

NGQUSHWA LOCAL MUNICIPALITY

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**IMMOVABLE PROPERTY
MANAGEMENT POLICY**
2022/2023

Publication Date	
Review Date	

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<p>Related Legislation/Applicable Section of Legislation</p>	<ul style="list-style-type: none"> • Broad Based Black Economic Empowerment Act (Act No. 53 Of 2003); • The Constitution Of The Republic Of South Africa, 1996 (Act 108 Of 1996) ("The Constitution"); • Development Facilitation Act (Act No. 67 Of 1995); • Government: Municipal Finance Management Act 2003 (Act 56 Of 2003); • Housing Act No 107 Of 1997; • Local Government Municipal System Act 2000 (Act 32 Of 2000); • Local Government Ordinance 1939 (Ordinance 17 Of 1939); • Local Government: Municipal Finance Management Act (2003): Municipal Asset Transfer Regulations (GN R878 In GG 31346 Of 2008)(Hereafter Referred To As The Regulations); • Local Government: Municipal Finance Management Act (Act No. 56 Of 2003): Municipal Supply Chain Management Policy Regulations (General Notice 868 In GG 27636); • Local Government: Municipal Structures Act (Act No. 117 Of 1998); • Preferential Procurement Policy Framework Act (Act No. 5 Of 2000); • Preferential Procurement Policy Framework Regulations (GN R725 Of 10 August 2001) Issued In Terms Of The Preferential Procurement Policy Framework (Act No. 5 Of 2000); • Property Rates Act (Act No. 6 Of 2004); • The Extension Of Security Of Tenure Act 62 Of 1997; • The Prevention Of Illegal Eviction From And Unlawful Occupation Of Land Act 19 Of 1998; • The Restitution Of Land Rights Act 22 Of 1994 and
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	<ul style="list-style-type: none"> • Spatial Planning & Land Use Management Act 16 of 2013 • Land Survey Act 8 of 1997 • Promotion of Administrative Justice Act 3 of 2000 • Property Valuations Act 17 of 2014
Related Policies, Procedures, Guidelines, Standards, Frameworks	Ngqushwa Municipality Supply Chain Policy Regulations Ngqushwa Municipality Spatial Planning & Land Use Management By-Law
Replaces/ Repeals (whichever is relevant, if any)	N/A
Policy Officer (Name/Position)	<div style="border: 1px solid black; height: 15px; width: 100%;"></div>
Policy Officer (Phone)	<div style="border: 1px solid black; height: 15px; width: 100%;"></div>
Policy Sponsor (Name/Position)	N/A
Department Responsible	Community Services
Unit responsible	Spatial Planning & Land Use Management
Applies to	All Immovable Property Transactions
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PREAMBLE

WHEREAS the Municipality has the right to govern on its own initiative the local government affairs of its community, subject to national and provincial legislation, as provided in terms of **section 151(3) of the South African Constitution 1996 (as amended)** and **section 4 of the Municipal Systems Act**.

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AND WHEREAS section 14 of the Local Government: **Municipal Finance Management Act, 2003 (Act 56 of 2003)** – [MFMA] provides for the disposal of municipal capital assets and

AND WHEREAS the **Municipal Asset Transfer Regulations – [MATR]** was issued in 2008 as per the MFMA to augment the aforementioned provisions; and

AND WHEREAS a Municipal Land Management and Disposal Policy will give effect to the above and reflect the methodology and procedures for the sale and letting of various types of properties in order to make available economic opportunities in the Municipality for local investors; and

AND IN ORDER TO:

- Make available economic opportunities in the municipality;
- Promote access to land and security of tenure by all;
- Promote an efficient administration and good governance;
- To ensure a fair, inclusive and transparent property disposal and leasing process and
- Create a culture of accountability, openness and transparency in its administration or in the exercise of its powers or the performance of its functions, by giving effect to the right to just administrative action.

NOW THEREFORE the Ngqushwa Local Municipal Council adopts the Municipal Immovable Property and Asset Disposal Policy as set out in this document.

1. TITLE

This is the Immovable Property Management Policy of the Nqgushwa Local Municipality.

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2. INTRODUCTION

The policy directive comes from the strategic objectives of the department. The policy is meant to put in place a proper system of managing a fair, inclusive and transparent process. The policy has been developed after realising the need to promote access to land/security of tenure, Lack of guidelines for disposal of properties and Inconsistency in dealing with land applications

Further, the Draft Immovable Property Management Policy of Nqgushwa Local Municipality provides a framework, guidelines and procedures to be followed by Council for the disposal and leasing of various types of immovable properties of the Municipality. This is meant to ensure that there is a clear process to be followed when disposing property to ensure a fair and transparent process. The policy also seeks to create sustainable settlements, social and economic opportunities within its jurisdiction for local and external investors.

3. PURPOSE

The purpose of the Immovable Property Management Policy is to provide a framework and guidelines for the disposal of the Municipality's immovable property and assets that are not needed to provide the minimum level of basic municipal services and that are surplus to the Municipality's requirements.

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Section 14 of the Municipal Finance Management Act (Act No. 56, 2003) states that:

“A Municipality may not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of any capital asset needed to provide a minimum level of basic municipal services.

A Municipality may transfer ownership or otherwise dispose of a capital asset, other than an asset mentioned above, only after the disposal committee meeting:

- ***Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and***
- ***Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.***

4. SCOPE

The policy is only applicable on property within Ngqushwa Local Municipality and to the following:

2.1 The policy is applicable to:

- (a) The transfer, disposal and lease of immovable property by the municipality;
- (b) All property within the urban edge and commonage areas and
- (c) The granting of rights by the municipality for the use, control or management of immovable assets.

2.2 The policy is **NOT** applicable to:

- (a) Immovable property owned by municipal entities in respect of which the Ngqushwa is the parent municipality;
- (b) Immovable property which is owned by other organs of State;
- (c) Property owned by the Municipality and subject to a Public-Private Partnership. ??????

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5. GENERAL PRINCIPLES

The objectives of the Immovable Property Management Policy are to:

- Ensure that only immovable assets that do not provide the minimum level of basic municipal services are disposed of.
- Ensure that immovable assets are not disposed when the disposal of the asset or the terms of the disposal of the immovable asset could disadvantage the Municipality or community financially or otherwise.
- Ensure that all disposals are, in terms of *Section 14 (5) of the Municipal Finance Management Act (Act No. 56, 2003)*, fair, equitable, transparent, competitive and consistent with the *Supply Chain Management Policy* of the Municipality.

