

Reference no. 34268/2
 Verusha Morgan (7305)
 COUNCIL: 25 January 2024

13. GROUP PROPERTY DEPARTMENT
 FEEDBACK REPORT: PROPOSED LEASE OF A PORTION OF THE REMAINDER
 OF PORTION 1 OF THE FARM ROOIWAL 270-JR, A PORTION OF THE
 REMAINDER OF PORTION 6 AND PORTION 22 OF THE FARM PRETORIA TOWN
 AND TOWNLANDS 351-JR
(From the Mayoral Committee: 17 January 2024)

1. PURPOSE

The purpose of the report is to provide Council with feedback of the public participation processes conducted in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000) for the proposed notarial lease of a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also known as Rooiwal and Pretoria West Power stations.

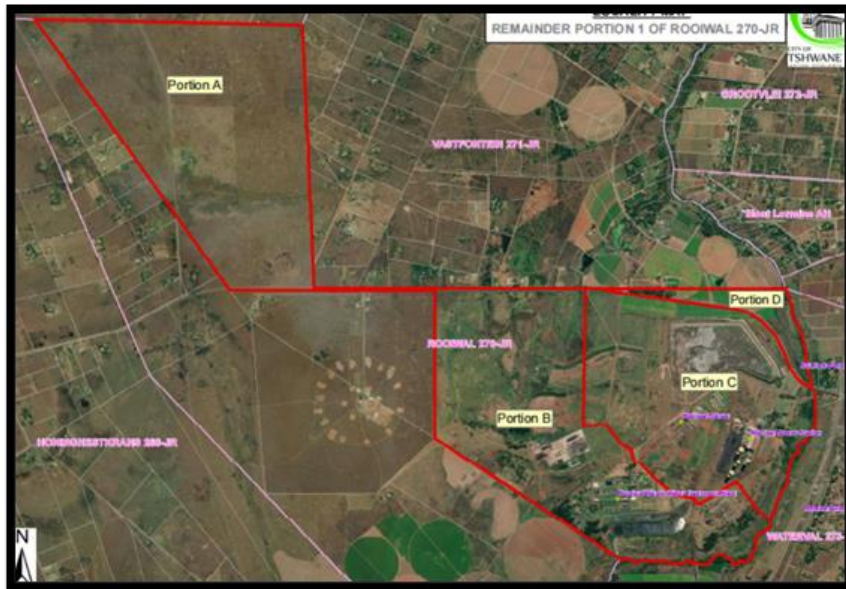
2. STRATEGIC PRIORITIES

- A business-friendly city that promotes employment and economic growth.

3. BACKGROUND

Council on the 12th of September 2023 approved public participation be conducted to solicit comments from the public in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000). These power stations are summarily discussed below;

- The Rooiwal Power Station is situated on the Remainder of Portion 1 of the farm Rooiwal 270-JR owned by the City of Tshwane. This portion of the farm measures approximately 1131 hectares and split zoning including Infrastructure Works (permitting the site to be used for Agriculture, Electricity Power station, Reservoir, and Sewerage Works, whereas other parts of the farm are zoned undetermined and existing streets. The portion is currently accommodating The Rooiwal Power Station, Rooiwal Water Works, and Agricultural Management Agriparks. The Rooiwal Agri-park would have to be relocated onto another portion of the same farm indicated as Figure e V1 D2 E2 V1 measuring 3.9709Ha in extent on the sketch plan attached as annexure J at the cost of the successful lessee(s).



- The Pretoria West Power Station is situated on a portion of the farm known as Remainder of portion 6 of the farm Pretoria town and townlands-351-JR. It is located within the Pretoria Industrial and Preindustria area, adjacent to the old ISCOR (EXXARO) factories. The segmented Farm portion stretches to about 14km from the Pretoria Central Business District (CBD) to the West segment of Pretoria in Region 3 of the City of Tshwane (CoT) Metropolitan area. The larger section of the Remainder of Portion 6 of the farm Pretoria Town and Townlands 351-JR is located in close proximity to the R104 (WF Nkomo) and the N4 (Magalies Freeway). The Remainder of portion 6 of the farm Pretoria Town and Townlands also has split zoning ranging from Industrial, government, and undetermined.



Council thereafter subsequently resolved as follows;

1. That a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring approximately 313ha inclusive of the current power station depicted as figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1) in the sketch plan attached as annexure A and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands 351-JR measuring 29.9848ha indicated as figure ABCDEFGHJKLMPQRSA in the sketch plan attached as annexure B are not required to provide the minimum level of basic municipal services.
2. That the fair market rentals of the above-mentioned properties, the economic and community values to be received in exchange of the properties will be determined once council grants an in principle approval that the properties can be leased.
3. That council grants an in principle consent that a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring 313,4967 ha inclusive of the current power station depicted as figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1) in the sketch plan attached as annexure A and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands measuring 29.9848ha indicated as figure ABCDEFGHJKLMPQRSA in the sketch plan attached as annexure B can be leased out for a maximum period of 30 years in terms of Regulation 34 and 36 of the Municipal Asset Transfer Regulations.
4. That permission be granted to the Accounting Officer to conduct a public participation in terms of Regulation 35 of the Municipal Asset Transfer Regulations read with section 21(a) of the Systems Act (Act 32 of 2000) for the proposed lease of a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring 313,4967ha inclusive of the current power station depicted as figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1) in the sketch plan attached as annexure A and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands measuring 29.9848ha indicated as figure ABCDEFGHJKLMPQRSA in the sketch plan attached as annexure B.
5. That notice of the lease proposed will be given in terms of Section 79(18) of the Local Government Ordinance, 1939 (Ordinance 17 of 1939). Should any objections to or representations in respect of the proposed lease be received, the proposed lease together with such objections and/or representations, will be submitted to the Council for consideration and a final decision. Should no objections and/or representations be received, the process be proceeded with in terms of the Municipality's approved Land Management Policy.
6. That on conclusion of the public participation process, a further report be submitted to council to present the feedback from public participation and obtain final approval for the lease of the properties.
7. That the lease period be amended to 40 years and not 30 years as depicted in the report.

