

1. ITEM NUMBER **19SUB11/09/21**

2. SUBJECT

PROPOSED CLOSURE AND GRANTING OF IN-PRINCIPLE APPROVAL FOR TRANSFER, BY WAY OF A PUBLIC COMPETITIVE PROCESS, OF CITY-OWNED IMPROVED PROPERTIES SITUATED ON A PORTION OF REMAINDER ERF 420, 89B MAIN ROAD, SIMONS TOWN, ZONED LIMITED USE (LU), TRANSPORT ZONE 2 (TR2) AND GENERAL RESIDENTIAL 1 (GR 1)

ONDERWERP

VOORGESTELDE SLUITING EN TOESTAAN VAN BEGINSELGOEDKEURING VIR DIE OORDRAG, DEUR MIDDEL VAN 'N OPENBAREDEELNAMEPROSES, VAN VERBETERDE EIENDOMME IN STADSBSIT, GELEË OP 'N GEDEELTE VAN RESTANT ERF 420, HOOFWEG 89B, SIMONSTAD, GESONEER AS BEPERKTE GEBRUIK (LU), VERVOERSONE 2 (TR2) EN ALGEMEENRESIDENSIEEL 1 (GR 1)

ISIHLOKO

ISIPHAKAMISO SOKUNIKEZELWA NGOKOMTHETHO SISEKO KWESIPHUMEZO SOKUTSHINTSHELA, NGOKOKHUPHISWANO LOLUNTU, IIPROPATI EZIPHUCULIWEYO ZESIXEKO EZIME KWISIQEPHU SENTSALELA YESIZA 420, 89B MAIN ROAD, SIMONS TOWN, ESICANDELWE UKUSETYENZISELWA IZINTO EZITHILE (LU) NEZOTHUTHO (TR2) NA-NJENGOMMANDLA WOKUHLALA NGOKUPHANGALELEYO-1 (GR 1)

[LSU: N0048]

3. DELEGATED AUTHORITY

☒ For noting by Subcouncil 19

3.1 The legal provision for this non-delegable authority can be found in section 14 of the Municipal Finance Management Act, Act 56 of 2003 and regulation 5 of the Municipal Asset Transfer Regulations of 2008 (MATR).

3.2 In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only transfer of immovable property after;

(a) the Council has made a determination that the asset is not required for the provision of basic municipal purposes and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset, and

(b) Approved in principle that the asset may be transferred.

3.3 Approval of the closure of the Public Place in terms of the Immovable Property By-Law 2015.

4. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To notify Subcouncil 19 of the City's intention to obtain in-principle approval from Council for the closure and transfer by way of a public competitive process for Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town.				
PROPERTY DESCRIPTION	Erf 420-RE, Simons Town consists of five improved residential units located within an existing residential area.				
PROPERTY LOCATION	The subject properties are situated at 89B Main Road, Simons Town.				
AREA	4	SUBCOUNCIL	19	WARD	61
SITE EXTENT	± 915m² on attached Plan LIS 2252 (Annexure A1) ± 948 m² on attached Plan LIS 2253 (Annexure A2) ± 772 m on attached Plan LIS 2254 (Annexure A3) ± 845 m² on attached Plan LIS 2255 (Annexure A4) ± 841 m² on attached Plan LIS 2256 (Annexure A5)				
VIABLE	YES	x	NO		
CURRENT ZONING	Limited Use, General Residential 1; Group Housing and Transport 2: Public Road and Public Parking.				
CURRENT USAGE	Improved residential units currently leased on short-term basis.				
PROPOSED USAGE	Residential purposes. The subject property may require closure, subdivision and rezoning prior to commencement of competitive process.				
INTERNAL AND EXTERNAL STAKEHOLDERS COMMENTS	The proposed transfer of the property was circulated for internal and external stakeholder's comments, and it emerged that the property will not be required for provision of basic municipal services, therefore it can be transferred for residential purposes. (Annexure B).				
	PUBLIC PARTICIPATION				
AUTHORITY FOR PUBLIC PARTICIPATION	Authority granted	Director: Property Management	Date	05/03/2020	
PUBLIC PARTICIPATION PROCESS	Date of advertising	02/10/2020; 08/10/2020; 19/02/2021 & 25/02/2021	Public comments	No objections	
WARD COUNCIL COMMENTS	Date of notification	07/10/2020	Comment	No objection.	
FACTORS MOTIVATING DECISION	<ul style="list-style-type: none">▪ The sale of improved properties will relieve the City of the maintenance burden;▪ A market-related income will be generated;▪ The sale will enable better utilization of City asset.				
STRATEGIC INTENT	INTEGRATED DEVELOPMENT PLAN (IDP)				
	SFA 1: An Opportunity City	Objective 1.1 (g) Leverage the City's assets, to rationalise and optimally utilise City assets to stimulate economic benefit for Cape Town.			
	ORGANISATIONAL DEVELOPMENT AND TRANSFORMATION (ODTP)				
	Optimisation & Rationalisation	The optimal utilisation of City assets.			
	SPATIAL DEVELOPMENT FRAMEWORK (SDF)				
	Area Plan	The subject property is currently developed and utilised for residential purposes, thus proposal is not in contrary to the SDF.			
	TRANSIT ORIENTATED DEVELOPMENT (TOD)				

