

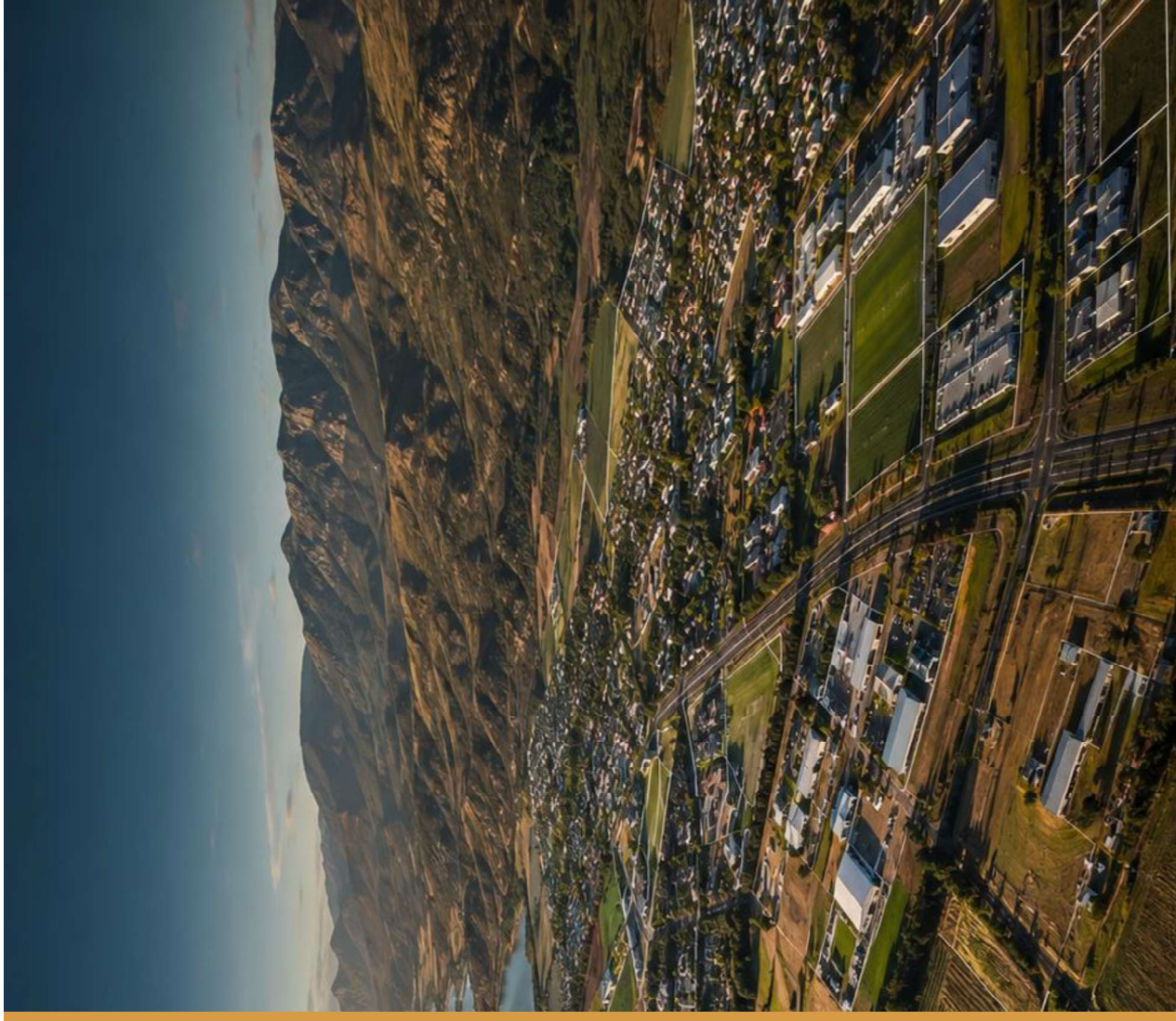
THEEWATERSKLOOF MUNICIPALITY

Managing municipal property as a strategic public asset

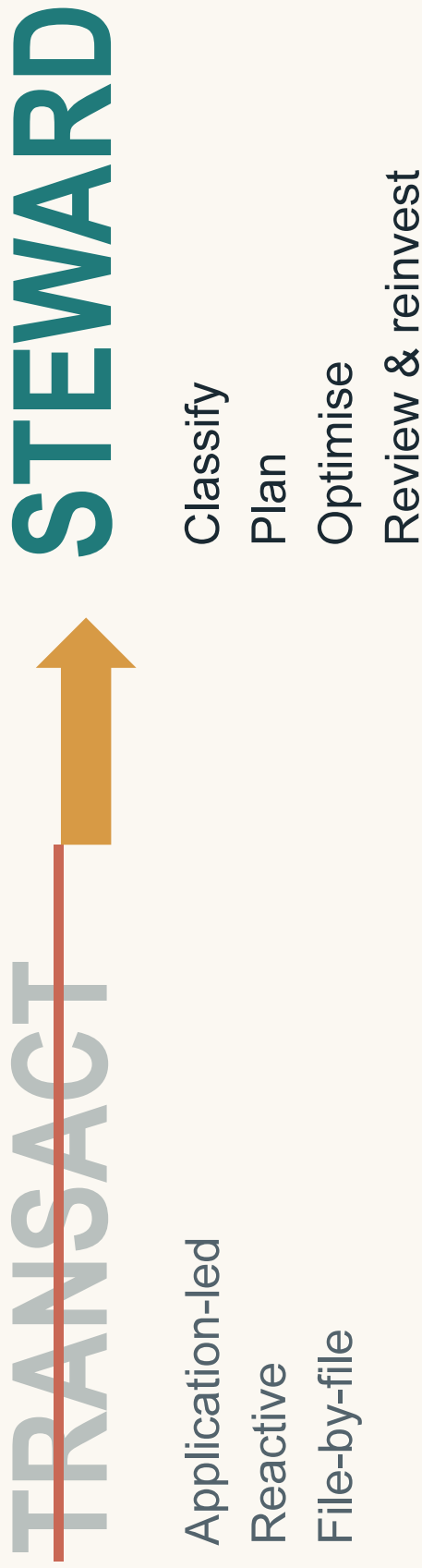
Immovable Property Management Governance
Strategy
& Administration of Immovable Property Policy

COUNCIL WORKSHOP • SEPTEMBER 2026 GOVERNANCE FRAMEWORK

Property Management | Economic Development & Planning



The model must move beyond isolated transactions



The Policy governs the transaction. The Strategy governs the asset before, during and after it.

The framework must deliver four outcomes at once

LAWFUL

Correct route, authority, valuation and record

SERVICE-READY

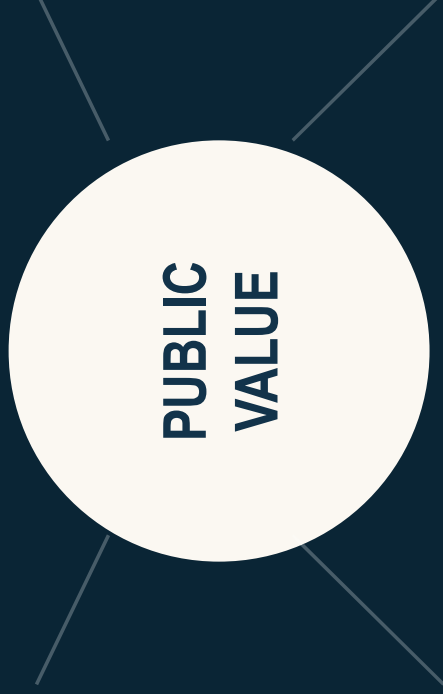
Essential land and infrastructure remain protected

STRATEGIC

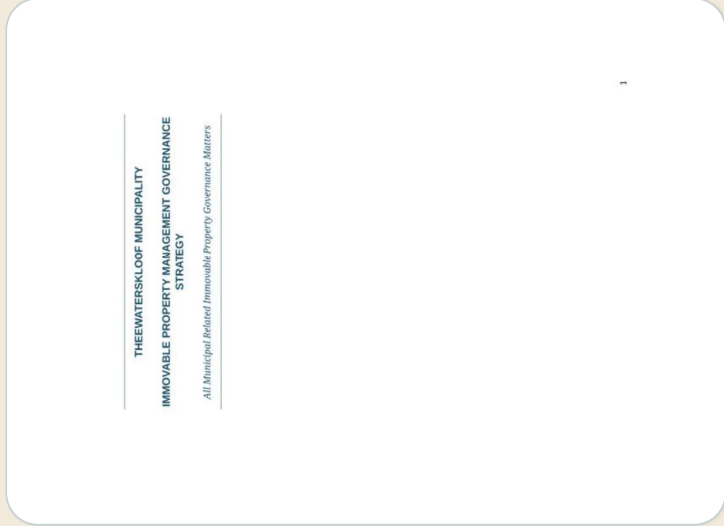
Land supports spatial, economic and social priorities

SUSTAINABLE

Income, condition and asset value improve over time



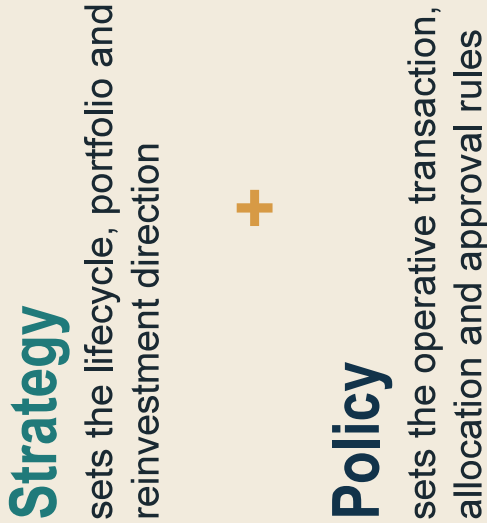
Two instruments create one governance system



STRATEGY



POLICY



Five legal safeguards anchor every transaction

5

01	Choose the legal route	Disposals use MFMA section 14; rights begin with MATR regulation 33(3).
02	Protect basic services	An asset needed for minimum basic municipal services may not be disposed of.
03	Apply both thresholds	The special process requires a term over 3 years AND asset value over R10 million.
04	Participate before decision	Where prescribed, representations form part of the record before Council decides.
05	Quantify concessions	Below-market outcomes require valuation, recorded public benefit and conditions.