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6. LEGISLATIVE AND POLICY ALIGNMENT

6.1 According to section 152 of the Constitution of the Republic of South Africa No. 108 of 1996 (as amended), the following are Objects of Local Government;

- i. The objects of local government are –*
- a. to provide democratic and accountable government for local communities;*
 - b. to ensure the provision of services to communities in a sustainable manner;*
 - c. to promote social and economic development;*
 - d. to promote a safe and healthy environment; and*
 - e. to encourage the involvement of communities and community organisations in the matters of local government.*

ii. A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

6.2 Section 14 of the Municipal Finance Management Act states that:

- “(1) A Municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- (2) A Municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in sub-section (1), but only after the Municipal Council, in a meeting open to the public -
- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
 - (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

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- (3) *A decision by a Municipal Council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the Municipality after that asset has been sold, transferred or otherwise disposed of.*
 - (4) *A Municipal Council may delegate to the Accounting Officer of the Municipality, its powers to make the determinations referred to in subsections 2(a) and (b) in respect of movable capital assets below a value determined by the Council.*
 - (5) *Any transfer of ownership of a capital asset in terms of sub-section (2) or (4) must be fair, equitable, transparent, competitive and consistent with the Supply Chain Management Policy which the Municipality must have and maintain in terms of Section 111.*
 - (6) *This section does not apply to the transfer of a capital asset to another Municipality or to a Municipal entity or to a National or Provincial organ of State in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework.”*
- 6.3 Section 19 of Municipal Structures Act prescribes municipal objectives:
- (1) *A municipal council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution.*
 - (2) *A municipal council must annually review—*
 - (a) *the needs of the community;*
 - (b) *its priorities to meet those needs;*
 - (c) *its processes for involving the community;*
 - (d) *its organisational and delivery mechanisms for meeting the needs of the community; and*
 - (e) *its overall performance in achieving the objectives referred to in [subsection \(1\)](#).*
 - (3) *A municipal council must develop mechanisms to consult the community and community organisations in performing its functions and exercising its powers.*

the MATR, which governs:

The transfer and disposal of capital assets by the Municipalities and Municipal entities of rights to use, control or manage capital assets.

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7. SUPPLY CHAIN MANAGEMENT POLICY

7.1 Disposal Management

The disposal of capital assets must be dealt with in accordance with the provisions of the MFMA 56 of 2003, Section 14.

The municipality must ensure that the Supply Chain Management Policy aligns with the provisions of the 2005 Municipal SCM Regulations in dealing with section 37 of these regulations and 113 of MFMA 56 of 2003.

The Accounting Officer must establish an Immovable Property Management Committee to deal with the disposal of immovable property and assets. All items for disposal must be authorised in terms of the MFMA 56 of 2003.

7.2 Adjudication of Disposals

Adjudication of disposals will be conducted in terms of the Preferential Procurement Policy Framework Act (PPPFA) and the Broad Based Black Economic Empowerment Act (BBBEE) No. 53 of 2003 and the following formula will be applied until amended by subsequent legislation:-

*The **80/20 or 90/10** preference point system for the sale and letting of assets. **The 80/20** formula applies to a value below **R500, 000.00** and the **90/10** formula to values above **R500, 000.00**.*

$$Ps = 80/90 + Pt - Ph \setminus Ph$$

Where:-

Ps = Points scored from price of tender under consideration.

Pt = Rand value of tender under consideration.

Ph = Rand value of highest acceptable tender. It is noted that the 80 and 90 points in the case of an open tender, can be further divided into points for functionality and price. Tender documents must contain a detailed breakdown of the points that will be awarded for various criteria.

8. CATEGORIES OF MUNICIPAL LAND ASSETS

Existing immovable properties (pieces of land) within the Municipality's area of jurisdiction can be grouped as follows:

- Single Residential and General Residential land;
- General and Special Business, Commercial and Industrial land;
- Institutional and Educational land – Social Sites (Place of Worship/Church, Crèche and Institutional)
- Sport fields (Open Space Zones)
- Agricultural/Farms
- Public Roads (Transport Zone 1 & 2)

9. DISPOSAL MANAGEMENT SYSTEM FOR PROPERTY TRANSACTIONS

The disposal and letting of immovable property owned by the Municipality, will be conducted in accordance with one of the following described methods:

9.1 Sale or Letting by Private Treaty/Public Auction/Tender/Proposal Call

All sales or letting of immovable assets should be at current Market Value except when the public interest or the plight of the poor demands otherwise. All transactions are subject to the tendering and adjudication guidelines, contained in this policy. Other than in exceptional circumstances as prescribed in this Policy, all sales of immovable assets should be by tender.

9.2 Private Treaty Sales

The requirements contained in Section 9.4 below do not apply to unsolicited bids, which are submitted in terms of special circumstances listed in (a) to (j) below.

The Municipality acknowledges that in certain special circumstances property can be sold or let by Private Treaty, which special circumstances apply to the following categories of properties:

- (a) non-viable parcels of land may be let or sold to adjoining owners, provided that the determination of non-viability rests with the Council and its decision will be final;
- (b) viable properties in the case of business and industrial expansion and retention may be let or sold to the adjoining owners at market related prices;
- (c) properties identified for sale and hire to Community Based Organisations, Nongovernmental Organisation, Non-profit Organisations, Civil Society Organisations, and Public Benefit Organisation, defined by the *Income Tax Act, No. 58 of 1962* and listed in *schedule 9 of the Act*;
- (d) vacant industrial land;
- (e) vacant land for the development of lower income housing in the categories of low cost, social and bank charter housing;
- (f) the sale of municipal land, involving BEE in partnership with foreign investors;
- (g) municipal land for Community projects;
- (h) land for worship purposes (see *Section 15 (5)(a) to (e)*);
- (i) municipal property for educational purposes other than private schools;
- (j) land for purposes of housing specifically to employees and officials of the Municipality.

In respect of those properties referred to in paragraph (c) to (j) above, the Transferee may not sell or transfer ownership of the said property so acquired from the municipality within a period of 5 (five) years after such acquisition and the Municipality shall ensure that the Title Deed to such property contains such restrictive condition in its favour.

9.3 Selected Tender

In the event that property has a limited number of interested parties, or where the property has been designated for a specific use, a selected tender would be called.

In the case where there is only one interested party in a property with a low value, a sale or lease can be entered into directly.

Use agreements are a further means where a party is able to occupy a property that has little or low value, no access and is a cost to Council in terms of maintenance and rates.

9.4 Unsolicited Bids

A Supply Chain Management Policy must state that the Municipality or Municipal Entity is in terms of Section 113 of the MFMA not obliged to consider unsolicited bids received outside a normal bidding process.

