

8.	<b>CONSIDERATION OF ITEMS, REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED VIA THE OFFICE OF THE MUNICIPAL MANAGER</b>
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8.1	<b>MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): [CLLR WF PIETERSEN]</b>
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NONE

8.2	<b>OFFICE OF THE MUNICIPAL MANAGER</b>
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8.2.1	<b>STELLENBOSCH MUNICIPALITY: REVISION OF DRAFT MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (MSDF) FOR WC024</b>
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**Collaborator No:**

**File No:**

**IDP KPA Ref No:**

*Valley of Possibility*

**Meeting Date:**

*2019-06-12*

**1. SUBJECT: REVISION OF THE DRAFT MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK IN RESPONSE TO COMMENT AND INPUT RECEIVED FROM THE PUBLIC AND OTHER KEY PLATFORMS**

**2. PURPOSE**

To inform council of the comments received during public participation process and to obtain permission to advertise the revised Draft municipal Spatial Development Framework (*mSDF*) in terms of the Municipal Systems Act, no 32 of 2000 (MSA) for a period of 21 days.

**3. DELEGATED AUTHORITY**

Council

**4. EXECUTIVE SUMMARY**

The purpose of the item is to inform Council of the comments received during the official public participation period and to obtain permission to re-advertised the *mSDF* in terms of the Stellenbosch Municipal Land Use Planning By-law, 2015 and Section 20(3) of the Spatial Planning and Land Use Planning Act, No 16 of 2013 (SPLUMA) and the MSA for a further period of 21 days. The final amendment of the draft MSDF must serve before Council in August 2019 for approval and inclusion in the 2019/20 Integrated Development Plan (IDP).

Due to the scale of changes proposed by the public, interest group and the provincial government, it has become apparent that the *mSDF* as previously advertised require some key revisions, which would substantially alter the document. In addition, the section 34(b) of the MSA requires that the municipality undergo an IDP Amendment, since the SDF contributes to key policy changes to the IDP.

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The proposed amendments to the SDF, therefore provides an opportunity to advertise the Revised Draft *m*SDF and IDP Amendment to provide the public a further opportunity to comment on the *m*SDF and the IDP Amendment for a period of 21 days.

## 5. RECOMMENDATIONS

- (a) that Council notes input and comments received on the Draft Municipal Spatial Development Framework attached as **ANNEXURE 1** of the agenda;
- (b) that Council gives consent that the public participation process as prescribed by the Spatial Planning and Land Use Management Act, Act 16 of 2013 and the Stellenbosch Municipality Land Use Planning By-Law, 2015 read together with the Municipal Systems Act proceed once the draft *M*SDF is amended for a period of 21 days;
- (c) that Council approves the advertisement of the Revised Draft *m*SDF for a period of 21 days for public comment; and
- (d) that the final draft Municipal Spatial Development Framework be submitted for consideration with the Integrated Development Plan Amendment.

## 6. DISCUSSION / CONTENTS

### 6.1 BACKGROUND

With the enactment of the new planning dispensation in 2015 which included the Municipal Land Use Planning By-Law, 2015, the Western Cape Land Use Planning Act, No 3 of 2014 (LUPA) and the Spatial Planning and Land Use Planning Act, No 16 of 2013 Council must adopt a Municipal Spatial Development Framework within five years of implementation.

Section 12(1) of SPLUMA sets out the general provision that is applicable to the preparation of the *M*SDF including (amongst other considerations):

- Contribute to a coherent, planned approach to spatial development in the national, provincial and municipal spheres.
- Provide clear and accessible information to the public and private sector and provide direction for investment purposes.
- Include previously disadvantaged areas, areas under traditional leadership, rural areas, informal settlements, slums and land holdings of state-owned enterprises and government agencies and address their inclusion and integration into the spatial, economic, social and environmental objectives of the relevant sphere.
- Address historical spatial imbalances in development.
- Identify the long-term risks of spatial patterns of growth and development and the policies and strategies necessary to mitigate those risks.
- Provide direction for strategic developments, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development.

- Promote a rational and predictable land development environment to create trust and stimulate investment.
- Take cognizance of any environmental management instrument adopted by the relevant environmental management authority.

**Chapter 2** of SPLUMA further sets out the development principles that must guide the preparation, adoption and implementation of any SDF, policy or by-law concerning spatial planning and the development or use of land, to which municipality are also required to adhere. These principles include **Spatial Justice, Spatial Sustainability, Spatial Efficiency, Spatial Resilience and Good Administration.**

Section 20(2) of SPLUMA and Section 26 of the Municipal Systems Act require that the MSDF must be prepared as part of the IDP.