(Council Resolution attached as annexure B)

Group Property thereafter in addition to placing these notices on the libraries, and customer services offices across the City's 7 regions also on the 18th of September 2023, as approved by Council placed adverts in local newspapers i.e. The Beeld and Sowetan as per Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000)

and the closing dates for submissions on these adverts was the 31st of October 2023, adverts illustrated below;

PUBLIC NOTICE	OPENBARE KENNISGEWING
<p>INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF COMMENTS ON THE PROPOSED LEASE OF A PORTION OF THE REMAINDER OF PORTION 1 OF THE FARM ROOIWAL 270-JR AND A PORTION OF THE REMAINDER OF PORTION 6 AND PORTION 22 OF THE FARM PRETORIA TOWN AND TOWNLANDS 351-JR (KNOWN AS THE ROOIWAL AND PRETORIA WEST POWER STATIONS)</p>	<p>UITNODIGING VIR OPENBARE DEELNAME EN INDIENING VAN KOMMENTAAR OOR DIE VOORGESTELDE VERHUURING VAN 'N GEDEELTE VAN DIE RESTANT VAN GEDEELTE 1 VAN DIE PLAAS ROOIWAL 270-JR EN 'N GEDEELTE VAN DIE RESTANT VAN GEDEELTE 6 EN GEDEELTE 22 VAN DIE PLAAS PRETORIA TOWN AND TOWNLANDS 351-JR (IEKEND AS DIE ROOIWAL EN PRETORIA-WES KRAGSTASIES)</p>
<p>In accordance with Regulation 35 of the Municipal Asset Transfer Regulations, read with Section 21(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the City of Tshwane hereby invites all interested stakeholders and community members to submit comments on the proposed lease of a Portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, measuring 313,4967 ha in extent, including the current power station, and a Portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR, measuring 29,9848 ha in extent, for a period of 40 years.</p> <p>Copies of the Council resolution pertaining to the lease of a Portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR and a Portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR can be accessed on the City of Tshwane public website (http://www.tshwane.gov.za) and at City of Tshwane customer care centres and libraries.</p> <p>Written comments can be submitted by email to verusham@tshwane.gov.za or at Room 105, 1st Floor, Ou Raadsaal Building, Church Square, Pretoria.</p> <p>(Enquiries: Johanna Maenetsa (012 358 7389 or johannahmae@tshwane.gov.za)</p> <p>All written comments must be submitted on or before 31 October 2023.</p> <p>Issued by Ms Verusha Morgan, Group Head: Group Property.</p>	<p>In ooreenstemming met Regulasie 35 van die Munisipale Bate-oordragregulasies, saamgelees met Artikel 21(a) van die Plaaslike Regering: Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000), nooi die Stad Tshwane hiermee alle belanghebbendes en gemeenskapslede uit om kommentaar voor te lê oor die voorgestelde verhuur van 'n Gedeelte van die Restant van Gedeelte 1 van die plaas Rooiwal 270-JR, wat 313,4967 ha groot is, insluitend die huidige kragstasie, en 'n Gedeelte van die Restant van Gedeelte 6 en Gedeelte 22 van die plaas Pretoria Town and Townlands 351-JR, wat 29,9848 ha groot is, vir 'n tydperk van 40 jaar.</p> <p>Afskrifte van die Raadsbesluit met betrekking tot die verhuur van 'n Gedeelte van die Restant van Gedeelte 1 van die plaas Rooiwal 270-JR en 'n Gedeelte van die Restant van Gedeelte 6 en Gedeelte 22 van die plaas Pretoria Town and Townlands 351-JR kan verkry word op die Stad Tshwane openbare webwerf (http://www.tshwane.gov.za) en by Stad Tshwane klientedienssentrum en biblioteke.</p> <p>Geskrewe kommentaar kan per e-pos aan verusham@tshwane.gov.za gestuur word of by Kamer 105, 1ste Vloer, Ou Raadsaalgebou, Kerkplein, Pretoria ingedien word.</p> <p>Navrae: Johanna Maenetsa (012 358 7389 of johannahmae@tshwane.gov.za)</p> <p>Alle skriftelike kommentaar moet voor of op 31 Oktober 2023 ingedien word.</p> <p>Uitgereik deur me Verusha Morgan, Groephef: Groep Eiendom.</p>
<p>A City that works for all its people www.tshwane.gov.za</p>	<p>A City that works for all its people www.tshwane.gov.za</p>

DISPLAY NOTICES



The City additionally put up an information statement in local newspapers and offices across its regions in respect of the proposed lease of a Portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR and a Portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR to provide clarity and additional information (the information statement is attached as annexure C), the purpose of the information statement was to explain the following aspects about these power stations;

- The City owns two power stations that were historically used for power generation to cater for the City's needs, namely Rooiwal Power Station (Portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR) and Pretoria West Power Station (Portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR).