If the Municipality or Municipal entity decides to consider an unsolicited bid in terms of Section 113(2) of the MFMA, it may do so only if :-

- (a) if a Municipality or Municipal entity decides to consider an unsolicited bid that complies with sub regulation (2), the Municipality or Municipal entity must make its decision public in accordance with Section 21A of the Municipal Systems Act, together with:
 - (i) its reasons as to why the bid should not be open to other competitors;

- (ii) an explanation of the potential benefits for the Municipality or entity were it to accept the unsolicited bid; and
 - (iii) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice; once the Municipality or Municipal entity has received written comments, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment;
- (b) The Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations;
- (c) A meeting of the Adjudication Committee to consider an unsolicited bid must be open to the public, and the said Committee must take into account:
 - (i) any comments submitted by the Public; and
 - (ii) any written comments and recommendations of the National Treasury or
 - (iii) the relevant Provincial Treasury;
- (d) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations;
- (e) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality or Municipal entity to the bid may be entered or signed within 30 days of the submission.

9.5 Competitive Processes

9.5.1 General Principles

The Municipality is entitled to use any of the following methods to conclude a Property Transaction to ensure that the principle of competitiveness is given effect to:

- 9.5.1.1 Public tender;
- 9.5.1.2 Public auction;
- 9.5.1.3 Closed tender;
- 9.5.1.4 Call for alternative proposals.

9.5.2 Public Tender

9.5.2.1 An open and transparent tender process is the ~~most~~ emphatic manner in which to give effect to the Core Principles. Such a process may, depending on the nature of the transaction, include a two-stage bidding process in terms of which only those bidders that meet the pre-qualification criteria specified in the first stage are entitled to participate in the second stage.

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9.5.2.2 The Municipality will apply the Preferential Procurement Policy Framework Act when following a competitive bidding process in respect of a Property Transaction.

9.5.3 Public Auction

Viable immovable property may be alienated by public auction in cases where the Municipality is of the opinion that it is in the interest of the community and the Municipality. The terms and conditions of each auction shall be determined on a project-by-project basis, appropriate to the specific characteristics and

attributes of the immovable property, and to the Municipality's strategic objectives. Where the services of an auctioneer are utilized, the auctioneer's commission shall be the successful bidder and shall not form part of the financial offer to the Municipality.

9.5.4 Closed Tender

If a Property has more than one adjacent owner and if such a Property is capable of being consolidated with more than one of the properties owned by such adjacent owners of all the adjacent properties with which the Property can be consolidated.

9.5.5 Call for Alternative Proposals

In the event that none of the other 3 competitive methods outlined above are appropriate to the nature of the Property Transaction in question, then the Municipality shall, where none of the circumstances in respect of which a deviation may be granted are applicable, call for alternative proposals in respect of the Property Transaction in question. Examples of circumstances in which a call for alternative proposals may be appropriate include the following:

9.5.5.1 Social care properties / community sport properties

In exceptional circumstances where a property to be used for a social care / community sport purpose has not been reserved in accordance with the processes provided for in Chapter C of this Policy and where the Municipality's property management department receives an unsolicited application for a Property Transaction, then the following factors may be taken

into account in justifying not following a competitive bidding process:

- 9.5.5.1.1 Whether the applicant has historically enjoyed a Property Right granted by the Municipality and, if so, for how long;
- 9.5.5.1.2 The terms and conditions of such use;
- 9.5.5.1.3 The exact nature of the social care and community sport purpose;
- 9.5.5.1.4 Whether the applicant has in the past made improvements to the Property and, if so, the value of such improvements;
- 9.5.5.1.5 Whether or not the Municipality is satisfied with the manner in which the applicant gives effect to the social care or community sport purpose;

9.5.5.2 Exceptional circumstances

In other exceptional circumstances, provided that:

- 9.5.5.2.1 Pursuant to the Property Transaction, the Property will be used for a public purpose by the Municipality's local community; and/or
- 9.5.5.2.2 The Municipality is satisfied that the Property Transaction will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality.

9.6 Non-competitive processes: Out of Hand/Direct Negotiation

9.6.1 Non-viable Property

In respect of Non-Viable Property which can only be utilized by one or more adjacent landowners, a Property Transaction(s) may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process.

9.6.2 Viable Property: Deviation from a competitive process

9.6.2.1 The Municipal Manager may dispense with the competitive processes established in this Disposal Management System, and may enter into a Property Transaction through any convenient process, which may include direct negotiations, but only in the following circumstances:

9.6.2.1.1 An emergency; or

9.6.2.1.2 Due to specific circumstances peculiar to the Property under consideration, it can only be utilized by the one person/organisation wishing to enter into the Property Transaction; and/or

9.6.2.1.3 The person wishing to enter into the Property Transaction is the sole provider of the service or product in respect of which the Property will be used and the use of the Property is inextricably linked to the provision of that service or product; or

9.6.2.1.4 The Municipal Manager is satisfied that the Property Transaction will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality which would not be realized if a Competitive Process were to be followed by the Municipality; or

9.6.2.1.5 In any other exceptional case where it is impractical or impossible to follow the official competitive process.

9.6.3 Without detracting from the generality of 9.6.2.1.5 above, in the circumstances referred to in 9.6.2.1.5, due regard shall be had to the Core Principles.

9.6.4 The Municipal Manager must record the reasons for any deviation in terms of this provision and report them to the next meeting of the Council and include them as a note to the annual financial statements

10. CONDITIONS APPLICABLE TO DISPOSAL OF LAND TO THE STATE

Whenever the Provincial or National Government desires to obtain land owned by the Municipality, ownership in such land shall be offered by private treaty to the relevant organ of state at the full market value or donation. Unless Council resolves otherwise, the following conditions should be considered for disposal of land to other state organs:

NB:

- Land needed for social/public purposes should be **DONATED**.
- Land not required for social/public purpose (**i.e. land for government offices, administration etc**), should be **SOLD** to the state.

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11. SPECIAL CONDITIONS TO DISPOSAL OF LAND FOR PLACE OF WORSHIP/CHURCH PURPOSES

Whenever the municipality receives an application for land for Place of Worship/Church purposes, such application shall be process in line with the provisions of section 9 of this policy.

Further, the sale of the abovementioned properties shall be offered by private treaty to the relevant organisation for **HALF (50%)** of the full market value amount, unless Council resolves otherwise. This is informed by the fact that many church organisations have an income from either their head structure or congregation although they are not considered as businesses. This will ensure that the municipality creates a fair environment for the different churches to afford to own, than invade property.

