

**AGENDA of the  
Portfolio Committee : Planning and Development  
4 June 2025  
(Also the agenda for the Mayoral Committee Meeting : 11 June 2025)**

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4.

**ERF 3454 HAWSTON: DEVIATION FROM PARAGRAPHS 20.1(b) AND 26 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A FURTHER LEASE AGREEMENT WITH THE DEPARTMENT OF INFRASTRUCTURE AT A FIXED ESCALATION RATE**

**A Le Roux  
5 May 2025**

**Divisional Manager: Property Management**

**(028) 316 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Western Cape Government via its Department of Infrastructure in respect of an office (33m<sup>2</sup> in extent) in the Thusong Centre on Erf 3454 Hawston situated in Disa Street, Hawston for a period of 5 (FIVE) years for the purpose of delivering social development services to the community of Hawston, and

To obtain approval from Council for:

- a) the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 insofar the public participation process, and
- b) the deviation from paragraph 26 of the Administration of Immovable Property Policy of 2015 insofar the rental amount

allowing the Municipality to enter into a further lease agreement with the Department of Infrastructure (hereinafter referred to as "DoI"), in respect of an office in the Thusong Centre on Erf 3454 for the purpose of delivering social development services to the community of Hawston without following a public participation process

See Locality maps attached marked Annexure "A1" and "A2".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Planning and Development  
Property Management

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Partly delegated to the Executive Mayor

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**5. Legal Requirements**

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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

**Background/Discussion**

The Department of Infrastructure has been leasing an office in the Thusong Centre in Hawston since 2014 for the purpose of delivering social development services to the community of Hawston.

The last agreement was for a period of 3 (THREE) years and 5 (FIVE) months which commenced on 1 February 2022 and will expire on 30 June 2025.

The DoI applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 23 April 2025 for a period of 5 (FIVE) years.

In terms of the Administration of Immoveable Property Policy, the Municipality may grant a long-term lease if the Municipal Manager, as Accounting Officer, approves the lease in principle, a public participation process is followed, and the Executive Mayor's approval is gained in terms of the above policy.

As DoI is an organ of state it is recommended that a public process not to be followed especially since in the case of a sale to any organ of state the Administration of Immoveable Property Policy stipulates that the public participation process does not need to be followed, and the recommendation is that the same apply to this lease to an organ of state.

A lease amount for the rental of office space to NGO's/NPO's/Government Departments etc. is approved in the 2024/2025 Budget at a tariff of R46.96 (FORTY-SIX RAND AND NINETY-SIX CENT) (VAT excluded) per square metre per month. The current rental amount paid by DoI is R1,528.07. (ONE THOUSAND FIVE HUNDRED AND TWENTY-EIGHT RAND AND SEVEN CENTS) (VAT Excluded) per month which equates to R46.31/m<sup>2</sup> (FORTY-SIX RAND AND THIRTY-ONE CENTS PER SQUARE METRE). This amount was derived at as the tariff stipulated in the 2021/2022 budget (when the previous lease commenced) with a 5% (FIVE PERCENT) annual escalation.

The draft budget for the 2025/2026 financial year however indicates that there will no longer be a tariff for the rental of office space to Government Departments and that the lease of office space to Government will fall under the tariff for rental of office space (Hermanus Administration) which is

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proposed at R165.22 (ONE HUNDRED AND SIXTY-FIVE RAND AND TWENTY-TWO CENT) (VAT Excluded) per square metre per month. Should the rental be determined at this tariff the monthly rental from 1 July 2025 will be an amount of R5,452.26 (FIVE THOUSAND FOUR HUNDRED AND FIFTY-TWO RAND AND TWENTY CENT) (VAT Excluded) per month, which is an increase of 256% (TWO HUNDRED AND FIFTY-SIX PERCENT). This increase could not be foreseen by the Property Management Division nor by the DoI and will in law be deemed as unfair.

As the DOI budgeted for the next five years for a rental amount of R1,528.07. (ONE THOUSAND FIVE HUNDRED AND TWENTY-EIGHT RAND AND SEVEN CENTS) (VAT Excluded) per month with a fixed escalation of 5% (FIVE PERCENT) per year, which was in line with their current agreement with the Municipality, they do not have the budget for such an increased rental and it is proposed that the rental be determined at the current rent plus a 5% (FIVE PERCENT) escalation. The current rental plus a 5% (FIVE PERCENT) escalation amounts to R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month.

Upon providing the DoI with the terms and information regarding the proposed new lease agreement they again requested not to pay the escalated tariffs as are approved annually by Council but to have a fixed escalation percentage in the lease agreement. They are of the opinion that the escalation percentage needs to be fixed in the lease agreement in order for them to ensure that the lease amount do not exceed the market rate and thereby conform with the Western Cape Land Administration Act, Act 6 of 1998 and further to ensure that they can accurately budget for the rental for the duration of the lease agreement.

Their request was that the escalation percentage be fixed at a percentage of 5% (FIVE PERCENT). The previous lease agreements with the DoI also stipulated that the escalation percentage is fixed at a percentage of 5% (FIVE PERCENT) per annum. The DoI is delivering a very important and beneficial social development service to the community of Hawston that needs to remain available to the community, and thus it is proposed that the 5% (FIVE PERCENT) fixed escalation be supported.

