

CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

**REPORT TO SUBCOUNCIL 03**

LO21556

**1 ITEM NUMBER 03SUB 23/01/19**

**2 SUBJECT**

**PROPOSED LEASE OF PORTION OF CITY-OWNED LAND, BEING ERF 416 KENRIDGE, SITUATED AT VAN DER STEL STREET, KENRIDGE: SOUTH AFRICAN SCOUTS ASSOCIATION – 2<sup>ND</sup> KENRIDGE SCOUT GROUP**

**2 ONDERWERP**

**VOORGESTELDE VERHURING VAN 'N GEDEELTE GROND IN STADSBESIT, NAAMLIK ERF 416, KENRIDGE, GELEË IN VAN DER STELSTRAAT, KENRIDGE: SOUTH AFRICAN SCOUTS ASSOCIATION – 2<sup>ND</sup> KENRIDGE SCOUT GROUP**

**2 ISIHLOKO**

**ISIPHAKAMISO SENGQESHISO NGESIQEPHU SOMHLABA WESIXEKO, OSISIZA 416 ESISE-KENRIDGE, ESIME E-VAN DER STEL STREET, KENRIDGE: KWABE-SOUTH AFRICAN SCOUTS ASSOCIATION – 2<sup>ND</sup> KENRIDGE SCOUT GROUP**

K2047

PTMS NO: 130002279

File Ref No: TYG14/3/6/1/2/416

(Category 3)

**3 DELEGATED AUTHORITY**

☒ The report is for comment by Subcouncil to the competent authority in terms of Part 24, Delegation 10(1).

☒ In terms of delegation Part 27B paragraph 22 (8), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

"To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and > 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

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- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

☒ Final delegation lies with Director: Property Management.

#### 4 EXECUTIVE SUMMARY

|  |  |   |         |
|--|--|---|---------|
| PURPOSE OF REPORT                      | To consider the proposed lease of portion of City land being Erf 416 Kenridge to the South African Scouts Association – 2 <sup>nd</sup> Kenridge Scout Group for the purpose of scouting activities. |   |         |
| Site extent                            | 1 176 m <sup>2</sup>   |   |         |
| Submission date                        | 30 June 2017   |   |         |
| Current zoning                         | Single Residential 1: Conventional Housing   |   |         |
| Current usage                          | Scout activities   |   |         |
| Proposed usage                         | Scout activities   |   |         |
| TOD Assessment                         | This application does not need to undergo the Comprehensive TOD Assessment as the extent is ≤ 5000 m <sup>2</sup> with a lease period of more than 5 years.  |   |         |
| Internal department comments           | No objections were received from the internal branches, subject to the conditions contained in paragraph 5 below.  |   |         |
| Public participation outcome summary   | Advertised in the Cape Argus and Die Burger on 21 September 2018. No objections or alternative proposals were received.  |   |         |
| WARD CLLR                              | NOTICE DATE  |   | WARD    |
| A Crous                                | 04 October 2018  |   | 70      |
| Viable                                 | Yes  | X | No      |
|  | During the public participation process, alternative proposals were called for. No alternative proposals were received.  |   |         |
| Recommended decision                   | Approval   | X | Refusal |
| Regulation 34(1) In-principle approval | Granted by Executive Director : Assets and Facilities Management in terms of delegated authority Part 27 (22)(7) after 7 July 2017   |   |         |

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|                                    |   |   |
|------------------------------------|---|---|
| Factors motivating recommendation: | <ul style="list-style-type: none"> <li>• The leasing of the land will relieve Council of the maintenance and security burden</li> <li>• An income will be generated</li> <li>• The applicant has been providing this service to the local community for the past 24 years from this property</li> </ul> |   |
| Strategic intent                   | <b>SFA 1 : an OPPORTUNITY City of Cape Town</b>   |   |
|                                    | Objective 1.5   | Leverage the City's assets to drive economic growth and sustainable development |
|                                    | Programme 1.5(a)  | City strategic assets investigation   |