In lieu of the above Council resolved at their meeting of 28 February 2019:

- a) That Council notes the Draft Municipal Spatial Development Framework attached as ANNEXURE 1 of the agenda;
- b) That Council give consent that the public participation process as prescribed by the Spatial Planning and Land Use Management Act, Act 16 of 2013 and the Stellenbosch Municipality Land Use Planning By-Law, 2015 proceed without delay;
- c) That the final draft Municipal Spatial Development Framework be submitted for consideration with the Integrated Development Plan no later than the Council meeting in May 2019.

In terms of section 34 (b) of the Local Government Municipal Systems Act 32 of 2000 (MSA):

“A municipal council may amend its integrated development plan in accordance with a prescribed process.”

The process for amending a municipal integrated development plan is outlined in regulation 3 of the Local Government Municipal Planning and Performance Management Regulations of 2001 (MP&PMR).

By virtue of the fact that municipality is in a state of readiness to adopt the new municipal Spatial Development Framework (SDF) in accordance with section 20 (2) and 21 of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), an IDP Amendment process has been necessitated. Section 20 (3) of SPLUMA requires that “before adopting the municipal SDF:

- (1) and any proposed amendments to the municipal spatial development framework, the Municipal Council must—
  - (a) give notice of the proposed municipal spatial development framework in the Gazette and the media;
  - (b) invite the public to submit written representations in respect of the proposed municipal spatial development framework to the Municipal Council within 60 days after the publication of the notice referred to in paragraph (a); and
  - (c) Consider all representations received in respect of the proposed municipal spatial development framework.

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**6.2. PUBLIC PARTICIPATION PROCESS**

The draft mSDF was advertised to the public, Interested and Affected parties and government institutions. Advertisements were published in the Eikestadnuus on 7 March 2019 and the Paarl Post and Government Gazette on 8 March 2019 as well as on various social media platforms. The period for submitting written comments closed on 8 May 2019.

The mSDF was also included in all the meetings that were held with the public when the Integrated Development Plan (IDP) was presented to the public. Included in the IDP process was three focus group meetings of which one dealt with all aspects of the draft mSDF.

The draft mSDF was also discussed by the various internal directorates to ensure that their comment and input were also received and integrated and align with the MSDF.

In addition, various meetings were held with the Department of Environmental Affairs and Development Planning regarding the mSDF. An intergovernmental steering committee meeting was also held on 23 April 2019, the minute of which is attached as **ANNEXURE 2**.

**6.3. COMMENT AND INPUT RECEIVED IN THE PUBLIC PARTICIPATION PROCESS**

The public, Interested and Affected parties, various governmental institutions and internal departments responded positively and enthusiastic and engaged meaningful with the MSDF process.

The Directorate: Planning and Economic Development received 64 formal comments during the period allowed for public participation. A summary of all comments received is attached included in the draft mSDF as APPENDICE B (P.144) of the draft mSDF. Individual comments are available on record and can be viewed at the department: spatial planning and will be available at the council meeting when the final draft MSDF is presented to Council for consideration.

Overall, the input can be categorised in three broad groups being:

- Proposals from developers, landowners and consultants on behalf of land owners and developers for the inclusion of their properties, mostly agricultural land, into the urban edge in order to obtain development rights in future;
- Comments on “gaps” evident in the draft MSDF, information that is statutory required and issues not raised in the report; and
- Comments on specific proposals in the MSDF.

Importantly, the concepts underpinning the draft mSDF received wide support during this process and few objections were raised against these concepts. These seven concepts were:

1. First, maintain and grow the assets of Stellenbosch Municipality’s natural environment and farming areas.
2. Second, respect and grow our cultural heritage, the legacy of physical artefacts and intangible attributes of society inherited from past generations maintained in the present and preserved for the benefit of future generations.
3. Third, within developable areas – areas not set aside for limited development owing to its natural or cultural significance – allow future opportunity to build on existing infrastructure investment, on the opportunity inherent in these systems when reconfigured, augmented or expanded.

4. Fourth, clarify and respect the different roles and potentials of existing settlements.
5. Fifth, address human needs – for housing, infrastructure, and facilities – clearly in terms of the constraints and opportunity related to natural assets, cultural assets, infrastructure, and the role of settlements.
6. Sixth, pursue balanced communities. All settlements should be balanced.
7. Finally, focus energy on a few catalytic areas that offer extensive opportunity and address present risk.

All the comments received during the public participation will be evaluated against these principles as well as the principles contained in the Spatial Planning and Land Use Management Act, No 16 of 2013 (SPLUMA).

