KOUGA
local municipality
Good Governance through Service Excellence

SPECIAL COUNCIL MEETING

AGENDA

Date : 18 January 2023
Time : 12:00
Venue : Council Chambers (Jeffreys Bay)

KOUGA MUNICIPALITY (EC108)	UMASIPALA I-KOUGA (EC108)	MUNISIPALITEIT KOUGA (OK108)
NOTICE CONVENING A MEETING	**ISAZISO NGENTLANGANISO**	**KENNISGEWING VAN VERGADERING**
NOTICE IS HEREBY GIVEN that in in terms of Section 19 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000) that a Special Council Meeting will be held in the Council Chambers(Jeffreys Bay) on	**ISAZISO** sikhutshiwe ukuba ngokweCandelo-19 uMthetho weeNkqubo zikaMasipala, (uMthetho 32 ka-2000), ukuba kubanjwe intlanganiso ebonakalayo yesigqeba Ye khansile eyakuba-kwikhansile yase (Jeffreys Bay)	**KENNIS GESKIED HIERMEE** dat ingevolge Artikel 19 van die Wet op Munisipale Stelsels, 2000 (Wet No.32 of 2000), dat 'n raadsvergadering gehou sal word in die Raadsaal(Jeffreys Baai) op
DATE: 18 January 2023	**UMHLA: 18 EyoMqungu 2023**	**DATUM: 18 Januarie 2023**
TIME: 12:00	**IXESHA: 12:00**	**TYD: 12:00**
B.WILLIAMS SPEAKER	**B.WILLIAMS USOMLOMO**	**B.WILLIAMS SPEAKER**

Councillors are required to comply with the Standing Rules and Orders of Council and all its Committees By-law as promulgated in the Provincial Gazette on 22 October 2018 No.4134 and applicable to this meeting of Council. Any person who willfully contravenes any provision of these rules shall be guilty of an offence and which contravention shall be dealt with in accordance with the disciplinary procedures for Councillors.

A G E N D A

1. **NOTICE OF MEETING**
2. **OPENING AND WELCOME**
3. **ABSENT WITH LEAVE**
4. **ABSENT WITHOUT LEAVE**
5. **PRESENTATIONS**
6. **ACKNOWLEDGEMENTS, CONDOLENCES & CONGRATULATIONS**
7. **STATEMENTS OR COMMUNICATIONS BY THE SPEAKER**
8. **STATEMENTS OR COMMUNICATIONS BY THE EXECUTIVE MAYOR**

9. **DISCLOSURE OF INTEREST**

10. **STATUTORY MATTERS**

11. **MATTERS DEALT WITH IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE MAYOR**

(The reports by the Executive Mayor, in terms of the provisions of Section 63 of the Local Government Municipal Systems Act, 32 of 2000, on matters dealt with by the Executive Mayor in terms of delegated authority as detailed in the Minutes to be noted).

12. **REPORTS BY THE PORTFOLIO CHAIRPERSONS**

12.1 **REPORTS BY THE PORTFOLIO CHAIRPERSON: PLANNING, DEVELOPMENT & TOURISM**

23/01/PDT1 Authorisation to take to Public Participation the intention of Council to Alienate Certain Portions of Erf 873, Erf 5478, 5479,5480, 5481 And 8825 Jeffreys Bay

Pages: 6 - 14

13. **CLOSURE**

Distribution list:
Executive Mayor
Executive Deputy Mayor
Speaker
All Councillors
Municipal Manager
All Directors
Relevant Managers
Committee Services

MATTERS DEALT WITH IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE MAYOR

REPORTS BY THE PORTFOLIO CHAIRPERSON: PLANNING DEVELOPMENT & TOURISM

KOUGA MUNICIPALITY (EC 108)

SPECIAL COUNCIL MEETING

PLANNING, DEVELOPMENT AND TOURISM

DATE: 18 JANUARY 2023 **ITEM NO: 23/01/PDT1**

AUTHORISATION TO TAKE TO PUBLIC PARTICIPATION THE INTENTION OF COUNCIL TO ALIENATE CERTAIN PORTIONS OF ERF 873, ERF 5478, 5479,5480, 5481 AND 8825 JEFFREYS BAY

1. Introduction

The purpose of this item is to obtain Council's approval to consult and obtain public comments on the potential alienation of Council owned immovable assets as properties specified herein. The intended alienation would be for development purposes of the identified erven into a mixed-use development only, and to authorize the accounting officer to embark on a public participation process as contemplated in the Municipal Asset Transfer Regulations ('MATR').

2. Background

During the 2020/21 Financial Year, the Municipality approved a reviewed Spatial Development Framework ('SDF') wherein densification nodes were identified for future development. One of these strategic land parcels identified for a unique green mega development is the land parcel currently occupied by the Jeffreys Bay Golf Club for sporting activities as well as surrounding erven registered to the Kouga Municipality.