- The establishment of Eskom, the function of power generation was subsequently averted from municipalities, leaving the power stations producing minimum to little energy to keep the stations functional. As part of the 2023 State of the Capital Address, the City committed to implement a series of interventions to reduce load-shedding and its reliance on Eskom as a source of energy supply.
- That over the next three years, the City aims to ensure that at least 1000 MW of energy must come from alternative sources. This has occasioned the need for the City to engage with independent power producers and open up opportunities for alternative energy production. The City therefore intends to lease out the two power stations as part of this intervention.

4. DISCUSSION

4.1 SUBMISSIONS FROM REGULATION 35 MATR PROCESSES

There were three objections to the proposed lease of these two power stations and over thirty submissions/comments and or questions were received during Regulation 35 MATR public participation processes. The proceeding paragraphs reflects a synopsis of the overall comments received with the intention of avoiding repetition of inputs that are similar in concept or convey the same intention hence the categorisation of these from 1-8 as the submissions received range within these aspects. The submissions received are thus attached as Annexures D (supportive), E (objecting), F (Request for more information), G (alternative views/recommendations), and H (expression of interest).

4.1.1 Historical Knowledge

- A Polish company did an assessment some years ago to refurbish the Rooiwal power station, maybe they can help.

4.1.2 Lease to IPPs

- Have the towers demolished and wind turbines and solar installed via IPPs and then use the cable infrastructure to supply to the grid.
- We would like to propose that The City of Tshwane consider bidders who are interested in retrofitting Rooiwal and Pretoria West power stations with clean coal technologies including NOX reduction and other emission reduction technologies as well as carbon capture and storage.
- My fear is that the cost of the electricity so generated will be far above the cost of current Eskom prices. Look forward to a further decision of the Tshwane Council to buy back electricity generated by many solar systems in its area of jurisdiction.

4.1.3 Lease period of 40 years was questioned as the best option available

- 40 years seems extensive so perhaps a lease of 12 years is renewed after review. To protect the IPP from default payments, let them supply and fit monitored meters with remote cut-off

4.1.4 Alternative energy efficient methods

- Building of Golden Wind blade turbine tower for Green zero net goals using the wind and hydrogen gas for propellers to supply efficient energy not polluting the

environment and to help people to trust the solar system to lower the city municipal grid to save the two-power station from heavy demand of watts.

- Economic: reducing landfill costs, generating income from recycling, and saving on transportation expenses. Health/Environmental: Creating a net negative GHG profile, eliminating landfill odour, and destroying contaminated waste. The reasoned outbreak of cholera in the northern area of Tshwane could have been prevented if Rooiwal premises were better equipped and managed with the aim of zero landfill. Energy: Generating electricity to complement Eskom supply, providing a consistent source of energy, and reducing reliance on fossil fuels.
- Waste feedstocks. Examples include and are not limited to, sewage sludge, (91-93) animal manure, (94) food waste, and mixed wet feedstocks. (95) Despite the fact that some manifestations of this technology are in the pilot development stage, there remain opportunities for R&D, such as:

(i) Modular system designs that can maintain system performance and process efficiency with lower capital costs.

(ii) Development of reactor systems that can process multiple waste feedstocks (e.g., food waste, yard waste, and municipal sludge simultaneously).

(iii) Co-processing of the resulting bio-crude with existing refining infrastructure, which could dramatically improve techno-economics by lessening the capital intensity of hydro-processing.

(iv) (96) Current processes such as catalytic hydrothermal gasification and ammonia stripping contribute significantly to the overall costs of operations. (96) Thus, improvements in both catalysis and other approaches could provide significant techno-economic improvements.

- A great solution would be to refurbish them into waste-burning plants like many Scandinavian countries, and some very impressive New York facilities. This would also reduce waste going to landfill sites and significantly improve the negative environmental impact they have. I sincerely hope the metro considers alternative sources of energy such as this besides simply burning more coal.
- Rooiwal sewerage works can provide Methane gas to power the Rooiwal Power Station. As the two technical facilities are right next to each other, it will be a simple matter. It is done in other countries and can be done here.

4.1.5 Political

- We promote the advantages of federalism and decentralisation in power generation, empowering local entities to make tailored energy decisions. AfriForum supports privatisation in the energy sector, citing increased competition, efficiency, innovation, and reliability. Private sector involvement can foster a dynamic and competitive energy market.

4.1.6 Alternative approach

- There is concern that the initiative appears to (unduly) assume the premise that the power stations must remain the owned property of the City. There is further concern that the initiative appears to assume a posture of 'business as usual' or, to put it otherwise, to assume that South African politics, moreover municipal politics, is generally sensible and benign:

- (i) Outright privatisation of the Rooiwal and Pretoria West power stations should instead be pursued.
- (ii) The City can include a restrictive condition in the sale of the properties that require the power stations to be used as such (as power stations) for a specified period of time (perhaps the 40-year period envisioned by the lease). The condition can even specify what electricity output the properties must generate to satisfy the agreement.
- (iii) Privatisation is to be preferred because it will remove partisan considerations entirely from the decision-making process of the operators of the power stations – as it should be. The operators must be focused exclusively on their area of expertise – the generation of electricity on a source-agnostic basis – and lucratively pushing that electricity back into the grid.
- A state-proof lease If outright privatisation is not preferred, the City must construct the lease agreement in a state-proof fashion. The incumbent administration of the City knows better than most that persons with ulterior motives could find themselves in control of the City government at any point, and this should not be allowed to undermine the initiative:
 - (i) Firstly, the lease period of 40 years is inadequate, and ought to be extended to at least 99 years. This places the expiry of the lease well outside of the current ‘era’ of South African politics with all its associated malicious and score-settling. It also gives the operators the peace of mind that they will be able to generate a considerable return on investment over several generations.
 - (ii) Secondly, the lease must be renewable at the unilateral instance of the lessees, and not cancellable by the City without good and provable reason.
 - (iii) Thirdly, the lease must specify that the lessees are the ones to manage and operate (on a source-agnostic basis) the power stations, not the City. This should be a lease in its true sense, not a service-level agreement.
- 3. Fourthly, the lease must oblige the City to intervene on behalf of the lessees in any conflict instigated by the provincial or central government to hinder or otherwise harm the lessees’ operation of the power stations, provided the lessees have acted within the formal bounds of the law.