	Category 1	Subject property does not meet the requirement for Urban Planning and Mechanisms to do a TOD Comprehensive Land Use assessment. Spatial Planning and Mechanisms support the disposal of subject property.
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5. DISCUSSION/CONTENT

5.1 BACKGROUND

Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town comprises of five improved residential units. Each of the unregistered portions measures approximately 915m²; 948 m²; 772 m²; 845 m² and 841 m² in extent, see **Annexures A1 – A5** for Plan LIS 2252; Plan LIS 2253; Plan LIS 2254; Plan LIS 2255 and Plan LIS 2256, respectively. Erf 420-RE Simons Town, on which the units are located, is zoned Limited Use with General Residential 1: Group Housing and Transport 2: Public Road and Parking.

The subject units situated on Ptn Erf 420-Re are intended to be transferred for residential purposes. The subject units are currently leased out to Fire & Rescue operational staff on a short-term basis. The subject properties may need to be subdivided/sectionalized and rezoned prior to commencement of competitive process.

The City intends to transfer the subject property via public competitive process, in exchange of a fair market value of the asset to be received.

5.2 CONSULTATION WITH INTERNAL BRANCHES:

The various City departments were consulted and have no objection to the sale of the property. A summary of branch comments is attached as **Annexure B** and will form part of the conditions of sale, where applicable. Amongst others, comments below were received:

5.2.1 Coastal Management Branch - Howard Gold

Coastal Management in principle has no objection to the alienation of the properties but there are two important issues to be addressed:

The precast boundary wall is illegal and was supposed to have been removed some time ago. F&R failed to do this. This must be done and any future boundary treatment must comply with the Scenic Drive Policy and requirements. Any future development of the site MUST comply with all Scenic Drive Policy requirements and this must be written into all future documentation.

The proposal complies with Section 14 of the Municipal Finance Management Act, Act 56 of 2003, in that the relevant branches of Council have confirmed that the subject property is not required for the provisions of the minimum level of basic municipal services and therefore can be transferred for residential purposes.

5.3 PUBLIC PARTICIPATION

In accordance with the authority obtained from the Director: Property Management on 05 March 2020, the City's proposed closure and sale of the subject property was advertised as set out on the table below:

ADVERTISING AND NOTIFICATION		
Advertising	Weekend Argus and Die Burger;	02 October 2020 & 19 February 2021
	False Bay Echo Simons Town	08 October 2020 & 25 February 2021
Notification	Provincial & National Treasury	07 October 2020
	Adjacent property owners	19 February 2021

	Sub-council Manager, Sub-council Chairperson & Ward Councillor	07 October 2020
Outcome	No objections, comments and recommendations from Provincial Treasury were received, (See Annexure C).	

The subject property was previously advertised for proposed sale in October 2020, however after confirmation of property zoning, it was necessary to advertise proposed closure as well. Proposed closure and sale was advertised as set out on the table above. Notifications and Copy of Advert for the proposed closure and sale were sent to the adjacent property owners in February 2021, refer to **Annexure D** for the Copy of Statutory Advert.

5.4 VALUATION

The City's Professional Valuers were requested to undertake a desktop market valuation of the subject property. The desktop market value of the subject property, which is defined by International Valuation Standards Committee (IVSC) as:

The estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties acted knowledgeably, prudently and without compulsion.