The following municipal properties in Jeffreys Bay have been earmarked in the SDF for the development of an environmentally friendly "special or mixed zone" which will incorporate recreational green open spaces and mixed business and residential uses.

Erf No	Area	Extent	Zoning	Est. Municipal Value
873	Jeffreys Bay	86.1317Ha	Open Space 2	R33 200 000.00
5478	Jeffreys Bay	2.5000Ha	Authority Zone	R2 000 000.00
5479	Jeffreys Bay	2.5000Ha	Authority Zone	R6 000 000.00
5480	Jeffreys Bay	2.5000Ha	Authority Zone	R5 700 000.00
5481	Jeffreys Bay	2.1250Ha	Authority Zone	R5 300 000.00
8825	Jeffreys Bay	1.0755Ha	Authority Zone (unregistered)	No valuation

The intention is to lay the foundations for a mega development that can take into consideration the current battle against climate change by implementing, among other things, climate change- and environmental sustainability strategies within the densification node identified in the latest approved SDF.

Erf 873 Jeffreys Bay currently hosts the Jeffreys Bay Golf Course, Clubhouse as well as the Tennis Courts, Driving Range and Bowling Club; however, the land currently used by the Bowling Club is excluded from the consideration and the intention would be to subdivide the portion on which the bowling club is situated and to exclude same from the intended alienation. ERF 5478, 5479,5480, 5481 and 8825 Jeffreys Bay are currently vacant and underutilized.