RECOMMENDATION - There’s support for the initiative to radically expand private sector involvement in the generation of electricity in the City of Tshwane but recommends that this can be done in a better and significantly less risky way, by privatising the Rooiwal and Pretoria West power stations outright or crafting the lease agreements in a consciously state-proof fashion.

4.1.7 Objections

- No to lease of Pretoria West Power Station.
- As implementing agent of one of the best producers of greener, clean, renewable, reliable, cheaper, and efficient power generation systems in the world called “Hydra-motion power generation”. We oppose and or object to the leasing of Rooiwal and Pretoria West coal power stations for the purpose of generating power using the existing coal power stations, Our reason for objecting to this

proposal is based on a better option for the source of energy supply which we are bringing to electrify and industrialise the city of Tshwane 24/7 and reduce load shedding, reduce the reliance on Eskom and provide a far much cheaper, greener, cleaner, reliable and Stay away from the burning of fossil fuels, as a source of energy supply because our system is a self-sustainable system. As a subsidiary of the Gesco tech (global energy supply company technology) an engineering design company, we have solutions for reliable, environmentally friendly, clean, efficient, cheap, and green renewable energy generation systems. This is a locally designed technology tried, self-sustainable, tested, and proven to be by far the best in all aspects in comparison with the currently existing power technology generations in the world - -“hydra-motion power generation system” and the general manufacturing of the rest of the products designed by Gesco tech including setting up of hydrogen manufacturing plant.

- As a resident of the City of Tshwane, I am against the leasing of these assets. What are the reasons that the municipality is not looking at running the power stations? R300m is going to be used annually, why isn't that money going towards the revamping of these stations? Leasing of these Power Stations will only be to the disadvantage of the poor! The cost of electricity is already unaffordable for many residents.

4.1.8 Other

- The City's strongly urged to avoid the pitfalls of Eskom by refraining from heavily racialising the procurement process. We believe that a non-racial approach not only aligns with moral principles of fairness and equality but also carries economic benefits. Non-racial procurement ensures that contracts are awarded based on merit, competence, and value for money, rather than solely on demographic criteria. This approach promotes efficiency and effectiveness in the energy sector, ultimately benefiting all citizens.
- Please bring electricity to Moloto city.

4.1.9 Numerical summary of the submissions received in terms of Regulation 35 MATR public participation processes:

CATEGORY OF SUBMISSION	SUBMISSIONS RECEIVED	RESPONSE FROM GROUP PROPERTY
SUPPORTIVE	23	Group property proposes that the alienation of these power stations be proceeded with
OBJECTING	3	<ul style="list-style-type: none"> • No reason was given for the first objection on the lease of the Pretoria West Station • The reason for the objection is that the city revamp and operate these power stations, however, it must be noted that the does not have the financial capability to revamp and run these stations • the opposition is primarily on the use or continuation of coal to power these stations. council must note that the immediate goal is to get these power stations working in order to aid the misfortune of load-shedding and that alternative energy sources are provided for in Rooiwal station with the release of additional land for alternative energy plant

		and proposals for Pretoria to run on alternative energy can be put forth the BAC when tender processes are commenced with.
REQUEST FOR MORE INFORMATION	4	The information statement note published on local newspapers and advertised on the city's regional offices, libraries, website and social media platforms was provided for clarity and additional information
ALTERNATIVE VIEWS/RECOMMENDATIONS	8	The dominant issue of alternative energy has been provided for as additional land will be made available in Rooiwal for farming for alternative energy, the immediate goal is to get these power stations working in order to aid the misfortune of load-shedding
EXPRESSION OF INTEREST	5	These are noted and shall only be dealt with when supply chain processes as prescribed by legislation commence

4.2 THE MAYORAL ENERGY ROUND-TABLE

The City also hosted a Mayoral energy round table on the 31st of October 2023 with participants ranging from government officials, private sector partners from the energy sector, businesses, energy experts, and organised labour. The purpose of a round-table is usually to give each participant equal standing in a discussion, enabling them to contribute their perspectives and ideas freely and fully to the conversation thus the MMC for Corporate and Shared Services shared on the day that this round-table is grounded in the whole of society approach to tackling Tshwane's problems. We need to work together to make this City work. The city needs mutual partnerships based on trust that draw on the best from each partner to deliver solutions. The city needs expertise, business acumen, best practices, access to finances, knowledge of human capital, and its potential even more so with the current energy crisis that is slowly crippling the nation. The City's prioritisation of the electrical grid is based on its quest to ensure a stable supply of electricity by reducing dependence on Eskom, buying from private sector partners, and upgrading our transmission grid.

