

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

**5.
TRANSFER OF ELECTRICAL INFRASTRUCTURE TO THE OWNER OF ERF 7568
HERMANUS (“GATE WAY SHOPPING CENTRE”), APEX LAND (PTY) LTD**

HIN7568

J H du Plessis

Senior Manager: Electrotechnical Services

13 January 2022

(028) 316 5627

1. Executive Summary

To obtain approval to transfer the following electrical infrastructure assets situated on Erf 7568 Hermanus to the owner of Erf 7568 Hermanus, Apex Land (Pty) Ltd (hereinafter referred to as Apex):

	<u>Asset No</u>	<u>Asset Description</u>
(a)	1427309:	500 kVA Transformer No 1:
(b)	1427310:	800 kVA Transformer No 2:
(c)	1427597:	Ring Main Unit No 2 (RMU):
(d)	1427598:	Ring Main Unit No 1 (RMU):

In exchange for the identified municipal electrical infrastructure involved currently supplying the Gateway property, Apex will, at its own cost, and in consultation with and on the specifications of the Municipality’s Electrical Department (Hermanus) attend to the following:

- (a) Install a new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch.
- (b) Install a new medium voltage (MV) feeder cable from the new Metering Ring Main Unit to close off the Municipality’s ring feed.
- (c) Connect the new medium voltage (MV) feeder cable mentioned above to the current cable between erven 2337 and 2338 Hermanus.
- (d) Disconnect the outgoing feed from Ring Main Unit No 2 and mark the spare switch as safe.
- (e) The removal of the municipal owned electrical meters situated on the property (to be attended to by the Municipality at the cost of Apex).

The above will have the effect that the entire property (Erf 7568) known as Gateway Centre (hereinafter referred to “Gateway”) will have a bulk meter for the measuring of electrical use and will also subsequently administer the internal electrical distribution (electrical prepaid meters) of its tenants, a function currently attended to by the Municipality, since the current connection and service agreement do not provide for the envisaged distribution and bulk connection point. This recommendation will thus also imply that a new consumer agreement be entered into between Apex and the Municipality.

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Electrotechnical Services

3. Compliance with Strategic Priority

Provision and maintenance of municipal services

4. Delegated Authority

None

5. Legal Requirements

- Municipal Finance Management Act (Act 56 of 2003)
- Municipal Asset Transfer Regulations (2008)
- Overstrand Municipality Asset Management Policy (2021)

6. Background/Discussion/Evaluation/Conclusion

Background

The development of the Hermanus Gateway Centre (hereinafter referred to as "Gateway") originally started in approximately 1995 whereafter a long-term lease was entered into with Hermanus Gateway Centre (Pty) in 1997. Subsequently the property, Erf 7568 Hermanus, was sold to the tenant, Hermanus Gateway Centre (Pty) Ltd in 2004. The latter sold the property to the current owners, Apex Land (Pty) Ltd (hereinafter referred to as Apex"). The electrical infrastructure referred to was installed during the construction phase, which could have been anytime from 1995. The electrical infrastructure was subsequently recognised on the fixed asset register of the Municipality as municipal assets, at the depreciated replacement cost at the time.

	<u>Asset No</u>	<u>Asset Description</u>	<u>Original DRC (VAT excluded)</u>
(a)	1427309:	500 kVA Transformer No 1:	R204,897.03
(b)	1427310:	800 kVA Transformer No 2:	R280,741.91
(c)	1427597:	Ring Main Unit No 2 (RMU):	R 89,388.82
(d)	1427598:	Ring Main Unit No 1 (RMU):	R 89,388.82

Access to these assets is restricted as Gateway installed gates on both sides of the service road. It is accepted that before-mentioned was to prevent vandalism to structures and to safeguard the service road in this regard. The service road itself belongs to Apex and forms part of Erf 7568 Hermanus.

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

The shops within Gateway are all equipped with municipal electrical bulk, conventional and prepaid meters which are levied on municipal accounts opened for the individual tenants of Gateway. This means that the Municipality attends to this administrative function at this stage. As there are several accounts in this regard for their tenants, there are constant requests for the closing and opening of accounts (as new tenants are placed or moved from one shop to another), for the relocating of meters (as shops are made larger / smaller), etc, which can be managed effectively by the property owner with the bulk supply connection.