**embedded
safeguards**

Property is a platform for service delivery and development

Land and buildings are part of how the Municipality delivers its mandate.

The management question is not merely “Can this be leased or sold?”—but “What public role should this asset perform?”

SERVICE DELIVERY

Infrastructure corridors, depots, offices and public facilities

ECONOMIC DEVELOPMENT

Investment-ready land, tourism, industry and mixed-use opportunities

COMMUNITY & SOCIAL

Halls, sport, libraries and facilities supporting public benefit

ENVIRONMENT

Catchments, wetlands, open space and conservation land

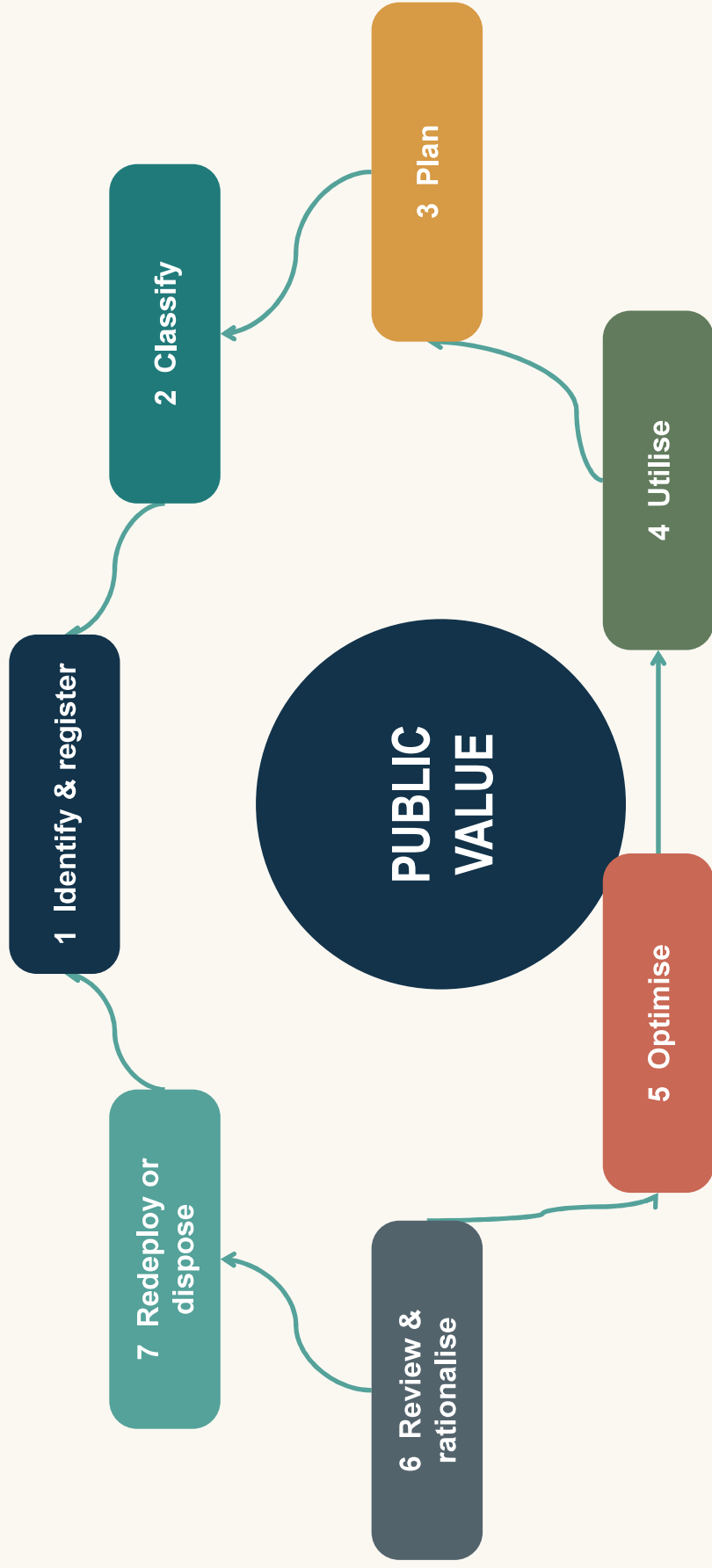
Every property gets a strategic identity first

CLASSIFY → CHOOSE A MANAGEMENT POSTURE → THEN CONSIDER A TRANSACTION



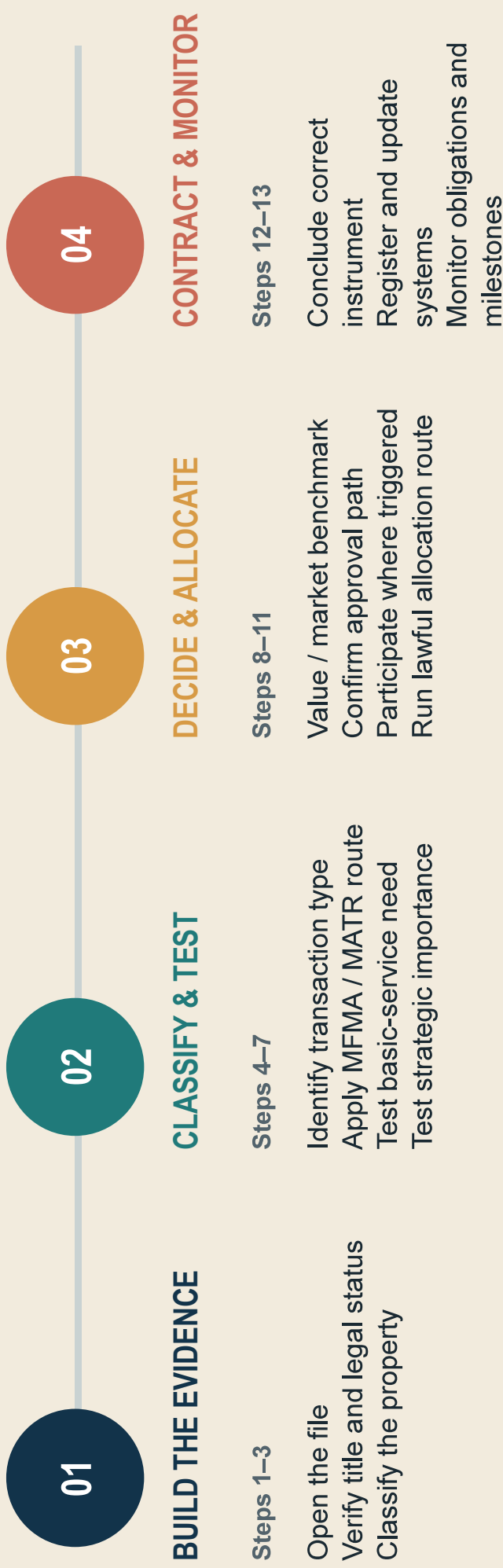
“Surplus” is a conclusion supported by evidence—not a convenient starting label.

Stewardship spans the full property lifecycle



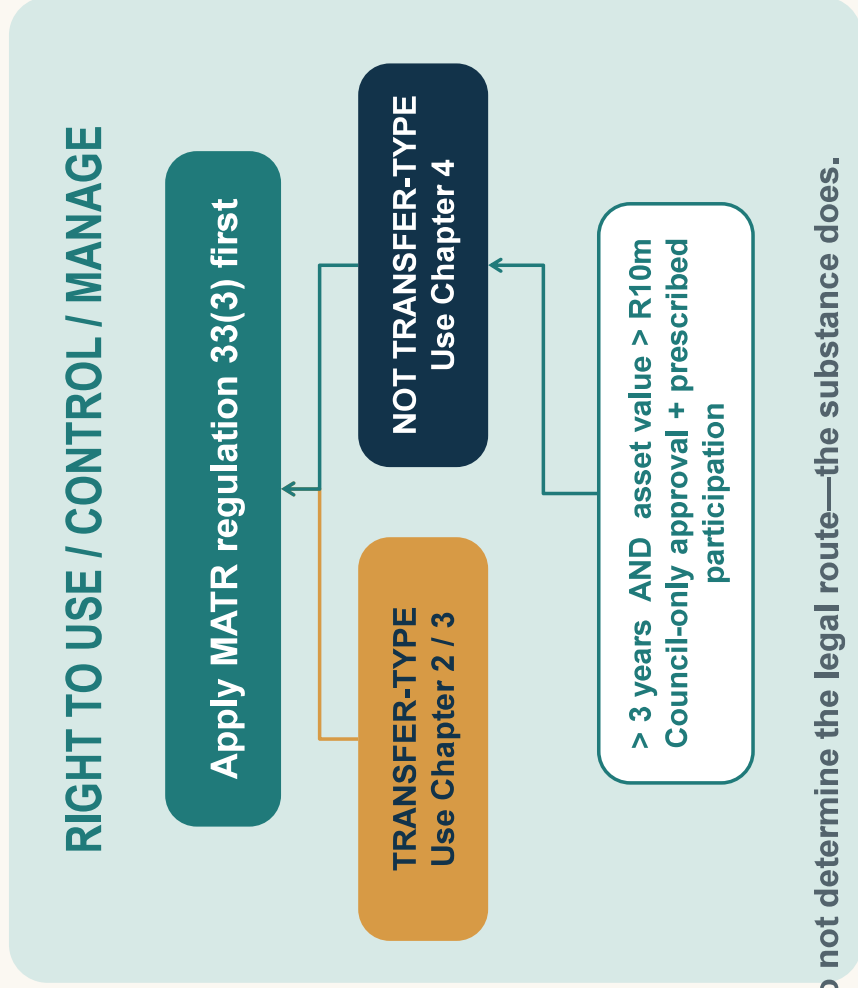
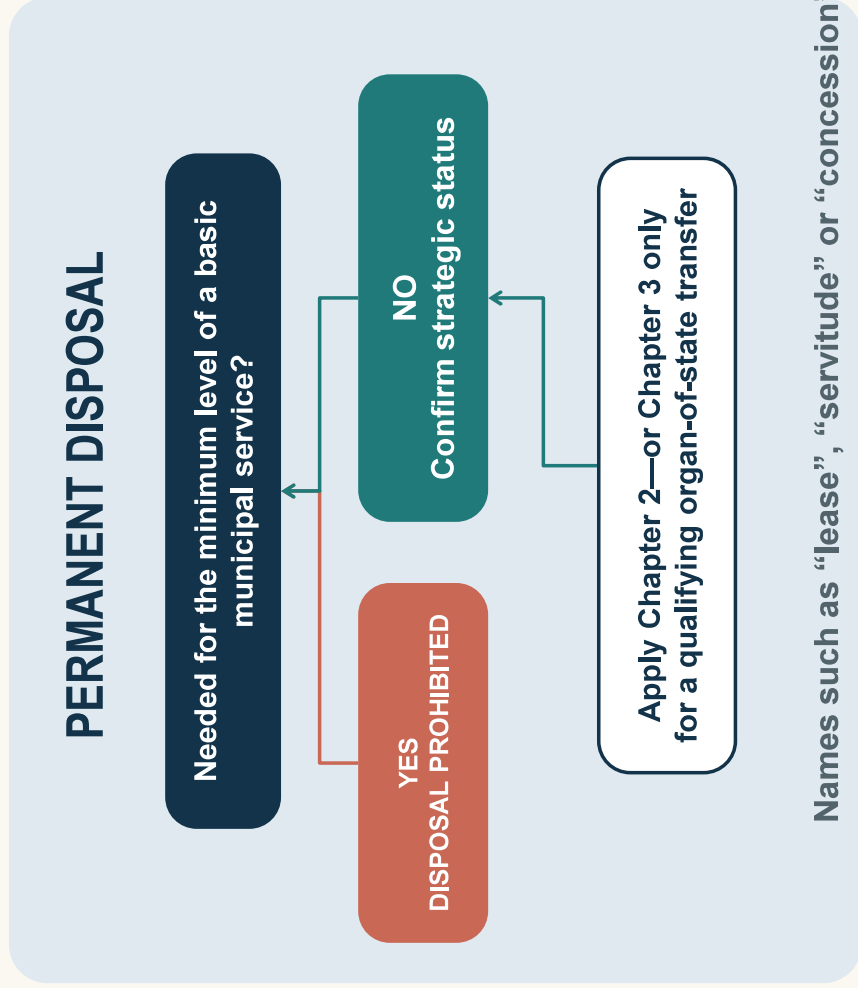
Each stage feeds the next—and the cycle restarts as municipal priorities change.