The current statuses of the power stations were presented and the work that will be required to get these stations working, and the generation output of each station. The adviser to the Minister of Electricity in the Office of the President, Mr Silas Mzima indicated that the ministry supports the City in its efforts to ensure energy availability through the proposed projects in Rooiwal and Pretoria West as half of the load shed energy is in Tshwane thus the two power stations have the potential to provide the necessary and needed energy. Mr. Mzima reiterated the fact that the City is at its peak of economic migration from other provinces with informal settlements growing day by day. and it is also host to many industries including the automotive industry which 70% of revenue is derived hence it is rather critical that the city mitigate the power issue to avoid losing those clients.

4.2.1 The Panel Discussions touched on the following factors;

- The City's energy policy;
- The competitive structure of tariffs;
- Procurement corruption and sabotage;
- Education on the environmental, social, and economic implications;
- Financial viability as the investment to be made is give or take around R19 billion;
- Public Private Partnership;
- Independence from Eskom and the cost implication thereof;
- The City's goals and objectives and creation of an enabling environment for investment;
- Gas and a possible shortage in this resource in 2026 in Gauteng; and
- Funding challenges of coal from the banks.

4.2.2 Questions that arose from the discussions;

NO.	QUESTIONS ARISING FROM THE ROUND TABLE	RESPONSE FROM GROUP PROPERTY
1.	Who has the licence and who will be the licence holder in the lease/PPA model?	The City currently. A typical IPP will require its own licence, but there are also contracting arrangements where an operator could operate under our licence.
2.	What is the city's view on nuclear?	We are agnostic towards technologies used to generate energy. Our current mix (on Eskom backbone) includes a nuclear component in any event, and nuclear is also part of the 2019 IRP which the City is aligned to. The RFI for Alternative Energy solutions will give us more information on what the market has available and what is feasible. Our goal is to secure our base load and then to procure/produce dispatchable, cost-effective power that is environmentally sustainable.
3.	What will happen to the workforce as their employment needs to be protected?	The power station employees have not lost their jobs in the last decade while the stations have been non-productive. The protection of jobs, either within the City or within the space of the private sector party(ies) is tantamount to our process.
4.	There is a disconnect between the leasing and the power purchase agreement, in order to make the project financially viable the city needs to commit off-take?	The City, through the signing of a PPA, is committing off-take. There is no disconnect. The successful bidder who leases will generate power and the City will procure that power.
5.	The need for a new Ash-dam and the cost implications for the lessee?	Part of the subsequent RFP process, following Council approval to lease the stations if granted, will be a site inspection and a full analysis of what will be required. If the ash dam needs to be upgraded, expanded, and/or rebuilt, the proposal will tell us that and the cost will be borne by the successful bidder and be further internalised in the proposed tariffs to be agreed.
6.	What is the status of rolling out smart meters to consumers and how will this be impacted by this intervention?	The processes are independent but complementary. Smart meter roll-out is a Departmental priority objective and will continue based on Departmental plans. The metering system to support the value chain of power generation is a critical component to the success of the project.

7.	From a procurement perspective is this going to be a multiple partnership? will one company run the station or will multiple partners run the plant each with their own specialisation?	These emission standards are set Nationally, and compliance thereto is reported on periodically. How compliance will be achieved and maintained, and who carries the cost thereof, is a subject of the proposal.
8.	Critically, the city was advised to first develop a macro perspective for energy sustainability and security. This ensures that the leasing of power stations responds to a broader (macro) strategic intervention and is not an isolated initiative?	The intention that one bidder will lease the station and generate power from the station. Alternative contracting arrangements and partnerships will be finally informed by the content of the proposals received. The City will reserve the right to implement the proposals fully, partially, in tandem, concurrently, or in whatever manner makes commercial and technical sense.
9.	The new operators will have to consider the latest emission standards. If the operator does not adhere to the emission standards what will happen?	This is not an isolated initiative. Energy security is a Mayoral Strategic Objective (as approved by Mayco in November 2022), it is a critical component of the Council-approved Climate Action Plan (CAP) and it is aligned to the published 2019 Integrated Resource Plan (IRP) as well as to the objectives of the Gauteng Energy Response Plan, through the work of the Gauteng Energy Emergency Response Technical Steering Committee. In addition, the CSIR is currently commissioned to produce an Energy Master Plan for the City, inclusive of the most cost-effective energy supply mix. We cannot wait, however for all these processes to commence before we start with what we already know will be part of our plan moving forward.

4.3 COMMENTS FROM THE NATIONAL TREASURY

The City sought comments from the National Treasury on the proposed leases of these power stations and the Treasury responded by acknowledging the fact that the City can indeed transfer ownership, grant rights to use, control or manage municipal capital assets in terms of the provisions of Section 14 of the MFMA read with the Municipal Asset Transfer Regulations (MATR) which sets the legal framework. Council may then in terms of section 14(2) of the MFMA, resolve to transfer ownership or otherwise dispose of a capital asset in a meeting open to the public, after it 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, the economic and community value to be received in exchange for the asset. Council has therefore in terms of the above legislative prescripts concluded that these capital assets are not needed for basic municipal services but however could at that time consider the fair market/community value of these assets as a professional private expert has been sought to determine the valuations of these power stations.