Discussion

Gateway installed two electricity generators on the property to back up the whole shopping centre in instances of power failures/load shedding to enable their tenants to continue trading during load shedding. However, the generators must be connected to the electrical infrastructure of the Municipality in order for Gateway to be able to use it. Simultaneously, Gateway would like to be able to measure the usage of their tenants when the generators are in use, which can only be done if they are able to administer the whole internal electrical supply, in other words, have their own electrical meters in the shops and administer these meters as to usage and maintenance.

The only way the above can be accommodated, is if they take over the electrical infrastructure on the property and have a bulk meter at the property boundary for the Municipality to measure their bulk use. If this is done, the municipal electrical meters will be removed from the property and Gateway will install their own electrical meters in order to administer same. In this regard, there will be fees payable by Gateway (removal of the meters).

It will financially benefit the Municipality as the maintenance responsibilities of the electrical infrastructure assets and electrical meters, as well as any collection of arrear accounts, will not be the responsibility of the Municipality anymore.

To give effect to this, it is proposed that the following assets be transferred to Gateway at the book value thereof as on 28 February 2022.

	<u>Asset No</u>	<u>Asset Description</u>	<u>Book Value</u> <u>(VAT excluded)</u>
(a)	1427309:	500 kVA Transformer No 1:	R 66,401.82
(b)	1427310:	800 kVA Transformer No 2:	R 90,981.18
(c)	1427597:	Ring Main Unit No 2 (RMU):	R 28,968.59
(d)	1427598:	Ring Main Unit No 1 (RMU):	R 28,968.59
	Total		<u>R215,320.18</u>

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

(hereinafter referred to as the “electrical infrastructure assets”).

The current replacement cost for the electrical infrastructure assets is as follows:

	<u>Asset No</u>	<u>Asset Description</u>	<u>Replacement cost (VAT excluded)</u>
(a)	1427309:	500 kVA Transformer No 1:	R 235,000.00
(b)	1427310:	800 kVA Transformer No 2:	R 325,000.00
(c)	1427597:	Ring Main Unit No 2 (RMU):	R 225,000.00
(d)	1427598:	Ring Main Unit No 1 (RMU):	R 225,000.00
	Total		<u>R1,010,000.00</u>

The process will in effect be a turn-key project which will be done by Gateway at their cost in consultation and on the specifications of the Municipality. The project will entail, amongst others, the following (**see locality map attached for reference**):

- The Ring Main Unit 1 (RMU 1) with the 500 kVA Transformer No 1 connected to it (as indicated with a green circle on the locality map) will be transferred to Gateway in order for them to connect the one generator to the system.
- The Ring Main Unit 2 (RMU 2) with the 800 kVA Transformer No 2 connected to it (as indicated with an orange circle on the locality map) will be transferred to Gateway in order for them to connect the other generator to the system.
- Disconnect the outgoing feed from Ring Main Unit No 2 (as indicated in pink on the attached locality map) and mark the spare switch as safe in order for the feeder cable indicated in black on the attached locality map to be the sole feeder cable for the property.
- Install a new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch in Mimosa Street as indicated with a yellow circle on the attached locality plan.
- Install a new medium voltage (MV) feeder cable (indicated in yellow on the attached locality map) from the new Metering Ring Main Unit to close off the Municipality’s ring feed.
- Connect the new medium voltage feeder cable mentioned above to the current cable running between erven 2337 and 1338 Hermanus (indicated with a light blue line and circle on the attached locality map).

All the municipal electrical meters will be removed, accounts closed, and replaced with the private electrical meters at their costs, which will be administered and read by Gateway.