One protocol creates an auditable transaction file



No material transaction proceeds without a completed compliance checklist.

Legal classification precedes the commercial route



Names such as “lease”, “servitude” or “concession” do not determine the legal route—the substance does.

Council keeps the decisions that cannot be delegated

COUNCIL

MFMA section 14(2) determinations for immovable property
Authorise prescribed participation where required
Approve long-term high-value rights in principle
Set policy, strategy and major public-interest direction

ACCOUNTING OFFICER & DELEGATES

Design and run the lawful administrative process
Coordinate due diligence, valuation and participation
Exercise only powers legally capable of delegation
Implement decisions, awards and agreements

Council's statutory determination is not the SCM award—the two stages must remain distinct.

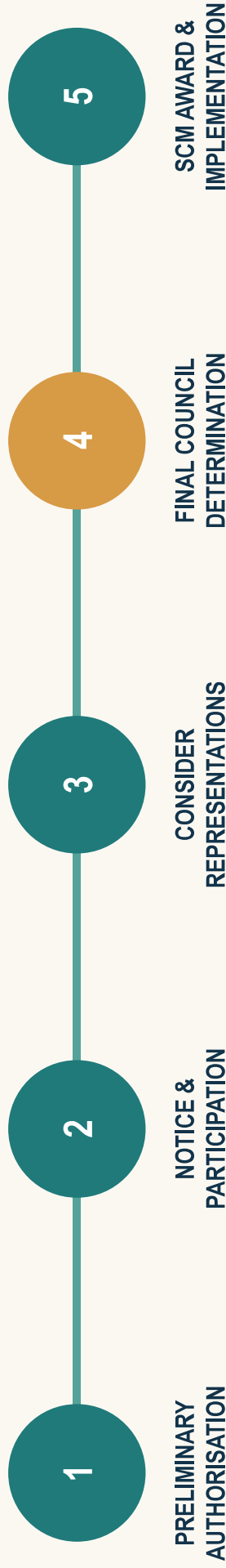
Participation happens before the final decision

**60
DAYS**

for prescribed high-value
/ aggregate and long-
term high-value
processes

TRIGGERS

High-value disposal Annual aggregate > 5% >3 years AND asset >R10m



Social value may justify a concession—not an entitlement



A below-market outcome must quantify what the Municipality gives up—and what the public receives in return.

01 VALUATION

02 QUANTIFIED
CONCESSION

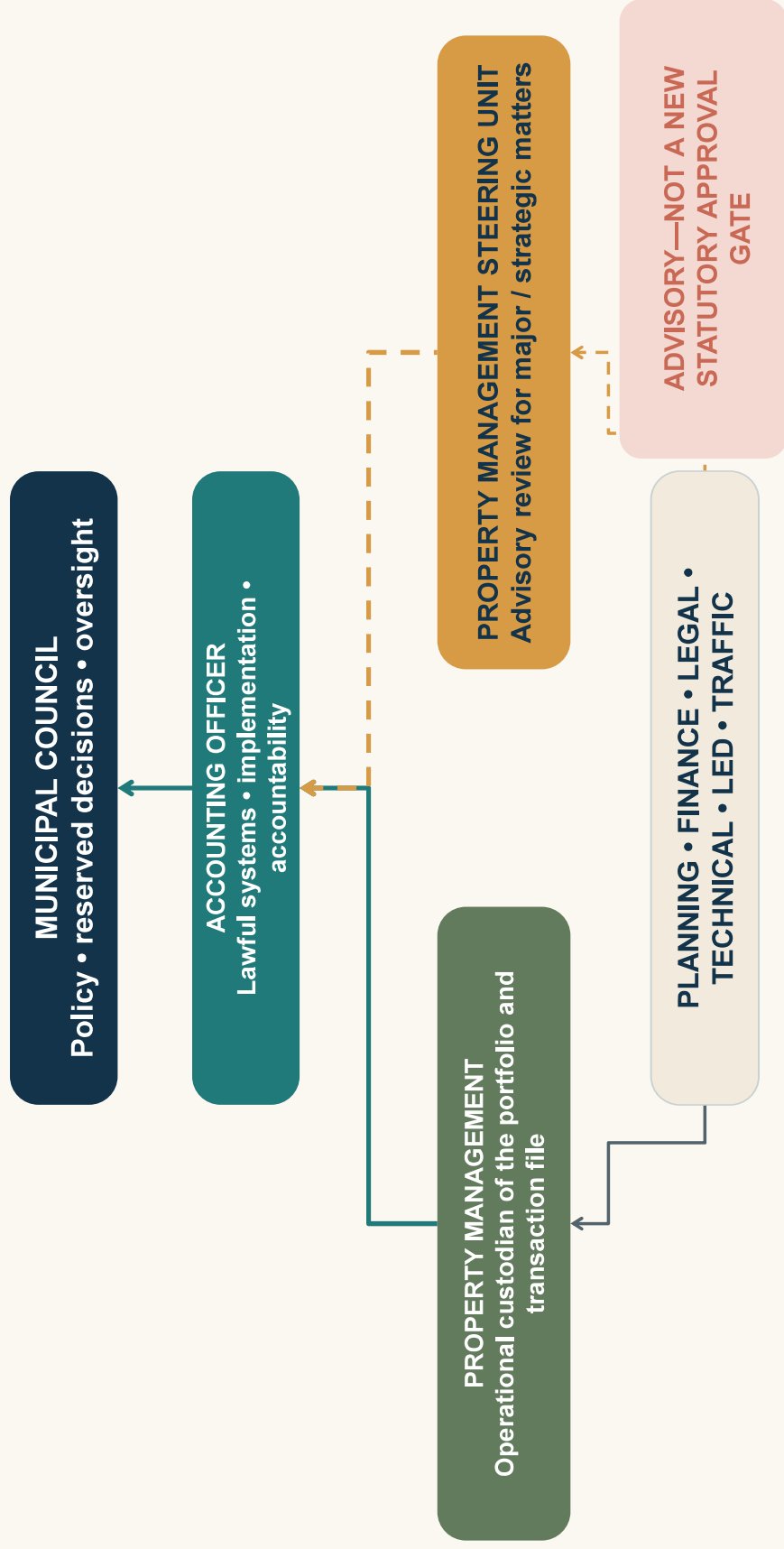
03 FAIR ALLOCATION
ROUTE

04 PERFORMANCE
CONDITIONS

05 REVIEW & EXIT

Benchmark ceilings guide judgment; they do not create automatic discounts.

Coordination must improve decisions without adding delays



Property income can rebuild the property portfolio

CAPITAL LANE

NET DISPOSAL PROCEEDS

100% default • never below 75% in an exceptional temporary reduction



CAPITAL REINVESTMENT COMPONENT

Acquisition • development • capital renewal • value-enhancing professional services