The National Treasury also inferred that a request to the municipal council to authorise a public participation process must be accompanied by an information statement providing information such as the reasons for the transaction, and any expected benefits, and the City has also concluded those processes in terms of the provisions of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000) as per Council's approval on the 12th of September 2023 (response from the National Treasury is attached as annexure I)

4.3.1 Key factors raised by the National Treasury

COMMENTS FROM THE NATIONAL TREASURY	RESPONSE FROM GROUP PROPERTY
Appointment of a professional private expert to determine market-related value(s)	A private professional private expert has been appointed
Clarity of matters being addressed in line with the requirements in regulation 34(3)(b) of the MATR i.e. reasons for the transaction, and any expected benefits.	The information statement note published on local newspapers and advertised on the city's regional offices, libraries, website and social media platforms was provided for clarity and additional information in terms of 34(3)(b) of the MATR
Reconciliation of stakeholder department comments to form part of the final Council resolution recommendations from Heath did not form part of the resolution.	Stakeholder comments will be incorporated in the recommendations of the feedback alienation report to Council for consideration and or approval.
Communication with employees currently stationed at these power stations about the possible change of work environment or conditions.	Communication with organised labour and employees will be done on the possible change of work environment only once Council has approved the leasing of these power stations. Communique to labour/employees at the current would be pre-emptive and premature.
Financial implications that may trigger Regulation 33 of MATR	The task team will have to prove and confirm that the lease of the power stations will have future budgetary implications, failure to do so the CM needs to make public and conduct further public participation on the contract to be entered into 60 days before going to council for approval of the contract/ solicit views and recommendation of NT.
Consideration of public-private partnerships in terms of section 120 of the MFMA	PPP processes will require the City to choose a partner to work with which may be prone to litigation on the matter of preference whereas an open competitive bidding process is open to everyone and transparent and the City currently has no financial capability to contribute to the partnership.

Group Property therefore proposes that these two power stations and the vacant land around Rooiwal Power station be leased out for energy and electricity purposes for a maximum period of 40 years in terms of Regulations 34 and 36 of the Municipal Asset Transfer Regulation and the following are some of the key benefits of undertaking this exercise;

- Diversification of energy sources and thereby reducing reliance on Eskom
- Unlocking rental revenue as part of the ongoing measures to enhance the City's cash position.
- Reduction/elimination of maintenance costs
- Enhancing the residual value of the power stations as they will revert to the city at the end of the lease period at no cost to the city.

5. COMMENTS OF THE STAKEHOLDER DEPARTMENTS

5.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

The purpose of the report is to provide Council with feedback of the public participation processes conducted in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000) for the proposed notarial lease of a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also known as Rooiwal and Pretoria West Power stations.

It recommended in the report that:

- that council approves the notarial lease of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring 313,4967ha inclusive of the current power station depicted and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands measuring 29.9848ha indicated can be leased out for a maximum period of 40 years in terms of Regulation 34 and 36 of the Municipal Asset Transfer Regulations;
- that upon the expiry of the 40 years leases, all improvements on the properties will revert back to the City at no additional cost;
- that the lessee be responsible for registration of the Notarial Lease Agreement of the leased property at the Office of the Registrar of Deeds, at the lessee's costs and;
- that the lessees at its own cost and risk apply and lodge site development, plans, building plans, licenses or any applications necessary for the proposed development, or the managing of a building and a business on municipal land.

All the documentation relevant to the lease must be submitted to the Asset Management Unit for processing the necessary entries in the Asset Register.

All the property lease transactions must be fully disclosed in the corporate financial statements for the purpose of transparency and to comply with the requirements of GRAP.

The successful lessee of portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also known as Rooiwal and Pretoria West Power stations must submit proof that all municipal rates and taxes and municipal service charges payable by them are not in arrears.

All aspects of the Municipal Asset Transfer Regulations pertaining to the lease of municipal assets must be adhered to.

In granting final approval, Council is required to take consideration of the objections, comments or representations received during the public participation.

The report, further, fulfil the requirements of the provisions of section 5 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), in terms of which members of the local community's right to, inter alia, contribute to the decision-making of the municipality; and to be informed of decisions of the Municipal Council affecting their rights, property and reasonable expectations, are realised. The report also fulfil the requirements of the provisions of section 3(1) of the Promotions of Administrative Justice Act, 2000 (Act No. 3 of 2000) which requires that, an administrative action which may materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair.

The decision to lease the capital assets and infrastructure of the municipality amounts to an administration action and is likely to materially and adversely affect the rights or legitimate expectations of the members of the community and must, therefore, be procedurally fair in that the municipality must give the community adequate notice of the nature and purpose of the proposed closure; a reasonable opportunity for the community to make representations; adequate notice of any right of review or internal appeal, where applicable; and adequate notice of the right to request reasons in terms of section 5 of the Act, in order to give effect to the right to procedurally fair administrative action. the purported public participation in the report fulfil this requirement.

To ensure compliance with the aforesaid provisions of section 5 of the Municipal Systems Act, 2000, and section 3 of the Promotions of Administrative Justice Act, 2000, reasonable notice in terms of Regulation 35 of the Municipal Asset Transfer Regulations read with Section 79(18) of the Local Government Ordinance of 1939 are proven by newspaper adverts to have been published in accordance with section 21A of the Municipal Systems Act, 2000 and a public participation is alleged to have been conducted accordingly.

In considering the objection in question, the principle of natural justice applies, one of which is the *audi alteram partem* principle. This principle is part and parcel of the right to a fair hearing and alleviate the potential prejudice likely to be suffered by either party if the decision is taken in favour of or against the objector. Accordingly, on hearing the objection Council may where necessary, request particulars of relating to the reason(s) for objection from the objector and provide clarity on any question that may have been raised during public participation.

