



**Bitou Local Municipality
Bitou Plaaslike Munisipaliteit
Umasipala WeBitou**

Agenda

SPECIAL MUNICIPAL COUNCIL MEETING

Venue: Council Chambers, Municipal Offices,
Sewell Street, Plettenberg Bay

DATE: 09 DECEMBER 2022

Time: 09h00

BITOU LOCAL MUNICIPALITY

01 December 2022

The Executive Mayor
Councillors
Municipal Manager and Directors

SPECIAL COUNCIL MEETING: FRIDAY, 09 DECEMBER 2022 AT 09H00

NOTICE is hereby given that a Special Council Meeting will be held in the Council Chambers, Municipal Offices, Plettenberg Bay on **FRIDAY, 09 DECEMBER 2022 AT 09H00** to discuss the business set forth in the Agenda.

Yours faithfully



C N J TERBLANCHE
SPEAKER OF COUNCIL

Constitution of the Council

The Speaker, Councillor C N J Terblanche
The Executive Mayor, Councillor D J Swart

Councillor M P Busakwe
Councillor S E Gcabayi
Councillor T S Harmse
Councillor J N Kamkam
Councillor N P Kolwapi
Councillor S A Mangxaba
Councillor T Mhlana
Councillor N Ndayi
Councillor W J Nel
Councillor A R Olivier
Councillor N T Seti



Bitou Local Municipality

Special Council Agenda:

09 December 2022

Time: 09h00

Order of Business

1. OPENING

2. ATTENDANCE

The attendance registers of members of the Municipal Council, Officials will be circulated for signature.

3. APPLICATION FOR LEAVE OF ABSENCE

Application for leave of absence, if necessary, will be considered.

4. DECLARATION OF INTERESTS

Disclosure of interest by Councillors

5. CONFIRMATION OF MINUTES FOR PREVIOUS MEETINGS(OPEN)

5.1. Minutes of the Ordinary Council meeting dated 31 October 2022

Circulated herewith

6. STATEMENTS AND COMMUNICATIONS BY:

6.1. The Executive Mayor

6.2. The Speaker

7. PRESENTATIONS

None



8. ITEMS FOR INFORMATION, WHICH HAVE BEEN DEALT WITH BY THE EXECUTIVE MAYOR IN TERMS OF DELEGATED AUTHORITY

None

9. NOTING OF OUTSTANDING / PARTIALLY IMPLEMENTED COUNCIL RESOLUTIONS

None

10. CONSIDERATION OF REPORTS (NON- DELEGATED MATTERS)

Items for consideration: Schedule of Items attached.

11. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER

None received

12. CONSIDERATION OF NOTICES OF MOTION

None received

13. CONSIDERATION OF NOTICES OF QUESTION

None received

14. CONSIDERATION OF MOTIONS OF EXIGENCY

None received

15. IN-COMMITTEE MATTERS

15.1 CONFIRMATION OF MINUTES: (IN-COMMITTEE)

15.1.1 Minutes of the Ordinary Council In-Committee meeting dated 31 October 2022

In-Committee Minutes circulated separately as part of the In-Committee Addendum.



15.2 CONSIDERATION OF IN-COMMITTEE REPORTS (NON- DELEGATED MATTERS)

None

16. RECORDING OF COUNCILLORS PRESENT

17. CLOSURE

5.CONFIRMATION OF MINUTES

MINUTES OF THE ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H01

1. OPENING

The Speaker, Councillor C N-J Terblanche welcomed everyone present at 11h01 and requested a moment for silent prayer.

2. ATTENDANCE

As per attached attendance register.

3. APPLICATION FOR LEAVE OF ABSENCE

Leave of absence was received from Councillor N T Seti.

Resolved

That leave of absence be granted to Councillor N T Seti.

4. DECLARATION OF INTERESTS

None

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Special Council Meeting dated 29 September 2022

That the minutes of the Special Council Meeting of 29 September 2022, be and are hereby **CONFIRMED AND SIGNED.**

Proposed: Councillor W J Nel

Seconded: Councillor N Ndayi

6. STATEMENTS AND COMMUNICATIONS BY:

6.1 The Executive Mayor

The Executive Mayor welcomed Councillor T S Harmse, who was sworn in last week to her first Council meeting.

The Mayor notified Council that an Item is serving before Council on even date regarding the Season plan. The Honourable Mayor referred to the recent shark attacks and gave a brief overview with regards to safety measures that are being implemented and mentioned that the municipality is working in collaboration with a group called Shark spotters to develop effective strategies for the area. New Shark alert /warning signs have been erected at beaches, and people from the community will soon be appointed as shark spotters. The shark spotters will also assist with programs to alert holidaymakers/beachgoers on beach safety, starting this week.

6.2 The Speaker

None

7. PRESENTATIONS

A presentation was made by Messrs. Jon Heeger and Willem Annandale from SMEC South Africa / GWI Aviation Advisory on the Institutional Restructuring of Plettenberg Bay Airport.

Resolved

That cognisance be taken of the presentation made by the representatives from SMEC South Africa / GWI Aviation Advisory

FOR INFORMATION

8. ITEMS FOR INFORMATION, WHICH HAVE BEEN DEALT WITH BY THE EXECUTIVE MAYOR IN TERMS OF DELEGATED AUTHORITY

Resolved

That cognisance be taken of the resolutions taken by the Executive Mayor at the Mayoral Committee meeting of 28 September 2022.

FOR INFORMATION

9. NOTING OF OUTSTANDING / PARTIALLY IMPLEMENTED COUNCIL RESOLUTIONS

That it be noted that the resolutions were circulated separately.

Resolved

That cognisance be taken of the Resolutions feedback report dated 28 October 2022 tabled before Council on 31 October 2022.

FOR INFORMATION

10 CONSIDERATION OF REPORTS (OPEN)**Section 1: Office of the Municipal Manager**

Resolution C/1/92/09/22

2022/2023 MONTHLY DEPARTMENTAL SDBIP REPORT - JULY

Portfolio Comm: Office of the Municipal Manager
File Ref: 5/1/1/4

Demarcation: All Wards
Delegation: Council

Resolved

That the Municipal Council take note of the performance report on the Service Delivery and Budget Implementation Plan for the first month, July 2022 of the current (2022/2023) financial year.

Proposed: Councillor J N Kamkam
Seconded: Councillor A R Olivier

FOR INFORMATION: Municipal Manager

Resolution C/1/93/09/22

2022/2023 MONTHLY DEPARTMENTAL SDBIP REPORT - AUGUST

Portfolio Comm: Office of the Municipal Manager
File Ref: 5/1/1/4

Demarcation: All Wards
Delegation: Council

Resolved

That the Municipal Council take note of the performance report on the Service Delivery and Budget Implementation Plan for the first month, August 2022 of the current (2022/2023) financial year.

Proposed: Councillor D J Swart
Seconded: Councillor W J Nel

FOR INFORMATION: Municipal Manager

Resolution C/1/95/10/22

DRAFT POLICY: BURIAL OR CREMATION OF DESTITUTE PERSONS AND EXCEPTIONAL CASES RELATING TO THE DECEASED

Portfolio Comm: Office of the MM

File Ref: 16/6/P

Demarcation: All Wards

Delegation: Council

Resolved

That Council approves Draft Policy on the Burial or Cremation of destitute persons and exceptional cases relating to the deceased.

Proposed: Councillor W J Nel

Seconded: Councillor A R Olivier

FOR EXECUTION: Director Community Services; Municipal Manager

Resolution C/1/96/10/22

DRAFT POLICY: POLICY FOR THE MAYOR'S SPECIAL FUND IN TERMS OF SECTION 12 OF THE MUNICIPAL FINANCE MANAGEMENT ACT

Portfolio Comm: Office of the MM

File Ref: 3/4/P

Demarcation: All Wards

Delegation: Council

Resolved

That the Draft Policy for the Mayor's Special Fund in terms of Section 12 of the Municipal Finance Management Act, be approved.

Proposed: Councillor W J Nel

Seconded: Councillor A R Olivier

FOR EXECUTION: Municipal Manager
cc. Manager: Office of the Executive Mayor

Resolution C/1/97/10/ 22

DRAFT POLICY: GRANT –IN-AID POLICY

Portfolio Comm: Office of the MM

File Ref: 3/4/P

Demarcation: All Wards

Delegation: Council

Resolved

That Council approves the Draft Grant-In Aid Policy.

Proposed: Councillor W J Nel

Seconded: Councillor A R Olivier

FOR EXECUTION: Municipal Manager

cc. Manager: Office of the Executive Mayor

Resolution C/1/98/10/20

BITOU MUNICIPALITY – REVISED RISK MANAGEMENT FRAMEWORK DOCUMENTS FY 2022-23

Portfolio Comm: Strategic Services& Office of the MM

File Ref: 2/11/4

Demarcation: All wards

Delegation: Council

Resolved

That Council approves the following Risk Management framework documents:

- a) Revised Fraud & Corruption Prevention Policy & Strategy 2022/23
- b) Revised Risk Management Committee: Terms of Reference 2022/23
- c) Revised Enterprise Risk Management Policy 2022/23
- d) Revised Enterprise Risk Management Strategy 2022/23
- e) Revised Risk Champion Forum: Terms of Reference 2022/23
- f) Revised Business Continuity Management Policy 2022/23

Proposed: Councillor W J Nel

Seconded: Councillor A R Olivier

FOR EXECUTION: Risk & Compliance Assistant

cc. Chief Risk Officer, Municipal Manager

Resolution C/1/99/10/22**APPOINTMENT OF ACTING DIRECTOR FINANCIAL SERVICES FOR THE PERIOD
01 OCTOBER 2022 UNTIL 30 NOVEMBER 2022**

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 4/3/5/1/3 **Delegation:** Council

Resolved

1. That Council note and condone the acting appointment of Mr. Felix Lötter as Director Financial Services for the period 1 October 2022 to 31 October 2022.
2. That Council further appoint Mr. Felix Lötter to act as Director Financial Services for the period 01 November 2022 until 30 November 2022.
3. That considering that the acting period has exceeded three months by a further two months that Council applies in writing to the MEC for local government to extend the period of appointment for Mr F Lotter with the further two months ending 30 November 2022.

Proposed: Councillor A R Olivier
Seconded: Councillor W J Nel

FOR EXECUTION: **Manager: Human Resources Administration**
cc. **Senior HR Management Services, Municipal Manager**

Resolution C/1/101/10/22**MUNICIPAL PUBLIC ACCOUNTS COMMITTEE – REPORT ON IRREGULAR
EXPENDITURE OF 2020/21 AND 2021/22 FINANCIAL YEARS**

Committee: Municipal Public Accounts Committee **Demarcation:** All Wards
File Ref: 5/15/5/1 **Delegation:** Council

Resolved

1. That the expenditure outlined in Annexure 'A' of the report, **that amounts to R106 452 560-26** be written off.
2. That Council takes note of the expenditures listed in Annexure 'B' of the report **that amounts to R3 815 301-50** as they are already under investigation.
3. That upon conclusion of the process mentioned in 2. above, a comprehensive report be submitted to Council.

Proposed: Councillor N P Kolwapi
Seconded: Councillor D J Swart

FOR EXECUTION: **Municipal Public Accounts Committee Coordinator**
cc. **Municipal Manager**

Resolution C/1/102/10/22

MUNICIPAL COUNCIL RECESS AND DELEGATION TO EXECUTIVE MAYOR FOR THE PERIOD 14 DECEMBER 2022 TO 8 JANUARY 2023

Portfolio Comm: Finance & Corporate Services

File Ref: 2/2/2/1

Demarcation: All Wards

Delegation: Council

Resolved

1. That the Municipal Council go into recess from Friday, 14 December 2022 till Sunday, 8 January 2023.
2. That, in view of [1] above, the Executive Mayor, Cllr D J Swart or the person acting in his position, be delegated and authorised to perform all the official Municipal Council duties, functions and responsibilities during the periods Friday, 14 December 2022 till Sunday, 8 January 2023, with the exception of those powers as set out in Section 160(2) of the Constitution of the Republic of South Africa, 1996, namely:
 - (a) *the passing of by-laws;*
 - (b) *the approval of budgets;*
 - (c) *the imposition of rates and other taxes, levies and duties; and*
 - (d) *the raising of loans; as well as;*
 - (e) *disposal of council properties;*
 - (f) *approval of Integrated Development Plan;*
 - (g) *the appointment of managers directly accountable to the Municipal Manager in terms of Section 56 of the Municipal Systems Act; and*
 - (h) *the appointment of the Municipal Manager and Acting Municipal Managers in terms of Section 54A of the Municipal Systems Act.*

Proposed: Councillor W J Nel

Seconded: Councillor A R Olivier

FOR EXECUTION: Municipal Manager
cc. Director Corporate Services

Resolution C/1/103/10/22

PROGRESS REPORT: - ESTABLISHMENT OF BITOU JUNIOR TOWN COUNCIL

Portfolio Comm: Strategic Services and Office of the MM
File Ref: 17/17/8

Demarcation: All Wards
Delegation: Council

Resolved

1. That Council takes note of the progress report on the establishment of Junior Town Council for Bitou Municipality.
2. That Council take note of the appeal for reconsideration of age range, submitted by the coordinating committee.
3. That Council accept the proposal of the coordinating committee and amend council resolution C/1/76/08/22 resolution 2 to read:
 - a. *That council mandates the office of the Speaker to engage all the high schools in the Bitou area targeting age group 16-18 years, grade 10 or grade 11 students.*
4. That the office of the Speaker reports back to council in December 2022.

Proposed: Councillor W J Nel
Seconded: Councillor A R Olivier

FOR EXECUTION: Manager: Office of the Speaker
cc. Municipal Manager

Resolution C/1/104/10/22

APPOINTMENT OF A COUNCILLOR TO THE VACANT COUNCILLOR POSITIONS ON THE FINANCE AND CORPORATE SERVICES PORTFOLIO AND MUNICIPAL PUBLIC ACCOUNTS COMMITTEES

Department: Municipal Manager
File Ref: 3/2/2/4

Demarcation: All Wards
Delegation: Council

Resolved

1. That Councillor T S Harmse be appointed as a member of the Finance and Corporate Services Portfolio Committee.
2. That Councillor T S Harmse be appointed as a member of the Municipal Public Accounts Committee.

Proposed: Councillor W J Nel
Seconded: Councillor A R Olivier

FOR EXECUTION: Municipal Manager

Resolution C/1/105/10/22**BITOU ORGANIZATIONAL MICRO-STRUCTURES**

Portfolio Comm: Strategic Services & Office of the MM
File Ref: 2/1/8

Demarcation: All Wards
Delegation: Council

Resolved

1. That Council approve the organizational micro-structure.
2. That the existing organizational structure of the Municipality be abolished after the placement process has been concluded (31 January 2023) in terms of Council's Placement Policy.
3. That the proposed organizational structure be phased in over a period of 3 months.
4. That the standard corporate and human resource processes be followed for the implementation of the organizational structure.
5. That Council take cognizance that Bitou Municipality has been selected to form part of the Pilot Project by CoGTA to align its staff establishment with the Municipal Staff Regulations of 20 September 2021.
6. That regular progress reports be submitted to Council in respect of the progress made once the Pilot project commence.

Proposed: Councillor W J Nel
Seconded: Councillor A R Olivier

FOR EXECUTION: Manager HR Administration
cc Senior Manager: HRM Services, Municipal Manager

Section 2: Financial Services**Resolution C/2/69/09/22****REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY TO THE EXECUTIVE MAYOR FOR THE 2021/22 FINANCIAL YEAR****Portfolio Comm.:** Finance & Corporate Services
File Ref: 8/1/5/5/2**Demarcation:** All Wards
Delegation: Council**Resolved**

1. That Council considers and take note of the annual Supply Chain Management implementation report for the period 01 July 2021 to 30 June 2022.
2. That the report be made public in accordance with Section 21A of the Municipal Systems Act.

Proposed: Councillor D J Swart
Seconded: Councillor N P Kolwapi**FOR EXECUTION:** Manager Supply Chain Management
cc. Senior Manager Expenditure & SCM, Director: Financial Services (CFO)**Resolution C/2/72/10/22****REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE 1st QUARTER 01 JULY TO 30 SEPTEMBER 2022****Portfolio Comm:** Finance & Engineering
File Ref: 8/1/5/5/2**Demarcation:** All Wards
Delegation: Council**Resolved**

1. That Council notes the Supply Chain Management Implementation Report for the 1st Quarter, 01 July to 30 September 2022, of the 2022/23 financial year in terms of Section 6(3) of the SCM Policy.
2. That Council recommends the Potential Irregular Expenditure for the period 01 July to 30 September 2022, to the Municipal Accounts Committee (MPAC) for further investigation and appropriate action.
3. That a security assessment be performed to determine the level / type of security needed and that figures be provided in respect of the number of security guards assigned to each building/ municipal asset and be submitted to the next meeting.

Proposed: Councillor J N Kamkam
Seconded: Councillor D J Swart**FOR EXECUTION:** Manager Supply Chain Management
cc. Senior Manager Expenditure & SCM, Director: Financial Services (CFO)

Resolution C/2/73/10/22

PROPOSED AMENDMENT TO INDIGENT, SENIOR CITIZENS AND PEOPLE WITH DISABILITY POLICY
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Portfolio Comm: Finance & Corporate Services
File Ref: 9/1/3/4

Demarcation: All Wards
Delegation: Council

Resolved

1. That Council approves the following amendment to the Indigent, Senior citizens and People with disability Policy (Indigent Policy) to give effect to the restriction of water usage of indigent households to the 6 kiloliters by installing smart water meters or water management devices if the free allocation of water is exceeded and remains unpaid;

*“10.6.4. All consumers who qualify for a subsidy must agree to the installation of a prepaid electricity meter **and a smart water meter/water management device** and will, if in arrears, be placed on restricted service levels in order to limit further escalation of debt.”*

2. That it be noted that the community awareness campaigns / public participation processes in respect of the installation of the *smart water meter/water management devices have not been conducted and that the relevant officials commence with the aforementioned processes as a matter of urgency.*
3. That a progress report on the implementation of smart water meters/water management devices be submitted to the Portfolio Committee Meeting, with the inclusion of the following information;
- a. Number of smart water meters/ water management devices installed to date*
 - b. The number of smart meters that have undergone testing prior to installation*
 - c. Challenges experienced*
 - d. Processes or steps put in place to address the challenges as mentioned in (c) above*
 - e. Budgetary requirements if needed to rollout programme successfully.*
4. That the Director: Engineering Services establish whether a dedicated team is available to install the devices.

Proposed: Councillor J N Kamkam
Seconded: Councillor S A Mangxaba

FOR EXECUTION: Manager: Revenue Services, Director Engineering Services
cc. Director Financial services

Resolution C/2/76/10/22

SECTION 52 REPORT FOR THE QUARTER ENDED 30 SEPTEMBER 2022

Portfolio Comm: Finance and Corporate Services

File Ref: 9/1/3/4

Demarcation: All Wards

Delegation: Council

Resolved

That Council take note of Section 52 report for the quarter ending 30 September 2022, including financial and non-financial results.

Proposed: Councillor D J Swart

Seconded: Councillor J N Kamkam

FOR INFORMATION: Director Financial Services

Resolution C/2/77/10/22

LIST OF WITHDRAWALS FROM MUNICIPAL BANK ACCOUNT FOR THE QUARTER ENDED 30 SEPTEMBER 2022

Portfolio Comm: Finance & Corporate Services

File Ref: 5/15/6

Demarcation: All Wards

Delegation: Council

Resolved

1. That the Municipal Council confirms the withdrawals that were made in terms of Section 11 (1) (b) to (j) of the Local Government: Municipal Financial Management Act, 2003 for the quarter July 2022 to September 2022.
2. That the report accordingly be presented to the Provincial Treasury: Western Cape and Auditor – General, as determined by Section 11(4) (b) of the Local Government: Municipal Finance Management Act, 2003.

Proposed: Councillor A R Olivier

Seconded: Councillor J N Kamkam

FOR EXECUTION: Manager: Budget Office
cc. Director Financial services

Resolution C/2/78/10/22**VIREMENT REPORT FOR THE QUARTER ENDED 30 SEPTEMBER 2022**

Portfolio Comm: Finance & Corporate Services
File Ref: 9/1/3/4

Demarcation: All Wards
Delegation: Council

Resolved

That cognisance be taken of the virements that have been considered or processed during the quarter ending 30 September 2022.

Proposed: Councillor S A Mangxaba
Seconded: Councillor J N Kamkam

FOR EXECUTION: Manager: Budget Office
cc. Director Financial services

Resolution C/2/79/10/22**COST CONTAINMENT REPORT FOR THE QUARTER ENDING 30 SEPTEMBER 2022**

Directorate: Finance
File Ref: 9/1/3/4

Demarcation: All Wards
Delegation: Council

Resolved

That Cost Containment report for the quarter ending 30 September 2022 be noted.

Proposed: Councillor N P Kolwapi
Seconded: Councillor J N Kamkam

FOR INFORMATION: Manager: Budget Office

Section 3: Corporate Services**Resolution C/3/60/10/22****SCHEDULE OF MEETINGS FOR COUNCILLORS FOR 2023 FOR PORTFOLIO COMMITTEES, MAYORAL COMMITTEES AND COUNCIL****Portfolio Comm:** Finance and Corporate Services
File Ref: 3/2/3**Demarcation:** All Wards
Delegation: Council**Resolved**

1. That the following schedule of dates for the Portfolio Committee Meetings, Mayoral Committee Meetings and Council Meetings for the year 2023 be approved.

MEETING SCHEDULE: 2023					
Closing Dates for Agendas	Preliminary Meeting	Portfolio Committees	Mayoral Committee Meetings	Ordinary Council Meeting	Special Council Meeting
10/1/2023	12/1/2023	18/1/2023 19/1/2023	24/1/2023	31/1/2023	
8/2/2023	9/2/2023	14/2/2023 15/2/2023	22/2/2023		28/2/2023 (Adjustment budget approval)
7/3/2023	9/3/2023	14/3/2023 15/3/2023	22/3/2023		30/3/2023 (Draft Annual Budget and IDP approval)
4/4/2023	6/4/2023	12/4/2023 13/4/2023	20/4/2023	27/4/2023	
8/5/2023	10/5/2023	17/5/2023 18/5/2023	24/5/2023		29/5/2023 (Budget approval and IDP Adoption)
9/6/2023	13/6/2023	21/6/2023 22/6/2023	29/6/2023		
7/7/2023	10/7/2023	17/7/2023 18/7/2023	24/7/2023	31/7/2023	
11/8/2023	14/8/2023	21/8/2023 22/8/2023	29/8/2023		31/8/2023 (Budget and IDP Process plan)
8/9/2023	12/9/2023	20/9/2023 21/9/2023	28/9/2023		
6/10/2023	10/10/2023	16/10/2023 17/10/2023	24/10/2023	31/10/2023	
13/11/2023	15/11/2023	22/11/2023 23/11/2023	30/11/2023		

2. That the schedule of meetings be published as prescribed by Section 29A of the Local Government Municipal Structures Act, No 117 of 1998.

3. That any other Special Council meetings be scheduled and published as and when required as prescribed by the Local Government Municipal Structures Act, No 117 of 1998 and the Bitou Municipality Rules of Order By-law.

Proposed: Councillor A R Olivier
Seconded: Councillor J N Kamkam

FOR EXECUTION: Manager: Administration Services
cc. Director Corporate Services

Resolution C/3/61/10/22

APPROVAL OF THE BITOU MUNICIPALITY: RECORDS MANAGEMENT POLICY

Portfolio Comm: Finance and Corporate Services
File Ref: 2/4/P
Demarcation: All Wards
Delegation: Council

Resolved

That Council approve the Bitou Municipality: Records Management Policy.

Proposed: Councillor J N Kamkam
Seconded: Councillor A R Olivier

FOR EXECUTION: Manager: Administration
cc. Director Corporate Services

Resolution C/3/62/10/22

COMMUNICATION STRATEGY FOR THE BITOU LOCAL MUNICIPALITY

Portfolio Comm: Finance & Corporate Services
File Ref: 9/1/3/3
Demarcation: All Wards
Delegation: Council

Resolved

That the Communications Strategy for the Bitou Municipality be approved.

Proposed: Councillor S E Gcabayi
Seconded: Councillor S A Mangxaba

FOR EXECUTION: Manager: Communications & Customer Care
cc. Director Corporate Services

Resolution C/3/63/10/22**COMMUNICATIONS SECTION: SOCIAL MEDIA GUIDELINES FOR BITOU LOCAL MUNICIPALITY**

Portfolio Comm: Finance & Corporate Services
File Ref: 9/1/3/3

Demarcation: All Wards
Delegation: Council

Resolved

That the Social Media Guideline Policy for the Bitou Municipality be approved

Proposed: Councillor J N Kamkam
Seconded: Councillor S A Mangxaba

FOR EXECUTION: Manager: Communications & Customer Care
cc. Director Corporate Services

Resolution C/3/64/10/22**COMMUNICATION: LANGUAGE POLICY FOR THE BITOU MUNICIPALITY AND SUGGESTED ACTIONS TO COMPLY WITH THE REVIEW BY THE PAN SOUTH AFRICAN LANGUAGE BOARD (PANSALB)**

Portfolio Comm: Finance & Corporate Services
File Ref: 9/1/3/3

Demarcation: All Wards
Delegation: Council

Resolved

1. That the Bitou Language Policy be approved.
2. That Council note the suggested road map to comply with the expected language coordinating structure within the Municipality as mentioned in the discussions above.

Proposed: Councillor J N Kamkam
Seconded: Councillor S A Mangxaba

FOR EXECUTION: Manager: Communications & Customer Care
cc. Director Corporate Services

Resolution C/3/71/10/22

REVIEWED DRAFT PLACEMENT POLICY 2022

Portfolio Comm: Finance & Corporate Services

File Ref: 4/3/P

Demarcation: All Wards

Delegation: Council

Resolved

1. That Council approves the Revised Draft Placement Policy as guide to be used for the placement of staff into posts after the adoption of the new organizational structure.
2. That the placement committee be established as follows: -
 - a. Director Corporate Services who will serve as the chairperson (oversight role)
 - b. Employer representatives consisting of four (4)
 - i. Portfolio Councillor, Councillor J N Kamkam
 - ii. **Councillor S A Mangxaba**
 - iii. Two (2) Directors
 - c. Employee representative consisting of four (4) i.e., 2 representatives from SAMWU and 2 representatives from IMATU.

Proposed: Councillor T Mhlana

Seconded: Councillor T S Harmse

FOR EXECUTION: Senior Manager: Human Resources Management Services
cc. Director Corporate Services

Section 4: Community Services

Resolution C/4/24/09/22

UPDATE ON THE DEVELOPMENT, DESIGN AND PLANNING OF A REGIONAL LANDFILL SITE AT THE GARDEN ROUTE DISTRICT MUNICIPALITY

Portfolio Comm: Corporate & Community Services

File Ref: 16/5/7

Demarcation: All Ward

Delegation: Council

Resolved

1. That Council takes note of the progress report submitted by the Garden Route District Municipality.

2. That Bitou Local Municipal Council supports Garden Route District Municipal Council's decisions on the way forward and the methods to be followed.

Proposed: Councillor N Ndayi
Seconded: Councillor M P Busakwe

FOR EXECUTION: Manager: Integrated Waste Management Services
cc. Director Community services

Resolution C/4/30/09/22

APPROVAL OF THE NAMING AND NUMBERING OF STREETS POLICY

Portfolio Comm: Engineering & Community Services
File Ref: 16/3/6
Demarcation: All Wards
Delegation: Council

Resolved

1. That Council take cognizance and approve the Naming and Numbering of Streets Policy.
2. That the Policy be reviewed by Council on an annual basis.