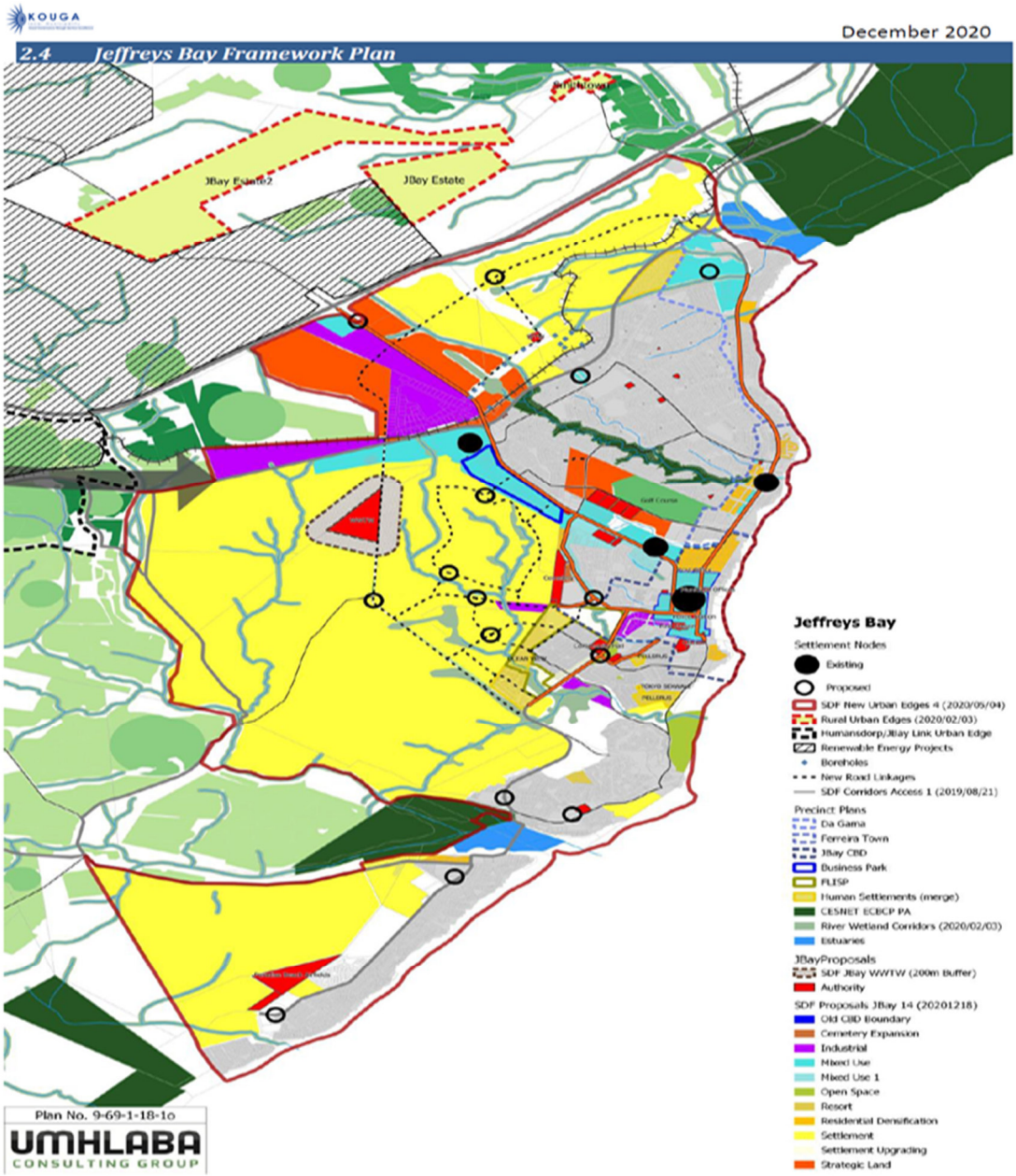
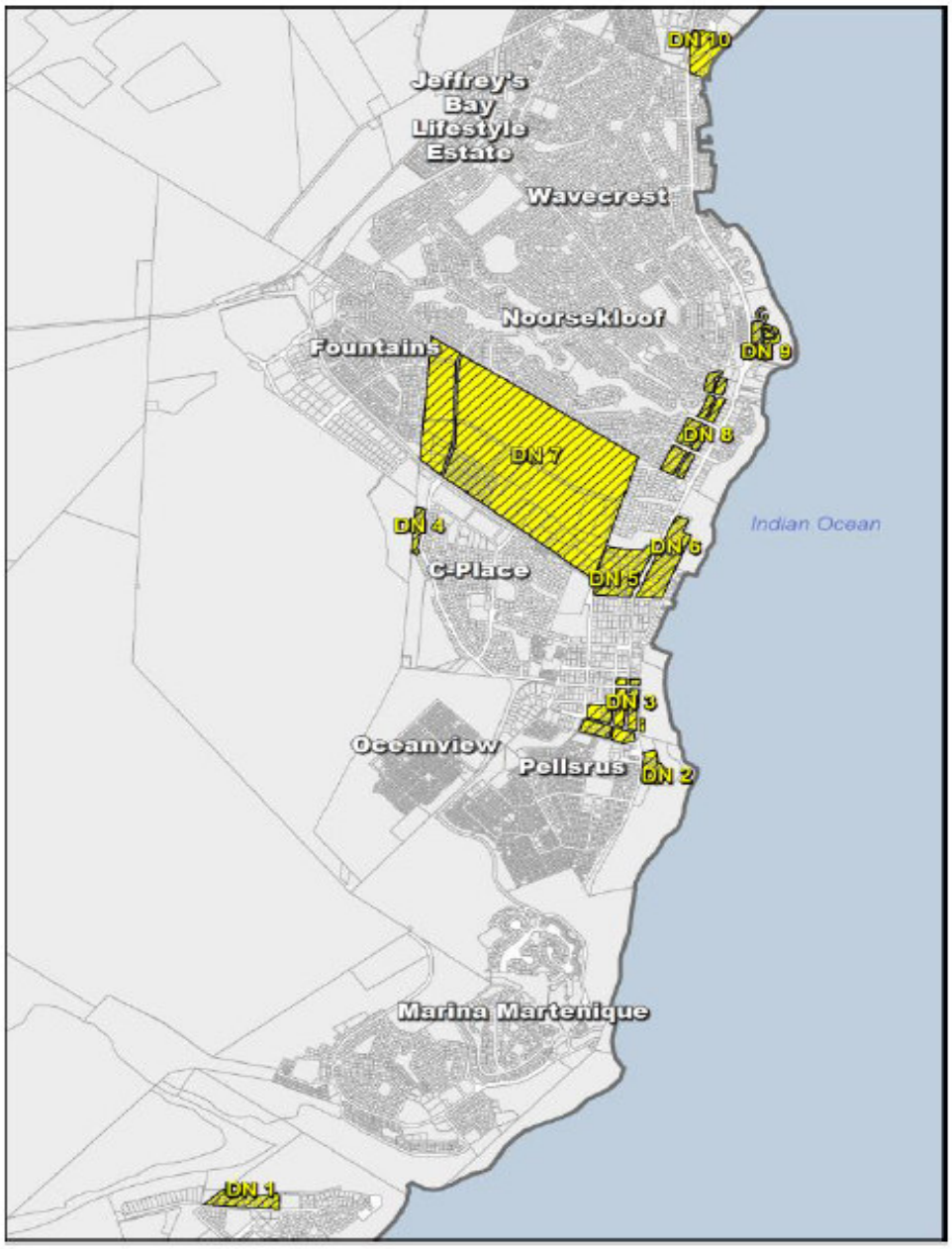


Figure 21: Jeffreys Bay Framework Plan

Densification Policy – Preliminary Plan Proposals/Guidelines –



mixed uses e.g. Residential, Community facilities and Public Open Space within a park like setting. The details of the development will be captured in a precinct and/or urban design plan which will need to address services road access nonmotorized access open space usage as well as formal open space usage EG sports fields sports clubs etc .