Having regard to the aforesaid and with specific reference to the contents of the report and annexures thereto, Group Legal & Secretariat Services Department support the consideration of the objection and approval of the report, subject to adherence to the aforesaid principles.

5.3 COMMENTS OF THE GROUP HEAD: ENERGY AND ELECTRICITY

The purpose of the report is to provide Council with feedback of the public participation processes conducted in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000) for the proposed notarial lease of a portion of the Remainder of Potion 1 of the farm Rooiwal 270-JR, a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also

known as Rooiwal and Pretoria West Power stations. It is indicated under Section 3 that Council had previously deliberated on the leasing of these power stations to a certain company through an unsolicited bid process in terms of Regulation 37 of the Municipal Supply Chain Management Regulations read with section 113(2) of the Municipal Financial Management Act (Act 56 of 2003) on the 16 August 2022, however, the report was removed from the agenda in terms of section 13(5) of the Rules and orders (Council Resolution attached as annexure A). Council yet again had on the 12th of September 2023 considered that public participation be conducted to solicit comments from the public in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value property read with section 21(a) of the Municipal Systems Act (Act 32 of 2000). It is noted in the report that the public participation process received a mixture of comments in that some are supportive, objecting, request for more information, have alternative views, and some show expression of interest. Therefore, Energy and Electricity Department takes cognisance of the public participation process feedback and the content of the report. In this regard, comments herein are duly submitted.

5.4 COMMENTS OF THE GROUP HEAD: ROADS AND TRANSPORT

The subject the report is to provide Council with feedback of the public participation processes for the proposed notarial lease of a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, as one and a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also known as Rooiwal and Pretoria West Power stations respectively.

The Roads and Transport Department notes the feedback from the public participation on the two stations.

Comment on recommendations

Rooiwal Power Station

The Department has no objection to the long-term lease of the identified portion Figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1)

Regarding the additional recommendations on the use of other parts of the land (remaining out of Remainder of Portion 1), access to the properties must be to satisfaction of the municipality.

Pretoria West Power Station

The Department has no objection to the long-term lease of these properties. described as figure ABCDEFGHJKLMNPQRSA.

The Roads and Transport Department will have to comment on any development applications that may arise in regards to these properties.

6. IMPLICATIONS

6.1 HUMAN RESOURCES

None.

6.2 FINANCES

VALUATION REPORT: MARKET VALUES AND ANNUAL RENTALS OF THE PROPERTIES

1. REMAINING EXTENT OF PORTION 1 OF THE FARM ROOIWAL 270 JR,

Market Value:	R240 000 000.00
Rental per Annum:	R14 570 000.00
Valuation Date:	6th November 2023

2. PORTION 6 OF THE FARM PRETORIA TOWN AND TOWNLANDS,

Market Value:	R220 000 000.00
Rental per Annum:	R13 000 000.00
Valuation Date:	6th November 2023

3. PORTION 22 OF THE FARM PRETORIA TOWN AND TOWNLANDS,

Market Value(Land Only):	R5 700 000.00
Rental per Annum:	R23 000.00
Valuation Date:	6th November 2023

6.3 CONSTITUTIONAL AND LEGAL FACTORS

LEGISLATIVE FRAMEWORK

1. In terms of the Municipal Asset Transfer (MAT) Regulations published in terms of the MFMA on 22 August 2008, lease of municipal property is authorised as follows

34 "Granting of rights to use, control or manage municipal capital assets

(1) A municipality may grant a right to use, control or manage a capital asset only after -

(a) the accounting officer has in terms of regulation 35 conducted a public participation process regarding the proposed granting of the right; and

(b) the municipal council has approved in principle that the right may be granted.

(2) Subregulation (1)(a) must be complied with only if -

(a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R10 million; and

(b) a long term right is proposed to be granted in respect of the capital asset.

(3) (a) Only the municipal council may authorise the public participation process referred to in subregulation (1)(a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement stating -

(i) the reasons for the proposal to grant a long term right to use, control or manage the relevant capital asset;

(ii) any expected benefits to the municipality that may result from the granting of the right;

(iii) any expected proceeds to be received by the municipality from the granting of the right; and

(iv) any expected gain or loss that will be realised or incurred by the municipality arising from the granting of the right.

(4) A municipal council may delegate to the accounting officer its approval power referred to in subregulation (1)(b) excluding the power to grant long term rights to use, control or manage capital assets of a value in excess of R10 million."

"36 The municipal council must, when considering in terms of regulation 34(1) (b) approval for any proposed granting of a right to use, control or manage capital assets, take into account-

1. whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
2. the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;
3. the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;
4. any comments or representations on the proposed granting of the right received from the local community and other interested persons;
5. any written views and recommendations on the proposed granting of the right by the national treasury and the relevant provincial treasury;
6. the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and

7. Compliance with the legislative regime applicable to the proposed granting of the right."

B) Land Management Policy

This report complies with Land Management Policy, as approved on 28/03/2019. The clauses of the policy framework which describe the applicable principle and prescribe the appropriate method of disposal are:

11.3 Long-Term Lease Agreements

considerations for notarial lease agreements greater than 9 (nine) years and 11 (eleven) months may be considered in instances where;

- Investment on the property asset may require a notarial lease depending on the investment maturity and Council in its discretion may therefore consider a notarial lease period.

6.4 COMMUNICATION

None.

6.5 PREVIOUS COUNCIL OR MAYORAL COMMITTEE RESOLUTIONS

Council had previously deliberated and resolved on these matters on the following dates

- Council Resolution dated 12 September 2023 is attached as annexure A; and
- Council resolution dated 16 August 2022 attached as annexure B.

