the Audit and Performance Committee in examining evaluating, reporting, and recommending improvements on the adequacy and effectiveness management's risk processes.

Management is responsible for the risk management and control process. However, internal auditors acting in a consulting role can assist the municipality

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in identifying, evaluating and implementing risk management methodologies and controls to address those risks.

Internal Audit is responsible for the assessment of the municipality's risk management processes and reporting thereof to the Audit and Performance Committee.

Internal audit should determine and formulate an opinion on whether:

- Risks arising from the business strategies and activities are identified and prioritised.
- Management have determined the level of risks acceptable to the municipality, including the controls designed to accomplish the municipality's strategic plans.
- Risk mitigation activities are designed and implemented to reduce, or manage, risks at levels that were determined to be acceptable to management.
- Ongoing monitoring activities are conducted to periodically reassess risk and the effectiveness of controls to manage risk.
- Management receives periodic reports of the results of the risk management processes.

14. SUBMISSION

The Internal Audit Unit hereby request approval of the 2023/2024 Internal Audit Charter of Ndlambe local municipality by Audit and Performance Committee.

Approval of Internal Audit Charter

Prepared by: _____ **Date** _____
Mr. S Landzela
Internal Audit Manager

Accepted by: _____ **Date** _____
Adv. R Dumezweni
Municipal Manager

Approved by: _____ **Date** _____
Mr T Pillay
Chalrperson - Audit Committee

OPEN NDLAMBE COUNCIL MEETING
HELD ON THURSDAY, 28 MARCH 2024

**REPORT DATED 26 MARCH 2024 FROM THE
MUNICIPAL MANAGER TO COUNCIL: BUSHMANS
RO PLANT TRANSFER**

ANNEXURE C.12



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

ENQUIRIES: T E Mashala
TELEPHONE: (012) 336 7304
REFERENCE:

AREA MANAGER: SARAH BAARTMAN DM

LEGAL OPINION ON WHETHER AMATOLA WATER CAN GIVE NDLAMBE LOCAL MUNICIPALITY THE RIGHT OF USE OF THE ALBANY COAST SWRO PLANT

1. PURPOSE

To provide you with a legal opinion on whether Amatola Water can give Ndlambe Local Municipality the right of use of the Albany coast SWRO plant.

2. SUMMARY OF THE ISSUES

2.1 The Chief Directorate: Legal Services received a request for a legal opinion from the Area Manager: Sarah Baartman DM with the aforesaid subject matter. For this opinion, we will not reiterate the facts and background information outlined in the submission, save to articulate the following:

- On 26 February 2010, the erstwhile Minister has, in terms of the Government Gazette Notice 32965 - No 139 on 26 February 2010 read with section 28(1)(d) of the Water Services Act, 1007 (Act No. 108 of 1997) (WSA) gave a notice of disestablishment of the Albany Coast Board.
- On 08 March 2010 Amatola Water (AW) confirmed that transfer of the Albany Coast Water Board to the Minister. It appears the Minister sent a letter and/or directive to AW on 19 November 2009, this letter and/or directive has not been provided to Legal Services.

- According to the Deeds search conducted on 01 September 2023, the Property still belongs to Albany Coast Water Board.
- We are informed that AW's extension of service area was Gazette on 12 March 2010. They were basically given the right of use of the plant to deliver water to Ndlambe Local Municipality (NLM) wards 3&4 Kanton on Sea and Bushman's River Mouth. NLM is not satisfied with the performance of AW and wants to take over the plant. AW now wants to give NLM the right of use to run the plant. However, according to the deed search, the plant does not belong to AW. This means that DWS never completed the transfer of assets to AW which was most probably a mistake which now complicates the situation.

2.2 The legal question which needs to be answered is whether AW has authority to give NLM the right of use of the Albany coast SWRO plant.

3. LEGAL ANALYSIS

3.1 In responding to the legal question imposed above, a number of provisions of the WSA have been explored. Section 1 (xxiv) of the WSA defines **water services works** as – *“a reservoir, dam, well, pumphouse, borehole, pumping installation, purification work, sewage treatment plant, access road, electricity transmission line, pipeline, meter, fitting, or apparatus built, installed, or used by a water services Institution—*

- (i) *to provide water services:*
- (ii) *to provide water for industrial use; or*
- (iii) *to dispose of industrial effluent: (xxii)”*

3.2 Section 28 of the WSA stipulates that:

(1) *Subject to subsection (2) the Minister may by notice in the Gazette—*

- (a) *establish a water board.*
- (b) *...*

- (c) *determine or change its service area: or*
- (d) *disestablish it.*

Section 29 indicates that the primary activity of a water board is to provide water services to other water services institutions within its service area.

Section 46(1) reads -

"If the Minister, after consultation in terms of section 28, has notified a water board that he or she intends— (a) to change its service area; or (b) to disestablish it, the Minister may direct that water board to transfer some or all of its assets and liabilities to another water board or water services authority".

Section 46(3) -

"upon the disestablishment of any water board and if its assets and liabilities are not transferred to another water board or a water services authority— (a) its assets and liabilities vest in the Minister".

3.3 It is common cause that the erstwhile Minister disestablished the Albany Coast Water Board in terms of the Government Gazette Notice 32965 - No 139 on 26 February 2010 read with section 28(1)(d) of the WSA. It is further common cause that the service area of AW was extended to include the municipal area of Ndlambe as indicated in Government Gazette No. 188 dated 12 March 2010.

3.4 It would seem now that upon disestablishment, the plant as an asset, was never transferred from the Albany Coast Water Board to AW, as such, the asset is vested with the Minister in accordance with section 46(3). In that regard, we submit that AW does not have any powers to give NLM the right of use or to run the plant because the plant is not registered in AW name. Given that this asset is vested with the Minister, only the Minister can transfer it to the municipality as the water services institution. Section 46(5) provides –

"Subject to the approval of the Minister of Finance, no transfer duty, other tax or duty is payable in respect of the transfer of any assets—

- (a) from the Minister to a water board or a water services authority;*
- (b);*

3.5 The above cited provision, clearly stipulate that the Minister may transfer such asset to the Water Services Authority, which is NLM in this instance. The Department must therefore initiate the transfer of use of the plant to NLM by concluding a transfer of assets agreement. The agreement shall stipulate the obligations and responsibilities of the parties towards the use and operation of the plant. Once transferred, the plant should be registered as the property of NLM.

4. CONCLUSION

4.1 In light of the above, we conclude that AW does not have any powers to give NLM the right of use to run the plant because the plant is not registered in AW name, the plant assets and liabilities still vest with the Minister.

4.2 The Department must initiate the transfer and the registration of the plant into the name of NLM as a matter of urgency.

5. RECOMMENDATION

It is recommended that the legal opinion expressed in paragraph 3 above be noted.



CHIEF DIRECTOR: LEGAL SERVICES

DATE: 13.02.2024

Dept. of Water and Sanitation
LEGAL SERVICES
APPROVED
LS 12