12. CRETETIA FOR CONSIDERING LAND DISPOSAL APPLICATIONS

The Municipality shall, when considering any proposed transfer or disposal in terms of this Policy, give due regard to *Section 7 of MATR* and the following criteria:

- annual cost of maintenance;
- immediate location to a similar facility;
- duplication of the facility;
- benefit and risk analysis;
- current use and utilisation;
- cultural or historical significance;
- current maintenance service level of area;
- current state of property;
- alternate future use;
- current market value;
- anti-social behaviour on the property;
- relationship to service requirements and relevant strategic drivers;
- potential political consequences;
- level of community ownership;
- potential future use to adjacent properties;
- alternate future community use;
- area of land concerned;
- open space plan requirements;
- development potential;

- covenants on the property;
- road reserves and other land of high conservation value and remnant vegetation;
- Restrictions on disposal.
- Based on the elements derived from the above, each land asset will be individually classified in terms of future use for the Council.

13. DISPOSAL OF LAND TO OFFICIALS AND POLITICAL OFFICE BEARERS

- Officials in the employ of the Municipality have the right to make an offer for acquisition of immovable assets being disposed of by the Municipality. This process will also follow the same process for Leasing and Purchasing as prescribed below.
- A political office-bearer or an official in the employ of the Municipality who, in his or her persona capacity, has a direct or indirect interest in an immovable asset proposed for disposal must declare such an interest, provided that the failure to do so will result in such sale or lease being cancelled forthwith and the employee or office bearer being held responsible for wasted costs. An official in the employ of the Municipality may not act as a member of a panel responsible for assessing and adjudicating tenders relating to the proposed disposals if his or her presence in such panel may potentially be deemed to be unfairly influential, discriminatory or in any manner contrary to the principles of this policy.

14. SPECIAL CONDITIONS TO DISPOSAL RESIDENTIAL PROPERTIES

- When considering all single residential property disposal applications, Council may give first preference to the local previously disadvantaged people and all the vulnerable groups and
- Such preferred groups should be first time property owners within the municipal jurisdiction.

15. KEY GUIDELINES AND PRINCIPLES PERTAINING TO THE LETTING OF MUNICIPAL PROPERTY

- Council is permitted to enter into a short term or long term lease of immovable property owned by the Municipality by way of a Private Treaty or Public Tender depending on the nature of the property.
- Vacant or improved municipal owned immovable property must be let at a market related rental.
- Generally, where the letting of viable immovable property is concerned, this process must be done by means of a public tender.
- All applications to lease immovable property must be in terms of this framework policy and other applicable municipal legislation.
- The lease of immovable property must be managed in a controlled environment to ensure sustainable economic returns without damage to the environment.
- Long terms lease of immovable property must be capable of being registered in the Deeds Office as a separate entity. All long term leases will be those starting from 10-40 years and Council can only extend such period when the term comes to expiry. If Council wishes to award a longer term than 40 years, then consultation with Treasury Department and other relevant departments and legislative regard should be given due regard.
- Non-viable immovable property is land that cannot be developed on its own due to its physical characteristics or constraints or as a result of planning procedures and can only become viable if alienated as in Paragraph 10.1 or 10.3 above or let under similar circumstances to an adjoining owner.

- Leases for gardening purposes must be at the tariff rental as approved by Council from time to time, provided that no permanent structures may be permitted on immovable property let for gardening purposes except a perimeter enclosure acceptable to Council.
- Immovable property may be let by Private Treaty to social care users, provided that rentals must be determined in terms of the tariff rentals as approved by Council from time to time and in such cases, the Lessee must accept responsibility for the maintenance of the immovable property and any improvements thereon.
- Sport facilities and other public amenities may be let by Private Treaty to Sports Boards, Sports Federations and other similar bodies in accordance with Council's Policies on sports facilities and public amenities, provided that community based bodies and non-professional sporting bodies must be charged the tariff rentals as approved by Council from time to time, and professional sports bodies and bodies operating for profit must be charged a fair market related rental based on the market value of the property to be leased.
- Improvements to Council's immovable property established by the Lessee and which Council wishes to retain will revert to Council, free of compensation, at expiration or termination of the Lease, provided that where such improvements are not required by the Council, these must be removed by the Lessee to the satisfaction of Council and all costs must be borne by the Lessee.
- Lease Contracts with existing tenants of immovable properties may be renegotiated where Council is of the opinion that public competition would not serve a useful purpose.

16. CONDITIONS APPLICABLE TO APPROVED DISPOSALS

16.1 SALES:

16.1.1 All costs pertaining to a transaction shall be borne by the buyer, e.g. Legal fees, Land Surveying, Advertisement, Valuation, Rezoning, Subdivision, Relocation or Provision of services where necessary, etc. Council may, however, waive its right to claim the costs should it be to its advantage to bear the cost. Where necessary, a deposit to cover the costs may be required.

16.1.2 Where applicable, existing services must be relocated or secured by means of the registration of servitudes in favour of the municipality and costs shall be for the account of the buyer/developer.

16.1.3 Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exist which, in the opinion of the municipality, make such consolidation undesirable.

16.1.4 Where immovable property is sold for development, a condition must be included in the Deed of Sale stipulating that such development must take place within a period of **2 years (24 months)** from date of purchase unless it is a long term project which cannot be completed within this period. Likewise a condition must be included in the sale agreement to provide for forfeiture (**in favour of the municipality**) in the event that the development has not been completed within the required time period, unless an extension has been granted in writing by the municipality. The purchase price will be refunded with a deduction for any unpaid rates and transfer/registration costs.

16.1.5 Save with prior approval, the property alienated may only be used for the purposes for which it was originally sold and purpose permitted by the Land Use Scheme Regulations unless rezoned at a later stage.

16.1.6 The agreement of sale shall be finalized and concluded within 60 days from the date of the municipality's official request; failure to comply shall cause the sale to lapse, unless the period has been so extended by Council.

16.1.7 The agreement must contain a suspensive condition in respect of property, which is sold subject to approval in terms of Spatial Planning & Land Use Management Act and its regulations.

16.1.8 The buyer is expected to have constructed the applicable structure within a period as stated in the contract or Deed of Sale as above.

16.1.9 Council has the power to repossess the application property should the buyer fail to comply with the conditions of sale.

16.20 In the event where a property owner decides to sell/dispose a vacant site that they purchased from the municipality, the offer must first be made to the municipality at a market related value before it is offered to any other party.

16.2 LEASES:

16.2.1 Regulation 45 of the MATR sets out the minimum terms and conditions that needs to form part of Lease Agreements. The terms and conditions listed below are supplementary to the above.

16.2.2 All cost pertaining to a transaction such as legal fees, land survey-, re-zoning-, sub-division-, consolidations-, advertisement-, relocation or provision of services cost shall be borne by the applicant.

