

PR Councillor

Your ref: Letter to the ACM

Our ref: Irregular Leasing of Municipal Asset

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THE ACTING CITY MANAGER

LETTER TO THE ACTING CITY MANAGER: REQUEST FOR IMMEDIATE INSTITUTION OF CONSEQUENCE MANAGEMENT AGAINST THE EXECUTIVE MAYOR REGARDING THE IRREGULAR LEASING OF A 132/22KV, 63MVA TRANSFORMER

Dear Acting City Manager,

I write to you regarding the now-confirmed irregular leasing of a 132/22kV, 63MVA municipal transformer to Coega Steels (Pty) Ltd, a matter which has served before both Committee and Council, and which has now further been conceded as irregular by the Executive Mayor before the COGTA Parliamentary Committee.

While the reports tabled by the Municipality provide a chronological account of events, they fail materially in addressing consequence management, particularly in respect of the Executive Mayor, Babalwa Lobishe, whose role in the approval of this transaction cannot be overlooked.

1. Material Facts

It is common cause that:

- A strategic municipal asset, valued at approximately R25 million, was leased to a private entity.
- This occurred without lawful Council approval, as required by legislation.
- The transaction proceeded despite clear legal advice cautioning against such action.
- The Executive Mayor signed off on the transaction despite being advised to refer the matter to Council.

2. Applicable Legislative Framework and Breaches

The above conduct constitutes violations of several legislative prescripts, including but not limited to:

2.1 Local Government: Municipal Finance Management Act, 2003

- **Section 14(2):** Prohibits the transfer or disposal of a capital asset needed to provide the minimum level of basic municipal services. The transformer in question is a strategic backup asset within the electricity network.
- **Section 60(1):** Assigns responsibility to the Accounting Officer to ensure that the Municipality complies with all applicable legislation.
- **Section 62(1)(a) & (d):** Requires the Accounting Officer to ensure effective, efficient, and transparent systems of financial and risk management, and to safeguard municipal assets.
- **Section 171 & 173:** Provides for financial misconduct where there is deliberate or negligent non-compliance with the Act.

2.2 Local Government: Municipal Systems Act, 2000

- **Section 4(2):** Requires the Municipality to exercise its executive and legislative authority without favour or prejudice and in the best interests of the local community.
- **Section 6(2):** Obligates political structures and office bearers to act in good faith, transparently, and in the best interests of the Municipality.

2.3 Municipal Asset Transfer Regulations

- Requires that any transfer, disposal, or granting of rights to use municipal capital assets must follow a transparent, competitive, and Council-approved process, which clearly did not occur in this instance.

2.4 Code of Conduct for Councillors

- **Item 2:** Requires councillors to act in good faith, honestly, and in a transparent manner.
- **Item 5:** Prohibits abuse of position or acting in a way that compromises the credibility and integrity of the Municipality.

3. Failure of Consequence Management in Municipal Reports

Despite the seriousness of these breaches, the reports tabled:

- Deflect accountability onto former officials no longer in the employ of the Municipality.
- Fail to interrogate or assign accountability to the Executive Mayor.
- Do not propose any meaningful consequence management measures against political leadership.

This omission is both material and unacceptable, as it undermines the principles of accountability and good governance.

4. Required Action

Considering the above, I hereby formally request that your office:

1. Institutes consequence management proceedings against the Executive Mayor in terms of the applicable legislative framework.
2. Formally refers the matter to the MEC for Cooperative Governance and Traditional Affairs for investigation and appropriate action, as provided for in law.
3. Provides Council with a supplementary report specifically addressing accountability and consequence management in respect of political office bearers involved in this matter.
4. Takes all necessary steps to ensure that the integrity of municipal governance processes is restored.

The admission that the transaction was irregular confirms what the DA has consistently maintained: that due process was disregarded, risks were ignored, and residents were placed second to improper decision-making. Accountability cannot be selective.

If officials are to be held responsible, then so too must political leadership be held to the same standard.

Your urgent attention to this matter is required.

Yours sincerely,

Councillor Ondela H. Kepe
DA Spokesperson: Electricity & Energy
Nelson Mandela Bay Municipality