⇨ ***Densification Node 7 : Old Golf Course Clubhouse area***

- See section re Strategic Land – Central Park Precinct.

The figures below indicate the locality of the properties contemplated for disposal.

ERF 873



Fig. 1. Aerial image indicating the extent and boundaries of Erf 873 (including the Bowling Club).



Fig. 2. Aerial image indicating the locality and proposed boundaries of the Bowling Club as the portion which will not be disposed of.

ERVEN 5478, 5479, 5480, 5481 & 8825



Fig. 3. Aerial image indicating the locality and boundaries of erven 8825, 5478, 5479, 5480, 5481 for the proposed disposal.

3. Comments by Directorates:

3.1. Municipal Manager

The item and its recommendations are supported.

3.2. Director: Planning, Development and Tourism

Supported.

3.3. Director: Corporate & Digital Services (Acting)

Item noted.

3.4. Director: Infrastructure & Engineering

Item supported.

3.5. Director: Finance (CFO)

Report supported.

3.6. Director: Community Services

The item is noted.

4. Financial implications

The Financial costs at this stage are operational and relate to newspaper publication costs. .

5. Legal implications

In respect of disposals of this nature, various legislative requirements must be met before the valid and lawful disposal of Council owned immovable assets may take place. The processes are set out herein below.

In terms of section 14 of the MFMA, 2003, a municipality may not (*inter alia*) transfer ownership of as a result of a sale or by way of any other transaction dispose of capital assets unless the Municipal Council has, in a meeting open to the public,

- decided that the assets are not needed to provide minimum level of basic municipal services; and further, that
- it has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

The MATR requires that the Municipal Council takes into account the considerations listed in Regulation 7 (a) to (l) as per the following excerpt:

7. Consideration of proposals to transfer or dispose of non-exempted capital assets.—The municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5 (1) (b) (i) and (ii), take into account—

(*a*) whether the capital asset may be required for the municipality's own use at a later date;

(*b*) the expected loss or gain that is expected to result from the proposed transfer or disposal;

(*c*) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the municipality;

(*d*) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;

(*e*) the effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;

(*f*) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;

(*g*) the estimated cost of the proposed transfer or disposal;

(*h*) the transfer of any liabilities and reserve funds associated with the capital asset;

(*i*) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;

(*j*) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury;

(*k*) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and

(*l*) compliance with the legislative regime applicable to the proposed transfer or disposal.

The National Treasury guideline provides that the considerations listed in (i) and (j) should not be read as to be mandatory; however, should comments be available, it should be included. In this instance there are no such comments

available to Council, and therefore same should be solicited before reaching a final decision in respect of the proposed disposal.

The Kouga Policy provides for the following:

5.10 The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:

(a) decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services;

(b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and

(c) has as a consequence to 5.10(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.

5.11 The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted immovable property which can be of no practical use to any other person, directly to adjoining property owner(s), only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:

(a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;

(b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and

(c) has as a consequence to 5.11(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer.

It is further submitted that this information statement is sufficient for Council to **grant approval for public participation** for the potential disposal in order to solicit comments from the community as contemplated in the MATR Regulations 5(3) and 6.

6. Other implications

Should the processes not be completed in accordance with the relevant legislative prescripts, the Municipality may be exposed to additional legal and financial ramifications and may be obliged to defend a legality review, failing which the Municipality may be liable for party-party legal costs.

7. Recommendation

7.1. That in terms of Reg 6(a) and (b) of the MATR and Policy on disposal of immovable assets, Council grant authorization to the Accounting Officer to advertise and commence public participation, on Council's intention to alienate the immovable properties erven 873, 5478, 5479, 5480, 5481and 8825, Jeffreys Bay and dispose through a public auction for future use.

7.2. That a 30 day process of advertisement, consultation and invitation for public commentary be implemented.

7.3. That Council authorizes simultaneous advertising of intention to close Private Open Space 2 and rezone for mixed use as primary land use (Erf 873, Jeffreys Bay).

7.4. That it be noted that the bowling club which forms part of erf 873 is not approved for disposal and will also not form part of the potential disposal.

7.5. That the Department of Land & Property Administration finalizes the s14 process confirming that the land is not needed to provide the minimum level of basic municipal services before final approval is granted in terms of section 14 of the MFMA.

7.6. That the market related value for the immovable properties contemplated in 7.1 be confirmed through independent or second latest valuation.

7.7. That the lead department tables the independent valuation report and the section 14 process to Council after completion of the processes stated in 7.2, 7.3; and 7.4 above prior engaging the Auctioneers.

Item prepared by Manager: Land & Properties:
(Mr. S. Grootboom)



Item approved by the Director PDT:
(Ms. F.F. Mabusela)



Item endorsed by the Municipal Manager:
(Mr. C. du Plessis)



Item noted by Portfolio Chairperson:
(Cllr. S. Ruth)