OPERATING LANE

ELIGIBLE RENTAL COLLECTIONS

Year 1: 20% • Year 2: 25% • Year 3 onward: 30%

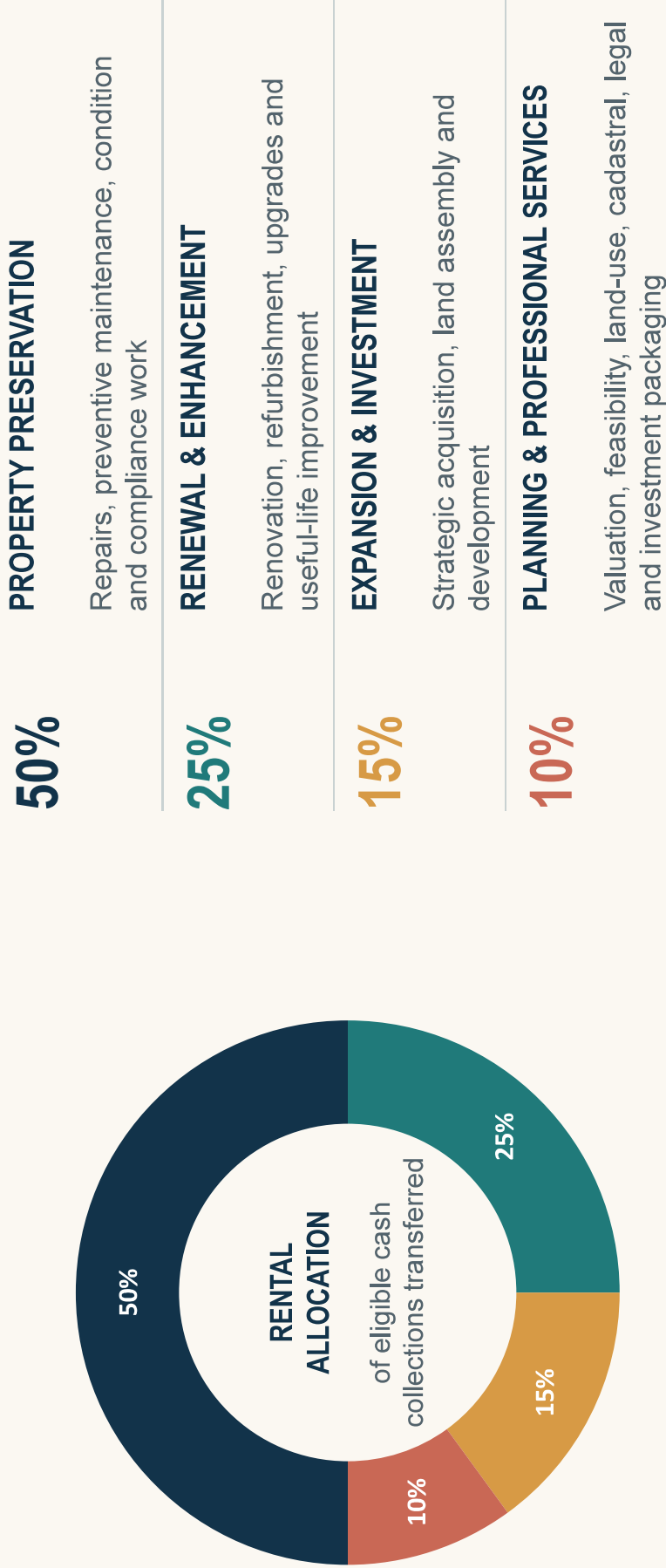


PROPERTY SUSTAINABILITY COMPONENT

Repairs • maintenance • compliance • condition • protection • operating services

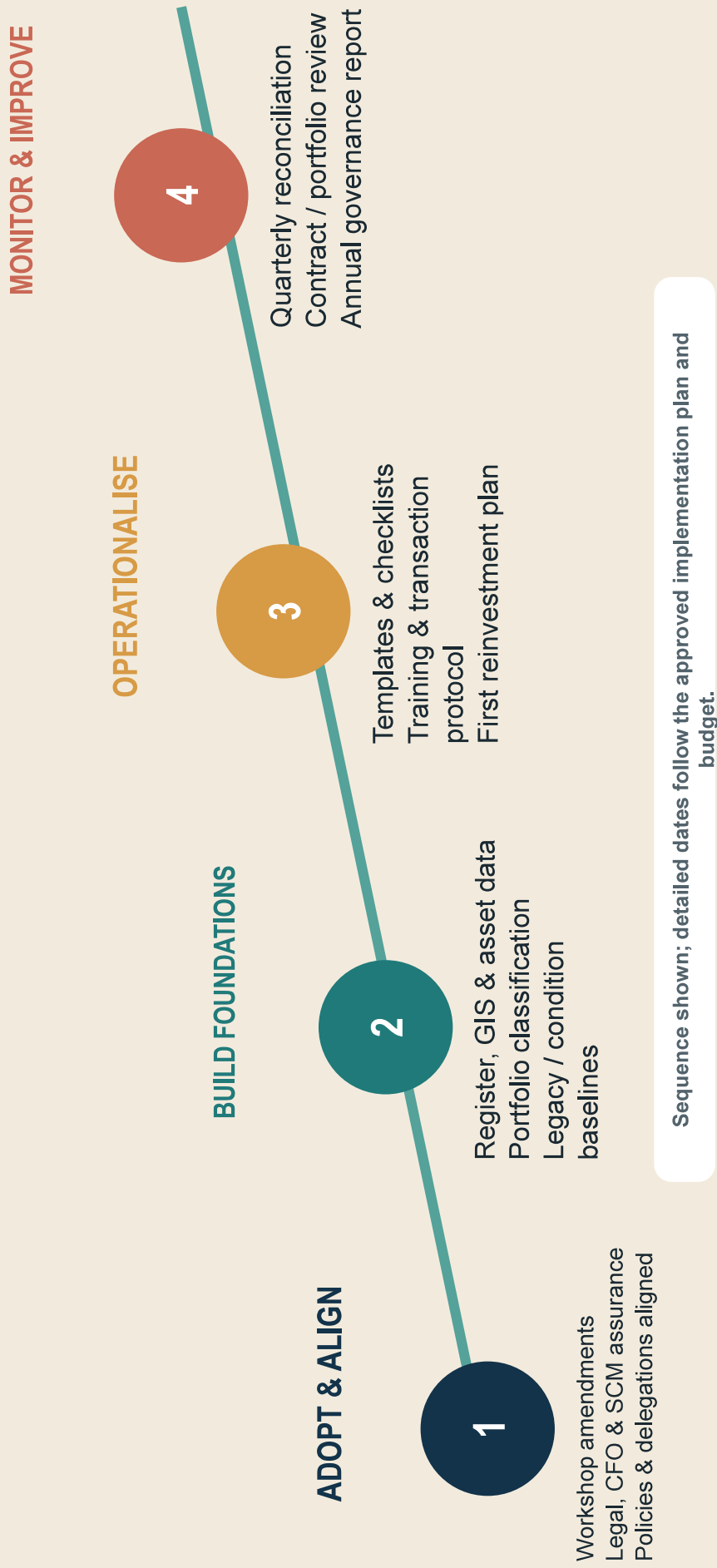
CASH-BACKED • BUDGET-APPROVED • NO SEPARATE ACCOUNT, TRUST OR OFF-BUDGET FUND

Rental reinvestment prioritises preservation



Priority order: **life-safety and compliance** → **occupied and income-producing assets** → **development-ready land** → **catalytic projects**

Implementation is a managed rollout



Council guidance will shape the final adoption draft

This workshop is the point to test the policy choices—not to compress them into a final approval item.

01	STRATEGIC DIRECTION	Does the lifecycle and portfolio approach reflect how Council wants municipal property governed?
02	ASSET CLASSIFICATION	Are the six categories and retention principles clear and practical?
03	AUTHORITY & PROCESS	Does the balance between Council oversight and delegated efficiency work?
04	REINVESTMENT MODEL	Does Council support the proposed disposal and rental allocations and priorities?
05	ROLLOUT PRIORITIES	Which foundations and legacy risks should be addressed first?

PROTECT.

essential assets and public value

UNLOCK.

strategic land, development and community benefit

REINVEST.