7. CONCLUSION

Council on 12 September 2023 resolved that a portion of the Remainder of Portion 1 of the farm Rooiwal 270-JR, a portion of the Remainder of Portion 6 and Portion 22 of the farm Pretoria Town and Townlands 351-JR also known as Rooiwal and Pretoria West Power stations are not needed for basic municipal purposes and the department had further conducted public participation processes as required by Regulations 35 of the Municipal Asset Transfer Regulations and no objections were received. This department therefore proposes that these properties be leased out for a maximum period of 40 years as indicated in the recommendations below;

The Mayoral Committee on 17 January 2024 resolved to recommend to Council as set out below:

ANNEXURES:

- A. Council Resolution - Proposed lease of PTN 1 farm Rooiwal 270 JR
- B. Council Resolution-Proposed lease of PTN of PTN 1 of the farm Rooiwal 270 JR - Ptn of PTN 6 Pretoria T and T
- C. Information Statement - Rooiwal and PTA West Power Stations
- D. Supporting submissions
- E. Objections
- F. Request for additional information

- G. Alternative suggestions
- H. Expression of interest
- I. NT's letter of response
- J. Sketchplan-PTN 1 of the farm Rooiwal
- K. Sketchplan- R-6 and PTN 22 of the farm Pretoria T&T 351-jr
- L. Valuation Report Ptn 6 of Farm Pretoria Town and Townlands 351 Jr_Powerstation
- M. Valuation Report Ptn 22 of Farm Pretoria Town and Townlands 351 Jr_Land Only
- N. Valuation Report Re Ptn 1 of Farm Rooiwal 270 Jr _Powerstation

RECOMMENDED:

1. That cognisance be taken of the feedback on the public participation conducted for the proposed notarial lease of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring approximately 313ha inclusive of the current power station depicted as figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1) in the sketch plan attached as annexure J and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands 351-JR measuring 29.9848ha indicated as figure ABCDEFGHJKLMNPQRSA in the sketch plan attached as annexure K in terms of Regulation 35 of the Municipal Asset Transfer Regulations for a high-value properties read with section 21(a) of the Municipal Systems Act (Act 32 of 2000);
2. That the fair market rentals of the above mentioned properties, the economic and community values to be received in exchange of the properties has been determined as indicated in the report;
3. That council approves the notarial lease of the Remainder of Portion 1 of the farm Rooiwal 270-JR measuring 313,4967ha inclusive of the current power station depicted as figure B1 P1 Q1 R1 S1 T1 U1 c middle of the river a M1 L1 K1 J1 H1 G1 F1 B1 D1 C1 B1) in the sketch plan attached as annexure J and the proposed portion of the Remainder of Portion 6 and portion 22 of the farm Pretoria Town and Townlands measuring 29.9848ha indicated as figure ABCDEFGHJKLMNPQRSA in the sketch plan attached as annexure K for a maximum period of 40 years in terms of Regulation 34 and 36 of the Municipal Asset Transfer Regulations;
4. That the properties be leased at market related at rentals as determined by a professional valuer;
5. That any electricity generation initiative will be subjected to the National Energy Regulator of South Africa licensing requirements and that the current City's generation licenses can not be ceded to a third party without the approval of the National Energy Regulator of South Africa;
6. That the Rooiwal Agripark be relocated onto another a portion of Portion 1 of the farm Rooiwal 270-JR, measuring 3.9709Ha in extent indicated as Figure e V1 D2 E2 V1 in the sketch plan attached as annexure J at the cost of the successful lessee;
7. That a portion of Portion 1 of the farm Rooiwal 270-JR indicated as figure C2 d Middle of the River e W1 X1 Y1 Z1 A2 B2 C2 measuring 23.8618Ha in extent on the sketch plan attached as annexure J be reserved for municipal services i.e. emergency services training academy;

8. That any town planning application that may be necessitated by these proposed transactions i.e. sub-division and or township establishment be done in terms of the relevant provisions of the Spatial Planning and Land Management Act, 2013 SPLUMA at the cost of the lessees;
9. That the lessee(s) at its own cost and risk apply and lodge site development, plans, building plans, licences or any applications necessary for the proposed development, or the managing of a building and a business on municipal land;
10. That all relevant regulatory frameworks/legislature applicable on this kind of transaction should be adhered to;
11. That upon the expiry of the 40 years leases, all improvements on the properties will revert back to the City at no additional cost;
12. That the lessee(s) be responsible for registration of the Notarial Lease Agreement of the leased properties at the Office of the Registrar of Deeds, at their costs;
13. That no lease be signed with any applicant or proposed lessee, which has outstanding rental in terms of an earlier lease with the Municipality or any bad payment record with the Municipality;
14. That the accounting officer be granted permission to issue power of attorney to the lessee(s) to enable them to relocate the Rooiwal Agri-park to a portion of Portion 1 of the farm Rooiwal 270-JR, measuring 3.9709Ha in extent indicated as Figure e V1 D2 E2 V1 in the sketch plan attached as annexure J, conduct necessary studies and lodge development plans and necessary applications for the relocation in terms of the relevant provisions of Spatial Planning and Land Management Act, 2013 SPLUMA and lodge the applications necessary for the development of the property and the property management during the lease(s) terms;
15. That the Accounting Officer be authorised to appoint a transactional advisory team to ensure efficient administration of the transaction; and
16. That the Municipality's further conditions applicable on a transaction of this nature and the conditions embodied in this report be applicable.