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

The estimated costs to attend to the above (excluding the removal and installation of the electrical meters) if the Municipality would have appointed a contractor to attend to it are in total R974,040.00 (VAT excluded), which consists of the following:

- Cut existing 70mm² 11kV PILC cable in Mimosa Street and join in new pieces of cable to new RMU R 48,300.00
- New 11kV ring main unit with metering (Terminations included) – based on ABB CCV Safeplus type R635,200.00
- New 70mm² 11kV PILC cable (±260m) from new RMU and join onto cable to Arum Str MS R287,040.00
- Disconnect existing section of 70mm² 11kV PILC cable and leave underground R 3,500.00

The costs (tariff) to remove the 59 electrical meters on the property in order for Apex to install their own private electrical meters will amount to R51,094.00 (VAT included) for the 2021/2022 financial year.

The difference in values is illustrated as follows:

Total estimated replacement value of electrical infrastructure assets (VAT excluded)		1,010,000.00
Total estimated costs of works Apex will have to attend to (VAT excluded)	974,040.00	
Total costs of removal of electrical meters (VAT excluded)	44,429.57	
Difference		8,469.57
Totals	<u>1,018,469.57</u>	<u>1,018,469.57</u>

In the light of the small difference between the values/cost, it is proposed that the exchange be done as if in equal values and that no party will have a claim against the other party due to the difference in cost/values.

Evaluation

A: The Municipal Asset Transfer Regulations

Regulation 1: *Definitions*

“transfer”, in relation to a capital or subsidiary asset, means the transfer of ownership as a result of a sale or other transaction.

Regulation 5: *Transfer of non-exempted capital asset*

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

- (5)(1) *A municipality may transfer or dispose of a non-exempted capital asset only after –*
- (b) *the municipal council*
- (i) *has made the determinations required by section 14(2)(a) and (b); and*
- (ii) *has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.*
- (6) *A municipal council may delegate to the accounting officer its power to make determinations referred to in subregulation (1)(b)(i) and to give the approval referred to in subregulation 1(b)(ii) in respect of movable capital assets below a value determined by the municipal council.*

The Municipal Manager (Accounting Officer) has the following delegation as approved by Council on 28 October 2021:

Item No	Cryptic description of Power or Duty	Lowest level sub-delegated to	Remarks, Limitations or Conditions
12.	<i>The power to make the determinations referred to in subsection 14(2)(a) and (b) in respect of movable capital assets to a maximum value of R2 million per public auction.</i>	<i>Municipal Manager</i>	<i>Sec 14(2)(a) and (b)</i>

The value of the electrical infrastructure assets is well below R2 million. It will be a direct transfer in exchange for goods/services equal or more in value, which assets will be recognised on the asset register once finalised.

Although the Municipal Manager has the delegation, Council will still have to approve the transfer as it will be a direct transfer and not an auction.

Regulation 11: Conditional approval of transfer or disposal of non-exempted capital asset

11. *All approval in principle in terms of regulations 5(1)(b)(ii) or 8(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, may be given subject to any conditions, including conditions specifying –*
- (a) *the way in which the capital asset is to be sold or disposed of;*

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

It is proposed that the electrical infrastructure assets be transferred to Apex and that no party will have any claims against each other for the difference in values/costs for the relevant electrical infrastructure.

Subsequently, the Municipal Manager has on 8 February 2022 approved in principle that the electrical infrastructure assets be transferred subject thereto that Council approves the deviation to give effect to the transfer.

B: Overstrand Municipality Asset Management Policy (2021)

Paragraph 3: Definitions

- *“Assets” are resources controlled by the municipality as the result of past events and from which future economic benefits or future service potential are expected to flow to the municipality and for the purpose of this policy refers to property, plant and equipment but excludes Investment Properties.*

The electrical infrastructure referred to in this report classifies as assets – property, plant and equipment.

- *“Disposal” in relation to a capital asset, includes: (a) the demolition, dismantling or destruction of the capital asset; or (b) any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership.*

This does not classify as a disposal, but rather a transfer of an asset in exchange for services/goods.

- *“Infrastructure assets” are defined as any assets that are part of a network of similar assets. Examples are roads, water reticulation schemes, sewerage purification and trunk mains.*

The electrical infrastructure referred to in this report is infrastructure assets which forms part of the electrical infrastructure network.

Paragraph 6.3: Disposal of assets (excluding immovable property covered under the Administration of Immovable Property Policy)

- 6.3.1 The municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of an asset needed to provide the minimum level of basic municipal services, unless such asset is obsolete or surplus to requirements or beyond a state of good repair or being replaced and provided that the delivery of the minimum level of basic municipal services must not be compromised as a result of the disposal of the asset.*

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

The asset is not needed for the provision of the minimum level of basic services to the surrounding community and is only used for the provision of services to Apex, the owner of the property the electrical infrastructure assets is situated on.

This will be a transfer of the electrical infrastructure assets in exchange for electrical assets to serve the surrounding community, thus the electrical infrastructure assets will be replaced with other assets to ensure that the Municipality can continue to deliver the minimum level of basic municipal services.

6.3.2 The decision that a specific asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset had been sold, transferred or otherwise disposed of.

It will not be needed to reverse the decision as the infrastructure which will be received in exchange for the electrical infrastructure will ensure continued service delivery.

6.3.3 The disposal of an item of property, plant or equipment must be fair, equitable, transparent, competitive and cost effective and comply with a prescribed regulatory framework for municipal supply chain management and the Supply Chain Management Policy of the municipality

The electrical infrastructure assets will be transferred for other electrical assets and not disposed as per the definition of disposal in the said policy. The said electrical infrastructure assets will only benefit Apex for Gateway and cannot be used by any other private entity.

Conclusion

Taking the above discussion into consideration, it is requested that Council approves the following:

- (a) the transfer of the following electrical infrastructure assets to Apex Land (Pty) Ltd:

	<u>Asset No</u>	<u>Asset Description</u>
(i)	1427309:	500 kVA Transformer No 1:
(ii)	1427310:	800 kVA Transformer No 2:
(iii)	1427597:	Ring Main Unit No 2 (RMU):
(iv)	1427598:	Ring Main Unit No 1 (RMU):

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

in exchange for the following infrastructure to be installed / work to be done at the cost of Apex Land (Pty) Ltd in consultations and specifications of the Municipality:

- (i) Install a new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch.
 - (ii) Install a new medium voltage (MV) feeder cable from the new Metering Ring Main Unit to close off the Municipality's ring feed.
 - (iii) Connect the new medium voltage (MV) feeder cable mentioned above to the current cable between erven 2337 and 2338 Hermanus..
 - (iv) Disconnect the outgoing feed from Ring Main Unit No 2 and mark the spare switch as safe.
- (b) that Apex Land (Pty) Ltd pays the prescribed tariff for the removal of the municipal electrical meters on Erf 7568 Hermanus and replace same with their own private electrical meters at their cost.
- (c) Apex Land (Pty) Ltd opens a new consumer account and sign a consumer agreement with the Municipality for the metering of the bulk electrical supply to Erf 7568 Hermanus.
- (d) that the abovementioned electrical infrastructure assets be derecognised from the Fixed asset register of the Municipality once the transfer is completed.

7. Financial Implications

In accordance with the recommendation, there will be no budgetary implications to the Municipality.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr J Vorster – (028) 313 8046

Upon the conclusion of this agreement, the following electrical infrastructure assets situated on Erf 7568 Hermanus will have to derecognized and written out of the Fixed Asset Register at the appropriate carrying value as at the specific date:

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

	<u>Asset No</u>	<u>Asset Description</u>
(a)	1427309:	500 kVA Transformer No 1:
(b)	1427310:	800 kVA Transformer No 2:
(c)	1427597:	Ring Main Unit No 2 (RMU):
(d)	1427598:	Ring Main Unit No 1 (RMU):

In exchange for the abovementioned infrastructure, the following additions to the existing electrical network will have to be capitalized and recognized in the Fixed Asset Register as public contributions at the actual cost incurred by Apex Land (Pty) Ltd:

- (i) A new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch.
- (ii) A new medium voltage (MV) feeder cable from the new Metering Ring Main Unit to close off the Municipality's ring feed.
- (iii) Connection cost of the new medium voltage (MV) feeder cable mentioned above to the current cable between erven 2337 and 2338 Hermanus.
- (iv) Disconnection cost of the outgoing feed from Ring Main Unit No 2.