property income into condition, capability and future value

WORKSHOP → REFINE → ASSURE → FORMAL ADOPTION

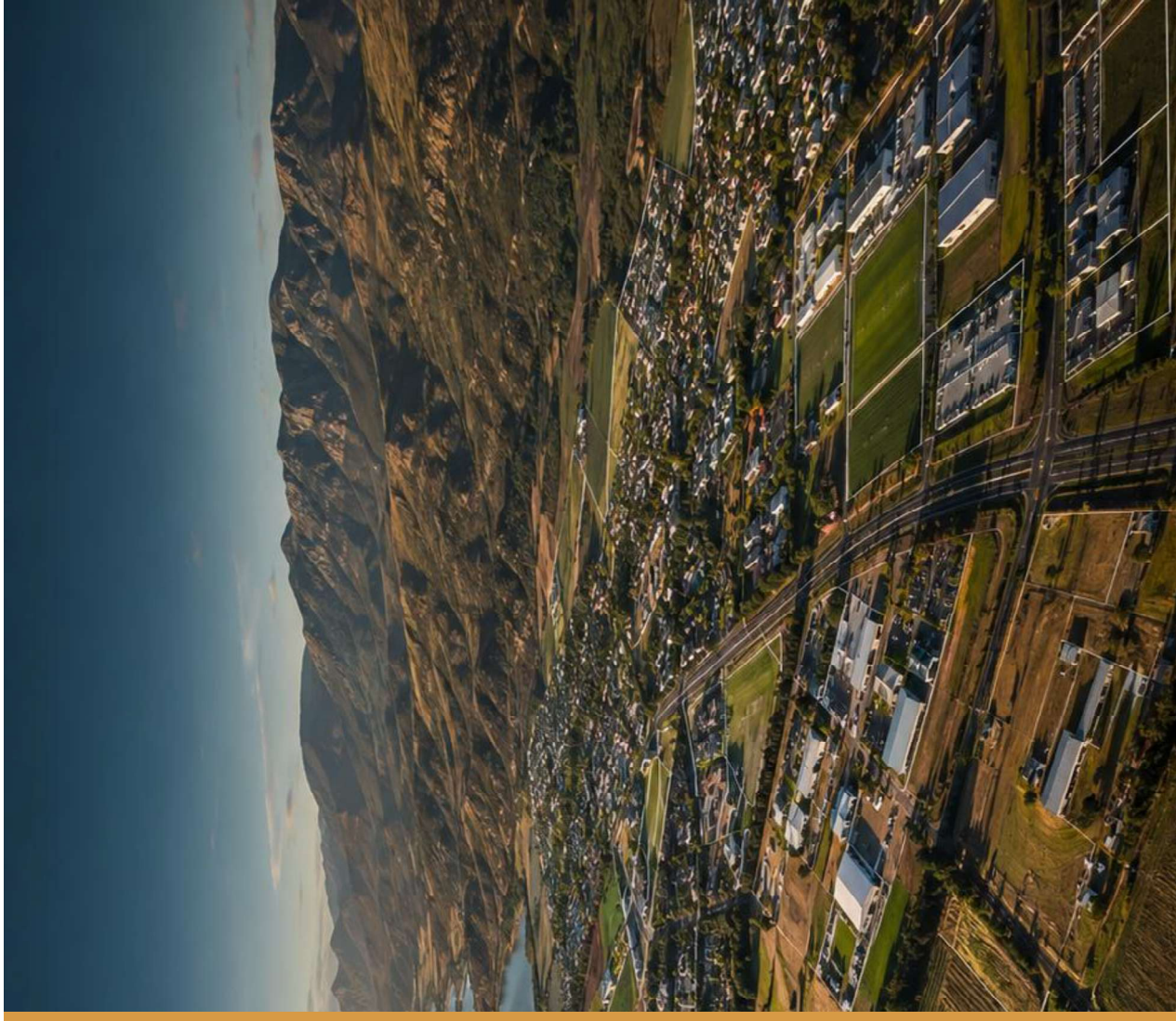
THEEWATERSKLOOF MUNICIPALITY

Thank You

Questions and Discussion

PLEASE FEEL FREE TO RAISE ANY QUESTIONS

Property Management • Economic Development & Planning



THEEWATERSKLOOF MUNICIPALITY

**IMMOVABLE PROPERTY MANAGEMENT GOVERNANCE
STRATEGY**

All Municipal Related Immovable Property Governance Matters

Table of Contents

EXECUTIVE SUMMARY.....	9
CHAPTER 1	10
1. INTRODUCTION TO MUNICIPAL IMMOVABLE PROPERTY MANAGEMENT.....	10
1.1. Background and Context	10
1.2. Constitutional Foundation of Municipal Property Administration.....	11
1.3. Legislative Framework Governing Municipal Property	11
1.4. Purpose of the Strategy	12
1.5. Role of Municipal Property in Development and Service Delivery	13
1.6. Municipal Property Lifecycle Approach	13
1.7. Guiding Principles for Municipal Property Management	14
1.8. Structure of the Strategy	15
CHAPTER 2	16
2. CONSTITUTIONAL, LEGISLATIVE AND REGULATORY FRAMEWORK.....	16
2.1. Introduction.....	16
2.2. Constitutional Authority for Municipal Property Administration.....	16
2.3. Legislative Framework Governing Municipal Property	17
2.4. Spatial Planning and Land Use Regulation	18
2.5. Building Control and Development Regulation	18
2.6. Property Registration and Ownership.....	19
2.7. Administrative Justice and Procedural Fairness	19
2.8. Financial Governance and Asset Stewardship.....	20
2.9. Consolidated Legislative and Municipal-Instrument Schedule.....	20
2.10. Interaction of Legislative Frameworks	21
CHAPTER 3	22
3. STRATEGIC ROLE OF MUNICIPAL IMMOVABLE PROPERTY	22
3.1. Introduction.....	22
3.2. Municipal Property as a Strategic Public Asset.....	22
3.3. Municipal Property and Service Delivery Infrastructure	23
3.4. Municipal Property and Spatial Planning.....	23
3.5. Municipal Property and Economic Development	24
3.6. Municipal Property and Social Development.....	25
3.7. Municipal Property and Environmental Stewardship.....	25

3.8.	Strategic Property Portfolio Management.....	26
3.9.	Integrating Property Management with Municipal Planning.....	26
3.10.	Conclusion	26
CHAPTER 4	.....	28
4.	MUNICIPAL PROPERTY GOVERNANCE MODEL	28
4.1.	Introduction.....	28
4.2.	Governance Principles for Municipal Property Administration	28
4.3.	Role of the Municipal Council	29
4.4.	Role of the Accounting Officer	29
4.5.	Role of the Municipal Property Management Unit	30
4.6.	Interdepartmental Coordination.....	30
4.7.	Municipal Investment Steering Unit acting as the Property Management Steering Unit	31
4.8.	Delegation of Authority	31
4.9.	Governance Oversight and Accountability	32
4.10.	Municipal Property Governance Model	32
CHAPTER 5	.....	33
5.	MUNICIPAL IMMOVABLE PROPERTY REGISTER AND PROPERTY INFORMATION SYSTEMS	33
5.1.	Introduction.....	33
5.2.	Purpose of the Municipal Immovable Property Register	33
5.3.	Legal Basis for Property Registers	34
5.4.	Scope of the Property Register	34
5.5.	Verification of Property Ownership and Legal Rights.....	35
5.6.	Integration with Geographic Information Systems.....	35
5.7.	Integration with Financial Asset Registers	36
5.8.	Property Information Management Systems	36
5.9.	Maintenance and Updating of Property Records	36
5.10.	Importance of Accurate Property Information	37
CHAPTER 6	.....	38
6.	INTERNAL USER GOVERNANCE OF OPERATIONAL IMMOVABLE PROPERTY	38
6.1.	Introduction.....	38
6.2.	Purpose of Internal User Governance.....	38
6.3.	Institutional Roles.....	39

CHAPTER 7	45
7. MUNICIPAL PROPERTY PORTFOLIO STRATEGY AND PLANNING	45
7.1. Introduction.....	45
7.2. Strategic Importance of Municipal Property Portfolios.....	45
7.3. Alignment with Municipal Planning Frameworks	46
7.4. Strategic Land Banking	46
7.5. Identification of Development-Ready Municipal Land	47
7.6. Infrastructure Corridor Protection.....	47
7.7. Rationalisation of Surplus Municipal Land.....	48
7.8. Environmental and Conservation Considerations	48
7.9. Periodic Review of Municipal Property Portfolios.....	48
7.10. Integration with Municipal Property Lifecycle Management.....	49
7.11. Conclusion	49
CHAPTER 8	50
8. PROPERTY CLASSIFICATION AND PORTFOLIO SEGMENTATION	50
8.1. Introduction.....	50
8.2. Purpose of Property Classification	50
8.3. Principles of Municipal Property Classification	51
8.4. Strategic Municipal Assets	51
8.5. Operational Service Delivery Assets	52
8.6. Community and Social Assets	52
8.7. Investment and Revenue-Generating Assets	52
8.8. Environmental and Conservation Assets.....	53
8.9. Surplus or Non-Core Municipal Assets	53
8.10. Property Classification Review.....	54
8.11. Integration with Property Portfolio Strategy	54
8.12. Conclusion	54
CHAPTER 9	55
9. ACQUISITION OF MUNICIPAL IMMOVABLE PROPERTY	55
9.1. Introduction.....	55
9.2. Purpose of Municipal Property Acquisition	55
9.3. Legislative Framework Governing Property Acquisition	56
9.4. Strategic Planning Prior to Property Acquisition	56

9.5.	Methods of Property Acquisition	57
9.6.	Due Diligence and Property Evaluation	57
9.7.	Property Valuation	58
9.8.	Financial Considerations	58
9.9.	Expropriation as a Last Resort	58
9.10.	Registration of Acquired Property	59
9.11.	Integration with Municipal Property Portfolio Strategy	59
9.12.	Conclusion	59
CHAPTER 10	.....	61
10.	GRANTING OF RIGHTS TO MUNICIPAL PROPERTY	61
10.1.	Introduction.....	61
10.2.	Legislative Framework Governing Property Rights	61
10.3.	Purpose of Granting Property Rights.....	62
10.4.	Types of Property Rights Granted by the Municipality	62
10.5.	Strategic Considerations in Granting Property Rights	64
10.6.	Competitive Processes and Fair Allocation.....	64
10.7.	Financial Considerations	65
10.8.	Monitoring and Compliance.....	65
10.9.	Protection of Municipal Interests.....	65
10.10.	Integration with Property Lifecycle Management	66
10.11.	Conclusion	66
CHAPTER 11	.....	67
11.	DISPOSAL AND TRANSFER OF MUNICIPAL IMMOVABLE PROPERTY	67
11.1.	Introduction.....	67
11.2.	Legislative Framework Governing Property Disposal	67
11.3.	Circumstances in Which Municipal Property May Be Disposed	68
11.4.	Determination of Strategic Importance	68
11.5.	Valuation of Municipal Property.....	69
11.6.	Methods of Disposal.....	69
11.7.	Development Conditions and Reversion Clauses	70
11.8.	Public Participation and Transparency	71
11.9.	Registration of Property Transfers	71
11.10.	Monitoring and Compliance	71

11.11.	Conclusion	72
CHAPTER 12	.....	73
12.	MUNICIPAL ASSET TRANSFER REGULATIONS DECISION FRAMEWORK	73
12.1.	Introduction.....	73
12.2.	Capital Assets and Municipal Property	73
12.3.	Determination of Asset Classification	74
12.4.	Determination of Minimum Level of Basic Municipal Services	74
12.5.	Determination of Fair Market Value	75
12.6.	Determination of Appropriate Disposal Method	75
12.7.	Public Participation Requirements	75
12.8.	Authority for Decision-Making	76
12.9.	Decision Framework for Municipal Property Transactions.....	76
12.10.	Integration with Municipal Property Governance	77
12.11.	Conclusion	77
CHAPTER 13	.....	78
13.	PUBLIC PARTICIPATION AND TRANSPARENCY REQUIREMENTS	78
13.1.	Introduction.....	78
13.2.	Constitutional Principles of Public Participation	78
13.3.	Legislative Framework for Administrative Justice	79
13.4.	Transparency and Access to Information	79
13.5.	Public Participation in Municipal Property Disposal	79
13.6.	Public Notification Procedures	80
13.7.	Consideration of Public Representations	80
13.8.	Protection of Legitimate Expectations	80
13.9.	Documentation and Record Keeping	81
13.10.	Integration with Municipal Governance Processes	81
13.11.	Conclusion	81
CHAPTER 14	.....	83
14.	VALUATION, FINANCIAL CONSIDERATIONS AND MUNICIPAL ASSET VALUE PROTECTION.....	83
14.1.	Introduction.....	83
14.2.	Financial Governance Framework.....	83
14.3.	Valuation of Municipal Property.....	83