16.2.3 The following deposits shall apply to leases where the rental is based on market value-

- (a) A deposit equal to 2 months rental for commercial transactions;
- (b) A deposit equal to 1 month's rental for residential and social services transactions;

- (c) No deposit in respect of encroachment agreement leases and
- d) A deposit for the refund shall be paid to the lessee within 60 days.

16.2.4 An owner of fixed immovable property who leases an adjoining municipal immovable property may be substituted by his successor in title for the duration of the remainder of the lease term on the same terms and conditions or additional terms and conditions as deemed necessary.

16.2.5 Lessees shall be liable for payment of rates and service charges, unless otherwise agreed upon.

16.2.6 The letting of lanes, public open spaces, and road reserves shall be subject to the following:

- (a) Closing off/securing to Council's satisfaction;
- (b) Costs for the relocation or installation of services, where required, shall be for the account of the lessee; and
- (c) Securing of servitudes.

16.2.7 Lessees shall indemnify Council against any possible claims arising from the lease or use of the immovable property.

16.2.8 No lessee of immovable property shall without the prior consent in writing of the Council, sublet such property or any portion thereof or assign any right acquired by him in respect hereof and any such subletting or assignment without such consent shall be null and void.

16.2.8 Save with prior approval the property may only be used for the purpose for which it was let and purposes regularized by town planning schemes.

16.2.9 Officials from Council shall at all reasonable times be entitled to enter/inspect the immovable property, having regards for the right to privacy as contemplated in Chapter 2 of the Constitution.

16.2.10 All agreements shall contain a clause which requires the lessee to maintain the leased property.

16.2.11 All agreements shall contain a clause which requires that improvements provided by the lessee and which Council wishes to retain

shall revert, free of charge, to Council once the lease period has terminated and/or in the event the agreement, due to breach of conditions by the lessee, has been cancelled. Provision must also be made on how to deal with such improvements should Council terminate the contract prior to the lapse of the lease period, where the lessee has not been in default.

16.2.12 Where immovable property is leased for development, a condition must be included in the lease agreement stipulating that such development must take place within a period of **2 years (24 months)** wherein the pre-planning activities/studies must be concluded within the first **12 months** from date of lease signing. During the 12 months, the lease is required to submit quarterly progress reports to spatial planning & land use section indicating progress and related challenges.

16.2.13 Failure to adhere to the above conditions will result to termination of the lease agreement by the municipality.

16.2.14 For all lease applications, the applicant should be in position to produce funding commitments from potential funders as well as own funding capital.

17. TRANSPARENCY

16.1 All land transactions of the municipality involving real rights (sales, servitudes and leases) are to be conducted in a transparent manner with a high degree of caution and control.

16.2 It is however advisable to balance the interests of transparency with commercial reality to ensure that entrepreneurial endeavour is not compromised, and that the property industry is not discouraged from making unsolicited proposals on properties in the portfolio.

In this regard the following principles will apply:

- All transactions initiated by the public involving real rights to property, will be advertised in the media with a period of 60 days for comments;

Where property is offered by the municipality to the market, the following principles will apply:

- Land use and bulk service contributions will be finalised by the municipality unless otherwise stated in tender;
- The offer to lease or purchase will be advertised twice in the media with a period of 60 days for public comments in the case of viable properties and for 30 days in the case of residential sites;
- The proposal call or bid documentation will be made available both electronically and in hard copy for a fee;
- The proposal call or bid will be either on a sealed bid basis or by any process in terms of the MFMA and SCM Regulations;
- In the event that the property has a limited number of interested parties, or where the property has been designated for a specific use, a selected bid would be called for;
- In the case where there is only one interested party in the property with a low value, a sale or lease can be concluded with that party.

18. PROPERTY VALUATION

18.1 Valuation of Assets

The value of immovable property or any subsidiary assets transferred to an organ of state in terms of this Chapter must be determined in accordance with the accounting standards that the Municipality is required by legislation to apply in preparing its annual financial statements.

b) In the absence of sufficient guidance in those accounting standards regarding the valuation of assets, the fair market value of the asset must be applied.

c) The value of liabilities transferred to an organ of state in terms of this policy must be determined in accordance with the accounting standards that the Municipality is required by legislation to apply in preparing its annual financial statements.

d) In the absence of sufficient guidance in those accounting standards regarding the valuation of liabilities attached to those assets, any of the following valuation methods must be applied:

i. The settlement value of the liability, which is the amount that will be paid or the value of the service that will be provided to settle the liability when due; or

ii. The net present value of the liability, after discounting future settlement values to present values.

18.2 Valuation of Council Property (Land and Buildings)

All land and buildings recorded in the Municipality's fixed property/asset register shall be revalued with the adoption by the Municipality of each new valuation roll (or, if the land and buildings concerned fall within the boundary of another Municipality, with the adoption by such Municipality of each new valuation roll). The Municipality may, however, at any time when it regards it necessary for purposes of the management of its land and buildings have all or any of its land and buildings revalued.

18.3 Determination of Selling Price

Council shall appoint a Professional Valuer who will determine the fair market value of all the identified properties, and this person must be an independent Professional Valuer or Professional associated Valuer registered in terms of the Property Professional Act, 2000 (Act 47 of 2000). Council owned property shall be disposed at a market related selling price including VAT, as determined by the valuer unless the Council resolved otherwise. Comments of the relevant departments of the Municipality including the Town Planning Section on the future development potential

19. SERVICE LEVEL AND LEASE AGREEMENTS

19.1 In all circumstances where a private party has been appointed to use and manage Municipal Property(s), for example, an agricultural project aimed at developing the community, the Municipality's will enter into a service level agreement (SLA) with the private party.

19.2 An SLA shall regulate the respective roles and responsibilities of the Municipality and the private party.

19.3 The SLA's shall include provisions dealing with:

- a)** The purpose for which a Property is reserved;
- b)** A clear description of the purpose for which a private party is being appointed by the Municipality and the private party's contractual obligations in respect of both the purpose of its appointment (such as the provision of the service), as well as in respect of any Property Rights it may have been granted in respect of the Property;
- c)** The entering into of contract(s) with the private party, and the allocation of the respective responsibilities of the private party and the Municipality in respect thereof;
- d)** The distinct responsibilities of the Municipality and the private party in respect of monitoring and oversight of the use, control and management of the Property;

20. IMMOVABLE PROPERTY DISPOSAL APPLICATION FORM

When making application for immovable property disposal to the municipality, all parties/applicants should only make use of the official application form attached hereto as *annexure "C"*.