The Divisional Manager: Property Management also perused the said Act and has the following interpretation:

*“Act 6 of 1998 and the regulations thereto were perused as it is used as a motivation for the deviation from the Administration of Immovable Property Policy. Nowhere in the said Act and regulations is it mentioned that rental may only escalate at a fixed amount. However, as they are delivering a service to the community and have requested that we obtain approval for the deviation, it was decided to proceed with the necessary.”*

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The Dol delivers an important service to the community of Hawston and no complaints regarding the use of the Property by the Dol were received during their last periods of lease.

**Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following paragraphs of the Administration of Immovable Property Policy are applicable:

**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”.**

In this instance paragraph 18 is not applicable to the lease of the Property and therefore a competitive process does not need to be followed. As the overall purpose of the Thusong Centre is to provide services to the community of Hawston and to make available office space to various organs of state.

The main purpose of this lease is to provide social development services to the community and as the community stands to benefit from the services rendered by the Dol it is therefore proposed that a direct lease be entered into with Dol.

**Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:**

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- a) *The Accounting Officer has approved the lease in principle;***
- b) *In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and***
- c) *The Executive Mayor, as delegated authority, has approved that the right may be granted.***

The Accounting Officer (Municipal Manager) approved in principle the lease of the Property to the Dol for a further 5 (FIVE) years.

As the Dol is an organ of state it is recommended that a public process not to be followed especially since in the case of a sale to any organ of state the Administration of Immoveable Property Policy stipulates that the public participation process does not need to be followed, and the recommendation is that the same apply to this lease to an organ of state.

**Paragraph 25: *“25. The Municipality, as a rule, bearing in mind the provisions of paragraph 23 and save for those cases mentioned in paragraphs 21, 25, 26 and 58 to 62, shall not:***

- (a) *let immovable property at a lower rental than market related rental or the rental approved in the tariffs;***
- (b) *sell, alienate or dispose of immovable property, grant a servitude or alienate a right at a lower amount than the amount at which it has been valued;***

***except in cases when the public interest or the plight of the poor demands otherwise and taking into account the provisions of Regulation 13(2) of the MATR, the latter in circumstances of an alienation.***

As discussed above the Dol delivers an essential service to the community of Hawston and it will be in the best interest of the community to have to receive the continued services.

**Paragraph 26: *“In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount.”***

As discussed above, it is recommended that Council approves a deviation from paragraph 26 so that the rental amount be determined at the current rent plus a 5% (FIVE PERCENT) escalation, amounting to R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND

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FORTY-SEVEN CENT) (VAT Excluded) per month with a fixed annual escalation percentage of 5% (FIVE PERCENT).

It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 - 50 will be included in the lease agreement with the Dol.

**Conclusion**

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the renewal of the lease of an office (33m<sup>2</sup> in extent) in the Thusong Centre on Erf 3454 Hawston to the Dol for a period of 5 (FIVE) years from 1 July 2025 to 30 June 2030 for the purpose of delivering social development services to the community of Hawston;
- (b) Council approves the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Dol for a further period of 5 (FIVE) years without following a public participation process, and
- (c) Council approves the deviation from paragraph 26 of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Dol for a further period of 5 (FIVE) years at a rental amount of R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month, with a fixed annual escalation percentage of 5% (FIVE PERCENT), the first escalation to be 1 July 2026.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month for the 2025/2026 financial year with annual escalation of 5% (FIVE PERCENT).

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Socio-Economic Officer: Mr. G Smit**

*"We support the proposal. Note that they lease an office space at the Thusong centre for the Department of Social development."*

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**Divisional Manager: Expenditure, Fleet & Asset Management: Mr J Vorster**

*“As this is a revenue generating proposal with no intention to dispose of the asset, there is no objection.”*

**10. Annexures**

Annexure A1 & A2 : Locality maps

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the renewal of the lease of an office in the Thusong Centre on Erf 3454 Hawston ( $\pm 33\text{m}^2$  in extent), to the Western Cape Government via its Department of Infrastructure for a period of 5 (FIVE) years from 1 July 2025 to 30 June 2030 for the purpose of delivering social development services to the community of Hawston, at a rental amount of R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month, be **approved**; and
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 20.1(b) and 26 of the Administration of Immovable Property Policy of 2015.

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Western Cape Government via its Department of Infrastructure for a period of 5 (FIVE) years without following a public participation process, **be approved**; and
2. that the deviation from paragraph 26 of the Administration of Immovable Property Policy in order for the lease amount to be determined at R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month and to escalate every year on 1 July with a fixed percentage of 5% (FIVE PERCENT); **be approved**.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>2 JULY 2025</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 JULY 2025</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**A Le Roux  
5 May 2025**

**Divisional Manager: Property Management**

**(028) 316 5623**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 4 JUNE 2025, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the renewal of the lease of an office in the Thusong Centre on Erf 3454 Hawston ( $\pm 33\text{m}^2$  in extent), to the Western Cape Government via its Department of Infrastructure for a period of 5 (FIVE) years from 1 July 2025 to 30 June 2030 for the purpose of delivering social development services to the community of Hawston, at a rental amount of R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month, be **approved**; and
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 20.1(b) and 26 of the Administration of Immovable Property Policy of 2015.

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Western Cape Government via its Department of Infrastructure for a period of 5 (FIVE) years without following a public participation process, **be approved**; and
2. that the deviation from paragraph 26 of the Administration of Immovable Property Policy in order for the lease amount to be determined at R1,604.47 (ONE THOUSAND SIX HUNDRED AND FOUR RAND AND FORTY-SEVEN CENT) (VAT Excluded) per month and to escalate every year on 1 July with a fixed percentage of 5% (FIVE PERCENT); **be approved**.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>2 JULY 2025</b>
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