14.4.	Market Value Principle.....	84
14.5.	Rental Determination for Municipal Property	84
14.6.	Revenue Management and Property Income	85
14.7.	Municipal Immovable Property Reinvestment Reserve Framework	85
14.8.	Financial Risk Assessment.....	87
14.9.	Protection of Municipal Asset Value.....	88
14.10.	Integration with Municipal Budgeting Processes	88
14.11.	Financial Reporting and Oversight.....	88
14.12.	Conclusion	89
CHAPTER 15		90
15.	CONTRACTUAL GOVERNANCE AND MUNICIPAL PROPERTY AGREEMENTS ..	90
15.1.	Introduction.....	90
15.2.	Legal Framework Governing Municipal Property Agreements.....	90
15.3.	Types of Municipal Property Agreements	91
15.4.	Essential Provisions in Municipal Property Agreements.....	92
15.5.	Development Conditions.....	92
15.6.	Reversion Clauses.....	93
15.7.	Enforcement of Contractual Obligations	93
15.8.	Record Management and Contract Administration	93
15.9.	Integration with Municipal Property Management Systems	94
15.10.	Conclusion	94
CHAPTER 16		95
16.	RISK MANAGEMENT AND LEGAL COMPLIANCE IN MUNICIPAL PROPERTY ADMINISTRATION.....	95
16.1.	Introduction.....	95
16.2.	Legislative Compliance Obligations.....	95
16.3.	Risk of Unlawful Occupation	96
16.4.	Encroachments on Municipal Property.....	96
16.5.	Breach of Lease Agreements.....	96
16.6.	Risk of Improper Asset Disposal	97
16.7.	Financial Risk in Property Transactions	97
16.8.	Legal Disputes and Litigation Risk.....	98
16.9.	Governance and Oversight Mechanisms	98

16.10.	Integration with Municipal Risk Management Systems	98
16.11.	Conclusion	99
CHAPTER 17	.....	100
17.	MONITORING, REPORTING AND INSTITUTIONAL OVERSIGHT	100
17.1.	Introduction.....	100
17.2.	Purpose of Monitoring and Oversight.....	100
17.3.	Property Portfolio Monitoring	101
17.4.	Monitoring of Property Agreements	101
17.5.	Financial Monitoring.....	102
17.6.	Reporting to Municipal Leadership Structures.....	102
17.7.	Oversight by Municipal Council	103
17.8.	Role of Audit and Governance Structures	103
17.9.	Compliance Reviews and Audits	103
17.10.	Continuous Improvement of Property Governance.....	104
17.11.	Conclusion	104
CHAPTER 18	.....	106
18.	IMPLEMENTATION, ALIGNMENT AND ROLLOUT OF THE MUNICIPAL IMMOVABLE PROPERTY GOVERNANCE FRAMEWORK	106
18.1.	Introduction.....	106
18.2.	Implementation responsibility	106
18.3.	Council workshop and adoption readiness.....	106
18.4.	Immediate implementation actions	106
18.5.	Systems alignment.....	107
18.6.	Capacity building and institutional awareness.....	107
18.7.	Transitional regularisation	107
	MUNICIPAL PROPERTY LIFECYCLE MODEL	108
ANNEXURE B	.....	111
	MUNICIPAL PROPERTY GOVERNANCE MODEL	111
ANNEXURE C	.....	113
	ALIGNED DEFINITIONS AND LEGAL TRIGGERS	113

EXECUTIVE SUMMARY

This Strategy establishes a lifecycle, portfolio and transaction-governance system for all immovable property owned, controlled, acquired or administered by Theewaterskloof Municipality. It must be read with the Administration of Immoveable Property Policy, the adopted delegation system, the Supply Chain Management Policy, the annual budget and MTREF, the Funding and Reserves Policy, the Asset Management Policy, the Integrated Development Plan, the Spatial Development Framework and applicable land-use instruments.

The Strategy protects land required for minimum basic municipal services and future infrastructure, while creating efficient pathways for lawful acquisition, leasing, development, servitudes, regularisation and disposal. Council-reserved decisions remain with Council; the Accounting Officer and delegates may act only within legislation and written delegations. The Municipal Investment Steering Unit acts as an advisory Property Management Steering Unit and does not add a separate statutory approval layer.

For every proposed transfer or right, officials must first identify the correct Municipal Asset Transfer Regulations pathway. Exempt status depends on a qualifying transfer to an organ of state under section 14(6) of the MFMA and Chapter 3 of the Regulations. A right falling within regulation 33(3) is treated as a transfer-type transaction; otherwise Chapter 4 applies. The additional long-term high-value process is triggered only when the proposed term exceeds three years and the capital asset value exceeds R10 million.

A Municipal Immoveable Property Reinvestment Reserve Framework is created as a policy direction, subject to Council establishing the required cash-backed accounting components through the Funding and Reserves Policy, Budget Policy, Asset Management Policy, mSCOA chart and an approved annual or adjustments budget. It is not an off-budget fund or separate bank account.

The default proposal is to allocate 100% of Net Cash Disposal Proceeds to capital property reinvestment and to phase the allocation of Eligible Rental Collections from 20% in year one, to 25% in year two and 30% from year three. Rental allocations prioritise repairs, planned maintenance, compliance work, refurbishment, enhancement, strategic acquisition and properly classified planning and professional services.

Before adoption, Council should workshop this Strategy and the aligned Policy together with the municipal investment-property profile and marketing strategy. Legal Services, the Chief Financial Officer and Supply Chain Management must confirm the final delegation matrix, local tariff implications, budget amendments and implementation instruments. Transaction-specific legal advice remains necessary for complex, high-value, disputed or novel matters.

CHAPTER 1

1. INTRODUCTION TO MUNICIPAL IMMOVABLE PROPERTY MANAGEMENT

1.1. Background and Context

- 1.1.1. Theewaterskloof Municipality is the custodian of extensive immovable property assets which include land, buildings, public facilities, infrastructure corridors, servitudes, open spaces, and various other property rights. These assets form an integral part of the public resource base through which the municipality fulfil its constitutional mandate to provide services, facilitate development, and promote the social and economic well-being of the communities it serve.
- 1.1.2. Municipal immovable property is not merely a physical asset held in public ownership; it constitutes a strategic governance instrument through which municipalities influence spatial development, facilitate investment, support social infrastructure, and safeguard environmental and community interests. In many instances, the municipal land and property assets represent one of the most significant resources available to the municipality in advancing the objectives of sustainable development, spatial transformation and inclusive economic growth.
- 1.1.3. The responsible administration and management of municipal immovable property therefore requires a coherent governance strategy that integrates legal compliance, financial stewardship, strategic planning and operational management. Such a strategy must ensure that municipal property assets are managed in a manner that is transparent, accountable and consistent with the public interest.
- 1.1.4. Historically, the municipal policy governing immovable property have tended to focus primarily on individual transactional activities such as the sale or leasing of municipal land. While these functions remain important, contemporary governance standards require a broader and more integrated approach that recognises the full lifecycle of municipal property assets and their role in supporting long-term municipal development.
- 1.1.5. This strategy accordingly adopts a holistic approach to municipal immovable property management by establishing a comprehensive governance system that addresses the strategic planning, acquisition, administration, utilisation, optimisation and eventual disposal of municipal property assets.

1.2. Constitutional Foundation of Municipal Property Administration

- 1.2.1. The administration and management of municipal immovable property derives its authority from the constitutional framework governing local government in South Africa.
- 1.2.2. In terms of the Constitution of the Republic of South Africa, municipalities constitute a distinct sphere of government with original powers and functions. Municipal councils are entrusted with legislative and executive authority to govern the local government affairs of their communities and to administer matters listed in Schedules 4B and 5B of the Constitution.
- 1.2.3. The constitutional objects of local government include:
 - a) the provision of democratic and accountable government for local communities;
 - b) the provision of sustainable services to communities;
 - c) the promotion of social and economic development;
 - d) the promotion of a safe and healthy environment; and
 - e) the encouragement of community involvement in matters of local government.
- 1.2.4. Municipal immovable property plays a central role in enabling Theewaterskloof Municipality to fulfil these constitutional objectives. Land and property assets are required for the provision of public infrastructure, community facilities, environmental management, economic development initiatives, and various other municipal functions.
- 1.2.5. The Municipal councils therefore bear a fiduciary responsibility to manage municipal property assets in a manner that safeguards public value and ensures that these assets are utilised for the greatest benefit of the community.

1.3. Legislative Framework Governing Municipal Property

- 1.3.1. The management and administration of municipal immovable property is further regulated by national legislation governing municipal financial management, asset administration, spatial planning and public governance.
- 1.3.2. Of particular significance is Local Government: Municipal Finance Management Act (MFMA), 2003 (Act No. 56 of 2003), which establishes the financial governance framework applicable to municipalities and prescribes strict controls regarding the management, transfer and disposal of municipal capital assets.
- 1.3.3. The provisions of the MFMA are supplemented by the Municipal Asset Transfer Regulations (MATR), Government Notice R. 878, Government Gazette No. 31346 of 22

August 2008 which prescribe the processes that municipalities must follow when transferring or disposing of capital assets, including immovable property, or when granting rights to use, control or manage municipal assets.

1.3.4. These regulations establish important governance principles intended to safeguard municipal assets and protect the public interest. Among these principles are:

- 1.3.4.1. the valuation principle, which requires that a value be attached to any transfer or disposal of a municipal asset;
- 1.3.4.2. the continuity of service principle, which requires that asset transfers must not compromise the delivery of municipal services; and
- 1.3.4.3. the asset preservation principle, which seeks to prevent the indiscriminate disposal of municipal assets that may be required for future service delivery. These principles form a central component of the governance framework established by this strategy.

1.3.5. Municipal property administration must also be aligned with broader legislative frameworks governing spatial planning, land use management, procurement and administrative justice, including the Spatial Planning and Land Use Management Act and other applicable legislation regulating land development and municipal governance.

1.4. Purpose of the Strategy

1.4.1. The purpose of this Theewaterskloof Immovable Property Management Governance Strategy is to establish a comprehensive governance system for the administration, management and utilisation of municipal immovable property.

1.4.2. This strategy seeks to achieve the following objectives:

- a) to provide a consistent and legally compliant framework for municipal immovable property management;
- b) to ensure that the municipal property assets are managed in a transparent and accountable manner;
- c) to promote the optimal use of municipal land and property in support of service delivery and community development;
- d) to integrate property management with municipal planning, infrastructure development and economic growth strategies;
- e) to establish clear governance processes for the acquisition, administration, leasing, disposal and development of municipal property; and

- f) to ensure compliance with all applicable legislative and regulatory requirements governing municipal property transactions.
- 1.4.3. By establishing clear governance structures and operational procedures, this framework aims to strengthen the institutional capacity of municipalities to manage immovable property assets effectively and responsibly.