21. PROPERTY DISPOSAL COMMITTEE

The Disposal Management Committee appointed as per the SCM Policy and Regulations, primary function in terms of this policy shall be:

- a) To advise the Municipal Manager on all matters relating to the acquisition, maintenance or disposal of land and other immovable property;
- b) Advise the committees of Council on the acquisition, maintenance and disposal of land and other immovable property and make recommendations to council on such matters in accordance with the Integrated Development Plan (IDP), the MSDF and the Asset Management Strategy;
- c) Ensure that a Register of Land and Other Immovable property is developed and regularly updated;
- d) Ensure that a monitoring and evaluation system is established to realize the policy principles, objectives and set targets of this policy;
- e) Conduct surveys of current undeveloped land to ascertain noncompliance to contracts' obligations and ensure that in instances of noncompliance with such contractual obligations, such land reverts back to the Municipality; and
- f) Ensure compliance with this policy and relevant legislation.

22. RESERVATION AND MANAGEMENT OF IMMOVABLE PROPERTY

22.1 Unless it is precluded from doing so by law or by the conditions in terms of which immovable property was acquired and subject to observation of due statutory process and alignment with Council's strategic objectives, Council may:

- (a) Use immovable property in its ownership to promote social integration, to redress existing spatial inequalities, to build strong, integrated and dignified communities and to provide access to housing, services, amenities, transport and opportunities for employment on a temporary or permanent basis.

(b) Reserve for future use immovable property in its ownership to promote social integration, to redress existing spatial inequalities, to build strong, integrated and dignified communities and to provide access to housing, services, amenities, transport and opportunities for employment.

(c) Enhance immovable property in its ownership by pursuing the amendment of existing rights, establishment of new rights and the provision of municipal services.

(d) Improve immovable property in its ownership by the erection of structures thereon.

(e) Permit immovable property to be managed on behalf of Council, permit it to be enclosed and permit it to be cultivated.

22.2 When immovable property under the control or management of Council is encroached upon, the Council may take such steps as may, in the opinion of the Council, be necessary to remove or regularize such encroachment. In such instances Council may reduce the extent of a public place or public street which is encroached upon by the extent of the encroachment or by such greater extent as may, in Council's interest, be desirable.

23. SECURITY OF TENURE

- Council shall initiate and support all programmes that promote access to land and security of tenure.
- Council must take necessary steps to create community awareness on protection of tenure rights by those who already own property.
- Council shall facilitate sessions with relevant state departments to empower local property owners on property development and management.

24. CONFLICT

24.1 This policy must be read in conjunction with the Municipal Financial Management Act 56 of 2003, Supply Chain Management Regulations 2005 and applicable National Treasury Frameworks and Policies on asset disposal and transfer.

24.2 Guidelines and in the event of conflict, the provisions of the Regulations and such guidelines shall enjoy preference.

25. NAME AND COMMENCEMENT OF POLICY

This policy shall be called the '*Immovable Property Disposal Policy*' and shall come into operation on the first day of the month succeeding its adoption by the Council.

26. ROLES AND RESPONSIBILITIES

The following administrative arrangements are key in ensuring a smooth process for accountability:

26.1 The accounting officer shall supply the Chief Financial Officer with a copy of each agreement of sale or lease concluded by the municipality in respect of the disposal and letting of immovable property.

26.2 The accounting officer shall keep such records as may be necessary to ensure that details of all property transactions are readily available to audit purposes and that leases are either terminated or renewed at or prior to expiry.

26.3 It shall be the responsibility of the Chief Financial Officer acting under powers delegated to him by the accounting officer to ensure that the proceeds from the sale of immovable property are collected by or paid to the municipality when due and that all rentals accruing to the municipality are collected in terms of the applicable lease agreements and annually adjusted in terms of escalation or in terms of the applicable provisions of this policy.

Figure 1: Roles and Authority

Role	Authority
Management of property	Council
Use of property	Council
Reservation for future use	Council
Enhance property (i.e rights, type of ownership and service provision)	Council
Improve property (i.e., erecting structures and facilities for authority use)	Council
Permit property to be used and managed on behalf of Council	Council
Processing of land applications	Spatial Planning
Consideration of disposals	Disposal Committee
Approval of all leases and disposals	Council

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Asset Register

- The Municipal Council maintains a fixed asset register, which format complies to the requirements of GRAP, GAMAP and any other accounting standards prescribed in terms of legislation.
- All departments within the municipality shall promptly notify the Chief Financial Officer, who is responsible for the updating of said register, about any amendments which has to be included in said register.

Measure to prevent Land Invasions

- The municipality will apply a blanket court order covering all viable properties identified for development and these include township development areas, reserved commercial property, institutional usage, authority usage etc

27. MONITORING, EVALUATION AND REVIEW OF THE POLICY

27.1 Monitoring and Evaluation

27.1.1 Spatial Planning & Land Use Management Unit will compile Annual reports detailing the progress on implementation of the policy with specific reference to achievements.

27.1.2 Disposal committee to produce quarterly reports on all applications considered.

27.1.3 The policy will be made available to all concerned parties for consumption and will be circulated to all staff and public members by means of circulars, notices and notice boards.

27.1.4 Council and Top Management shall upon receipt of the annual reports, evaluate progress on implementation of the policy to improve the system where necessary.

27.2 Review

The policy shall be reviewed annually unless there are sections that require immediate review in the view of Council at any given time/point.

28. DEFINITIONS AND ABBREVIATIONS

In this policy, a word or expression to which a meaning has been assigned in the *Local Government: Municipal Finance Management Act, 2003 (MFMA)* has the same meaning as in the Act, any reference to the male gender includes the female and neuter genders, and, unless the context indicates otherwise; and

28.1 Definitions

“Accounting Officer” means the municipal manager appointed by the Council in terms of *Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)* and includes any person acting in such position and any person to whom the municipal manager has delegated a power, function or duty in terms of this policy in respect of such a delegated power, function or duty, as the case may be;

“Basic municipal service” means the amount or level of any municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment and, for purposes of this policy, same includes but is not restricted to electricity, refuse collection, sanitation, local roads, storm water drainage, fire and water services;

“Bid Adjudication Committee” means a bid adjudication committee appointed by the accounting officer in terms of the *Supply Chain Management Policy of the Council*;

“Bid Evaluation Committee” means a bid evaluation committee appointed by the accounting officer in terms of the *Supply Chain Management Policy of the Council*;

“Capital asset” or “asset” for purposes of this policy means immovable property such as land and the buildings on land and any reference to a “capital asset” or “immovable capital asset” in this policy shall mean **“immovable property”** or **“property”** owned or under the control of the municipality;

“Chief Financial Officer” means the employee designated as such by the accounting officer and includes any person acting in such position and to whom the Chief Financial Officer has delegated a power, function or duty in terms of this policy in respect of such a delegated power, function or duty, as the case may be;

“Community Value” means the extent of benefit or gain generated in favour of the municipality when resources, input, processes or policies are combined to improve the lives of individuals or society as a whole;