Proposed: Councillor N Ndayi
Seconded: Councillor N P Kolwapi

FOR EXECUTION: Manager: Integrated Human Settlements
cc. Director Community services

Resolution C/4/35/10/22

DRAFT SEASONAL PLAN 2022/2023: COMMUNITY SERVICES

Portfolio Comm: Engineering & Community Services
File Ref: 17/7/1/2
Demarcation: All Wards
Delegation: Council

Resolved

1. That Council take cognizance of the Community Services Department Draft Seasonal Plan for 2022/2023.
2. That Council approves the seasonal plan for 2022/2023.

Proposed: Councillor M P Busakwe
Seconded: Councillor T Mhlana

FOR EXECUTION: Line Managers Community Services, Manager: Economic Development and Planning
cc. Director Community services, Director Planning and Development

Section 5: Engineering Services

Resolution C/5/41/10/22

MONTHLY AND QUARTERLY REPORT FOR ELECTRICAL AND MECHANICAL FOR THE PERIOD JUL – SEPTEMBER 2022**Portfolio Comm:** Engineering & Community Services
File Ref: 9/1/3/5/3**Demarcation:** All Wards
Delegation: Council**Resolved**

1. That the monthly and quarterly report for Electrical and Mechanical Engineering Section for the period July to September 2022, be noted.
2. That the Director Engineering Services verify whether the electrical losses percentile reported on is a true reflection.

Proposed: Councillor T Mhlana
Seconded: Councillor N Ndayi**FOR EXECUTION:** Senior Manager: Electrical & Mechanical Services, Director Engineering Services***At this point the Speaker allowed a break at 14h07 and resumed again at 14h20***Section 6: Economic Development & Planning**

Resolution C/6/54/10/22

PROPOSED SPECIAL RATING AREA (SRA) BY-LAW FOR BITOU MUNICIPALITY**Portfolio Comm:** Strategic Services & Office of the MM
File Ref: 15/1/10**Demarcation:** All wards
Delegation: Council**Resolved**

1. That Council adopt the Bitou Special Rating Area By-Law to come into operation on a date to be determined by publication of the By-Law in the Provincial Gazette.
2. That Council adopt the Bitou Special Rating Area Policy and that it will be utilised for the administration of Special Rating Area Applications.

Proposed: Councillor W J Nel
Seconded: Councillor A R Olivier**FOR EXECUTION** Environmental Management Officer
Cc Director: Economic Development & Planning

Resolution C/6/57/10/22**PLETT TOURISM ASSOCIATION: QUARTERLY AND FINANCIAL REPORTS FOR THE PERIOD JULY TO SEPTEMBER 2022**

Portfolio Comm: Strategic Services and Office of the MM
File Ref: 9/1/3/6

Demarcation: All Wards
Delegation: Council

Resolved

That cognisance be taken of the Quarterly and the Financial Report of the Plett Tourism Association for the period July to September 2022.

Proposed: Councillor W J Nel
Seconded: Councillor T Mhlana

FOR EXECUTION Director: Economic Development & Planning

Resolution C/6/58/10/22**IDENTIFICATION OF MUNICIPAL-OWNED LAND FOR DEVELOPMENT PURPOSES**

Portfolio Comm: Strategic Services and Office of the MM
File Ref: 15/1

Demarcation: All Wards
Delegation: Council

Resolved

1. That it be determined that the following properties are not required by the Municipality for its own purposes or for the provision of a basic level of municipal service:
 - (a) Erf 1496, Kranshoek;
 - (b) **Erf 993**, Kranshoek;
 - (c) Erven 8766, 8767, 8768, 8774, 8775, 8778, 8779, 8781, 8783, and 8785, Plettenberg Bay (New Horizons);
 - (d) Portion of Erf 256, Plettenberg Bay
 - (e) Portion B of Erf 1725, Plettenberg Bay
 - (f) Portion of Portion 41 of the Farm Hillview No. 437
2. That it be noted that Portion of Erf 117, Kurland is excluded from the list of properties, as the property might be earmarked for further housing development and that a report be submitted to the relevant Portfolio Committee.
3. That the Municipal Manager be mandated to obtain market related values for the properties mentioned in (1) and that an Item be submitted to Council for consideration once the market related values have been obtained.
4. That the Council notes that Portion A of Erf 1725, Plettenberg Bay has previously been awarded to A & N Developments CC, and that it be confirmed that this award may be proceeded with.

5. That a progress report be submitted to the Mayoral Committee in respect of the status quo of Erven 83, 84 and 85, Kurland.
6. That a progress report be submitted to the Mayoral Committee in respect of the ownership status of Erf 302, Kirbywood known as the “Women on the Move” building.

Proposed: Councillor W J Nel
Seconded: Councillor J N Kamkam

FOR EXECUTION
Cc

Spatial Planner
Manager: Town Planning and Development, Director: Economic Development & Planning

Resolution C/6/60/10/22

**BITOU MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF) 2021:
STATUS AND WAY FORWARD**

Directorate: Economic Development & Planning
Portfolio Comm: Strategic Services
Demarcation: All Wards
Delegation: Council

File Ref: 15/1/4

Resolved

1. That the Council resolution (C/6/16/03/22 dated 31 March 2022 to approve the Bitou Spatial Development Framework (2021), inclusive of an urban edge that includes approximately 780 ha of land in the ‘Ganse Vallei’ area, be confirmed.
2. That paragraph 1 of the Council resolution C/1/59/06/22 dated 7 June 2022 be amended to read as follows:
That Council approves the 2022/2027 Integrated Development Plan tabled with the 2022/2023 as well as the 2022– 2025 Medium term Expenditure Revenue and Expenditure Framework and the 2021 Bitou Municipal Spatial Development Framework (as approved on 31 March 2022).
3. That paragraph 2 of the Council resolution C/1/59/06/22 dated 7 June 2022 be rescinded.
4. That the matters raised by the Provincial Director: Planning in her letter dated 27 September 2022 be addressed administratively and reported upon during March 2023 (when the SDF is tabled with the draft budget and IDP).

Proposed: Councillor W J Nel
Seconded: Councillor S A Mangxaba

FOR EXECUTION

Director: Economic Development & Planning

Resolution C/6/61/10/22

ERF 4513, KWANOKUTHULA: REQUEST BY THE SOUTH AFRICAN POLICE SERVICES TO PROVIDE LAND FOR THE EXPANSION OF THE KWANOKUTHULA POLICE STATION
--

Directorate: Economic Development & Planning
File Ref: 9/1/3/6

Demarcation: All Wards
Delegation: Council

Resolved

1. That resolution (M/6/185/09/13) adopted by the Mayoral Committee on 26 September 2013 be rescinded.
2. That it be recorded that the Municipality does not need Erf 4513, Plettenberg Bay (i.e. the so-called 'buffer strip' in Kwanokuthula) for the provision of a basic level of municipal services.
3. That it be agreed in principle that a portion of Erf 4513 (approximately 1 ha) may be made available to the South African Police Services for expansion of the current facilities at Kwanokuthula, and that authority be delegated to the Municipal Manager to further negotiate the matter with the South African Police Services.
4. That a further report be submitted to the Council once the negotiations have been finalized and more detail has been made available, and that it be recorded that this report should address the future use of the whole 'buffer strip'.

Proposed: Councillor N Ndayi
Seconded: Councillor S A Mangxaba

FOR EXECUTION**Director: Economic Development & Planning**

Resolution C/6/62/10/22

PLETT TOURISM: INTERIM MEMORANDUM OF AGREEMENT

Directorate: Economic Development & Planning
Portfolio Comm: Strategic Services

Demarcation: All Wards
Delegation: Council

File Ref: 9/1/3/6

Resolved

1. That the Business Plan of Plett Tourism for the 2022/2023 financial year be noted and accepted.
2. That the budget of Plett Tourism for the 2022/2023 financial year be noted.

3. That a Memorandum of Agreement, broadly based on the Business Plan, be entered into between the Municipality and Plett Tourism for the period September 2022 – June 2023.
4. That the necessary action in terms of the prescribed legislation to determine and implement an appropriate institutional option for the future management of the tourism function be commenced with by not later than February 2023 and be finalized by 31 May 2023.

Proposed: Councillor W J Nel
Seconded: Councillor J N Kamkam

FOR EXECUTION **Director: Economic Development & Planning**

11. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER

None received

12. CONSIDERATION OF NOTICES OF MOTION

Councillor S A Mangxaba reminded the Speaker, Councillor C N-J Terblanche that a notice of motion was submitted last month, but no response was yet received to date.

Resolved

That the Speaker will circulate a written response to all Councillors.

13. CONSIDERATION OF NOTICES OF QUESTION

None received

14. CONSIDERATION OF MOTIONS OF EXIGENCY

None received.

15. IN-COMMITTEE MATTERS

15.1.1 Minutes of the Special Council In-Committee dated 29 September 2022

Please refer to the In-Committee Minutes of even date.

15.1.2 Consideration of In-Committee Reports (Non-delegated matters)

Please refer to the In-Committee Addendum of even date.

16. RECORDING OF COUNCILLORS PRESENT

The Speaker, Councillor C N-J Terblanche requested that Councillors verbally record their presence during the Ordinary Council In-Committee session in the following order;

Councillor N Ndayi, Councillor D J Swart, Councillor M P Busakwe, Councillor W J Nel, Councillor J N Kamkam, Councillor A R Olivier, Councillor T S Harmse, Councillor N P Kolwapi, Councillor S A Mangxaba, Councillor S E Gcabayi, Councillor T Mhlana and Councillor C N-J Terblanche.

17. CLOSURE

The Speaker adjourned the Ordinary Council meeting where OPEN items were discussed at **15h49**.

CONFIRMED AND SIGNED

SIGNATURE:

The Speaker, Councillor C N-J Terblanche

DATE:



ATTENDANCE REGISTER

**ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD
IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET,
PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H00**

<u>NAME</u>	<u>SIGNATURE</u>
COUNCILLOR	
COUNCILLOR M P BUSAKWE (Deputy Executive Mayor)	<i>M. Busakwe</i>
COUNCILLOR S E GCABAYI	<i>S. E. Gcabayi</i>
COUNCILLOR T S HARMSE	<i>T. S. Harmse</i>
COUNCILLOR J N KAMKAM	<i>J. N. Kamkam</i>
COUNCILLOR N P KOLWAPI	<i>N. P. Kolwapi</i>
COUNCILLOR S A MANGXABA	<i>S. A. Mangxaba</i>
COUNCILLOR T MHLANA	<i>T. Mhlana</i>
COUNCILLOR N NDAYI	<i>N. Ndayi</i>
COUNCILLOR W J NEL	<i>W. J. Nel</i>
COUNCILLOR A R OLIVIER	<i>A. R. Olivier</i>
COUNCILLOR N T SETI	APOLOGY
COUNCILLOR D J SWART (Executive Mayor)	<i>D. J. Swart</i>
COUNCILLOR C N-J TERBLANCHE (Speaker)	<i>C. N-J. Terblanche</i>



ATTENDANCE REGISTER

BITOU LOCAL MUNICIPALITY

ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H00

OFFICIALS

<u>DESIGNATION</u>	<u>NAME</u>	<u>SIGNATURE</u>
Municipal Manager	Mr M Memani	
DIRECTORS		
Acting Director: Financial Services & Manager: Governance and Compliance	Mr. F Lötter	
Acting Director: Corporate Services & Manager Legal Services	Mr A Croutz	
Director: Community Services	Ms M Paulsen	
Director: Engineering Services	Mr V Felton	
Director: Economic Development and Planning	Mr. L Gericke	
MANAGERS		
Manager: Administration	Mrs T Wildeman	
Manager: Office of the Executive Mayor	Mr H Nieuwoudt	
Manager: Deputy Executive Mayor	Mr X Bangela	
Manager: Office of the Speaker	Mr R Plaatjies	
Chief Audit Executive	Ms H Bester	
Chief Risk Officer	Mrs C V Staden	
Manager: Communications	Mr A Namntu	
Principle Committee Officer	Ms J Jansen	
Committee Clerk	Ms T Mpembe	
Senior Communications Officer	Mr R Kova	

BITOU LOCAL MUNICIPALITY






ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 11H00

[illegible]

ATTENDANCE REGISTER

Interested members of the Public

Thank you for attending

Name	Contact number	Email address	Representing	Signature
CHRISTO YLOK	044-533-5155	stefan.vloke@gmail.com	WARD TWO	
D. D. ISSIK	082 807 6655	clausissik@icfinc.com	Patepoo Wink	
C. VAN GYS	082 7745088	Ray.Piepkhe-bend.co.za	KPH	
JON HEEGER	0825771100	jon@qwi.co.za	SMEC	
Willem Annandale	0766995711	willem.annandale@smec.com	SMEC	

ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H00

10. CONSIDERATION OF REPORTS (NON-DELEGATED MATTERS)

PORTFOLIO INDEX
CONSIDERATION OF REPORTS
SPECIAL COUNCIL (OPEN) MEETING
9 DECEMBER 2022

SECTION 1: OFFICE OF THE MUNICIPAL MANAGER

ITEM NO	SUBJECT	FILE REF	PAGE NO
C/1/108/12/22	SCHEDULE OF MEETINGS FOR MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR 2023	3/2/3/4/1	38-41
C/1/109/12/22	MPAC CHAIRPERSON'S REPORT FOR NOVEMBER 2022	3/2/2/2/4/1	42-48
C/1/110/12/22	DETERMINATION OF REMUNERATION OF SENIOR MANAGEMENT: EXEMPTION FROM UPPER LIMITS OF REMUNERATION DETERMINED BY COGTA	8/1/3	49-80
C/1/111/12/22	DELAY IN THE SUBMISSION OF THE AUDIT REPORT	9/1/7	81-86
C/1/112/12/22	EXTENSION OF ACTING APPOINTMENT OF DIRECTOR FINANCIAL SERVICES FOR THE PERIOD 01 DECEMBER 2022 UNTIL 31 DECEMBER 2022	4/3/5/1/3	87-91
C/1/113/12/22	RE-ADVERTISING OF VACANCY OF DIRECTOR CORPORATE SERVICES AND APPROVAL OF RECRUITMENT AND SELECTION TIMEFRAMES	4/3/5/1/3	92-99
C/1/114/12/22	EXTENSION OF ACTING APPOINTMENT: DIRECTOR CORPORATE SERVICES: - 01 JANUARY 2023 UNTIL 31 MARCH 2023	4/3/5/1/3	100-102
C/1/115/12/22	APPROVAL OF AMENDED MICRO STRUCTURES: ENGINEERING SERVICES DIRECTORATE AND TRAFFIC MANAGEMENT SERVICES	2/1/8	103-126

SECTION 2: FINANCE

ITEM NO	SUBJECT	FILE REF	PAGE NO
C/2/84/12/22	ROLL-OVER ADJUSTMENT BUDGET 2022/23 (To be circulated separately)		

SECTION 3: CORPORATE SERVICES

ITEM NO	SUBJECT	FILE REF	PAGE NO
C/3/80/12/22	CLOSURE OF MUNICIPAL OFFICES BETWEEN CHRISTMAS AND NEW YEAR 2022/ 2023	2/6/R	127-130

SECTION 4: COMMUNITY SERVICES

ITEM NO	SUBJECT	FILE REF	PAGE NO
	No reports for consideration		

SECTION 5: ENGINEERING SERVICES

ITEM NO	SUBJECT	FILE REF	PAGE NO
	No reports for consideration		

SECTION 6: ECONOMIC DEVELOPMENT & PLANNING

ITEM NO	SUBJECT	FILE REF	PAGE NO
C/6/65/12/22	AIRPORT: <i>STATUS QUO</i> AND WAY FORWARD	17/12/2	131-132

SECTION 1

**OFFICE OF THE MUNICIPAL
MANAGER**

Section 1: Office of the Municipal Manager

ITEM C/1/108/12/22

SCHEDULE OF MEETINGS FOR MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR 2023

Portfolio Comm: MPAC

File Ref: 3/2/3/4/1

Demarcation: All Wards

Delegation: Council

Attachments: “Annexure A” Legislation Requirement

Report from: MPAC Coordinator

Date: 1 December 2022

Purpose of the Report

To submit a time schedule of meeting dates for the Municipal Public Accounts Committee for 2023 for consideration and adoption.

BACKGROUND /DISCUSSION

Council at its first meeting of the 31 January 2022, under Resolution C/1/26.01/22, adopted the Municipal Public Accounts Committee Terms of Reference. Points, 3.15 & 3.17 of the Terms of Reference states that:

“The Committee must meet at least four times per annum. These dates are to be identified at the start of each calendar year and coordinated with Council schedule of meetings. The work of MPAC must be programmed to link with the overall planning cycle of Council. MPAC must ensure that all legislative deadlines which relates to its role, are adhered to.

The Committee shall provide the Municipal Council with a program of its planned activities as well as a Report of activities for the financial year. These Reports shall include details of meetings, the proposed work program and any key resolutions required or taken.”

The following time frames were taken into consideration when drafting the schedule:

1. The dates of Council meetings
2. The dates of other portfolio Committees to avoid any clash and;

Section 1: Office of the Municipal Manager

3. That if the dates for MPAC meetings conflict with that of SALGA Working Committees and Garden Route District Municipality, the schedule might be amended.

FINANCIAL IMPLICATIONS

There are no financial implications

RELEVANT LEGISLATION

- Municipal Finance Management Act, Act 56 of 2003
- South African Local Government Association – Practical Guide (Enhancing oversight in the Municipality)
- MPAC terms of reference

THE PROPOSED DATES ARE AS FOLLOWS:

MONTH	DATE	PORTFOLIO COMMITTEE	TASK
JANUARY	17/01/2023	Municipal Public Accounts Committee	Referred back
FEBRUARY	7/02/2023 8/02/2023	Municipal Public Accounts Committee	Consideration/ Annual report
March	16/02/2023	Municipal Public Accounts Committee	Submit Report Oversight
APRIL	13/04/2023	Municipal Public Accounts Committee	MPAC meeting To deal with Irregular Expenditure and submit Report in May
AUGUST	15/08/2023	Municipal Public Accounts Committee	MPAC meeting to deal with Referred backs
SEPTEMBER	15/08/2023	Municipal Public Accounts Committee	Submit Report
OCTOBER	11/10/2023	Municipal Public Accounts Committee	MPAC meeting to deal with Final Referrals/

Section 1: Office of the Municipal Manager

MONTH	DATE	PORTFOLIO COMMITTEE	TASK
NOVEMBER	24/11/23	Municipal Public Accounts Committee	Submit final Report to Council

RECOMMENDED BY THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

1. That the following schedule of dates for the Municipal Public Accounts Committee for the year 2022 be considered.

MONTH	DATE	PORTFOLIO COMMITTEE	TASK
JANUARY	17/01/2023	Municipal Public Accounts Committee	Referred back
FEBRUARY	7/02/2023 8/02/2023	Municipal Public Accounts Committee	Consideration/ Annual report
MARCH	16/02/2023	Municipal Public Accounts Committee	Submit Report Oversight
APRIL	13/04/2023	Municipal Public Accounts Committee	MPAC meeting To deal with Irregular Expenditure and submit Report in May
AUGUST	15/08/2023	Municipal Public Accounts Committee	MPAC meeting to deal with Referred backs
SEPTEMBER	15/08/2023	Municipal Public Accounts Committee	Submit Report
OCTOBER	11/10/2023	Municipal Public Accounts Committee	MPAC meeting to deal with Final Referrals/
NOVEMBER	24/11/23	Municipal Public Accounts Committee	Submit final Report to Council

2. That in cases where the schedule dates conflict with dates of SALGA Working Committees and/or Garden Route District Municipality, the dates for MPAC might be amended.

MPAC CALENDAR:

JUL

- 1 July = start of municipal financial year

▶ AUG / SEP

- Confirm Annual Financial Statements (AFS) and annual report (AR) for the prior year was submitted to Auditor General (AG)

▶ OCT / NOV

- Review/confirm implementation of annual action plan/audit plan
- 1st quarter progress report + budget implementation report for the current year
- Prepare oversight programme on AR for the prior year

▶ NOV / DEC

- Consider monthly budget report (Jul-Oct) for the current year
- Check 1st quarter progress report for the current year
- Review of Integrated Development Plan (IDP) (scorecards, KPIs, objectives, budget, etc)
- Monthly budget statement

▶ NOV / DEC / JAN

- Prepare and confirm progress of oversight programme on AR for the prior year
- Verify tabling of AR to council by Mayor/Executive Mayor
- Interviews with Municipal Manager (MM) and S56 Managers
- Council publicise AR and invite community input
- Obtain feedback from audit committee on implementation of annual action plan/audit action plan
- Review 2nd quarter performance reports of MM and S56 Managers for the current year
- Review 1st draft of the oversight report on the AR for the prior year
- Monthly budget statement

▶ JAN / FEB

- Review oversight progress on the AR for the prior year
- Conduct public hearings and consider public input on the AR
- Compile draft oversight report on the AR
- Review 1st draft of oversight report on the AR
- Present oversight report to council

▶ FEB / MAR

- Compilation of oversight report on AR for the prior year

▶ MAR

- Tabling and adoption of oversight report for the prior year
- Confirm AFS and AR of the current year will be submitted to AG at the end of Aug
- Review 3rd quarter performance reports of MM and S56 Managers
- Verify submission of minutes of the AR meeting to National Treasury (NT), Provincial Treasury (PT), AG, Legislature and DCOG by MM
- Verify adoption of oversight report with comments on the AR for the prior year
- Verify publication of the oversight report by the MM

▶ APR

- Monthly budget statement
- Verify council adoption of IDP and budget for the new year
- Verify submission of the approved IDP and budget to the MEC for Local Government (LG), NT, PT, AG and Legislature
- Verify public notification that the IDP and budget for the new year are adopted and available for public consideration

▶ MAY

- Monthly meetings, as required – investigations and follow-up of addressing UIFW and consequence management; progress review
- S41 reports
- Verify that IDP/budget/AR and other required documents are published on the municipal website

▶ JUN

- Verify that the SDBIP and draft performance agreements have been submitted to the Mayor within 14 days of budget and IDP adoption
- 30 June = end of municipal financial year

MONTHLY / QUARTERLY

Monthly/quarterly meetings, as required – investigations, progress review

Monthly meetings, as required – investigations and follow-up of addressing UIFW and consequence management; progress review

Section 1 – Office of The Municipal Manager

ITEM C/1/109/12/22

MPAC CHAIRPERSON'S REPORT FOR NOVEMBER 2022

Portfolio Comm: Municipal Public Accounts Committee **Demarcation:** All Wards
File Ref: 3/2/2/2/4/1 **Delegation:** Council

Attachments: Councillors Report as Annexure "A"

Report from: Municipal Manager

Author: Municipal Public Accounts Committee Coordinator

Date: 28 November 2022

PURPOSE OF THE REPORT

The purpose of the report is to submit the Chairpersons report for the year 2022 to Council about all matters that were referred to the Municipal Public Accounts Committee for further investigation.

BACKGROUND AND DISCUSSION

At the end of every year, Council has to evaluate if the Municipal Public Accounts Committee has achieved its mandate. The Terms of Reference that was adopted by Council in January 2022, states that:

- a) The effectiveness of MPAC Committee must be evaluated by Council at its last meeting in each calendar year. A report in this respect must be tabled to Council, whereupon Council must evaluate the MPAC Committee as to whether it has achieved its oversight role and mandate effectively.

FINANCIAL IMPLICATIONS

There are no financial implications

RELEVANT LEGISLATION

Municipal Public Accounts Committee Terms of Reference
Local Government: Municipal Finance Management Act, Act no.56 of 2003
Local Government: Municipal Structures Act: Act no.117 of 1998.

RECOMMENDED BY THE MPAC COMMITTEE

That Council should take note of the Municipal Public Accounts Report for the year 2022.

MPAC CHAIRPERSON REPORT – NOVEMBER 2022

PURPOSE OF THE REPORT

The purpose of the report is to submit a progress report to council on all matters that were referred To Municipal Public Account Committee for the year 2022.

Establishment of Committee

The Local Government: Municipal Structures Act, Section 79 (1) (a) – (3) (a) – (e) of Act 117 Of 1998 states that:

The Municipal council must determine the functions of the municipal public accounts committee, which must include the following

- a) Review the Auditor-General's reports and comments of the management committee and the audit committee and make recommendations to the municipal council;
- b) Review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council ;
- c) Initiate and develop the oversight report on annual reports contemplated in section 129 of the local Government: Municipal Finance Management Act;
- d) Attend to and make recommendations to the Municipal council on any matter referred to it by municipal council, executive committee, a committee of the council, a member of the committee, a Councillor and municipal manager; and
- e) On its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.

On the 15th of December 2021, Council took a decision to establish the Municipal Public Accounts Committee, Council Resolution C/1/18/12/21. In that meeting Council resolved as follows:

- 1. That Council dissolves the Previous Municipal Public Accounts Committee and appoint new members to serve on the Committee;
- 2. That the following Municipal Public Accounts Committee be appointed in terms of the Local Government Structures Act, Act 117 of 1998, as amended.

Chairperson: Cllr N Kolwapi
Cllr S. Ndayi
Cllr M. Botha

In its meeting of the 31 October 2022, Council took a decision to replace Councillor M. Botha with Councillor T.S.Harmse, as per Resolution C/1/104/10/22. So the Committee is now as follows:

Chairperson: Cllr N. Kolwapi
Cllr S. Ndayi
Cllr T.S. Harmse

SCHEDULE OF MEETINGS - 2022

MONTH	PORTFOLIO COMMITTEE	DATE	TASK	CLLR PRESENT	CLLR ABSENT
FEBRUARY	Municipal Public Accounts Committee	16/02/2022 17/02/2022	Deal with outstanding Reports /Draft Annual Report	Cllr N Kolwapi Cllr M. Botha Cllr S. Ndayi	
APRIL	Municipal Public Accounts Committee	06/04/2022	Quarterly meeting / Draft Annual Report	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
MAY	Municipal Public Accounts Committee	18/05.2022	Deal with any referrals from Council/ any other matter	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
MAY	Municipal Public Accounts Committee	20/05/2022	Special MPAC Meeting	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
MAY	Municipal Public Accounts Committee	23/05/2022	Special MPAC meeting	Cllr N Kolwapi Cllr M. Botha Cllr S. Ndayi	
JUNE	Municipal Public Accounts Committee	02/06/2022	Quarterly meeting	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
JUNE	Municipal Public Accounts Committee	14/06.2022	Special MPAC meeting	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
SEPTEMBER	Municipal Public Accounts Committee	14/09.2022	Quarterly meeting	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi
SEPTEMBER	Municipal Public Accounts Committee	15/09/2022	Special MPAC Meeting	Cllr N Kolwapi Cllr M. Botha	Cllr S. Ndayi

NOVEMBER	Municipal Public Accounts Committee	28/11/2022	Preparing final report to Council	Cllr N Kolwapi Cllr T.S.Harmse	Cllr S. Ndayi
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FUNCTIONS

According to the Terms of Reference, point 3, that were adopted by Council in January 2022, the main functions of the Municipal Public Accounts Committee are as follows:

3.1 The Committee must always conduct itself in a non – party political manner.

3.2 The municipal council must determine the functions of the municipal public accounts committee, which must include the following:

- (a) Review the auditor-general reports and comments of the management committee and the audit committee and make recommendations to the municipal council,
- (b) Review internal audit reports together with comments from management committee and the audit committee and make recommendations to the municipal council,
- (c) To consider and evaluate the Annual Report as tabled to the Municipal Council, and thereafter make recommendations to the Municipal Council in this regard. The Committee must receive the Report not more than two weeks after it was tabled to the Municipal Council.
- (d) Initiate and develop the oversight report on annual reports contemplated in section 129 of the local government: municipal finance management act;
- (e) Attend to make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of council, member of this committee, a Councillor and the municipal manager, and
- (f) On its own initiative, subject to the direction of municipal council, investigate and report to the municipal council on any matter affecting the municipality.