1.5. Role of Municipal Property in Development and Service Delivery

- 1.5.1. Municipal immovable property serves multiple functions within the governance and development strategy of Theewaterskloof Municipality.
- 1.5.2. In the context of service delivery, municipal land and buildings are required for the establishment and operation of essential public facilities such as water infrastructure, electricity substations, roads, waste management facilities, community halls, libraries, parks, recreational facilities and various other public amenities.
- 1.5.3. Municipal property also plays a strategic role in facilitating economic development and investment. Well-located municipal land can be utilised to support industrial development, tourism infrastructure, commercial activity, housing development and other initiatives that stimulate local economic growth.
- 1.5.4. In addition, municipal property assets contribute to spatial planning objectives by enabling the municipality to guide urban growth, protect environmentally sensitive areas, establish public open spaces and support integrated human settlements.
- 1.5.5. Effective property management therefore requires the municipality to balance a range of competing considerations including service delivery needs, financial sustainability, economic development opportunities and community interests.

1.6. Municipal Property Lifecycle Approach

- 1.6.1. A central feature of this strategy is the adoption of a lifecycle approach to municipal property management.
- 1.6.2. Rather than focusing solely on individual property transactions, the lifecycle model recognises that municipal immovable property must be managed through a series of interconnected stages beginning with the identification and acquisition of property assets and continuing through their administration, utilisation and eventual disposal.
- 1.6.3. The lifecycle approach adopted in this framework includes the following key stages:
 - a) Identification and classification of municipal property assets.
 - b) Legal and administrative verification of property ownership and rights.

- c) Strategic planning and alignment of property assets with municipal development priorities.
 - d) Acquisition or retention of property required for municipal purposes.
 - e) Active administration and management of municipal property assets.
 - f) Development and optimisation of municipal property to maximise public value.
 - g) Periodic review of municipal property portfolios to identify surplus or under-utilised assets.
 - h) Disposal, transfer or granting of rights to use municipal property where appropriate.
- 1.6.4. This lifecycle approach ensures that municipal property decisions are taken within a broader strategic context and that property assets are managed proactively throughout their entire lifespan.

1.7. Guiding Principles for Municipal Property Management

- 1.7.1. The management of municipal immovable property must be guided by a set of governance principles designed to ensure accountability, transparency and responsible stewardship of public assets.
- 1.7.2. These principles include:
- a) the protection of municipal assets required for the provision of essential municipal services;
 - b) the promotion of fair, equitable and transparent property transactions;
 - c) the maximisation of public benefit derived from municipal property assets;
 - d) the integration of property management with municipal spatial and development planning;
 - e) the promotion of financial sustainability and responsible asset management; and
 - f) the safeguarding of public assets against misuse, unlawful occupation or mismanagement.
- 1.7.3. These principles inform all aspects of the property governance framework established by this strategy.

1.8. Structure of the Strategy

- 1.8.1. This strategy is structured to provide the municipality with a comprehensive governance guide for the management of immovable property assets.
 - 1.8.2. Subsequent chapters of this strategy address the legislative framework governing municipal property administration, the institutional governance structures required for effective property management, the strategic planning and classification of municipal property portfolios, and the procedures governing the acquisition, leasing, disposal and development of municipal property.
 - 1.8.3. The strategy further provides guidance on compliance with the Municipal Asset Transfer Regulations, financial management considerations, contractual governance, risk management and monitoring mechanisms.
 - 1.8.4. Together, these components establish an integrated system for the responsible management of municipal immovable property assets in accordance with the constitutional and legislative framework governing local government in South Africa.
- 1.9. **This Strategy must be read together with the Municipality's Administration of Immovable Property Policy, adopted delegations, Supply Chain Management Policy, Integrated Development Plan, Spatial Development Framework, applicable by-laws, and any approved standard operating procedures or templates developed to give effect to the municipal immovable property governance system. The Strategy provides the overarching governance and explanatory framework, while the Policy provides the operative decision-making rules applicable to immovable property transactions and land governance matters.**

CHAPTER 2

2. CONSTITUTIONAL, LEGISLATIVE AND REGULATORY FRAMEWORK

2.1. Introduction

- 2.1.1. The administration and management of municipal immovable property is governed by a comprehensive legislative framework that regulates the powers, responsibilities and decision-making authority of municipalities in relation to public assets.
- 2.1.2. The Municipality exercise its authority within a constitutional system that recognises local government as a distinct sphere of government with defined legislative and executive powers. Municipal immovable property therefore constitutes a public resource that must be administered in accordance with constitutional principles, statutory obligations and governance standards applicable to public institutions.
- 2.1.3. This strategy establishes the legal context within which municipalities must acquire, administer, utilise, lease, develop and dispose of immovable property. It also defines the procedural and governance requirements that must be followed when municipal property rights are transferred, encumbered or granted to third parties.
- 2.1.4. The legislative framework described in this chapter is not merely a collection of statutory references. Rather, it establishes the legal principles that guide municipal decision-making and provides the regulatory structure that ensures municipal property is managed in a manner that protects the public interest, promotes transparency and ensures accountability in the administration of public assets.

2.2. Constitutional Authority for Municipal Property Administration

- 2.2.1. The constitutional authority for municipal property administration derives from the Constitution of the Republic of South Africa, 1996, which establishes local government as a distinctive sphere of government and confers executive and legislative authority on municipal councils in respect of local-government matters.
- 2.2.2. Theewaterskloof Municipal council are empowered to govern the local government affairs of their communities and to administer the matters assigned in terms of the Constitution and national legislation. These powers include the authority to acquire, hold, administer and dispose of property necessary for the performance of municipal functions.
- 2.2.3. The Constitution further requires the municipality to pursue developmental objectives that include the promotion of social and economic development, the provision of sustainable services and the creation of safe and healthy environments for communities.

- 2.2.4. Municipal property therefore plays a central role in enabling the municipality to fulfil its constitutional obligations. Land and buildings are required for infrastructure, service facilities, public amenities, environmental protection and economic development initiatives. The management of municipal property must therefore be conducted in a manner that supports the developmental mandate of local government.
- 2.2.5. In exercising these powers, the municipal council must ensure that municipal resources are utilised effectively and that decisions relating to public assets are taken in a manner that promotes transparency, accountability and equitable access to public resources.

2.3. Legislative Framework Governing Municipal Property

- 2.3.1. The management of municipal immovable property is governed by a range of national legislation that regulates municipal financial management, asset administration, spatial planning, procurement processes and administrative decision-making.
- 2.3.2. Among the most important statutes governing municipal property administration is the Local Government: Municipal Finance Management Act.
- 2.3.3. This Act establishes the financial governance framework applicable to municipalities and regulates the management of municipal assets, liabilities and financial resources. In particular, the Act imposes strict controls on the transfer and disposal of municipal capital assets to ensure that such transactions are conducted in a manner that protects the interests of the municipality and the communities it serves.
- 2.3.4. The MFMA requires the municipality to maintain proper asset management systems and to ensure that municipal capital assets are not transferred or disposed of without appropriate consideration and due process. The Act further provides that the municipality must determine whether a capital asset is required for the provision of a minimum level of basic municipal service before such asset may be disposed of or transferred.
- 2.3.5. The provisions of the MFMA are supplemented by the Municipal Asset Transfer Regulations, which establish the detailed procedural framework governing the transfer or disposal of municipal capital assets as well as the granting of rights to use, control or manage municipal assets.
- 2.3.6. The regulations require the municipality to undertake a series of legal and administrative determinations before transferring or disposing of municipal assets. These determinations include establishing whether an asset is exempted or non-exempted, determining whether the asset is required for the provision of a minimum level of basic municipal services, and ensuring that appropriate valuation and public participation processes are followed where required.

2.3.7. The regulations also establish important governance principles such as the valuation principle, the continuity of service principle, the risk transfer principle and the asset preservation principle. These principles ensure that municipal property transactions are undertaken in a manner that safeguards public resources and prevents the irresponsible disposal of municipal assets that may be required for future service delivery.

2.4. Spatial Planning and Land Use Regulation

2.4.1. Municipal property management must also be aligned with the national spatial planning framework established by the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013).

2.4.2. This legislation provides the statutory framework for spatial planning, land use management and land development in South Africa. It requires the municipality to prepare spatial development frameworks that guide the long-term spatial structure and development patterns within municipal areas.

2.4.3. Municipal property decisions must therefore be consistent with the spatial planning policies and development objectives established in the municipal spatial development framework (SDF) and integrated development plan (IDP).

2.4.4. When the municipality consider the leasing, development or disposal of land, they must ensure that such decisions support the spatial vision of the municipality and do not undermine long-term development objectives such as integrated settlements, economic corridors, environmental protection and access to public amenities.

2.4.5. The alignment of property management decisions with the SDF is therefore essential to ensuring that municipal land is used strategically to support sustainable urban development.

2.5. Building Control and Development Regulation

2.5.1. Development activities occurring on municipal land must also comply with the requirements of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

2.5.2. This legislation regulates building standards, construction safety and the approval of building plans for all developments occurring within municipal areas.

2.5.3. Where municipal property is leased, sold or otherwise made available for development, the municipality must ensure that all development undertaken on the property complies with applicable building regulations and planning legislation. This includes the approval of

building plans, compliance with zoning requirements and adherence to construction standards designed to protect public safety and environmental integrity.

- 2.5.4. The Municipal property agreements must therefore incorporate provisions requiring compliance with building and planning legislation in order to ensure that developments occurring on municipal land are lawful and consistent with regulatory standards.

2.6. Property Registration and Ownership

- 2.6.1. The legal transfer of ownership of municipal immovable property is governed by the Deeds Registries Act, 1937 (Act No. 47 of 1937).
- 2.6.2. This legislation regulates the registration of property rights and the transfer of ownership of immovable property in South Africa. All transfers of municipal land or property must therefore be effected through the Deeds Office in accordance with the requirements of this Act.
- 2.6.3. The Deeds Registries Act ensures that property rights are properly recorded and that the legal ownership of immovable property is clearly established through the deeds registration system. For the municipality, this means that any disposal or acquisition of land must be properly registered to ensure legal certainty and protect the interests of the municipality.
- 2.6.4. The Municipal property administration must therefore include processes to ensure that title deeds, servitudes, restrictions and other property rights are properly recorded and maintained within the municipal property register.