Implicit in the market value of a property is the notion of highest and best use, which the IVSC defines as:

The most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued.

They applied the comparable sales method in valuing the property, which entails the following steps:

- i) Identifying recent sales transactions of similar properties in the same neighbourhood (or further afield if need be) for which information is available.
- ii) Comparing the comparable properties' value-forming characteristics with those of the subject property, viz. location, stand size, etc.
- iii) Adjusting the sale's price of the comparable properties for effluxion of time between their sale's date and valuation date.
- iv) Deducing the value of the subject property after taking due cognisance of all incomparable characteristics and their potential influence on the sale's price.

It should be noted that a desktop valuation, which is deemed appropriate at this stage of the MATR process was carried out. A more comprehensive analysis will be undertaken closer to, and prior to, the property being transferred.

It was concluded that the market value of the subject property is in the order of **R10 000 000 (exclusive of VAT)** or **R2 000 000 (exclusive of VAT)** for each of the unregistered portions.

Notwithstanding the above, and to allow for the efflux in time, the market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 24 months from date of valuation (i.e. by 2021-12-31).

It should be noted that the five units were valued on a freehold basis, and it was assumed that the units would be sold off individually.

5.5 CONSTITUTIONAL AND POLICY IMPLICATIONS

- i) The proposal complies with Section 14 of the Municipal Finance Management Act, Act 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 basic municipal services;
- ii) Chapter B 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 sale of immovable property, and
- iii) 1) In terms of Section 4 of the City's Immovable Property By-Law 2015, the City by notice in the Provincial Gazette, close any public street, public place or any portion thereof.

2) The City must –
 - (a) advertise the intention to close any public street, public place or any portion thereof;
 - (b) serve copies of the advertisement contemplated in paragraph (a) on the owners of all immovable property abutting the public street, public place or portion thereof which it proposes to close;
 - (c) the copies of the advertisements must be served not less than 30 days before the date by which objections are required to be lodged in accordance with such advertisement;
 - (d) consider any objections and comments received in accordance with such advertisement;
 - (e) submit a copy of such advertisement to Council together with any comments thereon; and;
 - (f) obtain Council's authority to act in terms of subsection (1).

5.6 FINANCIAL IMPLICATIONS

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

5.7 SUSTAINABILITY IMPLICATIONS

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

No ☒ Yes ☐

5.8 LEGAL COMPLIANCE

The proposal complies with section 14 of the Municipal Finance Management Act, Act 56 of 2003 (MFMA);

The sale of municipal capital assets is governed by Chapter 2 of the MATR.

- 5.8.1 Council may, in terms of **Reg 5(1)(b) of the MATR**, transfer or dispose of non-exempted capital assets after it has, in a meeting open to the public, made the determinations required by section 14(2)(a) and (b) of the MFMA:

- The erf (asset) is not needed for provision basic municipal services;

- Considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

In terms of Regulation 7 of the MATR, the municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5(1)(b), take into account the factors highlighted in bold below:

Factor A: Whether the asset is required for municipality's own use at later date;

The City's service branches have confirmed that the asset is not required for its own purposes. (refer to **Annexure B**) for inter-departmental comments.

Factor B: Loss or gain expected to result from proposed transfer or disposal;

The City will not make a loss, but a gain on receipt of market value for the transfer of the subject properties and future rates and the sale revenues will stimulate economic growth.

Factor C: Extent to which any compensation to be received in respect of the proposed transfer will result in a significant economic or financial cost or benefit to municipality;

The City will receive financial benefits in the form of the sales price as well as future rates revenue in respect of the subject properties. The desktop value of the properties, using comparable sales method is estimated to be in the region of **R10 000 000.00 (exclusive of VAT)** or **R2 000 000.00 (exclusive of VAT)** for each of the unregistered portions.

The market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 24 months from date of valuation (i.e. by 2021-12-31).

Factor D: The risks and rewards associated with the operation or control of the capital asset that is to be transferred of in relation to the municipality's interest;

The rewards are anticipated in a form of future rates revenue. There is no envisaged operational or control risk anticipated against the City's interest.