3.3 To monitor that all submissions and calls for comment have been undertaken as per Section 127(5), Section 130 and 132 of the Municipal Finance Management Act(MFMA), Act 56 of 200

3.4 Any unforeseen and unavoidable expenditure, in terms of Section 29 of the Municipal Finance Management Act, Act 56 Of 2003, must be reported to the MPAC Committee with proof of the necessary appropriation in the adjustment budget. After consideration of the matter, MPAC must report to Council on the matter.

3.5 Any unauthorized, irregular or fruitless and wasteful expenditure, in terms of Section 32 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, incurred by the Municipal Council, Executive Mayor, and political office bearers or officials, must be reported to the Committee. The Accounting Officer must report to the Committee on all steps taken to authorize or certify or recover or write off the expenditure, as well as whether any criminal action was instituted. The Committee must report to Council on the appropriateness of the action taken and /or whether the expenditure is irrecoverable or not.

3.6 To report to Council if an Annual Budget has not been compiled and submitted to Council in terms To monitor that all submissions and calls for comment have been

undertaken as per Section 127(5), Section 130 and 132 of the Municipal Finance Management Act(MFMA), Act 56 of 2003 .

3.7 Any unforeseen and unavoidable expenditure, in terms of Section 29 of the Municipal Finance Management Act, Act 56 Of 2003, must be reported to the MPAC Committee with proof of the necessary appropriation in the adjustment budget. After consideration of the matter, MPAC must report to Council on the matter.

3.8 Any unauthorized, irregular or fruitless and wasteful expenditure, in terms of Section 32 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, incurred by the Municipal Council, Executive Mayor, and political office bearers or officials, must be reported to the Committee. The Accounting Officer must report to the Committee on all steps taken to authorize or certify or recover or write off the expenditure, as well as whether any criminal action was instituted. The Committee must report to Council on the appropriateness of the action taken and /or whether the expenditure is irrecoverable or not.

3.9 To report to council if an annual budget has not been compiled and submitted to council in terms of Section 16 of the MFMA.

3.10 To monitor whether the Executive Mayor has initiated a review of the IDP post elections and annually thereafter. If such review is not done, MPAC must report to Council.

3.11 In the case of any Irregular Expenditure or any Fruitless and Wasteful Expenditure incurred, the Committee shall have the right to call upon the Accounting Officer or any staff member or Councillor to appear before it to provide information or to elucidate/ clarify a matter;

3.12 To have direct access to internal and external Auditors;

3.13 To perform any other function assigned to it through a resolution of Council within its area of responsibility.

3.14 The Auditor – General and Internal Audit or his/her representatives have direct access to all meetings (whether dealing with open or closed matters) of the Committee. It is not an imperative that these entities must attend every meeting of the Committee. However, they must be invited to all Committee’s activities and meetings.

3.15 The Committee is not prevented from undertaking its activities while awaiting the appointment of a new member.

3.16 The quorum for all meetings shall be 50% plus one members.

3.17 Members will not receive any additional remuneration for serving on the Committee, except the Chairperson who may receive the relevant remuneration as determined in terms of the Remuneration of Public Office Bearers Act of 1998.

3.18 In order to fulfill its role, MPAC Committee shall have access to the following documents in terms of the relevant legislation, as they become available:

- Section 71 reports, (monthly budget statement) – MFMA
- Section 72 reports, (mid – year budget and performance assessment) – MFMA
- Annual financial statement if the municipality- MFMA

- The financial audit opinion and documentation from the auditor general and the audit committee related thereof – MFMA
- Any information in terms of section 128 and section 133 of the MFMA,
- Quarterly report of the executive mayor in terms of section 52(d) of the MFMA (implementation of the budget and financial state of affairs of the municipality)
- The annual report (section 127) MFMA

3.19 Any documents and information to which the Committee is entitled and which it has requested, must be provided without delay.

With the three years backlog of work at MPAC, we planned as a team how are we going to chew this work. The plan worked well. Here we are with the dealt report of all the outstanding years.

AGSA Report and Concerns/ Findings

(Unqualified with findings status)

One of the worst concerns/ findings of Auditor General, was the fact that the incidents were recurring year after year. Its Audit outcomes remain unchanged due to non-compliance with legislation.

Things were Regressing at SCM due to the Material non-compliance findings, that is also added to Bitou brief Material Irregularity .The internal controls and its drivers to monitor compliance remain a concern, thus led to repeat finding on SCM, Expenditure Management, Consequence Management and Performance Management. Contracts were not renewed due to Incomplete/ ambiguous specification that pose a quarry to our BSC. The lack of obtaining 3 quotes as well as declarations were much a quarry, whilst they were not affecting the awarding system, some declarations were affecting Senior Managers.

Lot of Water & Electrical losses were the Auditor General's concerns as they were not improving instead sky rocking compared to the general/ acceptable rates. Systems especially recent technology should be tested to address this lack. COMAF11 was of high amounts for 2 years consecutively. Overtime expenses were very exuberant. SDBIP was not approved and signed by Council as per Legislative requirement, because of Political instability and the IDP that was not constant and proper.

So the MPAC meetings and reports that were submitted to Council were trying to resolve the issues that were contained in the Auditor General's Findings.

Achievements

1. In its meeting in January 2022, Council approved the Municipal Public Accounts Committee (MPAC) Terms of Reference and the Year Plan.
2. On the 16 &17 of February 2022, MPAC deliberated on Bitou Financial statements and concerns raised by Auditor General that were contained in the 2020/2021 Annual Report;

3. On the 30th of March 2022, MPAC submitted the Oversight report with recommendations and were adopted by council.
4. MPAC managed to address the backlog of the previous years, 2019/2020, 2020/2021 and 2021/22 financial years.
5. The Committee ensured that the Disciplinary Board was established in May 2022, to ensure that all the referred matters of Irregular, Unauthorized, Fruitless and Wasteful Expenditures were investigated and dealt with.
6. The Committee managed to conduct 10 meetings and had submitted 5 Reports to Council.
7. The Committee was also represented at APC where the deliverables of service delivery was interrogated.

CHALLENGES

It still poses a challenge for the Institution of not being consistent in implementing discipline, whilst other measures are taken for some other actions, those that are involved, they still interpreted it a witch – hunt when they are disciplined, as there is a lack of consistency and continuity. We therefore, appeal to this Council to take yield or take note of this.

We also appeal to Council to take note of the Legislation, Section 79(a), of the Local Government, Municipal Structures Act, where Councillors are serving in MAYCO, whether Local or District, should not serve at MPAC as they have busy Schedule already. We can safely attest to that when we refer to our meeting attendance that are included. The experience of the immediate resignation of a Councillor, showed a challenge of a Quorum

Lastly, the tools of trade remain a crucial factor to be considered by this Council, as our meetings run from regular to irregular times.

CONCLUSION

In conclusion, MPAC wants to commend the Municipal Manager and the Senior Managers for their role in making sure that MPAC fulfilled its Mandate and role effectively. The results of this will be shown by the quality of the AFS and /or whether the Municipality has improved its Audit Outcome.

I applaud the Induction workshop that was conducted by SALGA recently on MPAC Oversight and Strengthening Accountability as well as Legislative Framework. We want to thank our MPAC Team for the administrative support and submission of reports to both Council and COGTA timeously. We further commend the decision taken by Council to have an administration team, working solely, for MPAC , taking to cognizance that other municipalities now are struggling to keep the continuity in these forever changing times and power. It enabled us as a team to perform to our best to learn how MPAC operates in a speedy way, hence we could deliver such detailed Report and addressing the backlog.

RECOMMENDATION

That Council should take note of the Municipal Public Accounts Report for the year 2022.

Section 1: Office of the Municipal Manager

ITEM C/1/110/12/22

DETERMINATION OF REMUNERATION OF SENIOR MANAGEMENT: EXEMPTION FROM UPPER LIMITS OF REMUNERATION DETERMINED BY COGTA

Directorate: Municipal Manager
File Ref: 8/1/3

Delegation: Council

Attachments: Annexure: A: MEC's Approval of Waiver Application for MM and Section 56 Managers.
Annexure: B: Legal Opinion on Scarce Skills Allowances

Report from: Municipal Manager

Author: Acting Chief Financial Officer

Date: 30 November 2022

1. PURPOSE OF THE REPORT

To provide Council with all relevant information to consider exempting Senior Managers of Bitou Municipality from the upper limits of remuneration as determined by the Minister of Co-Operative Governance and Traditional Affairs and to determine applicable all-inclusive annual remuneration packages commensurate with duties roles and responsibilities.

2. DISCUSSION

Council resolved on 31 August 2022, to apply to the Minister of COGTA to exempt the Municipal Manager, Director Technical Services, Director Community Services as well as the incumbent CFO from the provisions of Notice No 351 published by the Ministry on 20 March 2020.

An application to the Minister of Local Government in the Western Cape was made to solicit support for the wish expressed by Council in respect of the Senior Managers. The Minister of Local Government in the Western Cape provided support and an application to the National Minister of COGTA was prepared.

The application was lodged on 14 October 2022, whereafter certain additional information was requested by COGTA, said information was supplied on 20 October 2022. The accounting officer has subsequently enquired with regards to the progress made, yet have not received any feedback, as a matter-of-fact, emails are not responded to and telephone calls remain unanswered.

3. THE FACTS ELABORATED ON

The facts that were represented to COGTA as well as the Provincial Minister for Local Government are set out hereunder, it is important to take note of the anomalies in the remuneration regime, the impact

Section 1: Office of the Municipal Manager

that it has on Senior management, the staff morale as well as issues of authority, seniority, and the principle of fair remuneration.

Remuneration regime

At the time of appointment of Mr. Memani as Municipal Manager as well as Ms Paulsen on 1 September 2022, and Mr Felton on 1 October 2022, and Mr Mapeyi to commence service possibly on 1 January 2023, an offer of employment was made in accordance with the maximum amount applicable to a Grade 3 Local Authority contained in the upper limits notice promulgated in Government Gazette number 42023 dated 8 November 2018 after considering their qualifications, experience and competencies.

The offer of employment amounting to R 1 386 637 was made to the Municipal Manager, and R 1 133 464 per annum to the Directors respectively in accordance with the maximum of a grade 3 Local Municipality in accordance with the upper limits notice dated March 2020.

The salary of managers in the organization reporting to the Section 56 Managers were analysed and it was found that 12 managers in the organization, appointed on T-Grades already earn more than the Maximum Package offered to the Municipal Manager as per the upper limits notice dated 2020. On average, they earn 16.79% more than the maximum of the upper applicable a Municipal Manager of a Grade 3 Municipality, with the highest earning individual earning 42.5% more than the Municipal Manager. Should this trend continue at the current average annual increase of 6% for bargaining council employees and 3% for Upper Limits employees, the gap after 10 years would be 89.9% in the favour of 3rd level bargaining council employees, a clear untenable situation.

A further analysis of the all-inclusive cost to company salaries paid to subordinate level of managers in the organisation reporting to Senior Managers, already earn on average, 42.87% more than the maximum of the upper applicable to a Grade 3 Municipality, with the highest earning individual earning 74.33% more than the maximum of the upper limits payable to a senior manager reporting directly to the municipal manager. Should this trend continue at the current average annual increase of 6% for bargaining council employees and 3% for Upper Limits employees, the gap after 10 years would be 90.39% in the favour of 3rd level bargaining council employees, a clear untenable situation.

The Scale creep illustrated above creates a clear untenable situation and is destructive for staff morale and makes it nearly impossible for a municipality like Bitou to attract and retain suitably qualified and experienced Senior Managers and a Municipal Manager.

The lack of fair remuneration for Senior Management has been a contributing factor to the long period that it took to fill senior management positions, adding to instability and a lack of leadership, direction and discipline, a major contributor to the downfall in service delivery.

We include the following table that illustrate the remuneration comparison at the time of appointment to illustration the anomalies that exist in the current remuneration regime, not only at Bitou but many similar smaller municipalities:

Section 1: Office of the Municipal Manager

Position	T Level	Annual CTC	% More than Upper limits of MM	% more than upper limits of SNR Manager
Senior Manager HR	T17	1 465 154.61	5.66	29.26
Senior Manager Protection Services	T17	1 487 196.57	7.25	31.21
Manager Corporate Services	T17	1 497 067.77	7.96	32.08
Senior Manager Electrical Engineering	T17	1 788 788.37	29.00	57.82
Senior Manager SCM and Expenditure	T18	1 921 339.00	38.56	69.51
Manager Legal Services	T17	1 436 238.19	3.58	26.71
Senior Manager Governance	T18	1 859 708.20	34.12	64.07
Manager IT	T18	1 553 137.31	12.01	37.03
Manager Planning	T17	1 535 196.75	10.71	35.44
Senior Manager PMU	T18	1 975 918.00	42.50	74.33
Manager Roads	T17	1 496 364.69	7.91	32.02
Manager Revenue	T17	1 417 020.47	2.19	25.02
Average		1 619 427.49	16.79	42.87

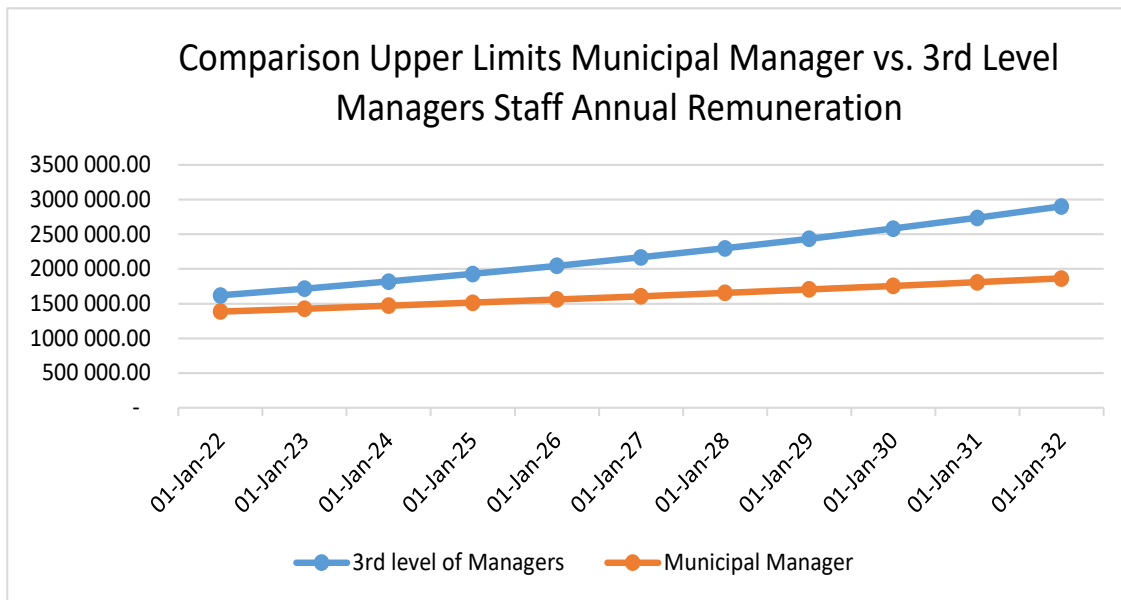
Included hereunder are two graphs, the first one illustrates the gap between the maximum of the upper limits payable to the municipal manager and the average remuneration paid to T-Grade staff, clearly showing the further widening of the gap caused by scale creep and the difference in the remuneration regimes caused by the upper limits vs. bargaining council collectively agreed salaries. The second graph indicates a similar result applicable to managers directly reporting to the municipal manager and the same bargaining council T-Grade staff.

From the graphs it is evident that the current gap will continue to grow as annual increases applicable to T-grade salaried staff, coupled to annual notch increases always outperform the annual increase in the upper limits of remuneration applicable to Section 56 Managers. For the purpose of the comparison in the graphs, an average of 6% increase was used for T-Grade staff compared to a 3% increase in upper limits over a 10-year horizon. The annual notch increases have not been factored into the equation and the comparison was made using the upper limits increase percentage as per the March 2020 notice and comparing it with the average multi-year collective bargaining increase.

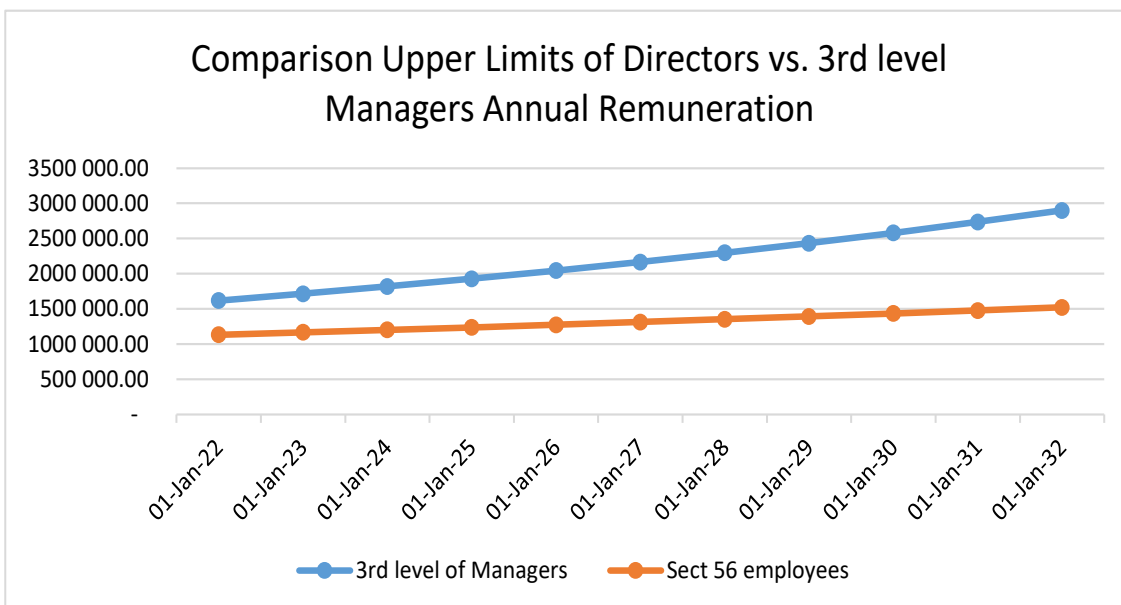
It is evident from the graph that the difference will keep on growing to approximately 55% in the case of the Municipal Manager and 90.4% in the case of Senior Managers reporting directly to the municipal manager by year 10 if the current trend continues and the situation is not remedied.

Section 1: Office of the Municipal Manager

Graph 1: Municipal Manager Comparison



Graph 2: Other Senior Managers comparison



From the aforementioned, it is clear and evident that the current upper limits remuneration regime is creating an untenable situation that is inequitable and demoralising to both the Municipal Manager and Managers reporting directly to the Municipal Manager as subordinate staff members are not only earning significantly more than Section 56 managers who are joining the organization but also have better

Section 1: Office of the Municipal Manager

conditions of service, thus denying the Municipal Manager and Senior Managers a fair labour practice as guaranteed in Section 23(1) of the Constitution of the Republic of South Africa, 1996.

The municipality also currently pays varied remuneration packages to its HOD's as an HOD previously appointed receives a scarce skills allowance and recently appointed Senior Managers do not. It is therefore proposed that Council does away with the principle of providing a scarce skills allowance and apply a remuneration package for future HOD appointees in accordance with the council resolution taken under Item C/1/84/08/22 to ensure that all HOD's are equally and fairly treated in line with their qualifications and experiences.

The municipality has gone through a period of political instability and a lack of management continuity, Bitou Municipality therefore finds itself in a precarious financial position, where cash resources have been depleted, collection rates have declined, and irregular and unauthorised expenditure have spiralled out of control.

The Municipal Council has adopted the voluntary financial recovery plan that sets out the actions necessary to recover the financial position as well as performance over the next 3 to 4 years. For the municipality to be successful in this endeavour, it is critical that we ensure management continuity and stability in leadership to gain and maintain momentum.

It is therefore of critical importance that the Senior Management of the Municipality are appropriately remunerated, and that the remuneration is commensurate with the roles, responsibilities and risks associated with Senior Management Portfolios, which currently it is most certainly not as illustrated herein above.

4. LEGAL FRAMEWORK

The minister of COGTA, first promulgated the upper limits of remuneration in 2014, there were various amendments, additions, change in allowances; from rural to remote, from scarce skills to retention allowances to market premium allowances, and at different percentages, this compounded the anomalies in the remuneration regime to the extent that incumbents on the same post level were paid different salaries where they were appointed in different financial years.

The Minister has also always failed to ensure that the upper limits notices were promulgated in time for budgeting and planning purposes, adding more uncertainty in respect of remuneration for senior staff.

The legislation quoted to promulgate the upper limits of remuneration for senior management is Section 72(1)(g) of the Municipal Systems Act, (Act 32 of 2000), this section refers to the regulation of remuneration and other conditions of service of staff members of municipalities, subject to applicable labour legislation.

The governing labour legislation would in the case of municipal managers and managers directly reporting to the municipal manager be the BCEA, Basic conditions of Employment Act, 1997 as amended. The purpose of the BCEA as contained in Section 2 includes inter-alia the following:

“2. The purpose of this Act is to advance economic development and social justice by fulfilling the primary objects of this Act which are:

(a) to give effect to and regulate the right to fair labour practices conferred by Section 23(1) of the Constitution—

Section 1: Office of the Municipal Manager

(i) by establishing and enforcing basic conditions of employment; and

(ii) by regulating the variation of basic conditions of employment; to give effect to and regulate the right to fair labour practices conferred by Section 23(1) of the Constitution”

Section 23 of the Constitution of the Republic of South Africa confirms the right of everyone to fair labour practices which include collective bargaining, however municipal managers and managers directly reporting to the municipal manager are specifically excluded from the main collective agreement applicable to municipal employees.

Furthermore, the grading, benefits, leave, and other conditions of service applicable to municipal managers and managers reporting directly to municipal managers are different to, and in many instances to the detriment of Senior Management making them worse-off when compared to permanently appointed permanent “bargaining council” employees. The upper limits notice therefore do not meet the objective of providing a uniform remuneration framework for Local Government as referred to in the preamble thereof.

It may be concluded that the general purport of the draft notice also therefore do not meet the definition of a fair labour practice as the rights of senior management as entrenched in the Constitution have been denied and it could therefore be regarded as being unconstitutional.

In addition to the above, the Minister for Public Service and Administration, mentioned as a party consulted in the Upper Limits Determination has no locus standi in relation to municipal duties and functions of municipalities, nor in respect of its employees, especially not with regards to the contractual relationship between employer and employee and therefore determination of the remuneration of municipal employees. Please note that senior management are employees as defined in the Municipal Systems Act, (Act 32 of 2000) and not public office bearers.

Similarly, as with the declaration of unconstitutionality of the PPPFA Regulations where the Ministers prescriptions to Local Government were found to be unconstitutional, it may be argued that the Minister has overstepped her authority in prescribe to municipalities what remuneration may and may not be paid to Senior Managers.

Upon time of appointment of the Senior Managers, the Municipal Systems Act had not yet been signed into law by the President of the Republic of South Africa that begs the question regarding the authority of the Minister to have rightfully determined the upper limits to be answered.

5. FINANCIAL IMPLICATION

The budget for remuneration of Senior Management at Bitou Municipality amounts to R7 102 700 and the proposed remuneration to Senior management amounts to R 6 009 313, it is thus included in the current budget estimates, have been factored into the financial results as well as the current year cash flows and it is therefore concluded that it is affordable to the municipality and its ratepayers.

6. CONCLUSION

Upon considering the essence and importance of the matter as well as the facts alluded to herein, coupled with the fact that the municipality must have stability and continuity in its Senior Management to ensure

Section 1: Office of the Municipal Manager

appropriate, effective and efficient service delivery to its communities, it is of essence that Council considers the remuneration payable to Senior Management.

The Minister for Local Government in the Western Cape has supported the amounts determined by Council in respect of the waiver and in the absence of a response from the Minister of Co-Operative Governance and Traditional Affairs, it is proposed that council determine the total annual remuneration package payable to Senior Management within the limits of its previous decision.

It is common cause that responses to exemption applications from the upper limits in many instances remain unanswered and causes incumbents to search for greener pastures leaving municipalities without administrative leadership and a lack of management continuity and stability.

In considering a fair remuneration regime, it is also important that the Council determine a fair increase in the annual remuneration of the Senior Managers, it is a fact that other levels of salaried staff in the organization receive higher annual percentage increases through collective bargaining which causes a widening in the gap between salaried staff and senior management, to address this, it is proposed that the same increase as annually determined for Bargaining Council Staff also be applied to Senior Managers.

7. RECOMMENDATIONS

- (a) That the contents of the report be noted.
- (b) That it be noted that the Minister for Local Government in the Western Cape has supported the waiver application to the National Minister as per the amounts determined in Council Item C/1/84/08/22
- (c) That it be noted that no response has been forthcoming from the National Minister of COGTA.
- (d) That to ensure continuity in management and institutional stability in the organization coupled to the fact that it is the duty of Council to ensure that fair labour practices are applied in Bitou Municipality, the all-inclusive annual remuneration packages payable to the Municipal Manager and Senior Managers reporting directly to the Municipal Manager be determined as per Council Resolution C/1/84/08/22 dated 31 August 2022 with effect from the respective dates of employment.
- (e) That the Mayor be authorised to conclude the addendum to the employment contract with the Municipal Manager to give effect to the resolution in point (d) above
- (f) That the Municipal Manager be authorised to conclude the addendum to the employment contracts with the relevant Heads of Department to give effect to recommendation (d) above.

REFERENCE: 13/3/1/2/K19 (3/11/2/3 – 2022/147)

The Executive Mayor
Bitou Municipality
Private Bag X1002
PLETTENBERG BAY
6600

Per email: dswart@plett.gov.za / lsmler@plett.gov.za

Dear Councillor Swart

APPOINTMENT OF MR MBULELO MEMANI AS MUNICIPAL MANAGER AT BITOU MUNICIPALITY AND APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

1. I refer to the above, as well as the correspondence from the Municipality dated 8 March 2022, advising that the Bitou Municipal Council has resolved to appoint Mr Mbulelo Memani as Municipal Manager at the Municipality. I also refer to the request for my support for an application to the National Minister of Cooperative Governance and Traditional Affairs, to waive a requirement of the Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers ("the Waiver Application") dated 18 July 2022, and the Council Resolution in respect of the Waiver Application dated 31 August 2022.
2. During the assessment of the appointment process and outcomes, it was identified Mr Memani has been offered a Total Annual Remuneration Package (TARP) of R1 386 637.00, being the maximum TARP for a Municipal Manager at a Category 3 Municipality.

3. Item 9(1) of the Prevailing Upper Limits Notice¹ provides that "The offer of remuneration on appointment to a municipal manager and manager directly accountable to municipal managers will be determined by the competencies, qualifications, experience and knowledge of the candidate considered for appointment". Item 9(2) provides that "A municipal council must apply the criteria set out below to determine the offer of remuneration on appointment".