**5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL**

It is recommended that the lease of a portion of City-owned land, being Erf 416 Kenridge, situated at Van der Stel Street, Kenridge, shown hatched and lettered ABCDEF on the attached Plan No TA 469v1 and marked **Annexure A**, in extent approximately 1176 m<sup>2</sup>, to the South African Scouts Association – 2<sup>nd</sup> Kenridge Scout Group or their successors in title, be approved subject to inter alia the following conditions, that:

- a) A tariff rental of R883,48 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- c) The lease will endure for a period of ten years;
- d) The property be used for scouting activity purposes only;
- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property.
- h) All outstanding accounts with the City of Cape Town must be settled;
- i) Subject to all Fire and Safety Regulations being complied with;
- j) Subject to the City of Cape Town must have 24/7 access to the sewer main situated on the property;
- k) No structures of any kind will be allowed over the sewer main;

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- l) The applicant must at all times comply with all relevant legislation regarding the control and management of noise on the property and may not cause a disturbance to adjacent property owners.

**5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD**

Daar word aanbeveel dat die verhuring van 'n gedeelte Stadsgrond, naamlik 'n gedeelte van erf 416, Kenridge, geleë in Van der Stelstraat, Kenridge, gearseer en aangetoon deur die letters ABCDEF op die aangehegte plan no. TA 469v1, gemerk bylae A, ongeveer 1 176 m<sup>2</sup> groot, aan die South African Scouts Association – 2nd Kenridge Scout Group, of hulle regsopvolgers, goedgekeur word onderworpe onder andere aan die volgende voorwaardes dat:

- a) 'n Tariefhuurbedrag van R883,48 per jaar, BTW uitgesluit, bereken teen die koers wat ten tye van die transaksie geld, betaalbaar is; Eiendomsbelasting is nie van toepassing nie;
- b) Die huurbedrag jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- c) Die huurooreenkoms vir 'n tydperk van tien jaar sal duur;
- d) Die eiendom slegs vir Padvinderydoeleindes gebruik word;
- e) Onderworpe aan die verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid op lê;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaalbaar sal wees vir enige verbeteringe aan die eiendom nie.
- h) Alle uitstaande rekeninge met die Stad Kaapstad vereffen moet word;
- i) Onderworpe aan nakoming van alle brand- en veiligheidsregulasies.
- j) Onderworpe daaraan dat die Stad Kaapstad te alle tye toegang tot die rioolpyleiding op die eiendom moet hê;
- k) Geen strukture van enige aard oor die rioolpyleiding toegelaat word nie;
- l) Die aansoeker te alle tye aan alle toepaslike wetgewing oor die beheer en bestuur van geraas op die eiendom voldoen en nie 'n steurnis vir aangrensende eienaars veroorsaak nie.

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**5 IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO**

Kundululwe ukuba makuphunyezwe ingqeshiso yesiqephu somhlaba weSixeko, osisiza-416 esise-Kenridge, esime E-Van der Stel Street, EKenridge, esibonakaliswe ngemigca ekrweliweyo noonobumba ABCDEF kwiplanini eqhotyoshelweyo engunombolo 469v1 ephawulwe njengesihlomelo A, esibukhulu bumalunga nama-1176 m<sup>2</sup>, kwabakwa-South African Scouts Association-2nd Kenridge Scout Group okanye abangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo yokuba:

- (a) Makuhlawulwe ixabiso larenti elingama- R883.48 ngonyaka ngaphandle kweRhafu-ntengo ebalwe ngokwexabiso elisetyenziswayo ngexesha lonaniselwano lintlawulo zobuhlali azisebenzi;
- (b) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokungqinelana nesakheko samaxabiso njengoko siphunyezwe iBhunga;
- (c) Ingqeshiso iza kuhlala isithuba seminyaka elishumi;
- (d) Ipropati mayisetyenziselwe imidlalo engokuskawuta (scouting) kuphela;
- (e) Ngokuxhomekeke kweminye imiqathango eza kumiselwa nguMlawuli: woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- (f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- (g)
- (h) Akusayi kuhlawulwa mbuyekezo ngophuculo oluthe lwenziwa kwipropati;
- (i) Makuhlawulwe zonke ii-akhawunti ezisemva zeSixeko saseKapa;
- (j) Ngokuxhomekeke ekuthotyelweni kwayo yonke iMigaqo engeMililo noKhuseleko;
- (k) Ngokuxhomekeke ekubeni iSixeko saseKapa sikwazi ukungan 24/7 kumbhobho omkhulu wamanzi okule propati;
- (l) Akuvumelekanga nasiphi na isakheko ngaphezu kombhobho omkhulu wogutyulo; Umfaki-sicelo kufuneka ngawo onke amaxesha athobele yonke imithetho efanelekileyo ephathelene nokulawulwa kwengxolo kwipropati kwaye akufunekanga enze ingxolo ephazamisayo kubanini bepropati amelene nabo.

**6 DISCUSSION/CONTENTS**

**6.1 BACKGROUND:**

An application was received from the South African Scouts Association – 2nd Kenridge Scout Group to lease a portion of City owned land, being Erf 416 Kenridge, as indicated ABCDEF on Plan No TA 469v1 attached as Annexure A. The property is to be used for scouting activity purposes.

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The property has been occupied by the applicant in terms of a lease with the City since 1994. The facility is used to provide an opportunity for children and young adults to participate in the Scout Development Programme which is designed to focus on intellectual, social, physical and spiritual growth of the participants. In addition, other community focused programmes are also presented e.g. National Aids, Life Skills, Vocational Studies and Poverty Alleviation programmes.

As the property is deemed to be a viable property, a call for alternative proposals was made during the public participation process. No alternative proposals or objections were received.

During the currency of the lease period the agreement of lease will contain a clause that, in the event that Council requires the land for the provision of basic municipal services, a notice period of two months will apply.

The property is registered in the name of the name of the Municipality of Durbanville in terms of Deed of Transfer No T25112/1971 and vests in the City of Cape Town. The property is zoned as Single Residential 1: Conventional Housing.

## **6.2 CONSULTATION WITH INTERNAL BRANCHES:**

The various Council Departments were consulted and have no objection to the lease subject to the conditions set out in paragraph 5 above which will form part of the lease agreement:

## **6.3 VALUATION**

6.3.1 The application category fits within the tariff structure of the City approved on 30 May 2018;

6.3.2 An annual rental tariff of R883,48 excl. VAT, subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time, will be payable.

## **6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS**

6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.

6.4.2 Chapter C of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the leasing of immovable property.

## **6.5 FINANCIAL IMPLICATIONS**

All costs involved in this transaction will be for the Applicant's account.

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## 6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 29 March 2017 (C22/03/17), paragraph 92.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 29 March 2017 (C22/03/17), paragraph 93 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person who's tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 93 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

## 6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that the debt profile is not in arrears.

## 6.8 SUSTAINABILITY IMPLICATIONS

|   |
|---|
| Does the activity in this report have any sustainability implications for the City? |
|---|

|  |                              |
|--|------------------------------|
| No <input checked="" type="checkbox"/> | Yes <input type="checkbox"/> |
|--|------------------------------|

## 6.9 LEGAL IMPLICATIONS

### 6.9.1 Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

**Whether asset may be required for the municipality's own use during the period for which the right is to be granted**

Council's service branches confirmed that the asset is not required for own purposes.

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**Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City**

Council will receive a financial benefit in the form of a tariff rental to the amount of R883,48 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable, as well as rates and taxes, if applicable.

#### **Management of Risk**

No operational or control risk to the City.

#### **Stakeholder comments and recommendations**

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger on 21 September 2018. Alternative proposals were also called for during this process. Closing dates for objections were 22 October 2018. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No objections or alternative proposals were received.

#### **Views from National and Provincial Treasury**

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No comments or objections were received.

#### **Strategic, Legal and Economic Interests**

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

#### **Compliance with Legislative Regime that is Applicable to the Proposed Granting of the Right**

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

#### **6.9.2 Section 12.5 of the Management of Certain of the City of Cape Town's immovable property Policy**

In accordance with the above, alternative proposals were called for during the public participation process. No alternative proposals were received.

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When an application for an unsolicited property transaction is received in respect of a social care property, the following factors may be taken into account in order to justify not following a competitive process:

**Whether the applicant has historically enjoyed a Property Right granted by the City and, if so, for how long**

The applicant has been in occupation of the property since 1994 in terms of a lease agreement with the City.

**The terms and conditions of such use**

The property may be used for scouting activity purposes only and for no other purpose. The maintenance of the property is the responsibility of the applicant (current lessee).

**The exact nature of the social care or community purpose**

The facility is used to provide an opportunity for children and young adults to participate in the Scout Development Programme which is designed to focus on intellectual, social, physical and spiritual growth of the participants. In addition, other community focused programmes are also presented e.g. National Aids, Life Skills, Vocational Studies and Poverty Alleviation programmes.

**Whether the applicant in the past made improvements to the Property and, if so, the value of such improvements**

No improvements have been made by the applicant, other than prescribed maintenance, as per the lease agreement.

**Whether or not the City is satisfied with the manner in which the applicant gives effect to the social care purpose**

The City is satisfied with the manner in which the applicant gives effect to the social care purpose.

#### **6.10 STAFF IMPLICATIONS**

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒

Yes ☐

#### **ANNEXURES**

Annexure A: Plan No TA 469v1

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FOR FURTHER DETAILS CONTACT:

|   |  |
|---|--|
| NAME  | GERDA DU PLESSIS                       |
| CONTACT NUMBERS                                   | 021 444 4985                           |
| E-MAIL ADDRESS                                    | SUSARAH.DUPLESSIS@CAPETOWN.GOV.ZA      |
| DIRECTORATE                                       | ASSETS AND FACILITIES MANAGEMENT (AFM) |
| FILE REF NO                                       | TYG14/3/6/1/2/4/16                     |
| MANAGER: PROPERTY HOLDING<br>RACHEL SCHNACKENBERG |  |
| Kluwackenberg 19-11-2018                          |  |

11 DEC 2018

*J Gelderbloem*  
DIRECTOR : PROPERTY MANAGEMENT IN HER  
CAPACITY AS EXECUTIVE DIRECTOR : ASSETS &  
FACILITIES MANAGEMENT NOMINEE

NAME RUBY GELDERBLOEM

DATE 2018-11-22

Comment:

*P Davis*  
LEGAL COMPLIANCE

NAME Patricia Davis

TEL 021 400-1549

DATE 30-11-2018

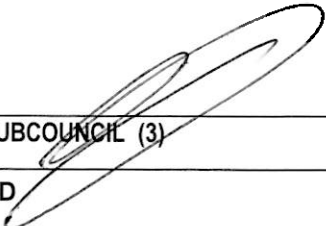
☒ REPORT COMPLIANT WITH THE PROVISIONS OF  
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS  
AND ALL LEGISLATION RELATING TO THE MATTER  
UNDER CONSIDERATION.

☐ NON-COMPLIANT

Comment:

Certified as legally compliant:

Based on the contents of the report. *P*

  
\_\_\_\_\_  
**MANAGER: SUBCOUNCIL (3)**

\_\_\_\_\_  
**JDJA. BRAND**

\_\_\_\_\_  
**TEL NO (021)444-4862**

\_\_\_\_\_  
**DATE**

15/1/2019.

**COMMENT:**

1. Herewith confirm that the relevant delegation is quoted in item.
2. The recommendation is/are subject to Subcouncil decision.
3. Author of report was notified that item is on agenda and in terms of delegation 1(5) requested to attend the Subcouncil meeting.