Factor E: Impact of the proposed transfer on 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;

The proposed intention in relation to the subject properties will attribute positively into the financial position of the City, through sales income, future rates revenue anticipated. The envisaged transaction is not expected to have negative impact on the credit rating of the City, due to anticipated cash inflows.

Factor F: Limitations and conditions attached to capital assets;

Subdivision, rezoning and closure of public status on property may be required, prior to commencement of competitive process.

Factor G: Estimated cost of proposed transfer;

The normal costs related to advertisements and land surveying, if applicable, will be incurred by the City. The purchaser will be responsible for the transfer costs.

Factor H: Transfer of liabilities and reserve funds associated with the asset;

None.

Factor I: Comments or representations on the proposed transfer received from the local community and other interested persons;

The City's proposed closure and sale of the subject property was duly advertised to the public in The Cape Argus and Die Burger newspapers on 02 October 2020 and on 19 February 2021. It was further advertised in the community newspaper, Falsebay Echo Simons Town newspaper on 08 October 2020 and on 25 February 2021. The relevant Subcouncil chairperson, Subcouncil Manager, Ward Councillor and Property Holding Regional Offices were notified on 07 October 2020.

The adjacent property owners were notified and served with a copy of advert on 19 February 2021, refer to **Annexure D** for Statutory Advert Copy. No objections to the intended transfer were received.

Factor J: Views and recommendations on the proposed transfer by National and Provincial Treasury;

National and Provincial Treasury offices were notified of the City's proposal on 07 October 2020.

The Provincial Treasury has in principle, no objections against the City's intention to dispose of Portion of Remainder Erf 420, subject that the requirements of the SCM Policy and MFMA (especially Section 14 and 90) are being adhered to including considering all comments made above in paragraphs 5 above when considering the direct sale of the City assets.

The Accounting Officer needs to be satisfied that all due processes and procedures stipulated in the, City's supply chain management policy and other prescripts have been heeded, refer to **Annexure C** for Provincial Treasury Comments and Recommendations.

There were no views or recommendations received from National Treasury.

Factor K: The interest of any affected organ of State, the municipality's own strategic, legal and economic interest and the interests of the local community;

None of these interests will be compromised through the proposed intention - in fact they will support these interests through enhancing City's strategic objectives, and promoting socio-economic development for the benefit of the local communities.

Factor L: Compliance with legislative regime that is applicable to proposed transfer

The proposed transfer of the asset is compliant with the MFMA, Municipal Asset Transfer Regulations, Reg. 12(1) and Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010).

6. STAFF IMPLICATIONS

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

No ☒

Yes ☐

7. RECOMMENDATIONS

For noting by Subcouncil 19

It is recommended that:

- a) In terms of section 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolves that Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town, consisting of five units measuring approximately 915m²; 948 m²; 772 m²; 845 m² and 841 m² in extent, see **Annexures A1 – A5** for Locality Plan LIS 2252; Plan LIS 2253; Plan LIS 2254; Plan LIS 2255 and Plan LIS 2256, respectively, zoned Limited Use (LU), Transport Zone 2 (TR 2) and

General Residential 1 (GR 1), not be required for the provision of the minimum level of basic municipal services;

- ii) Council confirms that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- b) In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approves in principle the transfer of that Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town as described in (a)(i);
- c) That Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town be transferred by way of public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority.
- d) In terms of Section 4 of Council's Immovable Property By-Law 2015, Council approves the public place closure of Portion of Remainder Erf 420, situated at 89B Main Road, Simons Town.
- e) Comments and recommendation provided by the Western Cape Provincial Treasury, be noted.