PERMISSABLE TARP	CRITERIA
MINIMUM	<ul style="list-style-type: none"> • Relevant qualification • Applicable to persons who have the relevant 5 years' experience as provided in the Regulations. • Applicable to persons who have acquired competent achievement level as measured against the competency framework
MIDPOINT	<ul style="list-style-type: none"> • Relevant qualification • <i>Applicable to persons who have the relevant 5 to 10 years' experience as provided in the Regulations.</i> • <i>Applicable to persons who have acquired <u>advanced</u> competency achievement level as measured against the competency framework</i>
MAXIMUM	<ul style="list-style-type: none"> • Relevant qualification • <i>Applicable to persons who have <u>more than 10 years' experience</u> as provided in the Regulations.</i> • <i>Applicable to persons who have demonstrated a <u>superior</u> competency achievement level as measured against the competency framework</i>

4. The outcomes of the assessment of Mr Memani's core and leading competencies was omitted from the Selection Report submitted by the Municipality. Mr Memani has however not attained more than 10 years' Senior Management experience and therefore does not meet the requirement set out in Item 9(2) the 2022 Upper Limits, for receiving the Maximum TARP. The Municipality is requested to advise my office of the outcomes of the assessment of Mr Memani's core and leading competencies and the revised offer of employment the Municipality would offer Mr Memani in light of the requirements set out in Item 9(2).

¹ GNR. 351 published under GG. 43122, dated 20 March 2020 read with GN. 1912 published under GG. 46062, dated 18 March 2022

5. Notwithstanding the above, I note the Council resolution dated 28 February 2022, to appoint Mr Memani as Municipal Manager, subject to the TARP offered to Mr Memani being brought in line with the 2022 Upper Limits Notice. The proviso would fall away in instances where the National Minister approves the waiver application in respect of Mr Memani. I am satisfied that the appointment has complied with Section 82 of the Municipal Structures Act, 117 of 1998, as well as the requirements prescribed in the Municipal Regulations on Minimum Competency Levels² and the Regulations on Appointment and Conditions of Employment of Senior Managers.³
6. For the reasons set out by the Municipality, including the fact that certain managers are earning above the prescribed TARP for a Municipal Manager at the Municipality, I hereby support the waiver application to the National Minister, to offer Mr Memani a TARP of R 1 538 800.00. When the Municipality submits the waiver application in respect of Mr Memani to the National Minister, I do recommend that the Municipality supplements the application with reference to further factors as contained in the enclosed circulars from the Department of Cooperative Governance and Department of Local Government. These factors include, amongst other, the Municipality's liquidity ratio and Mr Memani's experience and past performance.

Sincerely,



A BREDELL

MINISTER

DATE: 28/09/2022

² GNR.493 published under 29967, dated 15 June 2000 and as amended by GNR.1146 published under GG 41996, dated 26 October 2018

³ GNR. 21 published under GG. 27245, dated 17 January 2014

APPOINTMENT OF MR MBULELO MEMANI AS MUNICIPAL MANAGER AT BITOU MUNICIPALITY AND APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

REFERENCE: 13/3/1/2/K19 (3/11/2/3 – 2022/147)

The Executive Mayor
Bitou Municipality
Private Bag X1002
PLETTENBERG BAY
6600

Per email: dswart@plett.gov.za

Dear Councillor Swart

APPOINTMENT OF MR CHRISTOPHER MAPEYI AS DIRECTOR: FINANCIAL SERVICES AT BITOU MUNICIPALITY AND APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

1. I refer to the above, as well as the correspondence from the Municipality dated 20 July 2022, advising that the Bitou Municipal Council has resolved to appoint Mr Christopher Mapeyi as Director: Financial Services at the Municipality. I also refer to the request for my support for an application to the National Minister of Cooperative Governance and Traditional Affairs, to waive a requirement of the Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers ("the Waiver Application) dated 18 July 2022, and the Council Resolution in respect of the Waiver Application dated 31 August 2022.
2. During the assessment of the appointment process and outcomes, it was identified that Mr Mapeyi has been offered a Total Annual Remuneration Package (TARP) of R1 133 463.00, being the maximum TARP for a Manager Directly Accountable to the Municipal Manager, at a Category 3 Municipality.

3. Item 9(1) of the Prevailing Upper Limits Notice¹ provides that “The offer of remuneration on appointment to a municipal manager and manager directly accountable to municipal managers will be determined by the competencies, qualifications, experience and knowledge of the candidate considered for appointment”. Item 9(2) provides that “A municipal council must apply the criteria set out below to determine the offer of remuneration on appointment”.

PERMISSABLE TARP	CRITERIA
MINIMUM	<ul style="list-style-type: none"> • Relevant qualification • Applicable to persons who have the relevant 5 years' experience as provided in the Regulations. • Applicable to persons who have acquired competent achievement level as measured against the competency framework
MIDPOINT	<ul style="list-style-type: none"> • Relevant qualification • <i>Applicable to persons who have the relevant 5 to 10 years' experience as provided in the Regulations.</i> • <i>Applicable to persons who have acquired <u>advanced</u> competency achievement level as measured against the competency framework</i>
MAXIMUM	<ul style="list-style-type: none"> • Relevant qualification • <i>Applicable to persons who have <u>more than 10 years' experience</u> as provided in the Regulations.</i> • <i>Applicable to persons who have demonstrated a <u>superior</u> competency achievement level as measured against the competency framework</i>

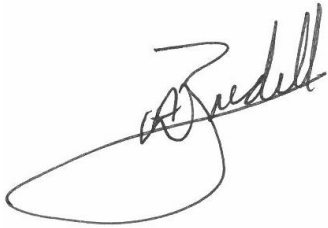
4. Mr Mapeyi has attained more than 10 years relevant management experience however he has not attained a “superior” rating in his competency assessment. He therefore does not meet the requirement set out in Item 9(2) the 2022 Upper Limits, for receiving the Maximum TARP. The Municipality may offer Mr Mapeyi a TARP between the Midpoint [i.e. R 1 022 226.00] and the Maximum TARP [R 1 133 463.00] TARP.
5. Notwithstanding the above, I note the Council resolution dated 11 July 2022, to appoint Mr Mapeyi as Director: Financial Services, subject to the TARP offered to Mr Mapeyi being brought in line with the 2022 Upper Limits Notice. The proviso would fall away in instances where the National Minister approves the waiver application in respect of Mr Mapeyi.

¹ GNR. 351 published under GG. 43122, dated 20 March 2020 read with GN. 1912 published under GG. 46062, dated 18 March 2022

I am satisfied that the appointment has complied with Section 56 of the Municipal Systems Act, 32 of 2000 as well as the requirements prescribed in the Municipal Regulations on Minimum Competency Levels² and the Regulations on Appointment and Conditions of Employment of Senior Managers.³

6. For the reasons set out by the Municipality, including the fact that certain managers are earning above the prescribed TARP for a Director: Financial Services at the Municipality, I hereby support the waiver application to the National Minister, to offer Mr Mapeyi a TARP of R 1 521 527.63. When the Municipality submits the waiver application in respect of Mr Mapeyi to the National Minister, I do recommend that the Municipality supplements the application with reference to further factors as contained in the enclosed circulars from the Department of Cooperative Governance and Department of Local Government. These factors include, amongst other, the Municipality's liquidity ratio and Mr Mapeyi's experience and past performance.

Sincerely,



A BREDELL

MINISTER

DATE: 16/09/2022

² GNR.493 published under 29967, dated 15 June 2000 and as amended by GNR.1146 published under GG 41996, dated 26 October 2018

³ GNR. 21 published under GG. 27245, dated 17 January 2014



REFERENCE: 13/3/1/2/K19 (3/11/2/3 – 2022/147)

The Executive Mayor
Bitou Municipality
Private Bag X1002
PLETTENBERG BAY
6600

Per email: dswart@plett.gov.za

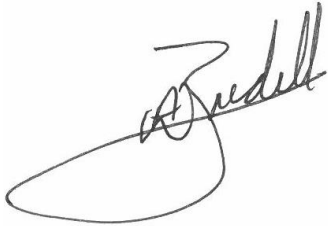
Dear Councillor Swart

APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS: MR VICTOR FELTON AS DIRECTOR: ENGINEERING SERVICES AT BITOU MUNICIPALITY

1. I refer to the above, as well my correspondence to the Municipality dated 29 August 2022, in which I provided my Department's assessment of the appointment process and outcomes in respect of Mr Victor Felton's appointment as Director: Engineering Services at Bitou Municipality. In my aforementioned correspondence, I also requested the Municipality to provide my Office with the Council resolution on the waiver application to the National Minister of Co-Operative Governance and Traditional Affairs in respect of Mr Felton. I confirm that my Office has received the requested Council resolution, dated 31 August 2022.
2. For the reasons set out by the Municipality, including the fact that certain managers are earning above the prescribed TARP for a Director: Engineering Services at the Municipality, I hereby support the waiver application to the National Minister, to offer Mr Felton a TARP of R 1 521 527.63. When the Municipality submits the waiver application in respect of Mr Felton to the National Minister, I do recommend that the Municipality supplements the application with reference to further factors as contained in the enclosed circulars from the Department of Cooperative Governance and Department of Local Government.

These factors include, amongst other, the Municipality's liquidity ratio and Mr Felton's experience and past performance.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Brede', written over a light blue rectangular background.

A BREDELL

MINISTER

DATE: 16/09/2022

REFERENCE: 13/3/1/2/K19 (3/11/2/3 – 2022/147)

The Executive Mayor
Bitou Municipality
Private Bag X1002
PLETTENBERG BAY
6600

Per email: dswart@plett.gov.za / lsmler@plett.gov.za

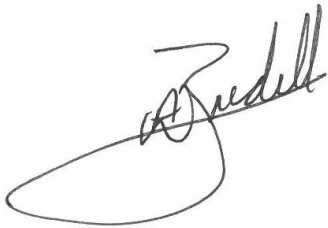
Dear Councillor Swart

APPOINTMENT OF MS MELONY ANNE PAULSEN AS DIRECTOR: COMMUNITY SERVICES AT BITOU MUNICIPALITY AND APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

1. I refer to the above, as well as the correspondence from the Municipality dated 20 July 2022, advising that the Bitou Municipal Council has resolved to appoint Ms Melony Anne Paulsen as Director: Community Services at the Municipality. I also refer to the request for my support for an application to the National Minister of Cooperative Governance and Traditional Affairs, to waive a requirement of the Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers ("the Waiver Application) dated 18 July 2022, and the Council Resolution in respect of the Waiver Application dated 31 August 2022.
2. During the assessment of the appointment process and outcomes, it was identified that the verification of Ms Paulsen's criminal record and qualifications was still pending at the time that the screening process was undertaken of short-listed candidates. The Municipality is requested to furnish my office with the finalised outcomes of the screening in respect of Ms Paulsen's criminal record and higher education qualifications.

3. I note the Council resolution dated 11 July 2022, to appoint Ms Paulsen as Director: Community Services subject to confirmation that the finalised outcomes of the screening in respect of Ms Paulsen's criminal record and higher education qualifications both returned favourable outcomes. I am satisfied that the appointment has complied with Section 56 of the Municipal Systems Act, 32 of 2000 as well as the requirements prescribed in the Municipal Regulations on Minimum Competency Levels¹.
4. For the reasons set out by the Municipality, including the fact that certain managers are earning above the prescribed TARP for a Director: Community Services at the Municipality, I hereby support the waiver application to the National Minister, to offer Ms Paulsen a TARP of R 1 427 459.62. When the Municipality submits the waiver application in respect of Ms Paulsen to the National Minister, I do recommend that the Municipality supplements the application with reference to further factors as contained in the enclosed circulars from the Department of Cooperative Governance and Department of Local Government. These factors include, amongst other, the Municipality's liquidity ratio and Ms Paulsen's experience and past performance.

Sincerely,



A BREDELL

MINISTER

DATE: 05/10/2022

¹ GNR.493 published under 29967, dated 15 June 2000 and as amended by GNR.1146 published under GG 41996, dated 26 October 2018

APPOINTMENT OF MS MELONY ANNE PAULSEN AS DIRECTOR: COMMUNITY SERVICES AT BITOU MUNICIPALITY AND APPLICATION TO WAIVE A REQUIREMENT IN TERMS OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

Adv. A De Vos SC

VAT No.: 4480126004

P.O. Box 80

Harkerville

6604

kraaiboskloof@icloud.com /

ronell@georgelaw.co.za

Tel: 082 417 9019 / 044 805 7000

Attention: Mr. Newton van der Mescht

HDRS ATTORNEYS

PLETTENBERG BAY

03 August 2020

In re: Bitou Municipality - Scarce Skills Allowance

OPINION

INTRODUCTION:

1.

During June 2020 the Plettenberg Bay Rate Payers and Residence Association delivered an application to the Bitou Municipality (“the Municipality”) in terms of which it claimed against the Municipality inter alia for a declarator that in respect of the senior officials of the Municipality the total remuneration packages are in

excess of the maximum stipulated in GN351 GG3122 of 20 March 2020 (“the current notice”). The senior officials are the Municipal Manager, the Head of Strategic Services, the Head of Engineering, Head of Community Services, the Chief Financial Officer and the Acting Director Corporate Services.

2.

2.1 It should be noted that this application has not been issued and served as of yet. However, the Municipality obtained an opinion from their attorney in which he advised (after a telephonic consultation with writer) that any payment in excess of the notice should be halted pending the finalization of the court case in question or authorization by either the Court or the National Minister. This advice was given as a precautionary measure until such time as more clarity has been obtained as regards the lawfulness or otherwise of the various employment agreements between the Municipality and its senior management. (The Minister may, on application by the Municipality, waive the maximum amount allowed under the regulations.)

2.2 The MEC, after receiving notice of the proposed application, informed the Municipality that he was of the view that it was not entitled to apply its policy in so far as it exceeds the prescribed maximum remuneration of senior management and also suggested that the Municipality should give an indication as to how it intends recovering any unlawful payments.

3.

In response to this the Municipality responded as follows in a letter dated 29 July 2020:

“The Executive Mayor convened a meeting with the Municipal Manager and all directors this morning to inform them about the legal advice received in respect of the suspension of this scarcity allowances. As a result of the discussions that took place, the following was decided on:

- *That the legal opinion of senior advocate be obtained to peruse/study the basis on which the advice of the suspension of the scarcity allowances is based on;*
- *That the opinion be circulated to the Municipal Manager as well as the directors;*
- *That a legal opinion be obtained to inform Council of the possible repercussions in respect of the non-compliance of the Labour Relations Act, should the allowances be suspended.”*

HISTORY:

4.

It is common cause that the senior managers as mentioned above are being paid in excess of the amounts set out in the current regulations as they all receive a “scarce skills allowance” in accordance with the Municipality’s Scarce Skills Policy adopted in 2013. This policy provides for a 20% addition to benefits of the staff in question . In order to decide whether these payments in excess of the regulations are unlawful, one must have regard to the history of the applicable legislation, regulations and Municipal policies.

5.

The Municipal Systems Act¹ provides as follows:

¹ 32 of 2000 (“the MSA”) Section 3(a)

“3. A Municipality exercises its legislative and executive authority by -

(a) Developing and adopting policies, plans, strategies and programs, including setting targets for delivery;”

In exercising its executive and legislative authority as provided for above, the Municipality developed a “scarce skills policy”. This policy was approved by way of resolution by the Council on the 27th June 2013. The policy was adopted before any of the regulations were issued in terms of which municipal employee’s salaries were regulated and therefore makes no reference to the regulations.

6.

The first regulations regarding the upper limit of total remuneration packages payable to municipal employees were issued in 2014. The regulations on Appointment and Conditions of Employment of Senior Managers were published under GN 21 GG 37245 of 17 January 2014 and are still in effect. The regulations were published under Section 120 read with Sections 72 of the Act.

7.

The relevant provisions of the regulations are the following:

1. Definitions: “total remuneration package” means the total cost of a senior managers remuneration to a municipality and includes the salary, pension contributions, medical-aid contributions and other forms of payment or benefits.
2. A “senior manager” is defined as a municipal manager or acting municipal manager, appointed in terms of Section 54(a) of the Act, and includes a

manager directly accountable to a municipal manager appointed in terms of Section 56 of the Act.

3. Regulation 35 provides as follows:

“35 Upper limit of total remuneration package of senior managers

- (1) The Minister must by notice in the Gazette annually determine the upper limit of the total remuneration package of senior managers according to different categories of municipalities.
- (2) The upper limit of the total remuneration package of senior managers for a financial year, must be determined by the Minister before the 31st March of the following financial year, after consultation with the Minister of Public Service and Administration, the Minister of Finance, the MEC's for Local Government and organized Local Government by notice in the Gazette after taking into consideration . . .”

8.

On the 29th March 2014 the Minister for Local Government published a government notice setting out the upper limit of the total remuneration package payable to municipal managers and managers directly accountable to municipal managers. The notice was specifically published under the powers vested in the Minister in terms of Section 72(2)(a) of the Act. Once again, the total remuneration package is defined as the total costs of a senior manager's remuneration to a municipality and includes the salary, pension contributions, medical-aid contributions and other forms of payment or benefit. The notice then sets out the upper limits of the annual remuneration packages of municipal managers but further provides as follows:

Firstly it defines market premium allowance as follows : “it means an allowance that is paid to attract and retain a suitably qualified and competent senior manager into a municipality where the approved pay range is not sufficient to attract and retain such a person, and is paid in addition to the total remuneration package”.

Secondly it provides (in Clause 10 of the regulations) for the payment of a market premium allowance over and above the approved payment range when the approved pay range is not sufficient to attract and retain a competent senior manager. Premium allowances were allowed in two instances, namely, if there was a scarcity of skills in the local pay market due to the geographical location or a scarcity of skills in the national pay market with reference to the national scarce skills list as determined by the Minister of Higher Education and Training. The market premium allowance was to be not more than 20% of the total annual remuneration package attached to a specific senior management position.

9.

It is my instruction that the municipal policy was consistently applied from 2013 to date and senior officials were given a scarce skills allowance of up to 20% above their total remuneration package. This policy seems to be in line with the 2014 regulations.

10.

The first limits prescribed as contemplated in the 2014 regulations were issued under Section 72(2A) of the MSA and were issued on the 29th March 2014 under GN225 GG37500 (“the 2014 regulations”).

11.

As already stated, the 2014 regulations introduced a “market premium allowance” which included a scarcity of skills allowance. The market premium allowance has

similar objectives to that of the policy of the Municipality with one exception and that is that the allowance payable to senior management must not be more than 20% of the total annual remuneration package.

12.

In respect of contracts that were already in existence at the time the regulations were promulgated, it was stipulated that the notice did not affect the validity of existing contracts for senior management.

13.

During 2015 new regulations were issued². These regulations introduced “scarce skills allowance” and “rural allowance”. The provision is for an either/or payment and specifically stipulates that it must not exceed 10% of the total remuneration package attached to the position. The regulations further provide that the Municipality must approve the percentage by Council and further adds more stringent requirements in that the allowance must be justified and affordable and subject to compliance with criteria as set out in the notice and with the concurrence of the MEC for Local Government.

14.

The discretion of Council in terms of the 2015 regulations is thus more restricted in that:

1. The allowance must be justified (as opposed to being granted automatically to all senior managers);

² GN 578 of Gazette 946 (“the 2015 regulations”)

2. It must be affordable;
3. It is subject to compliance with the criteria set out in the notice and with the concurrence of the MEC for Local Government.

16.

Once again the 2015 regulations include transitional provisions which provide that the notice does not affect the validity of an existing contract of a senior manager appointed before the 1st July 2014.

17.

In 2016 new regulations were promulgated³. The regulations now referred to a remote allowance which a Municipality is allowed to pay but only to employees of municipalities which are stipulated on a list. Bitou Municipality is excluded from the list.

18.

Regulation 10(3) provides as follows,

“(3) A senior manager receiving an allowance in terms of Notice 578 as published in Government Gazette 38946 of 1st July 2015 or market allowance in terms of Notice 225 as published in Gazette 37500 of 29 March 2014 is not eligible for the remote allowance.”

³ In terms of Section 72(a) of the MSA issued under GN 613 Gazette 40118 (“the 2016 regulations”)

19.

It is submitted that this regulation can only mean that a scarce skills allowance payable in terms of the 2014 regulations could still be lawfully paid to an employee as long as it does not exceed the prescribed maximum percentage. The question is therefore whether it can be argued that the payments in terms of the Municipality's scarce skills policy can be regarded as a market allowance in terms of the 2014 regulations.

It should be noted that any reference to a scarce skills allowance is absent in the later regulations.

20.

One view is that a policy formulated in 2013 cannot survive the changing regulations promulgated yearly up to March 2020. The Municipality ought to have reconsidered its policy in view of the new regulations issued each year and to have adapted its policy in accordance with the regulations. This means that every contract for the employment of a senior manager should comply with the regulations and not follow the policy of the Municipality.

21.

This opinion is fortified by Section 57(3)(a) of the MSA⁴.

⁴ "Section 57(3)(a) the employment contract referred to in subsection (1)(a) must-

- (a) Include details of duties, remuneration, benefits and other terms and conditions of employment as agreed to by the parties subject to consistency with –
 - (i) This Act;
 - (ii) Any regulations as may be prescribed that are applicable to municipal managers or managers directly accountable to municipal managers; and

Section 57(3)(a) specifically provides as follows:

“(3)(a) Any regulations or guidelines that relate to the duties, remuneration and benefits and other terms and conditions of employment of municipal managers or managers directly accountable to municipal managers, must be regarded as forming part of an employment contract referred to in subsection (a)(1)(a).”

22.

A policy can never override a regulation⁵ and the MEC is of the view that any contract entered into after promulgation of the regulations must adhere to the prescribed maximum remuneration of that year. However this can only hold true if the regulations are valid.

THE CURRENT SITUATION:

23.

The provisions of Section 57(3) of the MSA were inserted by the Local Government: Municipal Systems Amendment Act, 7 of 2011 (“the amendment Act”). This

(iii) Any applicable labour legislation; and

(b) Be signed by both parties before the commencement of service”.

⁵ See **Akani Garden Route (Pty) Ltd v Pinnacle Point 2001(4) 501 SCA** “I prefer to begin by stating that the obvious, namely that laws, regulations and rules are legislative instruments obvious, namely, that laws, regulations and rules are legislative instruments whereas policy determinations are not. As a matter of sound Government, in order to bind the public, policy should normally be reflected in such instruments. Policy determinations cannot override, amend or be in conflict with laws (including sub-ordinate legislation). Otherwise the separation between legislature and executive will disappear.”

amendment was subsequently declared unconstitutional on the 9th March 2017. The invalidity was suspended for 24 months (until the 8th March 2019).

24.

The provisions of Section 57(3) prior to its amendment did not make reference to the regulations. It did not require that “details of duties, remuneration, benefits and other terms and conditions of employment as agreed to by the parties must be subject to the consistency of the MSA and/or any regulations as may be prescribed that are applicable to municipal managers or managers directly accountable to municipal managers”.

25.

Section 72(2A) of the MSA was also affected by the declaration of constitutional invalidity. The 2017 and 2018 regulations were issued during the period of suspension and the amendment Act was therefore still in force, however the current regulations were issued after March 2019. As section 72(2A) is no longer available, the Minister used Section 72(1)(g) of the Act as an empowering provision. This section provides as follows:

“72. Regulations and guidelines:

- (1) The Minister may, subject to applicable labour legislation and after consultation with the Bargaining Council established for municipalities and the Minister for the Public Service and administration, for the purposes of this chapter make regulations or issue guidelines in accordance with Section 120 to regulate or provide for the following matters:*

(g) Regulation of remuneration and other conditions of services of staff members of municipalities subject to applicable labour law.”

As this section makes no specific reference to municipal managers and managers directly accountable to municipal managers but refers only to staff members, the question is whether, as there is currently no provision in the MSA which empowers the Minister to make regulations in relation to the duties, remuneration benefits and other terms and conditions of municipal managers and managers directly accountable to municipal managers, the current regulations issued are not *ultra vires*.

26.

The following questions need to be answered:

1. Whether Section 72(1)(g) authorizes the Minister to make regulations in relation to benefits and conditions of services of senior managers; and
2. Whether in the absence of regulations dealing with the scarce skills allowance, the Municipality can continue to implement its policy; and
3. If so, whether it is bound to the restrictions placed on it by the 2015 regulations.

30.

Every notice from 2014 to 2019 dealing with the upper limit of total remuneration packages of senior managers was issued in terms of Section 72(2A) of the Act. I am of the view that the regulations cannot survive the invalidity of the section in terms

of which the regulation was promulgated. As Section 72(2A) was declared invalid as from the 19th March 2019 all notices issued in terms of Section 72(2A) may also be invalid. In the commentary on Local Government Law of South Africa published by LexisNexis library, it is specifically stated that

“...since the provisions of the 2011 Municipal Systems Amendment Act became inoperative and unenforceable on the 9th March 2019 the validity of the regulations proclaimed in terms of specific provisions of the 2011 Systems Amendment Act is also in doubt.”

If the regulations were made in an area where no regulatory authority existed before the 2011 amendment, the validity of the regulations must be questioned. However, according to the writers, if the Minister made regulations in an area in which her regulatory authority existed before the 2011 Systems Amendment Act, the invalidity of that act cannot affect the validity of those regulations even if they were passed after the 2011 amendment. The question is therefore whether the Minister had the right to prescribe to municipalities what the upper limit of the total remuneration packages of senior managers could be before the 2011 amendment.

It is difficult to accept that the legislature intended for the Minister to have the power to regulate senior manager's benefits (before the 2011 amendment) for the following reasons:

33.1 The general provision contained in section 72 must have been regarded as inadequate in the light of the detailed provision inserted (s 72(2A) in 2011.

33.2 The fact that the first regulations restricting senior management benefits were issued only after the amendment.

33.3 The s72(1) refers to “consultation with the bargaining council” before regulating benefits of staff. This is so because municipal staff employment benefits are negotiated with the Minister in contrast with senior management which falls outside these agreements with the unions. The wording of s 72(2A) reflects this.

33.4 The whole structure of the Act differentiates between ordinary staff and senior management (except in the definition of “staff”).

31.

I am of the view that it may very well be argued that the Municipality's Scarce Skills Policy as applied to contracts entered into before 2020 is not unlawful. As all the contracts under discussion were entered into before March 2020, I am of the view that the 2020 regulations are not applicable to the current contracts.

CONCLUSION:

Although there may be arguments to the contrary, as raised by the MEC, the fact is that the Municipality negotiated benefits with its senior management before entering into the various contracts based on the Policy whilst the restrictions placed on these benefits were done in terms of an invalid section of the Act.

32.

Lastly, it needs to be pointed out that the Municipality is bound by its agreements unless the agreements are unlawful. The opinion provided by the MEC is not convincing. He does not engage with the argument raised in regards the allowance of a scarce skills policy in 2014 and later regulations but simply state th it cannot be correct. Neither does he address the invalidaty of Section 72(2A) and the probable subsequent invalidaty of the regulations promulgated in terms of that section.

My advice is that the agreements already in place is lawful and cannot be altered unless it is negotiated with a particular staff member.

A DE VOS SC

M Mokhoaetsi

Section 3: Office of the Municipal Manager

ITEM C/1/111/12/22

DELAY IN THE SUBMISSION OF THE AUDIT REPORT

Portfolio Comm: Office of the Municipal Manager

File Ref: 9/1/7

Demarcation: All Wards

Delegation: Council

Attachments

Annexure A: Special Report of the Auditor-General to the Speaker and Accounting Officer of Bitou Municipality on the delay in the submission of the audit report on the financial statements of the Bitou Municipality for the financial year ended 30 June 2022.

Annexure B: Letter to the Speaker

Annexure C: Letter to the Accounting Officer

Report from: Office of the Municipal Manager

Author: Municipal Manager

Date: 01 December 2022

PURPOSE OF THE REPORT

To inform Council of the reasons for the delay in submitting the audit report on the financial statements of Bitou municipality by Auditor General.

BACKGROUND /DISCUSSION

In terms of section 126(1)(a) of the MFMA a municipality must prepare financial statements within two months after the end of the financial year to which those statements relate and submit the statements to the Auditor-General for auditing. Consequently, in terms of section 126(3)(b) of the MFMA, the audit report should be submitted to the accounting officer of the municipality by 30 November 2022.

FINANCIAL IMPLICATION

As contained in the Audited Financial Statement.

RELEVANT LEGISLATION

Section 126(1)(a) of the MFMA and Section 126(3)(b) of the MFMA

Section 3: Office of the Municipal Manager

Comments Manager: Legal Services

The recommendation of the Municipal Manager is supported

Comments: Director Financial Services

The recommendation of the Municipal Manager is supported.

Comments: Acting Director Corporate Services

The recommendation of the Municipal Manager is supported.

Comments: Director Engineering Services

The recommendation of the Municipal Manager is supported.

Comments: Director Community Services

The recommendation of the Municipal Manager is supported.

Comments: Director Economic Development & Planning

The recommendation of the Municipal Manager is supported.

RECOMMENDED BY THE MUNICIPAL MANAGER

That Council takes note of the report on the delay in the submission of the audit report on the financial statements of Bitou Municipality.



SPECIAL REPORT OF THE AUDITOR-GENERAL TO THE SPEAKER AND ACCOUNTING OFFICER OF BITOU MUNICIPALITY ON THE DELAY IN THE SUBMISSION OF THE AUDIT REPORT ON THE FINANCIAL STATEMENTS OF THE BITOU MUNICIPALITY FOR THE FINANCIAL YEAR ENDED 30 JUNE 2022.

Introduction

1. As required by section 126(4) of the Municipal Finance Management Act 56 of 2003 (MFMA), the Auditor-General of South Africa (AGSA) must report to the municipality the reasons for the delay if they are unable to complete the audit within three months of receiving the financial statements.

Due date for submission of audit report

2. In terms of section 126(1)(a) of the MFMA a municipality must prepare financial statements within two months after the end of the financial year to which those statements relate and submit the statements to the Auditor-General for auditing. Consequently, in terms of section 126(3)(b) of the MFMA, the audit report should be submitted to the accounting officer of the municipality by 30 November 2022.
3. Although the Bitou Municipality, as required by section 126(1)(a) of the MFMA, submitted the financial statements to the Auditor-General by 31 August 2022, the Auditor-General will not be able to issue the audit report by 30 November 2022, as required by S126(3)(b) of the MFMA.

Reasons for the delay

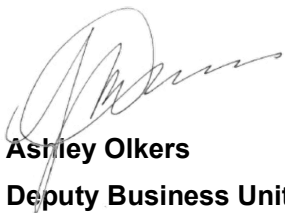
4. The reasons for the delay in issuing of the audit report within the prescribed timeframe for the auditee is due to the following summary of reasons:
 - The finding on the approval of the annual budget needs to be consulted upon further as it is a technical matter which cannot be resolved by the 30th of November 2022.

Conclusion

5. Due to the reason outlined above, we hereby wish to inform you that there is a delay in the submission of the audit report on this auditee.
6. Accordingly, the AGSA will endeavour to finalise your entity's MFMA audit report by 9 December 2022, to enable the necessary oversight processes to be successfully concluded.

7. This special report relates only to the purpose set out in the first paragraph.

Signed by



Ashley Olkers

Deputy Business Unit Leader: (Western Cape)

Cape Town

30 November 2022



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence



AUDITOR - GENERAL
SOUTH AFRICA

The Speaker
Bitou Municipality
Private Bag X1002
Plettenberg Bay
6600

30 November 2022

Reference: 04524REG21-22

Dear Mr. CN Terblanche

**SPECIAL REPORT OF THE AUDITOR-GENERAL ON THE DELAY IN THE SUBMISSION OF
THE AUDIT REPORT ON THE FINANCIAL STATEMENTS OF BITOU MUNICIPALITY FOR THE
FINANCIAL YEAR ENDED 30 JUNE 2022**

1. As required by section 126(4) of the Municipal Finance Management Act 56 of 2003, the Auditor-General of South Africa (AGSA) attaches herewith the special report informing you of the reasons for the delay in submitting the audit report on the financial statements of Bitou Municipality by 30 November 2022.
2. Please acknowledge receipt of this letter by signing the enclosed copy of the letter in the space provided and returning it to Ignatius Fourie (Senior Manager).

Yours sincerely

Ashley Olkers
Deputy Business Unit Leader: (Western Cape)

Enquiries: Ignatius Fourie
Telephone: (021) 528 4100
Email: ignatiusf@agsa.co.za

The receipt of this letter is acknowledged by the¹ on behalf of
the Speaker.

Signed

.....
Name Date

¹ Designation of the person acknowledging on behalf of the Speaker.



AUDITOR - GENERAL
SOUTH AFRICA

The Accounting Officer
Bitou Municipality
Private Bag X1002
Plettenberg Bay
6600

30 November 2022

Reference: 04524REG21-22

Dear Mr Memani

**SPECIAL REPORT OF THE AUDITOR-GENERAL ON THE DELAY IN THE SUBMISSION OF
THE AUDIT REPORT ON THE FINANCIAL STATEMENTS OF BITOU MUNICIPALITY FOR THE
FINANCIAL YEAR ENDED 30 JUNE 2022**

1. As required by section 126(4) of the Municipal Finance Management Act 56 of 2003, the Auditor-General of South Africa (AGSA) attaches herewith the special report informing you of the reasons for the delay in submitting the audit report on the financial statements of Bitou municipality by 30 November 2022.
2. Please acknowledge receipt of this letter by signing the enclosed copy of the letter in the space provided and returning it to Ignatius Fourie (Senior Manager).

Yours sincerely

.....
Ashley Olkers
Deputy Business Unit Leader: (Western Cape)

Enquiries: Ignatius Fourie
Telephone: (021) 528 4100
Email: ignatiusf@agsa.co.za

The receipt of this letter is acknowledged by the¹ on behalf of
the Accounting officer.

Signed

.....
Name and title

.....
Date

¹ Designation of the person acknowledging on behalf of the accounting officer.

Section 1: Office of the Municipal Manager

ITEM C/1/112/12/22

EXTENSION OF ACTING APPOINTMENT OF DIRECTOR FINANCIAL SERVICES FOR THE PERIOD 01 DECEMBER 2022 UNTIL 31 DECEMBER 2022

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 4/3/5/1/3 **Delegation:** Council

Attachments: **Annexure “A”:-** Council Resolution C/1/99/10/22 – Appointment of Acting Director Financial Services for the period 01 October 2022 until 30 November 2022

Annexure “B”:- E-mail Correspondence from Mr. CL Mapeyi dated Tuesday, 29 November 2022

Author: **Manager HR Administration**

Submitted by: **Municipal Manager**

Date: **29 November 2022**

PURPOSE

The purpose of this report is to seek Council’s approval to extend the acting appointment of Mr. FM Lötter in the post of Director Financial Services for the period 01 December 2022 until 31 December 2022.

LEGISLATIVE REQUIREMENTS

Municipal Systems Act, Act 32 of 2000

BACKGROUND

Council at its meeting of 11 July 2022, resolved under Council Resolution C/1/68/07/22 to appoint Mr. Christopher Lungelo Mapeyi as Director Financial Services. It should be mentioned that Mr. Mapeyi was supposed to commence with duty with effect from 01 December 2022.

On Tuesday, 29 November 2022 at 15h53 pm, Mr. Mapeyi send an e-mail correspondence requesting to commence with work on 02 January 2023. According to the attached e-mail correspondence, Mr. Mapeyi will forfeit his 13th cheque if he vacates his current position at his current employer. The Municipal Manager after consultation with the Executive Mayor gave consent to Mr. Mapeyi to commence with work on 02 January 2023.

Thus the position of Director Financial Services remains vacant for the month of December 2022.

Council at its meeting of 30 October 2022, resolved under Council Resolution C/1/99/10/22 to appointment Mr. FM Lötter to act as Director Financial Services for the period 01 October 2022 until 30 November 2022.

Section 1: Office of the Municipal Manager

Section 56 (1)(a) of the Local Government Municipal Systems Act, 32 of 2000 states that a Municipal Council, after consultation with the Municipal Manager, appoint an acting Manager directly accountable to the Municipal Manager under circumstances and for a period as prescribed.

Section 56 (b) A person appointed as Municipal Manager in terms of paragraph (1) must at least have the skills, expertise, competencies and qualifications as prescribed.

Section 56 (c) states that a person appointed in terms of paragraph (a) (ii) may not be appointed to act for a period that exceeds three months: Provided that a Municipal Council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.

RECOMMENDED BY THE MUNICIPAL MANAGER

1. That Council further appoint Mr. Felix Lötter to act as Director Financial Services for the period 01 December 2022 until 31 December 2022.
2. That considering that the acting period has exceeded three months by a further one month, that Council applies in writing to the MEC for Local Government to extend the period of acting appointment for Mr. FM Lötter with a further one month ending 31 December 2022.

EXTRACT FROM THE UNCONFIRMED MINUTES OF THE ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H01

Resolution C/1/99/10/22

APPOINTMENT OF ACTING DIRECTOR FINANCIAL SERVICES FOR THE PERIOD 01 OCTOBER 2022 UNTIL 30 NOVEMBER 2022

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 4/3/5/1/3 **Delegation:** Council

Resolved

1. That Council note and condone the acting appointment of Mr. Felix Lötter as Director Financial Services for the period 1 October 2022 to 31 October 2022.
2. That Council further appoint Mr. Felix Lötter to act as Director Financial Services for the period 01 November 2022 until 30 November 2022.
3. That considering that the acting period has exceeded three months by a further two months that Council applies in writing to the MEC for local government to extend the period of appointment for Mr F Lotter with the further two months ending 30 November 2022.

From: [Mbulelo Memani](#)
To: [Venus Cunningham](#)
Subject: FW: 2022 10 19_Contract of Employment_Director Financial Services_CL Mapeyi
Date: Wednesday, 30 November 2022 12:58:31
Attachments: [image001.png](#)

Please add this email as attachment on the item for extension of acting for Felix

From: Akhona Noholoza <anoholoza@plett.gov.za> **On Behalf Of** Mbulelo Memani
Sent: Wednesday, 30 November 2022 12:51
To: Mapeyi CHRISTOPHER <mapeyi@gmail.com>; Mbulelo Memani <mmemani@plett.gov.za>
Subject: RE: 2022 10 19_Contract of Employment_Director Financial Services_CL Mapeyi

Dear Mr Mapeyi

Thank you for your email below it is noted and received with thanks

Please be advised that the office of the MM has discussed the request with the office of the Executive Mayor and the approval was granted for your to commence on the 02 January 2023

Many thanks and kind regards

This email is confidential and not for further distribution

Akhona Noholoza: PA – Municipal Manager | BITOU MUNICIPALITY
Direct: | tel: (+27) 044 501 3172 | Email: anoholoza@plett.gov.za | www.bitou.gov.za
Physical Address: Sewell Street, Plettenberg Bay, Western Cape, South Africa



From: Mapeyi CHRISTOPHER <mapeyi@gmail.com>
Sent: Tuesday, November 29, 2022 3:53 PM
To: Mbulelo Memani <mmemani@plett.gov.za>
Subject: Re: 2022 10 19_Contract of Employment_Director Financial Services_CL Mapeyi

Dear MM

I have a situation here MM, the municipality wants to retain my 13th cheque bonus which is payable by December 2022. The policy makes provision that if one leaves the institution before the end of the calendar year, one loses the bonus.

Therefore, will it be a problem if I were to start on the 2nd January 2023? Seeing that it's the end of the year and December 2022 only has 15 days that are really effective.

Feel free to contact me for any clarification or enquiries.

Regards
Chris Mapeyi

On Thu, Oct 20, 2022 at 8:07 AM Mbulelo Memani <mmemani@plett.gov.za> wrote:

Good Day Mr Mapeyi

Please find attached draft contract of employment. Please look at it and sign and send back to us.

Kind regards,

Mbulelo Memani

Municipal Manager

Office of the Municipal Manager

BITOU MUNICIPALITY

Tel: (+27) 044 501 3000 | Email: mmemani@plett.gov.za | www.bitou.gov.za

Physical Address: Sewell Street, Plettenberg Bay, Western Cape, South Africa



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Regards

Chris Mapeyi

Section 1: Office of the Municipal Manager

ITEM C/1/113/11/22

RE-ADVERTISING OF VACANCY OF DIRECTOR CORPORATE SERVICES AND APPROVAL OF RECRUITMENT AND SELECTION TIMEFRAMES

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 4/3/5/1/3 **Delegation:** Council

Attachments: **Annexure “A”:-** **Council Resolution C/1/87/09/22 – Declaration of vacancy and recruitment & selection Timeframe**

Annexure “B”:- **Minutes of Shortlisting Process: Director Corporate Services**

Annexure “C”:- **Longlist – Director Corporate Services**
(CONFIDENTIAL – FOR DISTRIBUTION AT THE MEETING)

Author: **Manager HR Administration**

Submitted by: **Municipal Manager**

Date: **29 November 2022**

PURPOSE

Purpose of the report

The purpose of this report is to;

1. Report back on the **progress of recruitment process** of Director Corporate Services.
2. Obtain approval for **re-advertising** the said vacancy
3. Obtain **approval for recruitment and selection process** for the filling of the vacancy as prescribed in the Municipal Systems Act.

LEGISLATIVE REQUIREMENTS

Municipal Structures Act, Act 117 of 1998
Municipal Systems Act, Act 32 of 2000 and Regulations
Employment Equity Act, Act 55 of 1998

BACKGROUND

The post of Director Corporate Services was declared vacant at the Council meeting of 29 September 2022 under Council resolution C/1/87/09/22.

The post of Director Corporate Services was advertised under notice number 235 of 2022, the call for applications closed on 03 November 2022. A total of 15 applications were received. The Shortlisting Session for the said position took place on Thursday, 24 November 2022, unfortunately the Selection

Section 1: Office of the Municipal Manager

Panel unilaterally agreed that position be re-advertised, and thus the position remains vacant.

Therefore since the selection panel recommended the re - advertising of the vacancy the process of recruitment and selection must start afresh from process where the post was declared vacant.

Section 56(1) (a) of the Local Government Municipal Systems Act, 32 of 2000 states that the municipal council after consultation with the municipal manager must appoint a manager directly accountable to the municipal manager.

The appointment of senior managers are regulated by Regulation 3 of the Local Government: Regulations on Appointment and Conditions of Employment of Senior managers, No. 37245 dated 17 January 2014.

The recruitment, selection and appointment of senior managers must take place in accordance with the municipal systems act and procedures contemplated in section 67 of the Act.

Regulation 7 (1) of the regulations stipulates that when a senior manager post becomes vacant, or is due to become vacant, the municipal manager in the case of a manager directly accountable to the municipal manager, must, upon receipt of official notification that the post of a senior manager will become vacant, obtain approval from the municipal council for the filling of such vacant post in its next council meeting or as soon as it is reasonable possible to do so.

Notwithstanding the aforementioned sub regulation, the speaker may convene a special meeting to obtain council approval for the filling of a senior manager post.

Regulation 12 (4) of the Regulations specify that the selection panel for the appointment of a manager directly accountable to a municipal manager must consist of at least three and not more than five members; constituted as follows;

“

- i. The municipal manager who will be the chairperson;
- ii. A member of the mayoral committee or councillor who is the portfolio head of the relevant portfolio; and
- iii. At least one other person; who is not a councillor or a staff member of the municipality, and who has the expertise or experience in the area of the advertised post.”

Timeframes for the Selection Process

ACTIVITY	DATE
Advertising for position of Director Corporate Services (<i>minimum of 14 days from the date of advertisement appearing and not more than 30 days</i>)	18 December 2022
Closing Date	17 January 2023
Shortlisting (within 30 days of closing of advert)	2 February 2023
Screening and competency assessments (within 21 days of shortlisting)	16 February 2023
Interviews (within 21 days of screening)	21 February 2023
Outcome report tabled in Council	28 February 2023
Successful candidate report for duty	01 April 2023

Financial Implication

Section 1: Office of the Municipal Manager

The position is on the approved staff establishment and is budgeted for.

Recommended by the Municipal Manager

1. That the post of Director Corporate services be re-advertised
2. That a notice be placed on the same advertisement to inform current applicants that they need not to reapply for the vacancy again under notice 315 of 2019.
3. That the following persons be approved by Council as the Selection and Interview Panel in terms of both Regulations 12 and 15 of Government Gazette No. (37245) respectively:
 - (a) The municipal manager who will be the chairperson;
 - (b) A member of the mayoral committee or councillor who is the portfolio head of the relevant portfolio; Councillor _____
 - (c) At least one other person; who is not a councillor or a staff member of the municipality, and who has the expertise or experience in the area of the advertised post.
 - (d) *Two (2) Union Representatives, 1 union presentative from IMATU and 1 Union Representative from SAMWU who will sit as an observers*
4. That Council approves the Recruitment and Selection processes hereunder, in line with the Local Government: *Regulations on Employment and Conditions of Employment of Senior Managers*, as promulgated on 17 January 2014

ACTIVITY	DATE
Advertising for position of Director Corporate Services (<i>minimum of 14 days from the date of advertisement appearing and not more than 30 days</i>)	18 December 2022
Closing Date	17 January 2023
Shortlisting (within 30 days of closing of advert)	2 February 2023
Screening and competency assessments (within 21 days of shortlisting)	16 February 2023
Interviews (within 21 days of screening)	21 February 2023
Outcome report tabled in Council	28 February 2023

5. That upon completion of the selection process a report containing the proposed appointment be tabled with Council in order for Council to make the necessary appointment;
6. That upon Council approving the appointment, the Municipal Manager be **mandated to negotiate** an offer of employment with the preferred candidate within the parameters of the specific service conditions and budgetary guidelines relating to the position.

EXTRACT FROM THE CONFIRMED MINUTES OF THE SPECIAL COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON THURSDAY, 29 SEPTEMBER 2022 AT 14H02

“

Resolution C/1/87/09/22

DECLARATION OF VACANCY, APPROVAL OF SELECTION AND RECRUITMENT PROCESS FOR THE FILLING OF POSITION OF DIRECTOR CORPORATE SERVICES

Portfolio Comm: Strategic Services & Office of the MM **Delegation:** Council
File Ref: 4/3/5/1/3 **Demarcation:** All Wards

Resolved

1. That Council note that the post of Director Corporate Services become vacant on 01 September 2022.
2. That Council approve and declare the post Director Corporate Services vacant with effect from 01 September 2022.
3. That the following persons be approved by Council as the Selection and Interview Panel in terms of both Regulations 12 and 15 of Government Gazette No. (37245) respectively:
 - (a) The Municipal Manager who will be the chairperson;
 - (b) **Councillor J Kamkam who is the Portfolio head of Finance and Corporate Services;**
 - (c) At least one other person, who is not a Councillor or a staff member of the municipality, and who has the expertise or experience in the area of the advertised post.
 - (d) *Two (2) Union Representatives, 1 union presentative from IMATU and 1 Union Representative from SAMWU who will sit as an observers*
4. That Council approves the Recruitment and Selection processes hereunder, in line with the Local Government: *Regulations on Employment and Conditions of Employment of Senior Managers*, as promulgated on 17 January 2014.

ACTIVITY	DATE
Advertising for position of Director Corporate Services (<i>minimum of 14 days from the date of advertisement appearing and not more than 30 days</i>)	2 October 2022
Closing Date	27 October 2022
Shortlisting (within 30 days of closing of advert)	10 November 2022
Screening and competency assessments (within 21 days of shortlisting)	16 November 2022
Interviews (within 21 days of screening)	24 November 2022
Outcome report tabled in Council	30 November 2022
Successful candidate report for duty	01 January 2023

6. That upon completion of the selection process, a report containing the proposed appointment be tabled to Council in order for Council to make the necessary appointment.
7. That, upon Council approving the appointment, the Municipal Manager be mandated to negotiate an offer of employment with the preferred candidate within the parameters of the specific service conditions and budgetary guidelines relating to the position.

Proposed: Councillor J N Kamkam
Seconded: Councillor N Ndayi”

CONFIRMED

MINUTES OF THE SHORTLISTING MEETING FOR THE POSITION OF DIRECTOR ENGINEERING SERVICES AS ADVERTISED UNDER NOTICE, NUMBER 235/2022 HELD via MS TEAMS, ON THURSDAY, 24 NOVEMBER 2022 AT 14H00pm

IN ATTENDANCE:

Panel Members:

The Municipal Manager (Chairperson)
Member of MayCo/Portfolio Councillor
Municipal Expert

Mr. M Memani
Councillor J Kamkam
Mr. E Jantjies

Recruitment Agency Consultant

Mr. Roy Steele
(from Roy Steele and Associates)

Union Representatives: (Observers)

IMATU
SAMWU

Ms. L Freecks
Absent

Secretarial Services

Manager: HR Administration

Mrs. VR Cunningham

WELCOME AND INTRODUCTION

The Chairperson, Mr. Memani welcomed everyone and indicated that we are all attending the shortlisting process for the advertised position of Director Corporate Services.

The Chairperson requested the Panel Members to introduce themselves for record purposes;

- Member of the Mayoral Committee, who is also the portfolio Councillor for the Directorates Corporate & Financial Services; Councillor J Kamkam;
- Municipal Management Expert Mr. E Jantjies;
- Mr. Roy Steele, consultant whom was appointed by the Municipality to assist with the Selection Process for the said position;
- Manager HR Administration, Mrs. Venus Cunningham – assist with secretariat duties

Mrs. Cunningham indicated to the Selection Panel that the IMATU Chairperson, Ms. Linus Freecks is attending the shortlisting session that has observer status. Mrs. Cunningham further indicated that SAMWU was invited but did attend nor did they render an apology for their absence.

He confirmed the constitution of the panel members is in terms of the Council Resolution C/1/175/10/22 of 16 October 2020.

BACKGROUND:

The post of Director Corporate Services was advertised under Notice number 235 of 2002 and the call for applications closed on 03 November 2022 at 14h00.

The Chairperson indicated that we have received a total of 15 applications. The Chairperson further indicated that the panel will zoom in on each candidate and ascertain whether or not they comply with the advertisements and the requirements of the position.

The following criteria were used during the Shortlisting Process

MINIMUM REQUIREMENTS:

• A Bachelor Degree in Public Administration / Management Science /Law, or equivalent • Minimum of eight (8) years or more relevant experience of which at least 5 years must be at senior management level • Have proven successful management experience in administration • Competencies as set out in the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, GNR 21, GG 37245 dated 17 January 2014 • Compliance in terms of the Financial and Supply chain management competency areas in terms of Government Notice R493 as published in Government Gazette no 29967 of 15 June 2007 (municipalities were granted exemption from regulation 15 and 18 of Government Gazette 29967 under Notice No. 40593 of 3 February 2017, subject to conditions of compliance with minimum competency levels within 18 months of date of employment) • Excellent facilitation and communication skills in at least two of the three official languages of the Western Cape • A valid driver's license • Own transport • Must be able to work after normal office hours, on standby and during emergencies (24/7) • Mentally fit and healthy

EMPLOYMENT EQUITY TARGET IN ORDER OF PREFERENCE:

1st Preference: Coloured Female
2nd Preference: African Female
3rd Preference: White Female
4th Preference: Coloured Male

RECOMMENDATION OF THE SELECTION PANEL

1. The members of the panel perused each candidate detail page by page as recorded on the longlist and the following candidates were selected unanimously;

• Candidate No. 1	M Booysen	Meet Shortlisting Criteria;
• Candidate No. 2	WB Clayton	Senior Management Experience mostly in Community Services;
• Candidate No. 3	MT Dalindyebo	Insufficient Municipal Experience and no Senior Management Experience;
• Candidate No. 4	IM Erasmus	MBA Certificate not certified & No Local Government Experience;
• Candidate No. 5	E Ganza	Experience limited to Assistant/Deputy Director & Application Form not duly completed as required by Regulations;
• Candidate No. 6	FG Herwels	No Local Government Experience;
• Candidate No. 7	LT Malangabi	Experience limited to HR and lack of Senior Management Experience (less than 5years experience) & Application Form not duly completed as required by Regulations;
• Candidate No. 8	L Mankayi	No Local Government Experience;
• Candidate No. 9	KS Moodley	Meet Shortlisting Criteria;
• Candidate No. 10	MR Ruiters	No Local Government Experience & Application Form not

- Candidate No. 11 Adv. KA Seroadi duly completed as required by Regulations;
No relevant Senior Management Experience & Application Form not duly completed as required by Regulations;
- Candidate No. 12 Adv. JA Seton Experience limited to that of a Councillor;
- **Candidate No. 13 RK Smit Meet Shortlisting Criteria;**
- Candidate No. 14 NI van Stade Application form not duly completed as required by Regulations;
- Candidate No. 15 S Vayisi No relevant Senior Management Experience

Based on the process that was followed the only candidates that meets the shortlisting criteria are Candidates: 1, 9 and 13.

Unfortunately all three candidates does not meeting the Employment Equity targeted group, thus the Selection Panel agreed that the position of Director Corporate Services be re-advertised.

The Chairperson indicated that by re-advertising the position, it will widen the pool of suitably qualified and experience applicants for the position and hopefully applicants from the Employment Equity targeted group will apply for the position.

IN CONCLUSION

The Chairperson thanked everyone present for their participation and meaningful input.

The meeting adjourned at 14h27 pm

Chairperson; Municipal Manager (M Memani)

DATE

Section 1: Office of the Municipal Manager

ITEM C/1/114/12/22

**EXTENSION OF ACTING APPOINTMENT: DIRECTOR CORPORATE SERVICES: -
01 JANUARY 2023 UNTIL 31 MARCH 2023**

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 4/3/5/1/3 **Delegation:** Council

Attachments: Annexure “A”:- Council Resolution C/1/88/09/22 – Appointment of
Acting Director Corporate Services for the period
01 October 2022 until 31 December 2022

Author: Manager HR Administration

Submitted by: Municipal Manager

Date: 29 November 2022

PURPOSE

The purpose of this report is to seek Council’s approval to appoint an official to act as Director Corporate Services for the period 01 January 2023 until 31 March 2023.

LEGISLATIVE REQUIREMENTS

Municipal Systems Act, Act 32 of 2000

BACKGROUND

Council at its meeting of 29 September 2022 resolved under Council Resolution C/1/88/09/22, appointed Mr. A Croutz to act as Director Corporate Services for the period 01 October 2022 until 31 December 2022.

The post of Director Corporate Services was advertised under notice number 235 of 2022, the call for applications closed on 03 November 2022. A total of 15 applications were received. The Shortlisting Session for the said position took place on Thursday, 24 November 2022, unfortunately the Selection Panel unilaterally agreed that position be re-advertised, thus the position remains vacant.

Section 56 (1)(a) of the Local Government Municipal Systems Act, 32 of 2000 states that a Municipal Council, after consultation with the Municipal Manager, appoint an acting Manager directly accountable to the Municipal Manager under circumstances and for a period as prescribed.

Section 56 (b) A person appointed as Municipal Manager in terms of paragraph (1) must at least have the skills, expertise, competencies and qualifications as prescribed.

Section 56 (c) states that a person appointed in terms of paragraph (a) (ii) may not be appointed to act for a period that exceeds three months: Provided that a Municipal Council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend

Section 1: Office of the Municipal Manager

the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.

RECOMMENDED BY THE MUNICIPAL MANAGER

1. That Council extends the acting appointment of Mr. AP Croutz in the position of Director Corporate Services for the period 01 January 2023 until 31 March 2023.
2. That Council delegated the Municipal Manager to apply in writing to the MEC for concurrence of the extended period of Mr. AP Croutz in the position of Director Corporate Services.

EXTRACT FROM THE UNCONFIRMED MINUTES OF THE SPECIAL COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON THURSDAY, 29 SEPTEMBER 2022 AT 14H02

“

Resolution C/1/88/09/22

APPOINTMENT OF ACTING DIRECTOR CORPORATE SERVICES FOR THE PERIOD 01 OCTOBER 2022 UNTIL 31 DECEMBER 2022

Portfolio Comm: Strategic Services & Office of the MM
File Ref: 4/3/5/1/3

Demarcation: All Wards
Delegation: Council

Resolved

That Council appoint **Mr A Croutz** to act as Director Corporate Services for the period 01 October 2022 to 31 December 2022.

Proposed: Councillor W J Nel
Seconded: Councillor M P Busakwe”

ITEM C/1/115/12/22

**APPROVAL OF AMENDED MICRO STRUCTURES: ENGINEERING SERVICES
DIRECTORATE AND TRAFFIC MANAGEMENT SERVICES**

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 2/1/8 **Delegation:** Council

Attachments: **Annexure “A”:-** **Council Resolution C/1/05/10/22 – Bitou
Organizational Micro-Structures**
Annexure “B”:- **Micro Structure: Engineering Services**
Annexure “C”:- **Micro Structure: Traffic Management Services**

Author: **Manager HR Administration**

Submitted by: Municipal Manager

Date: **02 December 2022**

Purpose of the Report

The purpose of the report is for Council to consider and approved the final amended micro-structures of the Directorate Engineering Services and the Traffic Management Services.

APPLICABLE LEGISLATION

The Constitution of the Republic of SA
Municipal Systems Act, Act 32 of 2000
Municipal Structures Act, Act 117 of 1998
Local Government: Municipal Planning and Performance Management Regulations, 2001
Local Government: Appointment and Conditions of Employment of Senior Managers Regulations, 2014
Local Government: Municipal Performance Regulations of Senior Managers, 2006
Government Gazette No. 45181 dated 20 September 2021 – Local Government Staff Regulations

BACKGROUND

Council approved the organizational micro-structure at its meeting of 31 October 2022, resolved under Council Resolution C/1/05/10/22.

ENGINEERING SERVICES MICRO STRUCTRE (Annexure “B”)

During the Placement Process for the Directorate Engineering Services held on 10 November 2022, it was found that various positions where there was already appointments made were omitted from the current approved micro structures. The Placement Committee did not continue with the placement process and referred the micro structure back for review. The Director Engineering Services were

Section 1: Office of the Municipal Manager

requested to review and amend the micro structure and ensure that all positions where appointments has been made and are filled, reflects on the respective macro structures of the Directorate.

The Placement Committee further indicated that the Placement Process cannot be used to demote and or promote a person and thus instructed the Director to amend the micro structure for the Directorate Engineering Services.

Please note the following motivation in respect to the amendments in respect of the Division: Electrical and Energy Unit;

- SSEG/Augmentation & Renewable (New Technician) – This position has been approved, but it was a new position. With the current state of the State owned Entity (Eskom) where the country is experiencing constant load shedding, the Electricity Act was amended by the minister which allowed the municipalities to purchase electricity from private owned Independent Power Producers. As a result, the municipalities must now gear itself to be in a position to purchase electricity and manage these contracts for the foreseeable future. Given that this was never a function of local utilities, there is a need for capacity within the organization to champion these Municipal Independent Power Producers Programs. Amongst, other things, this position will also require the need to manage the ever increasing uptake of SSEG applications and various Augmentation applications
- Infrastructure projects has been omitted from the initial submission as an oversight and the department is requesting that it must be placed back onto the structure.
- Specialized Services (New Technician) – this position relates to SCADA, Electrical Protection at all substations as well as fault finding, fault locations of all underground cables which is a highly specialized field. Currently this function is completely outsourced, but the aim of the department is to build in-house capacity to ensure that costs are reduced especially given the amount of times cable faults, protection and SCADA challenges are required within the department. This position has been approved by council, but there is a slight change to where the position will be reporting to as the Operational Superintendent was never responsible for this function before.

TRAFFIC MANAGEMENT SERVICES (Annexure “C”)

The Municipality has implemented various skills programmes for Employees as well as Unemployed Youth; the Driver’s License Programmes, is one of these skills programmes which is implemented over a period of 5 years.

According to the current approved structure, the micro structure of the Traffic Management Services Unit, only makes provision for the following;

1x Senior Examiner;
2x Examiner
2x LEU Operator; and
1 x Senior Clerk (E-Natis)/Cashier

The Driver’s License Programme caters for +/- 60 Employees and +/- 350 Unemployed Youth, and in light of the fact that the Driver’s License Testing Centre (also knowns as DLTC) must also cater for the broader public, these programmes will place an additional burden on the current staff members to ensure that service delivery is not hampered.

Thus the following amendments to the micro structure of the Traffic Management Services Unit;

Section 1: Office of the Municipal Manager

1.x Senior Examiner;
3x Examiner (1x New)
2x LEU Operator; and
2x Senior Clerk (E-Natis)/Cashier

By approving the amended structure, it will enhance service delivery and improve the positive image of the Municipality.

RECOMMENDATION BY THE MUNICIPAL MANAGER

1. That Council consider and approve the amended microstructures of the Directorate Engineering Services and the Directorate Community Services, Division: Traffic Management Services .
2. That the Placement Committee finalise the Placements Process by 31 January 2023 as previously approved by Council.

EXTRACT FROM THE UNCONFIRMED MINUTES OF THE ORDINARY COUNCIL MEETING OF BITOU LOCAL MUNICIPALITY HELD IN THE COUNCIL CHAMBER, MUNICIPAL OFFICES, SEWELL STREET, PLETTENBERG BAY ON MONDAY, 31 OCTOBER 2022 AT 11H01

“

Resolution C/1/105/10/22

BITOU ORGANIZATIONAL MICRO-STRUCTURES

Portfolio Comm: Strategic Services & Office of the MM **Demarcation:** All Wards
File Ref: 2/1/8 **Delegation:** Council

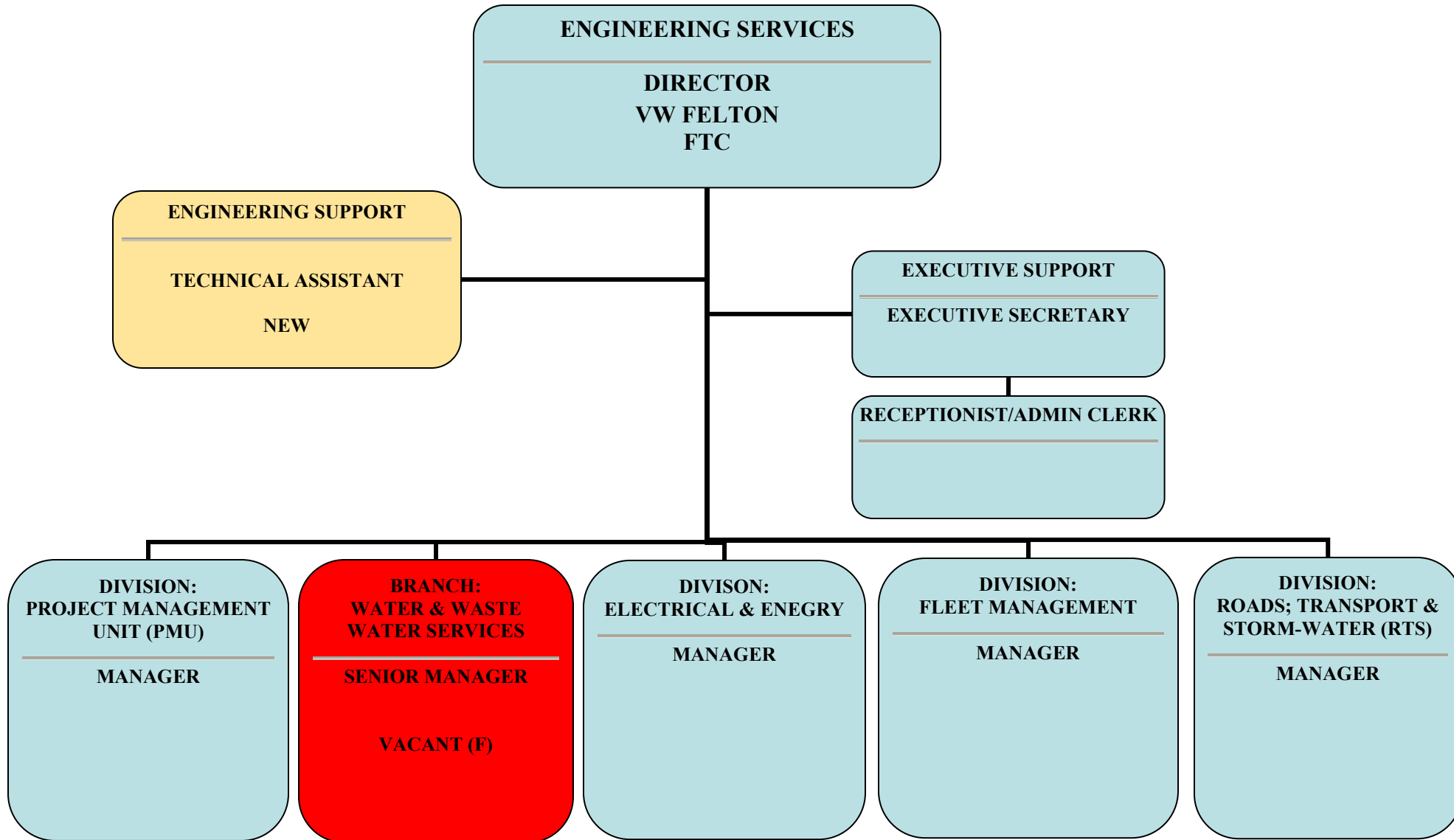
Resolved

1. That Council approve the organizational micro-structure.
2. That the existing organizational structure of the Municipality be abolished after the placement process has been concluded (31 January 2023) in terms of Council's Placement Policy.
3. That the proposed organizational structure be phased in over a period of 3 months.
4. That the standard corporate and human resource processes be followed for the implementation of the organizational structure.
5. That Council take cognizance that Bitou Municipality has been selected to form part of the Pilot Project by CoGTA to align its staff establishment with the Municipal Staff Regulations of 20 September 2021.
6. That regular progress reports be submitted to Council in respect of the progress made once the Pilot project commence.

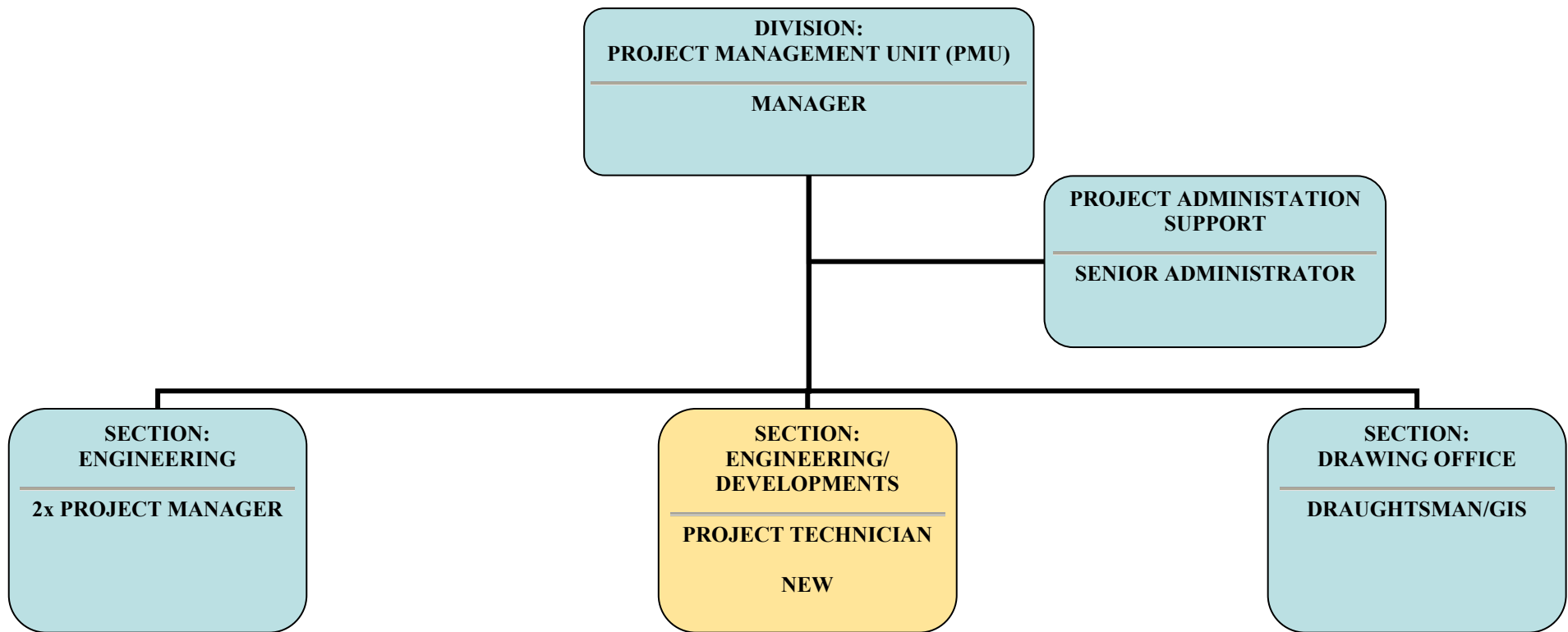
Proposed: Councillor W J Nel
Seconded: Councillor A R Olivier”

FINAL REVISED STRUCTURE: ENGINEERING SERVICES

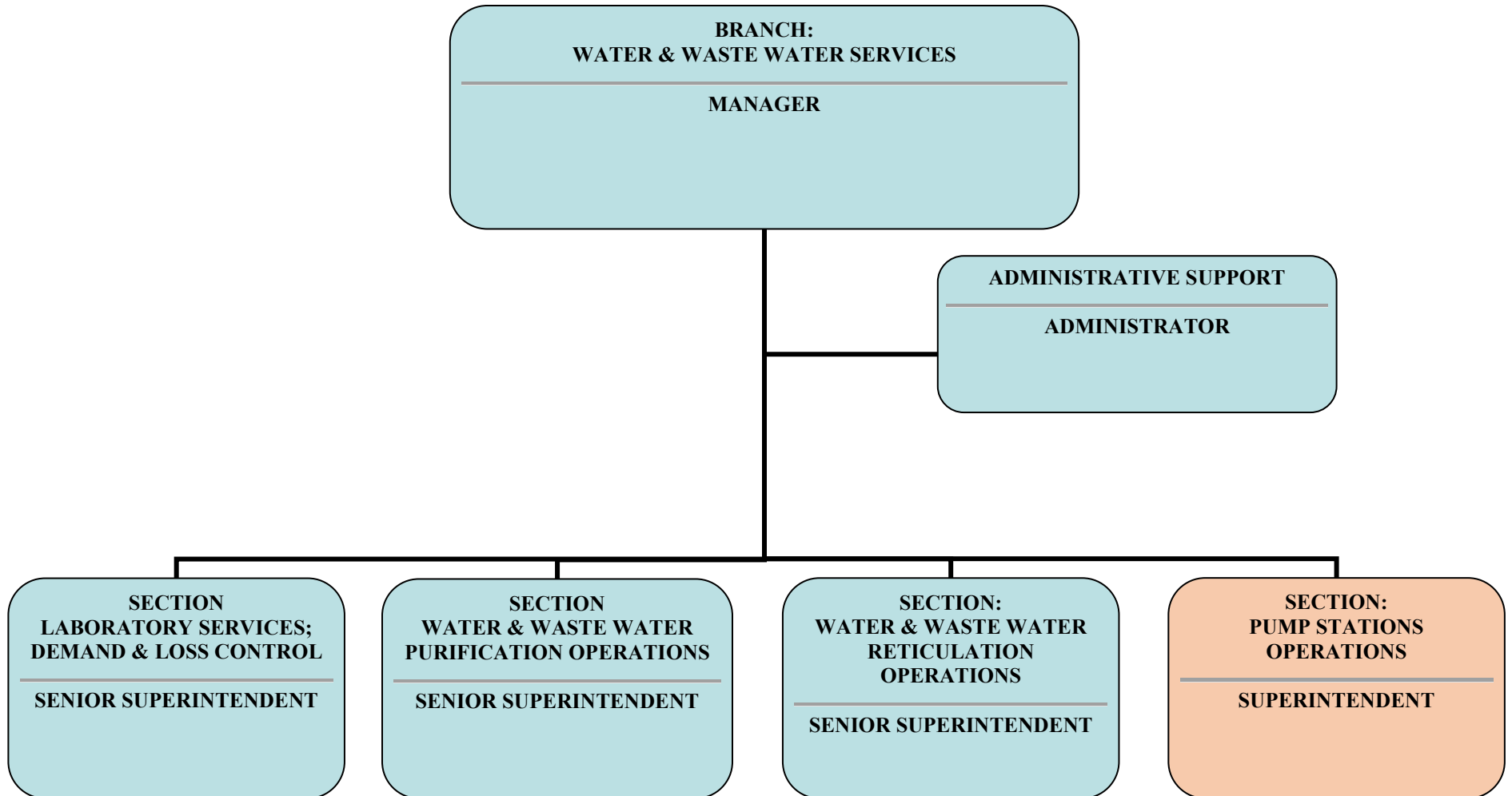
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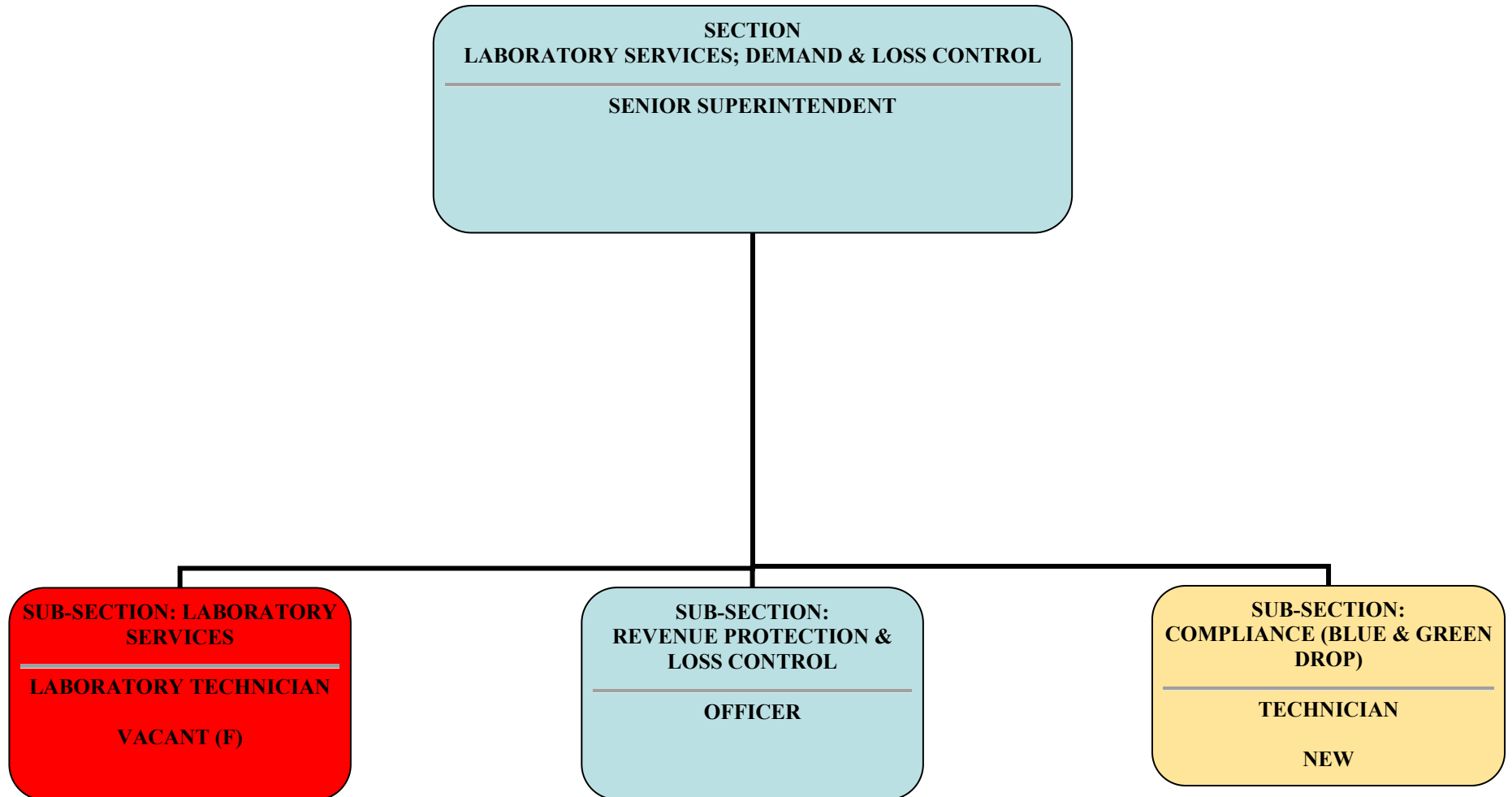
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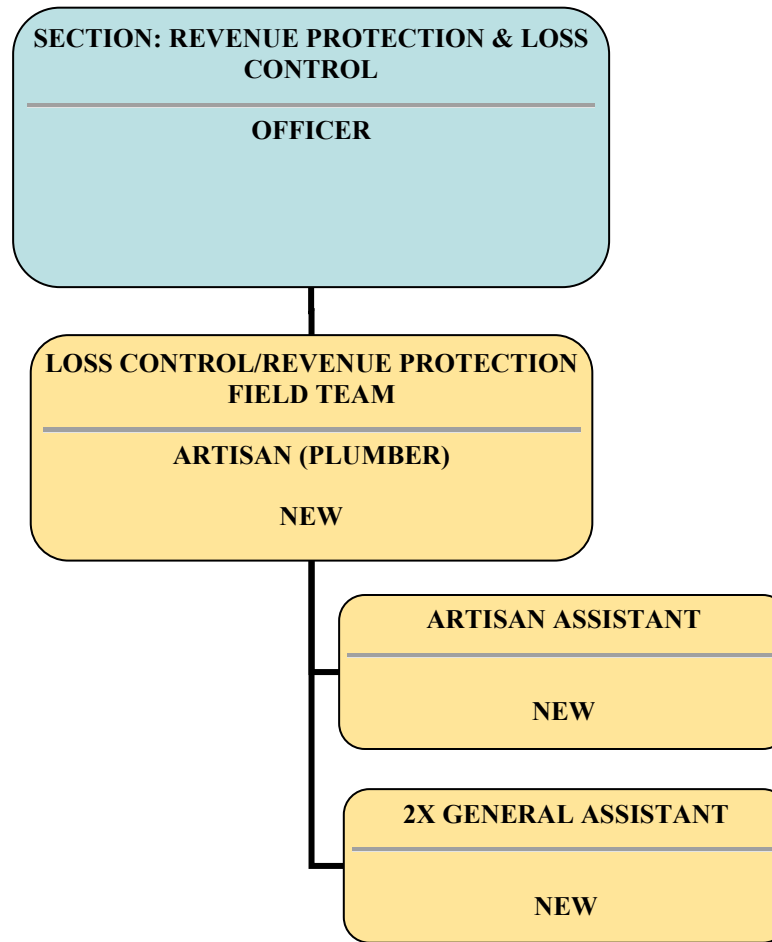
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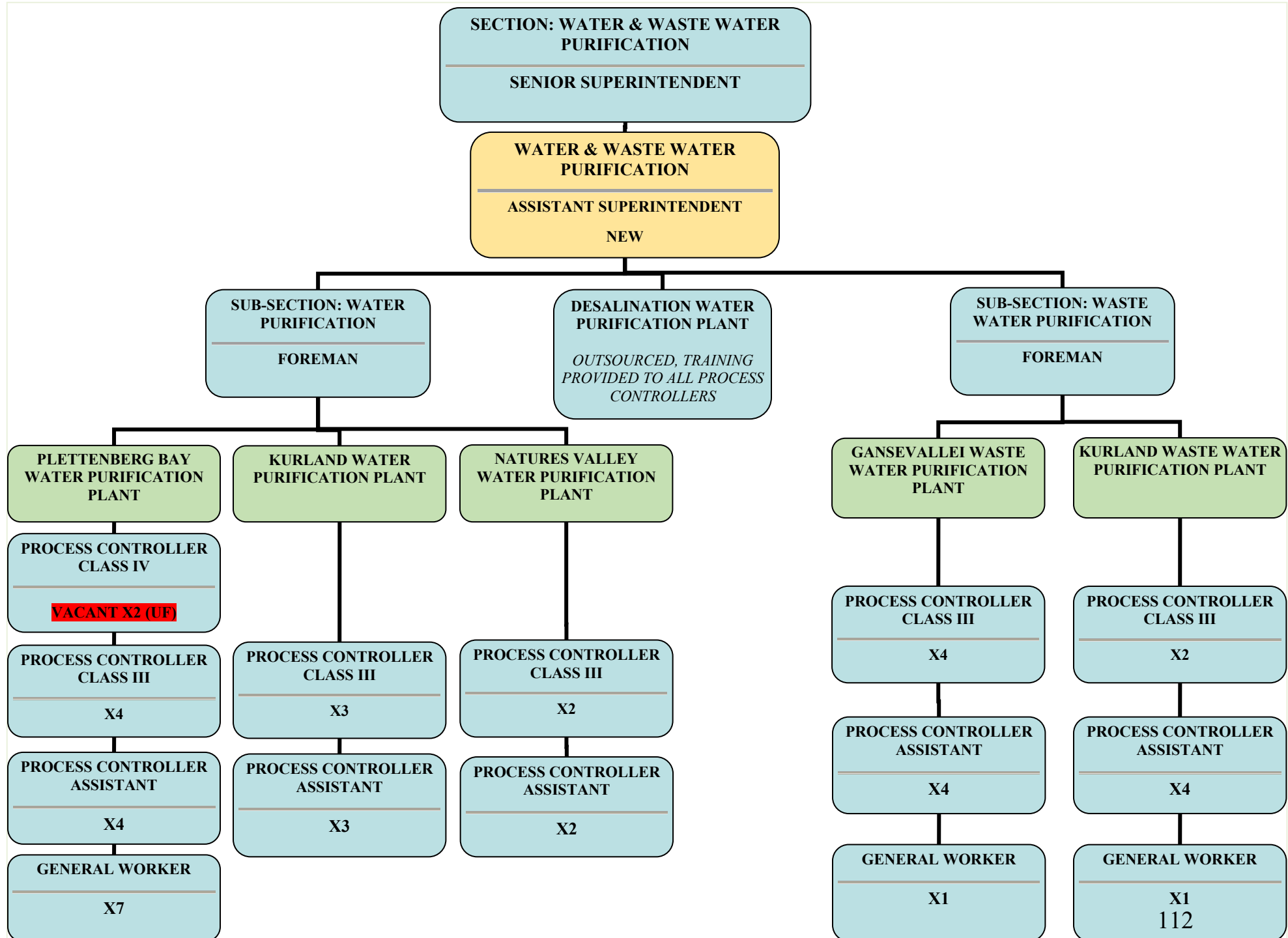
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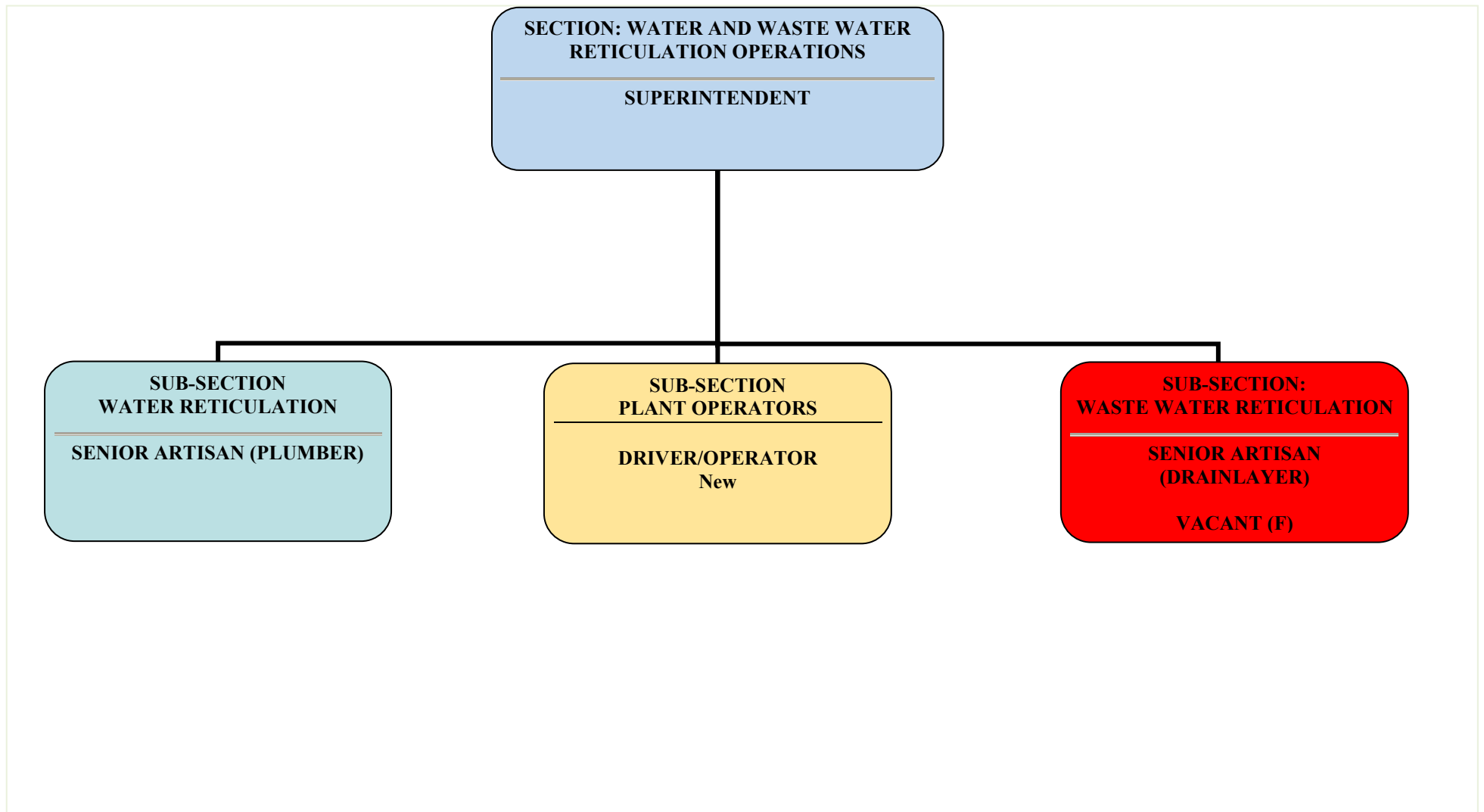
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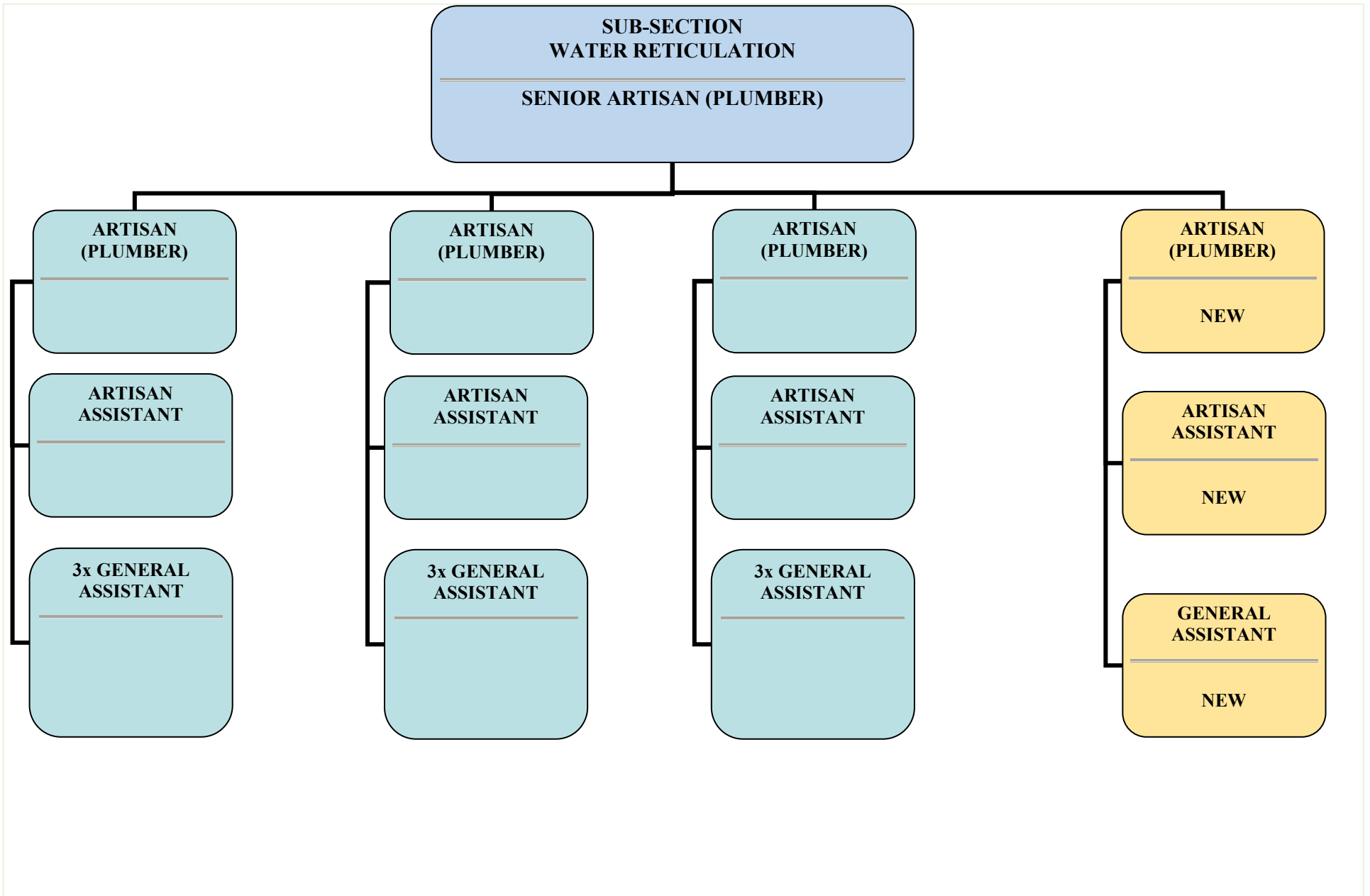
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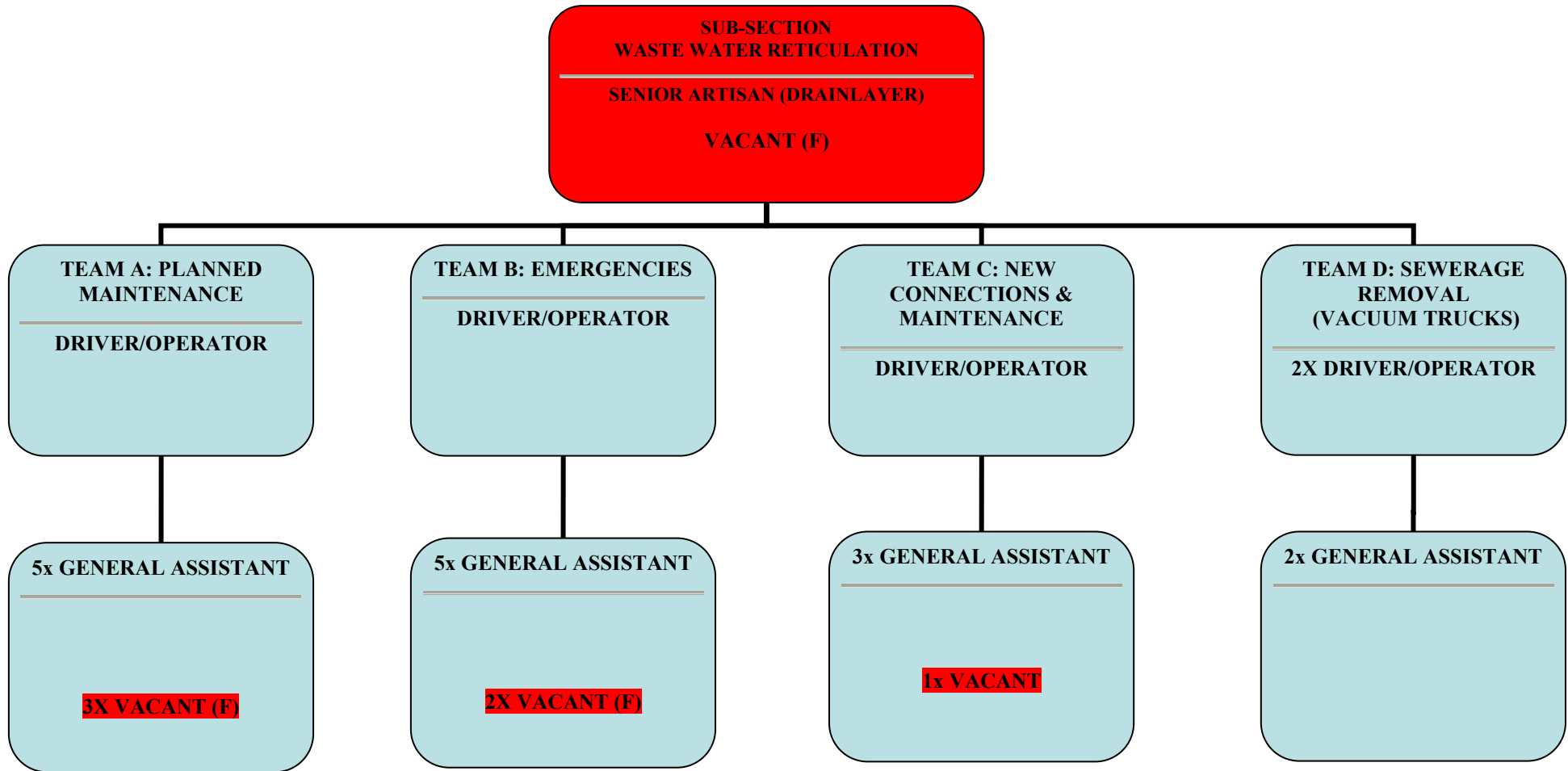
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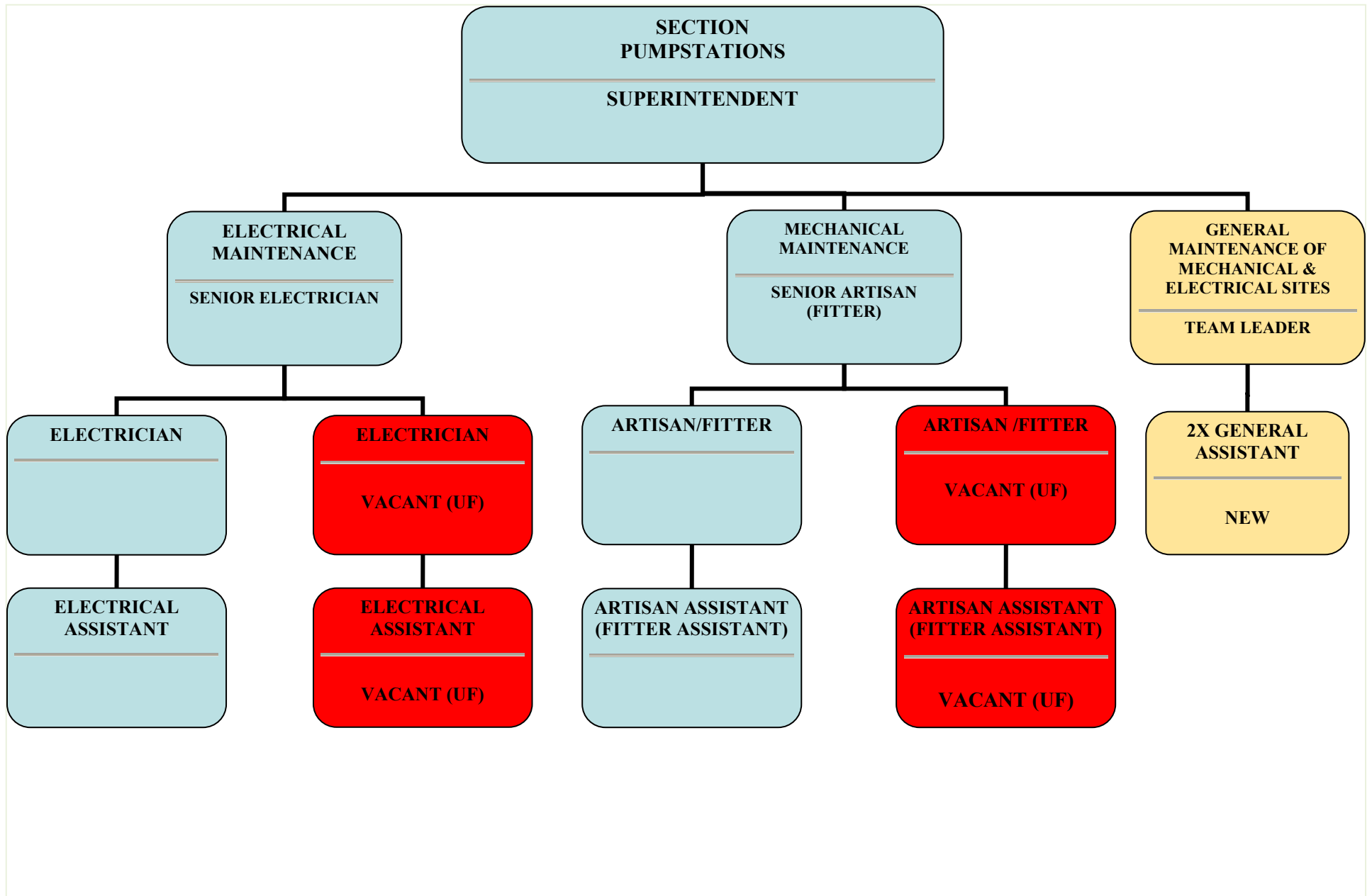
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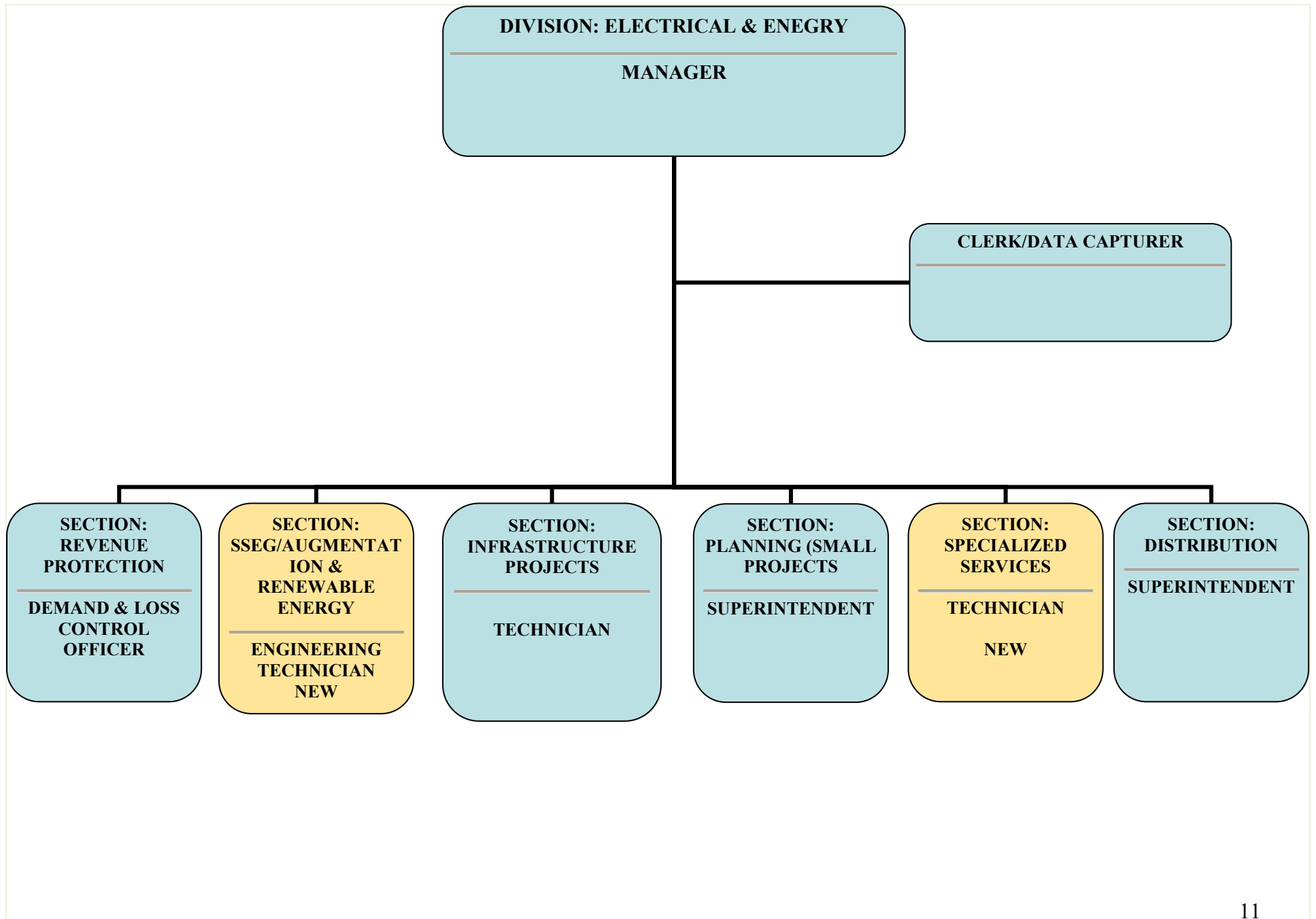
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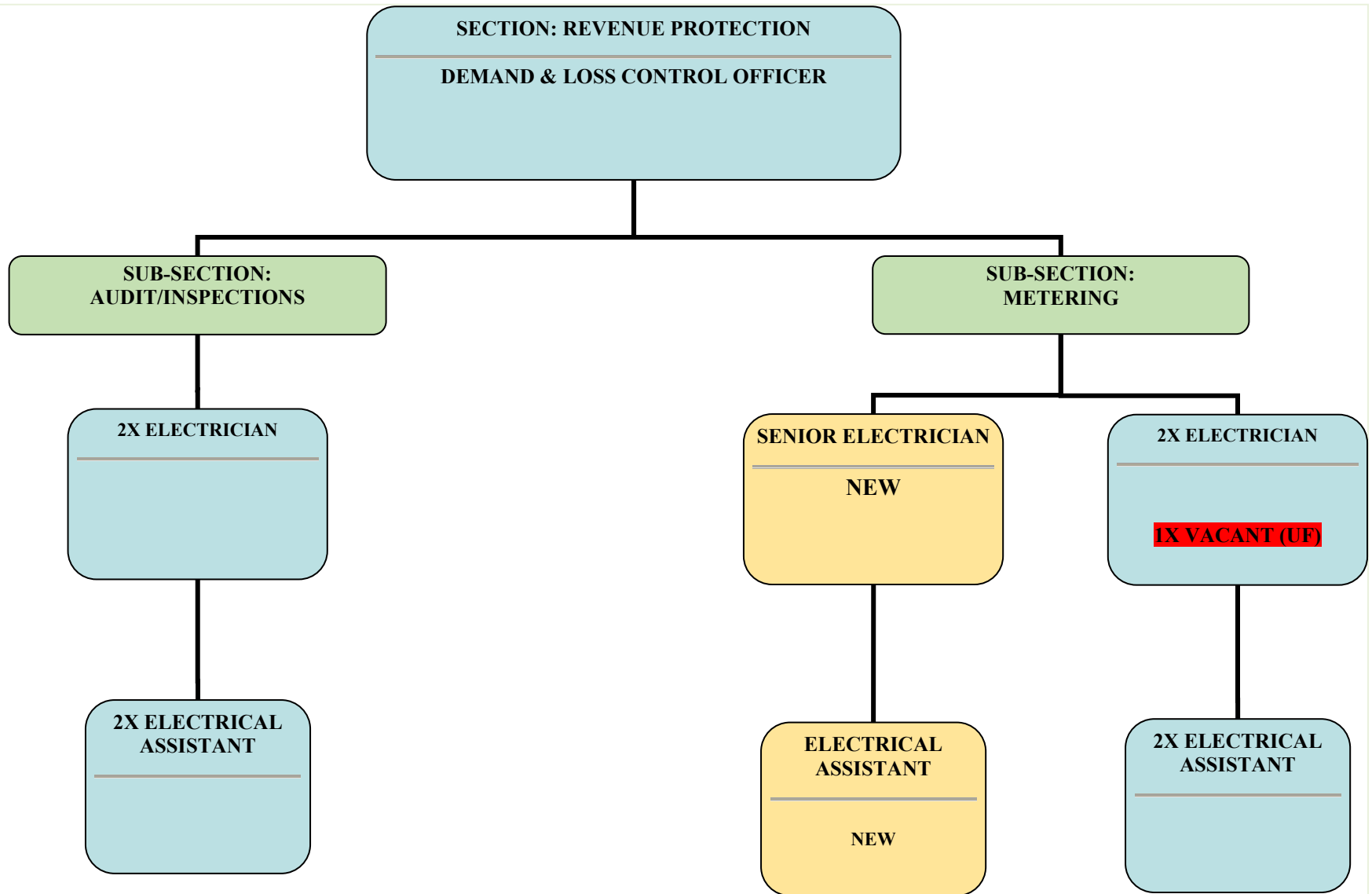
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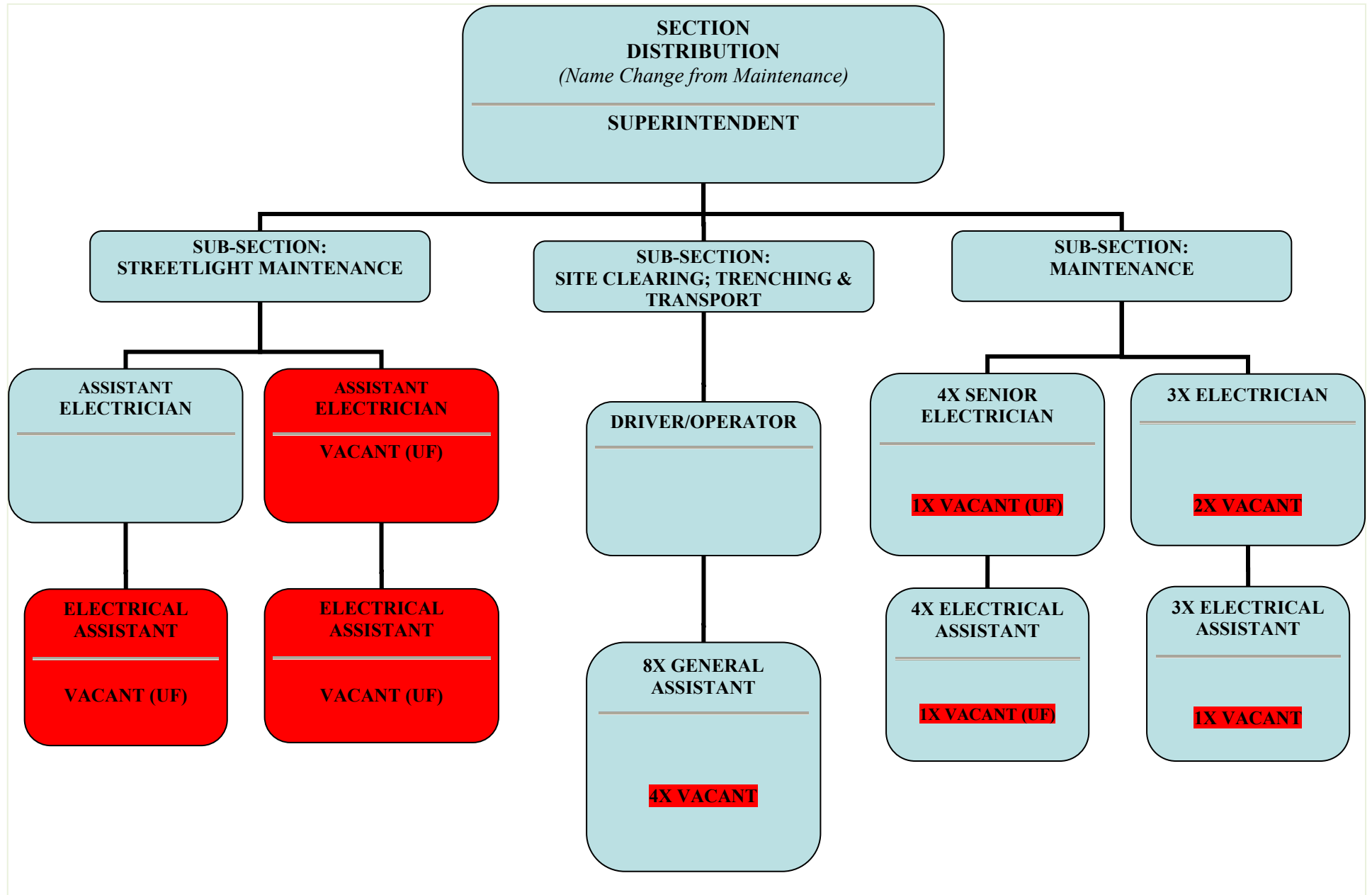
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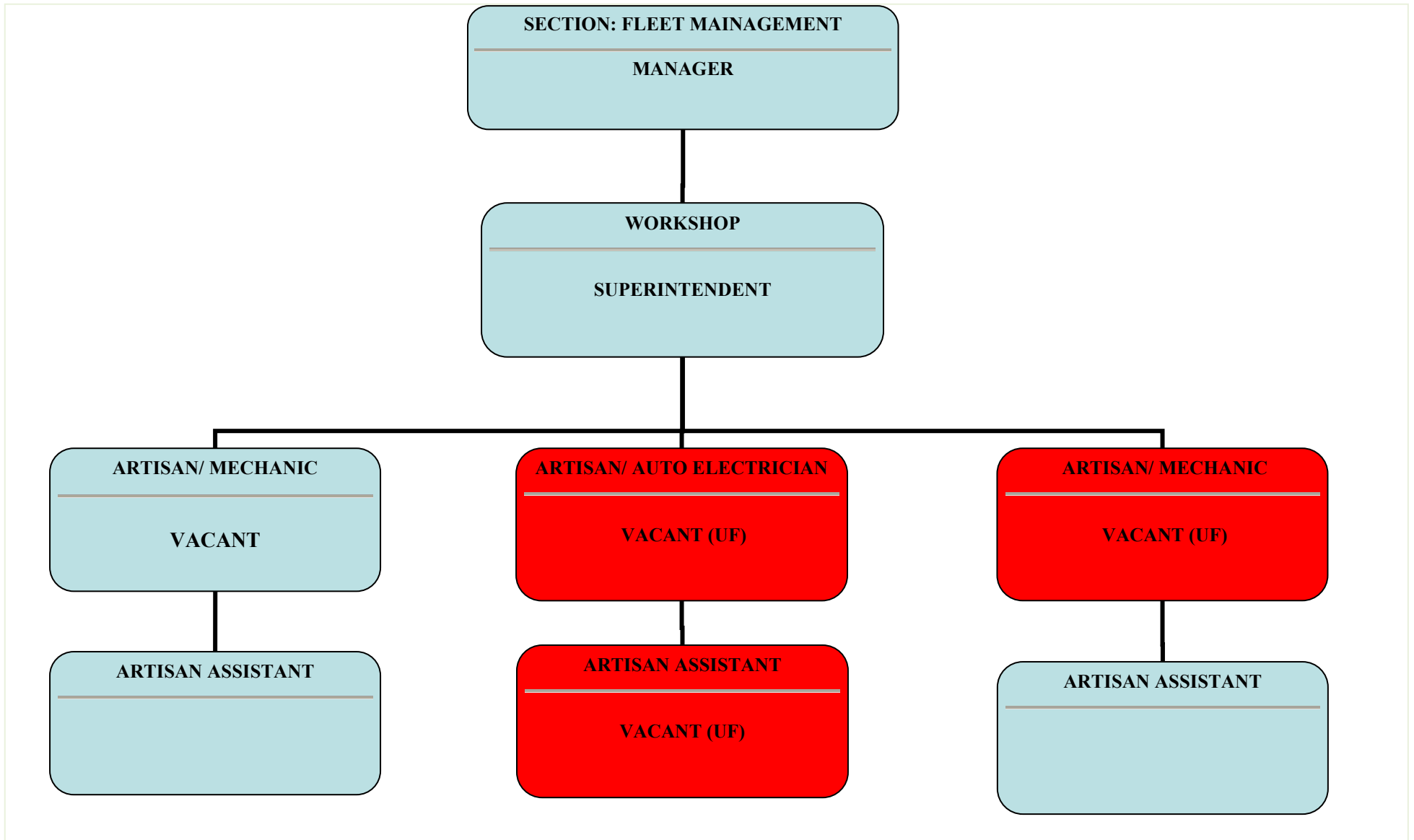
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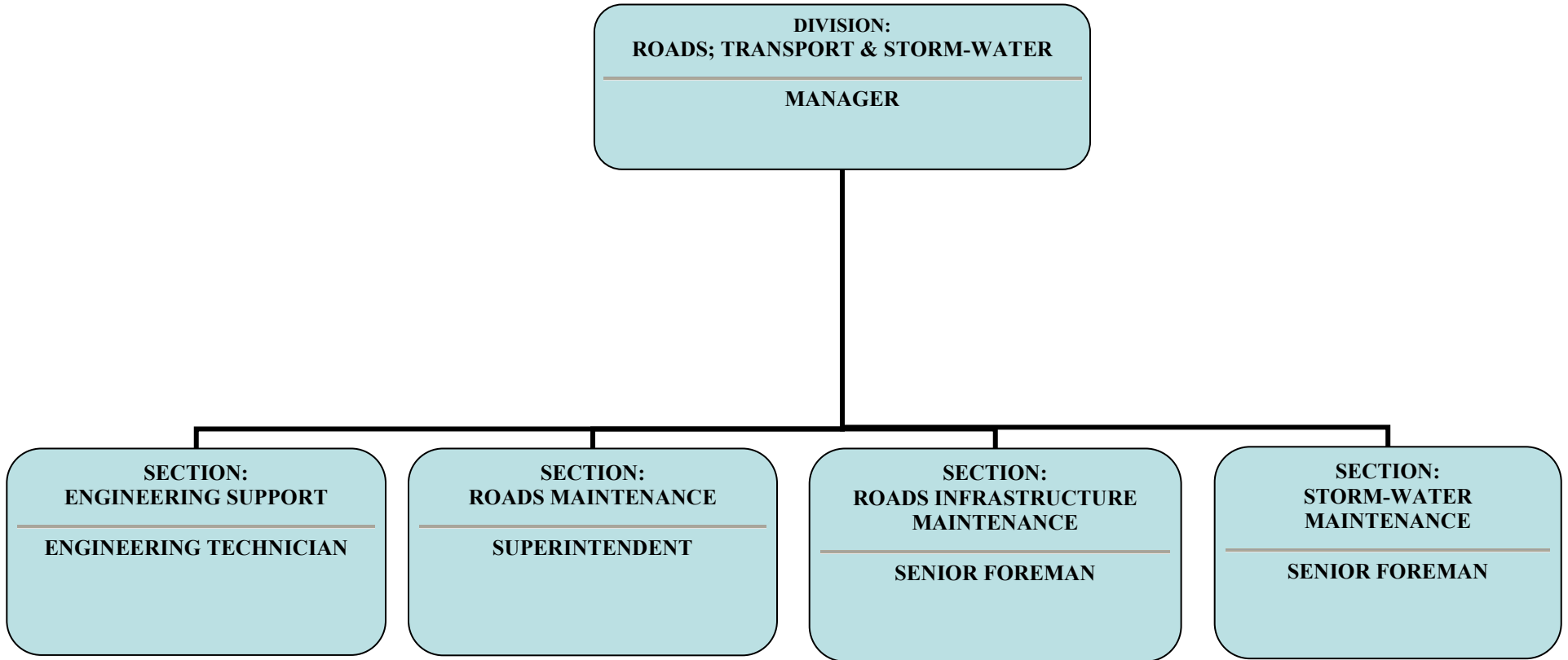
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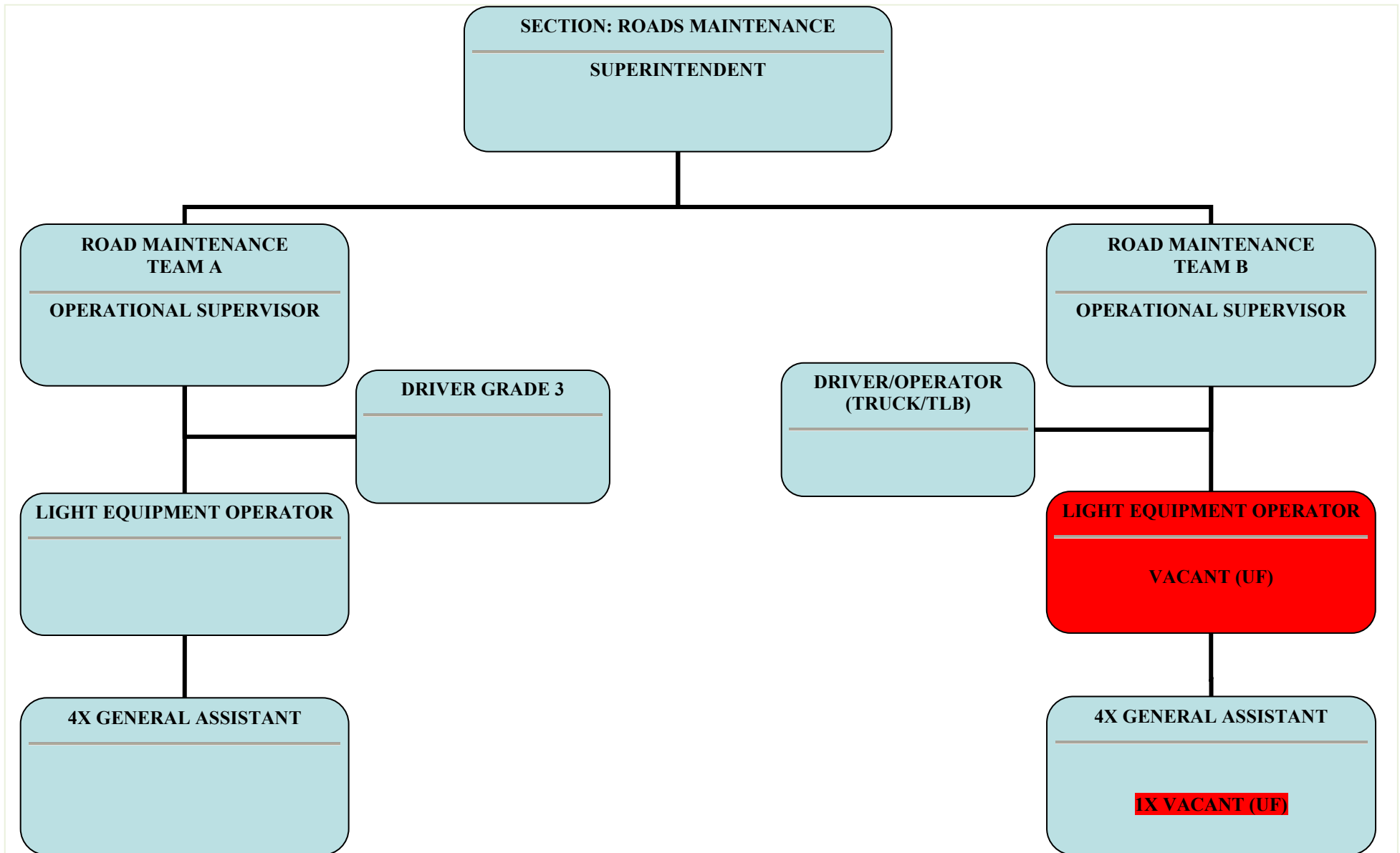
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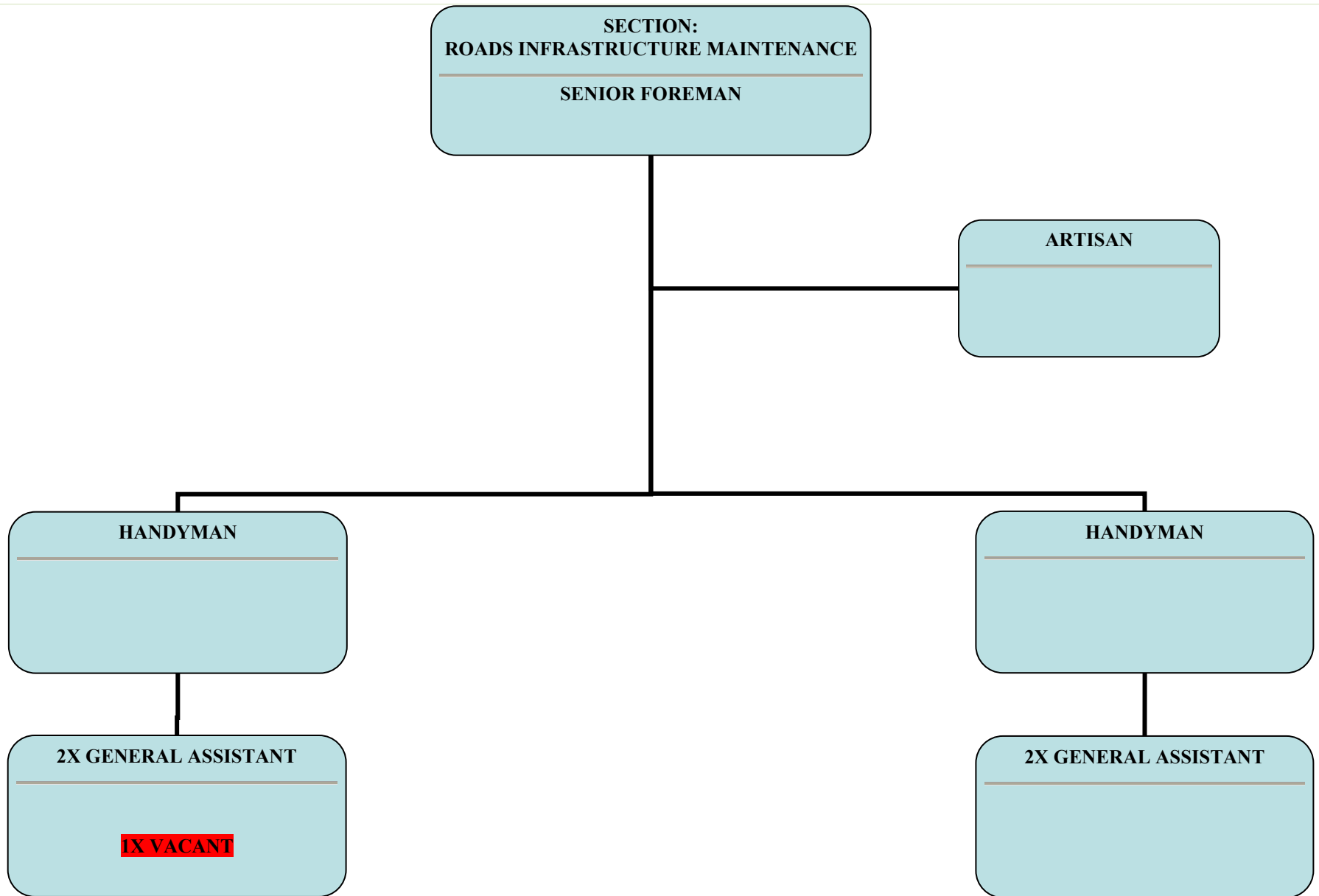
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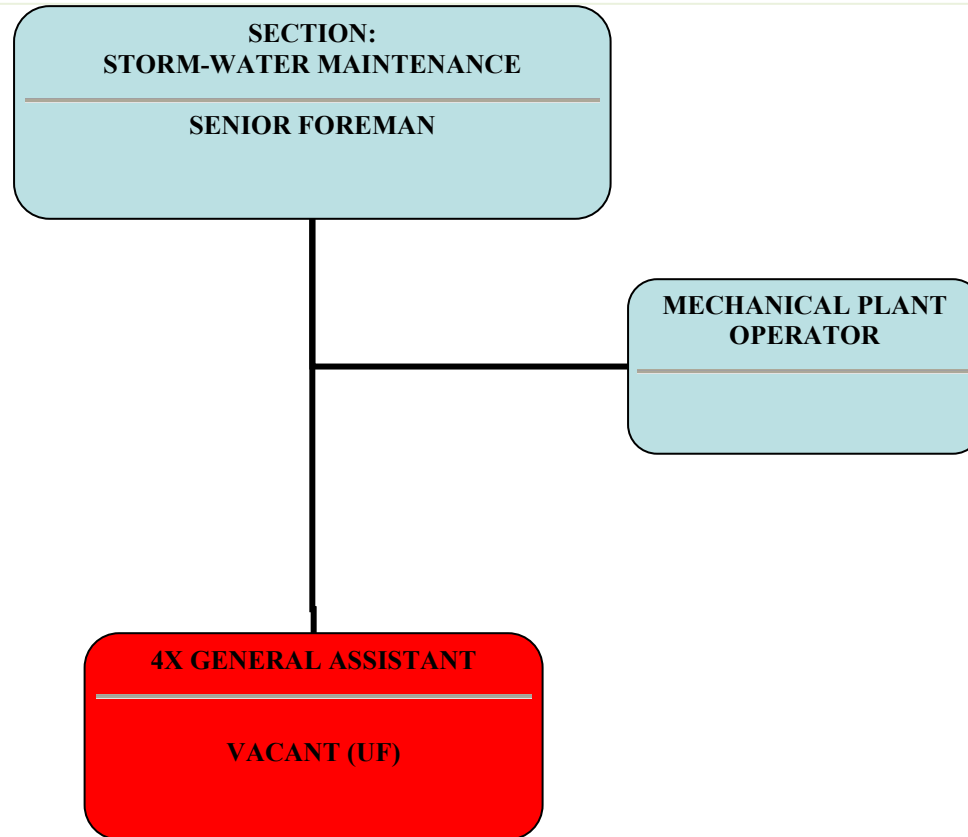
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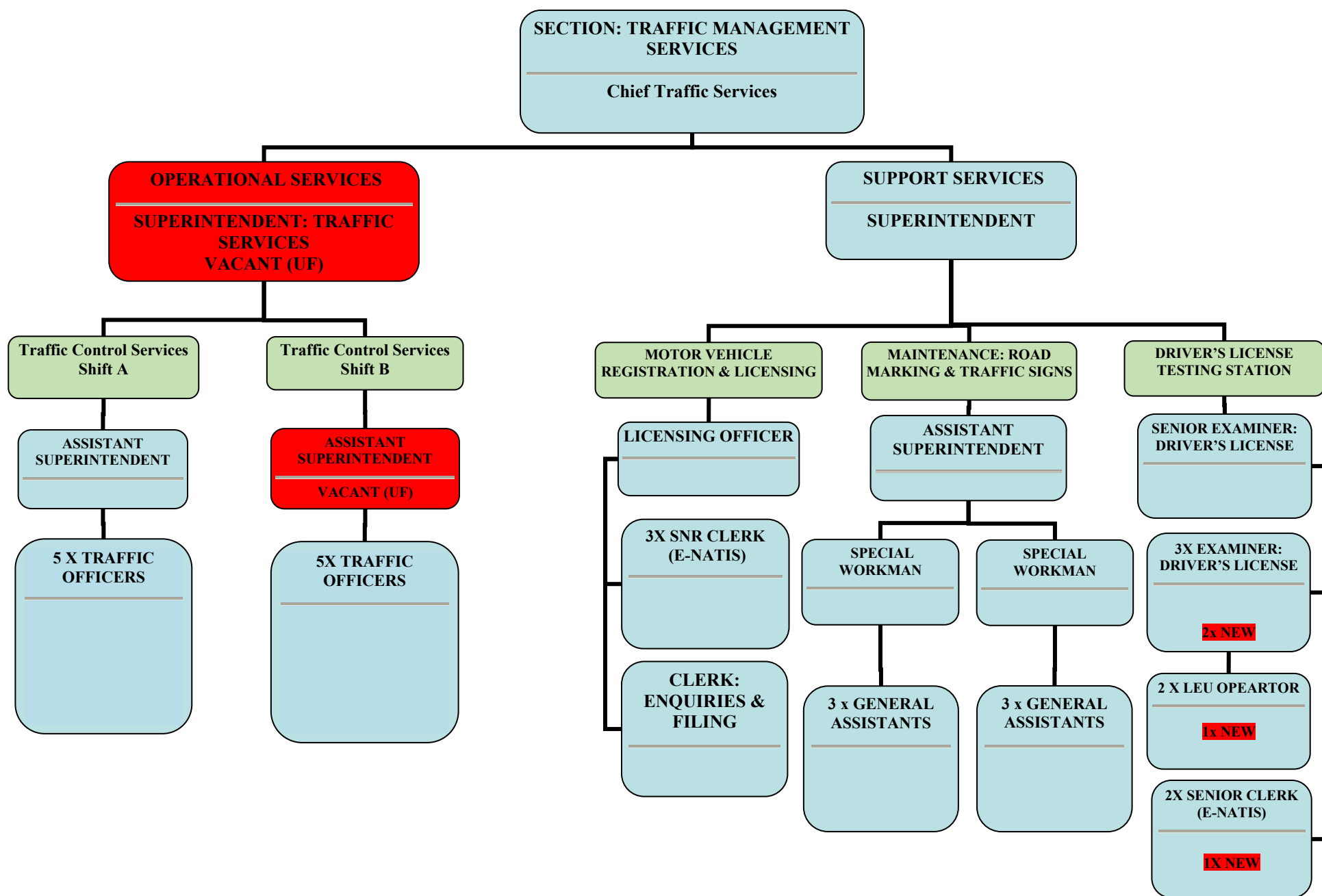
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FINAL REVISED STRUCTURE: ENGINEERING SERVICES



FINAL AMENDED MICRO STRUCTURE: COMMUNITY SERVICES



SECTION 3

CORPORATE SERVICES

ITEM C/3/80/12/22

CLOSURE OF MUNICIPAL OFFICES BETWEEN CHRISTMAS AND NEW YEAR 2022/ 2023

Portfolio Comm: Finance and Corporate Services
File Ref: 2/6/R
Demarcation: All Wards
Delegation: Council

Attachments: None

Report from: Director Corporate Services

Author: Senior Manager: Human Resources Management

Date: 16 November 2022

Purpose of the report

That Council consider the request for the closure of the municipal administrative offices during Festive Season between Christmas 2022 and New Year 2023.

Background

During the last couple of festive seasons, it was observed that very few residents are visiting in particular the respective Municipal Administrative Offices during this period of the year. Those members of the community who would visit the offices do so mainly to enquire about services accounts or to report service failures and problems.

Administrative offices, except those who render a service to the public, can be closed without any negative impact on service delivery. The option is that the municipality can be fully operational until **Thursday, 22 December 2022 at 16h00 and thereafter remain closed until Friday, 30 December 2022. Therefore, the offices would effectively reopen on Tuesday, 03 January 2023** without hampering service delivery in any way.

Calendar:

DATE	HOURS OF WORK	PROPOSED DATES OF OFFICE TO BE CLOSED FOR PUBLIC
Thursday, 22 December 2022	Normal working day	Admin office proposed to close at 16:00
Sunday, 25 December 2022	Weekend (Christmas Day)	
Monday, 26 December 2022	Public Holiday	
Tuesday, 27 December 2022	Normal working day	Employees to take Annual Leave
Wednesday, 28 December 2022	Normal working day	Employees to take Annual Leave
Thursday, 29 December 2022	Normal working day	Employees to take Annual Leave

Section 3: Corporate Services

DATE	HOURS OF WORK	PROPOSED DATES OF OFFICE TO BE CLOSED FOR PUBLIC
Friday, 30 December 2022	Normal working day	Employees to take Annual Leave
Saturday, 31 December 2022	Weekend Public	
Sunday, 01 January 2023	Weekend & Public Holiday (New Year's Day)	
Monday, 2 January 2023	Public Holiday	

Employees must take annual leave. All employees with less leave credits, the leave for the period will be deducted on their accumulation of leave days.

All essential services sections of the Directorates of Community Services and Engineering Services must be fully operational during the closure period. An exceptional case is applicable to Finance Department where, credit control and debt collection staff must be working and able to assist with connection and disconnection of services.

The following sections, apart from the essential services sections, cannot close completely and must have skeleton staff in attendance during the aforementioned period:

- **Directorate: Financial Services:**
 - Cashier in one municipal site with most payments
- **Directorate: Corporate Services:**
 - Customer Relations Management Division,

The Directors must identify and provide a schedule with dates and details of essential services personnel on duty and standby to ensure seamless service delivery during the peak season.

Comments by Chief Financial Officer

Leave provisioning is a financial cost implication to the municipality, and therefore the employer cannot grant Compulsory Business leave to employees as this has got huge financial implications. Employees must take leave.

Comments: Manager Legal Services

The recommendations of the Municipal Manager are supported.

Comments: Acting Director Corporate Services

The recommendations of the Municipal Manager are supported. It is better to close offices than to deal with unproductivity and staff loitering around town, hence the recommendation

RECOMMENDED BY THE MUNICIPAL MANAGER

1. That Council resolved that the administrative municipal offices be officially closed on Thursday, 22 December 2022 at 16h00 until Friday, 30 December 2022, effectively reopening on Tuesday, 3rd January 2023.
2. That the following sections maintain skeleton staff;
 - (a) *Financial Services - Cashiers*
 - (b) *Customer Care Relation division*
3. That all Essential Services Sections be fully operational and staffed, with back-up personnel on standby.
4. That Senior Managers and/or Managers must be on duty at the office during normal office hours.
5. That the necessary public notice regarding the closure be published in the local print media, municipal website, social media and posted on municipal notice boards/ offices.

SECTION 6

ECONOMIC DEVELOPMENT AND PLANNING

Section 6: Economic Development and Planning

ITEM C/6/65/12/22

AIRPORT: *STATUS QUO* AND WAY FORWARD

Portfolio Comm: Strategic Services & Office of the MM
File Ref: 17/12/2

Demarcation: Ward 2
Delegation: Council

Report from: Director: Economic Development & Planning

Author: Director: Economic Development & Planning

Date: 2 December 2022

PURPOSE OF THE REPORT

To inform the Council of the outcome of the public participation process and to obtain Council approval to proceed with an ‘open ended’ call for proposals for the future management of the airport.

EXECUTIVE SUMMARY

The Council has previously resolved that a ‘call for proposal’ process be initiated for the future management of the airport. This has not yet materialized. Options for the future management include the selling of the land, a ‘PPP’ project or a ‘call for proposal’ process. The ‘call for proposal’ process can be ‘wide’ or ‘narrow’. It is recommended that the Municipality opt for a disposal process (with the emphasis on a long-term lease).

BACKGROUND /DISCUSSION

During a meeting held on 7 June 2022 the Council inter alia resolved as follows:

1. *That it be resolved for the purposes of Section 14 (1) and 14 (2) (a) of the MFMA, read with Section 5 (b) (i) of the Asset Transfer Regulations, that neither the airport itself nor the land areas occupied by the airport are required to provide a minimum level of basic municipal services.*
2. *That it be resolved for the purposes of Section 7 (a) of the Asset Transfer Regulations that the land areas occupied by the airport will not in future be required by the Municipality for the provision of basic municipal services as mentioned in (1) above.*
3. *That the prescribed public participation procedures be followed and that the views of the following organs of State be obtained:*
 - a) *National and Provincial Treasuries;*
 - b) *Provincial Department of Transport;*
 - c) *South African Civil Aviation Authority;*
 - d) *any other deemed necessary by the Municipal Manager.*

Section 6: Economic Development and Planning

4. That the matter be resubmitted to council after conclusion of paragraph 3 above.

As a result of the Council resolution the general public was invited to comment on the following:

1. The decision adopted by the Municipal Council that neither the airport itself nor the land areas occupied by the airport are required to provide a minimum level of basic municipal services;
2. The principle to invite interested service providers to submit proposals for the medium to long term management of the Plettenberg Bay airport.

No comments were received. It is suggested that the Municipality now formally proceed with a 'call for proposal' process, during which the comments of the relevant authorities will also be obtained.

FINANCIAL IMPLICATION

Potential rental income (amount to be determined based on the outcome of the 'call for proposals' process).

RELEVANT LEGISLATION

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003)
Municipal Systems Act, 2000 (Act 32 of 2000)
Asset Transfer Regulations (2008)

Comments: Director Community Services

The recommendation of the Municipal Manager is supported.

Comments: Manager Legal Services

The recommendation of the Municipal Manager is supported.

RECOMMENDED BY THE MUNICIPAL MANAGER

1. That it be noted that no representations were received from the members of the public in response to the invitation to comment on the principle of the disposal of the land accommodating the airport.
2. That proposals be called through the Supply Chain Management process for the leasing of the land (and facilities on that land) accommodating the airport on a long-term basis.