Importantly, existing Council decisions regarding the development of the municipal area will also be included in the revised draft MSDF. In particular these include:

- Northern Extension: Land extent for the Northern Extension has been finalised. Consideration to be given to the urban edge to cater for the Northern Extension.
- Klapmuts: Klapmuts urban edge to consider the land parcel donated to the University. Integration of Klapmuts Node with the Distell land/development (north of N1).
- Housing pipeline: Housing pipeline has been approved by Council and to be incorporated into SDF.
- De Novo: Department of Human Settlements (DoHS) wants De Novo included in urban edge and in SDF as a human settlement for approximately 300 units (municipality supports the development of an agri-village outside the urban edge).
- Stellenbosch Environmental Management Framework should formally be referenced in the MSDF
- Capital Expenditure Framework to be included into SDF.
- Jonkershoek to be appropriately addressed in the SDF.

Development proposals outside the current urban edge amounts to the inclusion of another approximately 1 500 ha of mostly agricultural land.

#### 6.4 CHANGES TO THE DRAFT MSDF

Section 6(7) of the Stellenbosch Municipality: Land Use Planning By-law determines the following:

*If the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework contemplated in subsection (6) is materially different to what was published in terms of subsection (4), the Municipality must in accordance with subsections (4), (5) and (6), read with the necessary changes, follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.*

It can be argued in our view, that the changes to the draft MSDF that may be required and that became apparent during the public participation process and during deliberations with DEA&DP, will result in the amended draft MSDF to be materially different to the MSDF that was published.

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In order to ensure legal compliance it would thus be necessary to re-advertise the final draft MSDF, once amended, for public comment before Council can approved the final MSDF. This process was discussed and supported by DEA&DP.

This will, however require an amendment to the IDP. In terms of section 34 (b) of the Local Government Municipal Systems Act 32 of 2000 (MSA):

“A municipal council may amend its integrated development plan in accordance with a prescribed process.”

The process for amending a municipal integrated development plan is outlined in regulation 3 of the Local Government Municipal Planning and Performance Management Regulations of 2001 (MP&PMR).

As the draft MSDF has undergone a first phase of public consultation of 60 days which commenced on 8 March and ended on 8 May 2019 an additional 30 days public consultation will be undertaken alongside the IDP Amendment Process.

#### **6.5 FINANCIAL IMPLICATIONS**

Cost involved in paying the appointed service provider and costs for advertising the Revised Draft mSDF and IDP Amendment. Funds are available within existing budgets.

#### **6.6 LEGAL IMPLICATIONS**

The process and procedures to prepare an mSDF is prescribed in legislation. However the process to amend the IDP through the inclusion of the final mSDF, was discussed and agreed on with DEA&DP. The letter from DEA&DP in which the IDP amendment process is accepted, is attached as **ANNEXURE 3**.

#### **6.7 STAFF IMPLICATIONS**

Staff from the Spatial Planning and IDP Office will be involved. Additionally the service provider who was appointed to develop the mSDF.

#### **6.8 PREVIOUS RELEVANT COUNCIL RESOLUTIONS**

Council resolved on 28 February 2019:

- a) That Council notes the Draft Municipal Spatial Development Framework attached as ANNEXURE 1 of the agenda;
- b) That Council give consent that the public participation process as prescribed by the Spatial Planning and Land Use Management Act, Act 16 of 2013 and the Stellenbosch Municipality Land Use Planning By-Law, 2015 proceed without delay;
- c) That the final draft Municipal Spatial Development Framework be submitted for consideration with the Integrated Development Plan no later than the Council meeting in May 2019.

This report is submitted in terms of the above council resolution.

**6.9 RISK IMPLICATIONS**

The MSDF should have been approved as part of the IDP during May 2019. However, the re-advertisement of the draft MSDF for a further period of 21 days is necessitated by the material changes to the report emanating from the public participation process. Any risk in the amendment of the IPD during August 2019 was mitigated by discussion with DEA&DP.

**6.10 COMMENTS FROM SENIOR MANAGEMENT**

The planning process was undertaken with the knowledge and participation of senior management. The draft concept underpinning the MSDF was presented to management and received their full support.

The MSDF was made available to all directorates during the 60 day period for public participation and input and comments were received and are addressed to their satisfaction.

**ANNEXURES**

**Annexure 1: Draft amended mSDF report**

**Annexure 2: Minutes of Intergovernmental Steering Committee**

**Annexure 3: Letter from DEA&DP with regard to the adoption of the MSDF**

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