AANBEVELINGS

Vir kennisname deur subraad 19

Daar word aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003:
 - i) Die Raad besluit dat gedeelte van restant Erf 420, geleë te Hoofweg 89B, Simonstad, bestaande uit vyf eenhede wat onderskeidelik ongeveer 915 m², 948 m², 772 m², 845 m² en 841 m² groot is, sien **bylae A1 – A5** vir onderskeidelik liggingsplan LIS 2252, plan LIS 2253, plan LIS 2254, plan LIS 2255 en plan LIS 2256, gesoneer as beperkte gebruik (LU) en vervoersone 2 (TR 2), en algemeenresidensieel 1 (GR 1) nie benodig word vir die voorsiening van die minimum vlak van basiese munisipale dienste nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat ontvang sal word in ruil vir die bate beskryf in (a)(i) oorweeg is.
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), R.878, afgekondig op 22 Augustus 2008, die Raad die oordrag van gedeelte van restant Erf 420, geleë te Hoofweg 89B, Simonstad beskryf in (a)(i), in beginsel goedkeur;
- c) 'n Gedeelte van restant Erf 420, geleë te Hoofweg 89B, Simonstad, per openbare mededinging oorgedra word, onderworpe aan die voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid.
- d) Ingevolge artikel 4 van die Raadsverordening op Onroerende Eiendom, 2015, die Raad die openbarepleksluiting van 'n gedeelte van restant Erf 420, geleë te Hoofweg 89B, Simonstad, goedkeur.
- e) Daar van die kommentaar en aanbevelings deur die Wes-Kaapse Provinsiale Tesourie kennis geneem word.

IZINDULULO

Zezokuqwalaselwa liBhungana 19

Kundululwe ukuba:

- a) Ngokwecandelo 14(2)(a) no(b) loMthetho woLawulo lweziMali zikaMasipala (MFMA), uMthetho 56 wango2003:
- i) IBhunga malithabathe isigqibo sokuba isiqephu sentsalela yesiza 420, esime kwa89B Main Road, Simons Town, esineeyunithi ezintlanu ezibukhulu obumalunga nama 915m²; 948 m²; 772 m²; 845 m² no841 m², jonga **kwizihlomelo A1 – A5** iplani enguLIS 22552; iplani LIS 2253; iplani LIS 2254; iplani LIS 2255 neplani LIS 2256 ngokulandelelana, esicandwelwe ukusetyenziselwa izinto ezithile (LU), nezothutho (TR 2) nanjengendawo yokuhlala ngokuphangaleleyo (GR 1), asifuneki nganto ukubonelela ngeenkondo ezingundoqo zikamasipala;
 - ii) IBhunga maliqinisekise ukuba kuye kwathathelwa ingqalelo ixabiso lobulungisa lasemakethi njengoko lichazwe ku(a)(i) nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneke ngokutshintshelwana kweempahla ezichazwe ku(a)(i);
- b) NgokoMgaqo 5(1)(b) weMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamiselwa ngowama22 kweyeThupha 2008, iBhunga maliphumeze ngokomthethosiseko ukutshintshelwa kwesiqephu sentsalela yesiza 420, esime kwa89B Main Road, Simons Town njengoko kuchaziwe ku-(a) (i);
- c) Isiqephu sentsalela yesiza 420, esime kwa89B Main Road, eSimons Town masitshintshelwe ngokokhuphiswano loluntu, ngokuxhomekeke kwimiqathango eyakuthi imiselwe nguMlawuli woLawulo lwePropati ngokwamagunya wakhe awagunyaziselweyo.
- d) Ngokungqinelana necandelo 4 loMthetho kaMasipala ongeePropati ezingenakususwa, wango-2015, iBhunga maliphumeze ukuvalwa kwendawo yoluntu kwisiqephu sentsalela yesiza-420, esime kwa89B Main Road, Simons Town.
- e) Makuqwalaselwe izimvo kunye nezindululo ezinikezelwe nguNondyebo wePhondo leNtshona Koloni.

ANNEXURES

Annexure A1	: Plan LIS 2252
Annexure A2	: Plan LIS 2253
Annexure A3	: Plan LIS 2254
Annexure A4	: Plan LIS 2255
Annexure A5	: Plan LIS 2256
Annexure B	: Summary of branch comments
Annexure C	: Provincial Treasury Comments and Recommendations
Annexure D	: Statutory Advert Copy

FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT	FILE REF NO	HO 14/3/4/3/1637/A00

MANAGER: PROPERTY ACQUISITIONS AND DISPOSALS

NAME	ANDRE HUMAN	COMMENT:
DATE		
SIGNATURE	Andre Human <small>Digitally signed by Andre Human Date: 2021.08.24 08:34:09 +02'00'</small>	

ACTING DIRECTOR: PROPERTY MANAGEMENT (IN HIS CAPACITY AS NOMINEE FOR THE EXECUTIVE DIRECTOR – ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT)

NAME	MIKE SIMS	COMMENT:
DATE		
SIGNATURE		