“The Constitution” means the Constitution of the Republic of South Africa, 1996;

“Cost” means the amount of cash or cash equivalents paid or the fair market value of the other consideration given by a person to acquire an asset at the time of its acquisition or construction;

“Council” or **“municipal council”** means the Council of Ngqushwa Local Municipality and includes any duly authorised political structure, political office bearer or staff member of the municipality;

“MFMA” means the *Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003)* and includes its regulations, where applicable;

“Local Municipality” means the Ngqushwa Municipality and includes the Council;

“National Treasury’s Guidelines” means the official guidelines on supply chain management issued by the Minister responsible for finance in terms of *Section 168 of the MFMA*;

“Notice Boards” means the official notice boards at the municipal offices and libraries of the municipality;

“The Ordinance” means *the Municipal Ordinance, 1974 (Ordinance No. 20 of 1974)*;

“Non-viable property” means Immovable property that owing to urban planning or physical constraints or extent, cannot be developed on its own or function as a separate entity and only becomes functional if alienated or leased to an adjoining owner for usage in conjunction with the said owners property.

“Viable property” means Immovable property that can be developed and functioned as a separate entity and be registered separately in the office of the Deed’s Registrar.

“Public facilities” means facilities provided for the use and enjoyment by the local community at large and not by a single member or a group of members thereof whether such facilities are provided by the municipality or other state departments (schools, community halls, clinics, hospitals etc) or any other land use which the municipality may deem as falling under this definition;

“The Regulations” means the *Municipal Asset Transfer Regulations* contained in Government Notice R. 878 of 22 August 2008 (MATR);

“**Social Care**” means social care services provided by registered welfare, charitable and non-profitable organisations and amateur sporting, cultural or recreational organisations;

“**Structures Act**” means the *Municipal Structures Act, 1998 (Act No. 117 of 1998)*;

“**Supply Chain Management Policy**” means the *Supply Chain Management Policy adopted by the Council in terms of Section 111 of the Finance Management Act*;

“**Systems Act**” means the *Municipal Systems Act, 2000 (Act No. 32 of 2000)*;

“**Disposal**” means alienation of a capital asset, or rights in respect thereof, by means of a sale or donation, or long-term lease.

28.2 ABBREVIATIONS

ADM	- Amathole District Municipality
BAC	- Bid Adjudication Committee
BEC	- Bid Evaluation Committee
CoGTA	- Cooperative Governance and Traditional Affairs
PDCC	- Property Disposal Committee Charter
PDC	- Property Disposal Committee
IPMP	- Immovable Property Management Policy
MATR	- Municipal Asset Transfer Regulations
MFMA	- Municipal Finance Management Act
NEMA	- National Environmental Management Act
NLM	- Ngqushwa Local Municipality
SPLUMA	- Spatial Planning & Land Use Management Act
SCM	- Supply Chain Management

ANNEXURE “A”

PROPERTY DISPOSAL COMMITTEE CHARTER

The Property Disposal Committee appointed as per the SCM Policy and Regulations, for the purposes of this Policy may use the following charter as a guideline:

a) Introduction

The Committee aims to assist the Council and the Accounting Officer in the sale and letting of various categories of municipal properties in order to make available economic opportunities in the Municipality for local investors.

b) Background

The Charter is intended to guide the Committee when performing its functions; to engender proper corporate governance in terms of the King II and III report on Corporate Governance; the MFMA, MSA, MATR and to clarify the roles and responsibilities of the Committee and the management of the Municipality.

c) Authority

- i. The Committee has authority to assess and analyse any property disposal or letting related matters of the Municipality, and may require members of management or others to attend meetings and to provide advice or information in order to perform its duties.
- ii. The Charter sets out the specific responsibilities delegated by the Accounting Officer (in the effective discharge of the Accounting Officers' responsibilities) to the Committee and provide support for the manner in which the Committee will operate.
- iii. The Committee is authorised to seek any information it requires from any employee of the Municipality in order to perform its duties.

d) Purpose

The Committee will:

- i. Review and advice on the Municipal Asset Management Plan;
- ii. Consider and recommend the categorisation and method of disposal or letting of Municipal properties;
- iii. Consider applications for the disposal or letting of municipal properties;
- iv. Consider comments received regarding the disposal or letting of Municipal properties; and
- v. Manage the disposal or letting method of Municipal properties as endorsed by Council. Negotiate relevant disposal or letting agreements.

e) Objectives

- i. The primary objectives of the Committee are to assist the Council and the Accounting Officer with the effective discharge of their responsibilities, in particular, with regard to the following:
 - Maintaining and sustaining the Municipality's Immovable Asset Management Plan and Strategy;
 - Provide leadership in the disposal and letting of Municipal properties;
 - Continuous evaluation of the immovable asset management performance of the Municipality;
 - Review and ensure the continuous development and maintenance of the Land Disposal Policy;
 - Ensuring that adequate land disposal and letting advice is provided to the Municipality;
 - Satisfy the MFMA prescribed reporting requirements; and
 - Review the Committee Charter.

f) Duties of the Committee

- i. The duties of the Committee are to:
 - Consider and recommend the Municipality's Immovable Asset Management Plan and Strategy;
 - Consider and recommend the disposal or letting of Municipal properties;
 - Consider and recommend the categories of Municipal properties and advise on best method of disposal or letting;
 - Monitor and report on immovable asset management performance of the Municipality;
 - Monitor the implementation and co-ordination of the Land Disposal Policy; and
 - Review, at least annually, the Land Disposal Policy against the background of amongst others, findings by other assurance providers and recommend any proposed changes (if necessary) for approval by the AO and Council.

g) Composition of the Property Disposal Committee

- i. The Members of the Committee will be appointed in writing by the AO;
- ii. The Chairperson of the Committee is the HOD: Community Services;
- iii. The AO may instruct another manager at a level not lower than 3 to fulfil the role of Chairperson. Such instruction must be in writing;
- iv. In the absence of the designated Chairperson the Chief Financial Officer will perform that role;
- v. Each member of the Committee must be issued with a copy of the approved Committee Charter; and

vi. The Committee comprises of the following members appointed by the Accounting Officer and subject to his prerogative to recall and / change the appointees:

- Director: Community Services
- Chief Financial Officer
- Manager: Spatial Planning & Land Use Management;
- Manager: Supply Chain Management Services;
- Manager: Internal Auditor/Risk Office;
- Manager: Revenue & Valuations;
- Manager in the Office of the Municipal Manager;
- Manager: Local Economic Development

h) Committee secretariat

i. The Secretariat of the Property Disposal Committee is the Manager: Administrative Support.