10. Annexures

Annexure A: Locality map

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of the following electrical infrastructure assets to Apex Land (Pty) Ltd **be approved**:
 - (a) Asset no: 1427309
Description: 500 kVA Transformer No 1
 - (b) Asset no: 1427310
Description: 800 kVA Transformer No 2
 - (c) Asset no: 1427597
Description: Ring Main Unit No 2 (RMU)
 - (d) Asset no: 1427598
Description: Ring Main Unit No 1 (RMU)

2. that in exchange for the transfer of the above electrical infrastructure assets, Apex Land (Pty) Ltd will at its own costs, in consultation with and on the specifications of the Overstrand Municipality (Electrical Department) attend to:
 - (a) the installation of a new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch in Mimosa Street, Hermanus;

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

- (b) the installation of a new medium voltage (MV) feeder cable from the new Metering Ring Main Unit to close off the Municipality's ring feed;
 - (c) the connection of the new medium voltage (MV) feeder cable mentioned above to the current cable between erven 2337 and 2338 Hermanus;
 - (d) the disconnecting of the outgoing feed from Ring Main Unit No 2 and marking the spare switch as safe; and
 - (e) the removal all municipal owned meters on Erf 7568 Hermanus and replacement thereof with their own electrical meters in order for them to administer and maintain the internal electrical infrastructure;
3. that Apex Land (Pty) Ltd opens a new consumer account and sign a consumer agreement with the Municipality for the metering of the bulk electrical supply to Erf 7568 Hermanus; and
4. that the electrical infrastructure assets mentioned in 1. above be derecognised from the Fixed asset register of the Municipality once the transfer is completed.

RESPONSIBLE OFFICIAL :	JH DU PLESSIS
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT :	13 MAY 2022
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

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HERMANUS (“GATE WAY SHOPPING CENTRE”), APEX LAND (PTY) LTD**

HIN7568

J H du Plessis

Senior Manager: Electrotechnical Services

13 January 2022

(028) 316 5627

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
6 APRIL 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of the following electrical infrastructure assets to Apex Land (Pty) Ltd **be approved**:
 - (a) Asset no: 1427309
Description: 500 kVA Transformer No 1
 - (b) Asset no: 1427310
Description: 800 kVA Transformer No 2
 - (c) Asset no: 1427597
Description: Ring Main Unit No 2 (RMU)
 - (d) Asset no: 1427598
Description: Ring Main Unit No 1 (RMU)
2. that in exchange for the transfer of the above electrical infrastructure assets, Apex Land (Pty) Ltd will at its own costs, in consultation with and on the specifications of the Overstrand Municipality (Electrical Department) attend to:
 - (a) the installation of a new Metering Ring Main Unit (where their usage will be obtained from) and fuse switch in Mimosa Street, Hermanus;
 - (b) the installation of a new medium voltage (MV) feeder cable from the new Metering Ring Main Unit to close off the Municipality’s ring feed;
 - (c) the connection of the new medium voltage (MV) feeder cable mentioned above to the current cable between erven 2337 and 2338 Hermanus;
 - (d) the disconnecting of the outgoing feed from Ring Main Unit No 2 and marking the spare switch as safe; and
 - (e) the removal all municipal owned meters on Erf 7568 Hermanus and replacement thereof with their own electrical meters in order for them to administer and maintain the internal electrical infrastructure;
3. that Apex Land (Pty) Ltd opens a new consumer account and sign a consumer agreement with the Municipality for the metering of the bulk electrical supply to Erf 7568 Hermanus; and
4. that the electrical infrastructure assets mentioned in 1. above be derecognised from the Fixed asset register of the Municipality once the transfer is completed.

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 April 2022
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

RESPONSIBLE OFFICIAL :	JH DU PLESSIS
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT :	13 MAY 2022
TARGET DATE TO INFORM OBJECTOR :	N/A

ANNEXURE A – LOCALITY MAP