  
\_\_\_\_\_  
**SUBCOUNCIL CHAIRPERSON**

\_\_\_\_\_  
**COUNCILLOR HELEN CARSTENS**

\_\_\_\_\_  
**TEL NO (021) 444-4865**

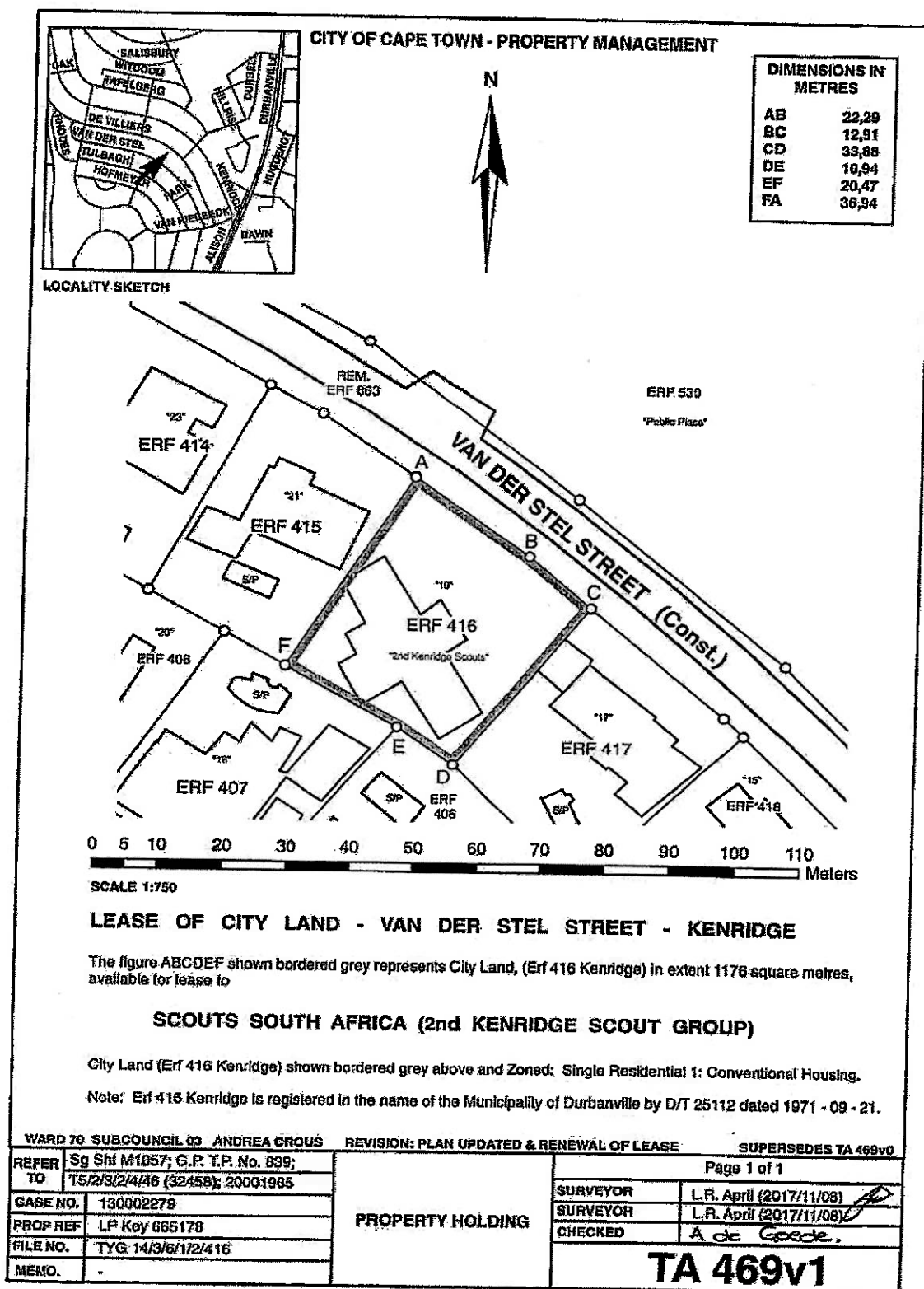
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**DATE**

15/01/2019

**COMMENT:**

\_\_\_\_\_  
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\_\_\_\_\_  
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## ANNEXURE A



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