i) Committee planning

- i. The Municipal Asset Management Plan and Strategy needs to identify the Municipal properties available for disposal or letting; and
- ii. Annually the Committee must consider and prioritise those properties that will yield the most economic and socio-economic benefit if disposed, developed or leased and include such planning in the Municipal IDP.

j) Committee meetings

- i. The number of meetings is determined by the Chairperson so as to allow the Committee to fulfil its obligations;
- ii. The number of meetings shall not be less than four meetings per annum (the Committee should attempt to meet quarterly);
- iii. The Chairperson is required to call a meeting of the Committee if requested to do so, in writing, by any member;
- iv. All meetings shall be conducted subject to an agenda to which members have been given the opportunity to contribute;
- v. The quorum for a meeting shall be a minimum of 50% +1 Committee members;
- vi. Minutes of the meeting will be maintained and kept for record purposes in accordance with the official file plan;

- vii. Minutes shall be ratified by the Committee and signed by the Chairperson and be made available to the Council on a quarterly basis; and
- viii. Submissions in preparation for a Committee meeting shall be distributed to the members at least five working days before the meeting.

ANNEXURE B:

IMMOVABLE PROPERTY DISPOSAL APPLICATION PROCEDURE

STAGE 1: LODGEMENT

- The applicant may lodge the application with the Spatial Planning & Land Use Management (**SP&LUM**) Section.
- The application form shall be duly completed with all the relevant property information (Erf number, size, locality, address etc), which can also be confirmed with the SP&LUM Section.
- The application must be submitted to the registry office for registration and referencing.

STAGE 2: ACKNOWLEDGMENT

- Upon receipt of the registered application from registry office, the **SP&LUM** Section must prepare an acknowledgement receipt to the applicant.
- The acknowledgment receipt to outline the process to follow.
- The acknowledgement receipt should also indicate timeframes.

STAGE 3: SITE INSPECTIONS

The SP&LUM Section must conduct site inspections on the property concerned to determine the following:

- Correct property description
- Address
- Land Use
- Zoning
- Physical characteristics
- Services

STAGE 4: COMPILATION OF FINDINGS AND POLICY ALIGNMENT REPORT

- The SP&LUM Section shall prepare a report on findings and policy alignment.
- The SP&LUM Section shall also include on the report its recommendation to the Disposal Committee on whether the application can be supported or not, considering the socio-economic benefits of the application.

STAGE 5: TABLING OF REPORT BEFORE DISPOSAL COMMITTEE

The final report compiled by the SP&LUM Section shall be tabled before the Disposal Committee by the Manager: Spatial Planning & Land Use Management through the Secretariat office.

STAGE 6: DISPOSAL COMMITTEE SEATING AND RECOMMENDATIONS

- The Disposal Committee shall during its seating discuss all disposal applications submitted before it and recommend to Council for final decision.
- The seating and decision of the Disposal Committee shall be informed and guided by this policy.
- The Secretariat office shall prepare the minutes for the seating of the Disposal Committee and circulate to the Manager: Spatial Planning & Land Use Management.

STAGE 7: REPORT TO COUNCIL FOR APPROVAL

The Manager: Spatial Planning & Land Use Management shall prepare an item with the recommendations of the Disposal Committee to Council.

STAGE 8: SEATING OF COUNCIL AND NOTIFICATION OF APPLICANT ON COUNCIL RESOLUTION

- All applications tabled before Council shall be considered and resolved upon by a formal Council meeting.
- Upon Council resolution, the Manager: SP&LUM shall prepare a letter informing the applicant(s) about the outcomes of the Council meeting and attach the minutes of Council on the matter.

ANNEXURE “C”

APPLICATION PROCEDURE – INTERNAL INITIATION

STAGE 1: Annual Compilation of Viable Property list – Asset and SP&LUM

- The municipality must annually compile a viable property list for all properties it wishes to develop or dispose for development.

STAGE 2: IDENTIFICATION OF PROJECTS – DISPOSAL COMMITTEE

- The disposal committee must convene a seating to identify and recommend projects for various properties.

STAGE 3: SITE INSPECTIONS

- The disposal committee must commission site inspections for all identified properties.
- The inspections shall be carried out by the SP&LUM section accompanied by some of the committee members where necessary.

STAGE 4: COMPILATION OF FINDINGS AND POLICY ALIGNMENT REPORT

- SP&LUM section must compile a findings report to be tabled before the disposal committee for discussion and recommendation.

STAGE 5: DISPOSAL COMMITTEE SEATING AND RECOMMENDATIONS

- The findings report and the application must be discussed and recommendation for decision making to a full Council.

STAGE 6: REPORT TO COUNCIL FOR APPROVAL

- SP&LUM section must prepare all Council items for property transactions.

STAGE 7: SEATING OF COUNCIL AND NOTIFICATION OF APPLICANT ON COUNCIL RESOLUTION

- Council must deliberate and consider all applications tabled before it.
- Upon deliberation and consideration, a Council resolution must be taken and communicated by the secretariat office to the disposal committee and SP&LUM section.

STAGE 8: PREPARATION AND SINGNING OF DEEEDS OF SALE/LEASE/SLA AGREEMENTS

- A conveyance attorney appointed by the municipality must prepare all deed of sale agreements to be signed by both parties.

STAGE 9: ADVERTISE THE COUNCIL RESOLUTION ON SALE OR LEASE AGREEMENTS

- The municipality [advertise](#) all property disposal and lease resolution for public comment.

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STAGE 10: RECORDING AND IMPLEMENTATION

- The accounting officer to keep all records of agreements and make copies available to the CFO
- The CFO to ensure effective implementation of all agreements and regular payment of all rentals owed to the municipality.

ANNEXURE “D”

NGQUSHWA LOCAL MUNICIPALITY



IMOVABLE PROPERTY DISPOSAL APPLICATION FORM

1. APPLICANT INFORMATION

Full Names	
Cell/Telephone Number	
Residential Address	

1.1 Proof of ownership and property details (if owning a property)

2. SUBJECT PROPERTY INFORMATION

Erf Number	
Location	
Extent	

3. APPLICATION DETAILS

3.1 Application Type

Tick Box	LEASE	PURCHASE	DONATION
<input checked="" type="checkbox"/>			

3.2 Application Description (intended development/use)

Tick Box	COMMERCIAL/BUSINESS	RESIDENTIAL	INSTITUTION
<input checked="" type="checkbox"/>			

NB: Please include a separate motivation to this form with more details.

4. ATTACHMENTS

4.1

Plans	Locality & Site Plans
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4.2

Individual Person	Certified Identity Document Business Plans (for business proposal)
Company/Institution	CK Documents Business Plans (for business proposals)

Signature:

Date: