

11.

A PORTION OF ERF 830 HERMANUS, SITUATED IN MARINE DRIVE AND KNOWN AS “BIENTANG’S RESTAURANT”, IN PRINCIPLE APPROVAL FOR LEASE BY MEANS OF A COMPETITIVE PROCESS**A Le Roux
6 January 2025****Divisional Manager: Property Management****(028) 316 - 5623**

1. Executive Summary

To obtain approval in principle for the lease of a portion of Erf 830 Hermanus, currently known as “Bientang’s Restaurant” ($\pm 1,740\text{m}^2$ in extent), hereinafter referred to as “the Property”, for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of a restaurant by means of a competitive process at a market related rental.

See the locality map attached marked Annexures “A” and site map indicating the lease area attached marked Annexure “B”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008) (“MATR”)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion**Background/Discussion**

The Municipality currently has a lease agreement with Bientang se Grot (Pty) Ltd for a period of 9 (NINE) years and 11 (ELEVEN) months for the management of a restaurant. The lease agreement will expire on 31 December 2025. The current lease amount for the lease of the Property is R67,186.69 (SIXTY-SEVEN THOUSAND ONE HUNDRED AND EIGHTY-SIX RAND AND SIXTY-NINE CENTS) (VAT Excluded) per month.

The Property is $\pm 1,740\text{m}^2$ (APPROXIMATELY ONE THOUSAND SEVEN HUNDRED AND FORTY SQUARE METRES) in extent which includes the following:

- (a) Building 1 that houses the offices, kitchen, storage and bathrooms of the restaurant and is 170m^2 in extent.
- (b) Building 2 which houses the seating area and bar and is 194m^2 in extent.
- (c) The rest of the Property forms the deck overlooking the ocean or is excess property.

On 27 November 2024 Council resolved as follows:

“that the Accounting Officer, via the Property Management Division, be authorised to commence with the public participation process required by paragraph 19.1(a) of Council’s Administration of Immovable Property Policy (2015), for the long term lease of a portion of Erf 830 Hermanus, currently known as “Bientang’s Restaurant” ($\pm 1,740\text{m}^2$ in extent), for restaurant purposes, and to report the outcome of the public participation process thereon to Council in order for it to make a reasoned, deliberate decision in principle to proceed with the proposed competitive process for the said long term lease.”

Subsequently a public participation process was followed and an advertisement informing the public of Council’s intention to make the Property available by means of a competitive process was published in the Hermanus News on 12 December 2024 with a closing date of 12 February 2025. The public was given an opportunity to comment on the proposed lease.

No comments nor objections were received.

Evaluation

The following conditions of the Administration of Immovable Property Policy of the Overstrand Municipality apply:

Paragraph 17: “Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:

17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or

17.2 a direct lease”.

Paragraph 18: “A competitive process must at all times be followed in circumstances where:

18.1 the lease is for a long-term with an income value in excess of R10 million;

18.2 the lease is for a formal business premises with a market related rental;

18.3 more than one party, in discretion of the municipality, is interested in

***the lease of the subject property; and/or
18.4 by discretion of the municipality, a competitive process will best serve the interests of the community”.***

As (i) the expected rental income for the proposed lease period will be in excess of R10,000,000.00 (TEN MILLION RAND), (ii) many parties showed interest in managing a restaurant from the Property, (iii) the Property is well situated, and (iv) the intended use of the Property will be for business purposes, the Property can only be made available for leasing by means of a competitive process at a market related rental.

Paragraph 19: “Long term lease of municipal immovable property with an income value in excess of R10 million:

19.1 The Municipality may grant a long-term lease of municipal immovable property with an income value in excess of R10 million only after:

- (a) the Accounting Officer has, through the Property Administration Department, conducted a public participation process; and**
- (b) the Municipal Council has approved in principle that the right may be granted.”**

After Council authorised the Accounting Officer, through the Property Management Division, to commence with the public participation process as required above, the process was followed as an advert was published as discussed above.

The purpose of this report is to request Council’s in principle approval for the lease of the Property.

19.2 The public participation process in terms of paragraph 19.1(a) may only be authorised by the Municipal Council. A request to the Municipal Council for authorisation of a public participation process must be accompanied by:

- (a) the reasons for the proposal to grant the long term lease;**
- (b) any expected benefits to the Municipality as a result of the lease;**
- (d) any expected proceeds to be received by the Municipality from the proposed lease, and**
- (e) any expected gain or loss to be realised or incurred by the Municipality arising from the lease.”**

All the above were discussed in the report that served before Council on 27 November 2024.

19.3 If the public participation is authorised, the accounting officer must at least 60 days before the meeting of Council at which the determinations referred to in 19.1(b)(i) and (ii) above are considered

- (a) make public the proposal to lease the asset;**
- (b) invite the local community and other interested parties to submit comments or representations in respect of the proposed lease of the asset;**
- (c) solicit the views and recommendations of the National Treasury and the relevant Provincial Treasury on the matter.**

The advertisement was published in the Village News on 12 December 2024 and the comments and/or recommendations from National and Provincial Treasury were requested. No comments nor objections were received.

Paragraph 24: “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude”.

HCB Valuations and Services (Pty) Ltd determined the market related rental at an amount of R74,300.00 (SEVENTY-FOUR THOUSAND THREE HUNDRED RAND) (VAT Excluded) per month which amount will be included in the tender document as an indicative value.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality, shall escalate on the 1st of July every year, by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect will be included in the lease agreement.

Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”

The Property will be inspected by the Property Administration Department at least once a year.

It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 – 50 of the said policy will be included in the lease agreement.

Conclusion

Considering the above discussion, it is recommended that in principle approval be given for the lease of the Property as required by the MATR and Administration of Immoveable Property Policy.

7. Financial Implications

The Municipality stands to gain a minimum rental amount of R74,300.00 (SEVENTY-FOUR THOUSAND THREE HUNDRED RAND) (VAT Excluded) per month as well as rates and taxes. Rental shall escalate every year on the 1st of July in accordance with the consumer price index, the first escalation to be on 1 July 2026. All expenses pertaining to the proposed lease will be borne by the lessee after the tender is awarded to a successful bidder.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Divisional Manager: Expenditure, Fleet and Asset Management - Mr J Vorster

“As this is an income generating proposal, with no intention of selling the asset, there is no objection against the application”.

10. Annexures

Annexure A: Locality map
Annexure B: Site map indicating lease area

RECOMMENDATION TO THE COUNCIL:

that the lease of a portion of Erf 830 Hermanus, currently known as “Bientang’s Restaurant” (±1,740m² in extent), for a period of 9 (NINE) years and 11 (ELEVEN) months for restaurant purposes by means of a competitive process at a market related rental, **be approved in principle.**

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	17 APRIL 2025
TARGET DATE TO INFORM APPLICANT :	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A



ANNEXURE B