2.7. Administrative Justice and Procedural Fairness

- 2.7.1. Municipal property decisions must also comply with the principles of administrative justice established in national legislation.
- 2.7.2. Municipal decisions relating to the disposal, leasing or development of municipal property may constitute, or give rise to, administrative action depending on the nature, source and context of the power exercised. Every decision must in any event comply with legality, and where the Promotion of Administrative Justice Act applies it must be lawful, reasonable and procedurally fair.
- 2.7.3. This requires the municipality to ensure that decision-making processes are transparent, that affected parties are afforded an opportunity to make representations where appropriate, and that decisions are properly recorded and motivated.

- 2.7.4. Where legislation requires public participation processes to be undertaken, municipalities must ensure that such processes are conducted in a meaningful and inclusive manner that allows stakeholders to participate in decisions affecting public assets.

2.8. Financial Governance and Asset Stewardship

- 2.8.1. The Municipal immovable property represents a significant component of the municipal asset base and must therefore be managed in accordance with sound financial governance principles.
- 2.8.2. The Municipal property transactions have financial implications that may include the generation of revenue, the creation of long-term contractual obligations or the disposal of valuable public assets. The Municipality must therefore ensure that property transactions are evaluated not only in terms of their legal compliance but also in terms of their financial sustainability and economic impact.
- 2.8.3. The legislative framework governing municipal financial management requires the municipality to safeguard public resources, prevent financial loss and ensure that municipal assets are managed in a manner that maximises value for the community.
- 2.8.4. The Municipal property management systems must therefore incorporate financial oversight mechanisms that ensure proper valuation, revenue management, financial reporting and auditing of property transactions.

2.9. Consolidated Legislative and Municipal-Instrument Schedule

- 2.9.1. The governance system must be applied with the Constitution of the Republic of South Africa, 1996; the Local Government: Municipal Finance Management Act 56 of 2003; the Municipal Asset Transfer Regulations, 2008; the Municipal Supply Chain Management Regulations, 2005; the Municipal Budget and Reporting Regulations, 2009; and the Municipal Regulations on a Standard Chart of Accounts, 2014, as amended or replaced.
- 2.9.2. Institutional, public-participation and information-governance duties arise from the Local Government: Municipal Systems Act 32 of 2000, the Local Government: Municipal Structures Act 117 of 1998, the Promotion of Administrative Justice Act 3 of 2000, the Promotion of Access to Information Act 2 of 2000 and the Protection of Personal Information Act 4 of 2013.
- 2.9.3. Property formation, transfer and contracting must have regard to the Deeds Registries Act 47 of 1937, the Spatial Data Infrastructure Act 54 of 2003, the Alienation of Land Act 68 of 1981, the Formalities in Respect of Leases of Land Act 18 of 1969, the Property Valuers

Profession Act 47 of 2000 and applicable consumer-protection and conventional-penalties law.

- 2.9.4. Planning and development decisions must comply with the Spatial Planning and Land Use Management Act 16 of 2013, the Western Cape Land Use Planning Act 3 of 2014, the Theewaterskloof Municipal Land Use Planning By-law, 2020, the municipal zoning scheme and all applicable environmental, heritage, building-control, road, public-place and engineering-services legislation.
- 2.9.5. Occupation, eviction, tenure and housing matters must be routed under the applicable housing and tenure framework, including the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 and the Extension of Security of Tenure Act 62 of 1997 where relevant. An exclusion from this Strategy or Policy never creates an exemption from those statutes.
- 2.9.6. Procurement, expropriation and other legislation must be applied as in force on the transaction date. Where enacted replacement legislation has not yet commenced, the currently operative law remains applicable; Legal Services must confirm commencement and transitional provisions before a transaction is launched.

2.10. Interaction of Legislative Frameworks

- 2.10.1. The legislative instruments described above operate in an integrated manner to regulate municipal property management.
- 2.10.2. In practical terms, this means that the municipal property decisions often require the simultaneous application of multiple legislative frameworks. For example, a decision to dispose of municipal land may require compliance with the Municipal Asset Transfer Regulations, the MFMA, spatial planning legislation, building regulations, supply chain management policies and administrative justice principles.
- 2.10.3. The Municipal officials responsible for property administration must therefore adopt an integrated governance approach that ensures compliance with all applicable legislation when managing municipal immovable property.
- 2.10.4. This strategy seeks to provide the municipality with practical guidance on how these legislative instruments interact and how they should be applied in the administration of municipal property assets.

CHAPTER 3

3. STRATEGIC ROLE OF MUNICIPAL IMMOVABLE PROPERTY

3.1. Introduction

- 3.1.1. Municipal immovable property constitutes one of the most significant public resources under the control of local government. Land and buildings owned by the municipality provide the physical platform upon which municipal services are delivered, public facilities are established, and economic and social development initiatives are implemented.
- 3.1.2. The strategic management of municipal immovable property is therefore fundamental to the effective functioning of local government. Municipal property is not merely an administrative asset that must be recorded and maintained; rather, it is a strategic resource through which the municipality influence spatial development patterns, support infrastructure expansion, facilitates investment, and create opportunities for economic participation within its jurisdiction.
- 3.1.3. Municipal property management must therefore be approached from a strategic perspective that recognises the role of land and buildings in achieving the developmental objectives of local government. This requires the municipality to adopt integrated property management practices that align property decisions with broader municipal planning frameworks, infrastructure programmes and development priorities.
- 3.1.4. This chapter establishes the strategic context within which municipal property management decisions must be taken and explain the role of municipal immovable property in supporting the developmental mandate of local government.

3.2. Municipal Property as a Strategic Public Asset

- 3.2.1. Municipal immovable property represents a valuable public asset that has been accumulated through public investment over many years. These assets include land acquired for infrastructure development, public amenities, environmental protection, housing programmes, transportation networks, and various other municipal purposes.
- 3.2.2. As custodians of these assets, the municipality carry a fiduciary responsibility to ensure that municipal property is managed in a manner that protects the public interest and maximises the value derived from these assets for the benefit of communities.
- 3.2.3. The strategic management of municipal property requires the municipality to recognise that land and buildings under municipal control may serve multiple functions simultaneously. For example, a parcel of municipal land may support infrastructure

services while also providing opportunities for economic development or community facilities.

- 3.2.4. Municipal property decisions must therefore consider both the immediate operational needs of the municipality and the longer-term strategic value of property assets. Decisions relating to the use, leasing or disposal of municipal property must be informed by careful consideration of the potential role that such property may play in supporting future municipal development objectives.
- 3.2.5. The responsible stewardship of municipal property assets requires the municipality to balance financial considerations with broader social, economic and environmental objectives.

3.3. Municipal Property and Service Delivery Infrastructure

- 3.3.1. One of the primary functions of municipal immovable property is to provide the physical space required for the delivery of essential municipal services.
- 3.3.2. Municipal infrastructure such as water treatment works, electricity substations, waste management facilities, roads, stormwater systems and fire stations must be located on land owned or controlled by the municipality. These facilities form the backbone of municipal service delivery and are essential to ensuring the health, safety and well-being of communities.
- 3.3.3. In addition to infrastructure facilities, the municipality also require land and buildings for a wide range of public amenities including libraries, community halls, sports facilities, parks, clinics and administrative offices. These facilities support the social and cultural life of communities and contribute to the quality of life of residents.
- 3.3.4. Municipal property management must therefore ensure that adequate land is reserved and protected for the establishment and expansion of service delivery infrastructure and public amenities. Land required for these purposes must be identified, secured and protected from disposal or inappropriate development in order to ensure the continued provision of essential municipal services.

3.4. Municipal Property and Spatial Planning

- 3.4.1. Municipal immovable property plays a critical role in shaping the spatial development patterns of towns and cities.
- 3.4.2. Through the strategic use of municipal land, the municipality can guide urban growth, support the development of integrated settlements and promote equitable access to economic opportunities and public facilities.

- 3.4.3. The spatial planning framework established by the Spatial Planning and Land Use Management Act requires the municipality to prepare spatial development frameworks that provide long-term guidance for the spatial organisation of municipal areas.
- 3.4.4. Municipal property decisions must therefore be aligned with the spatial vision and development objectives contained in the municipal spatial development frameworks and integrated development plans. The allocation of municipal land for housing, economic activity, public facilities and environmental protection must support the spatial restructuring goals of local government.
- 3.4.5. In particular, municipal property management should support spatial objectives such as:
- a) promoting compact and integrated urban development;
 - b) facilitating mixed-use development corridors;
 - c) protecting environmentally sensitive areas and ecological systems;
 - d) improving access to public transport and economic opportunities; and
 - e) supporting the development of inclusive human settlements.
- 3.4.6. Through strategic land allocation and development partnerships, the municipality can utilise their property assets to influence the long-term spatial form of urban areas.

3.5. Municipal Property and Economic Development

- 3.5.1. Municipal property can serve as an important catalyst for economic development within the municipal area.
- 3.5.2. Strategically located municipal land may be used to facilitate commercial development, tourism infrastructure, industrial development zones, agricultural initiatives, and other economic activities that create employment and stimulate local economic growth.
- 3.5.3. The Municipality may also use their property portfolios to attract private sector investment by making development-ready land available for strategic projects. Such initiatives may include the development of industrial parks, commercial precincts, tourism facilities or mixed-use developments.
- 3.5.4. When making municipal property available for development purposes, the municipality must ensure that such initiatives align with the municipal development priorities and deliver tangible benefits to local communities. Development agreements may therefore incorporate conditions relating to job creation, infrastructure investment, community benefits or other developmental objectives.

- 3.5.5. The strategic use of municipal land for economic development requires careful planning, coordination with spatial development frameworks and the establishment of transparent processes for identifying and evaluating development opportunities.

3.6. Municipal Property and Social Development

- 3.6.1. Municipal immovable property also plays an important role in supporting social development and community well-being.
- 3.6.2. Municipal land and buildings may be made available for a wide range of community-based initiatives including educational facilities, social services, sports and recreational activities, cultural programmes, community development projects and Place of Worship.
- 3.6.3. In many instances the municipality make property available to non-profit organisations, community groups or social enterprises at reduced rental levels in order to support social programmes that benefit local communities.
- 3.6.4. While such arrangements may not always generate significant financial returns for the municipality, they may contribute to broader social objectives such as community empowerment, youth development, cultural preservation and social cohesion.
- 3.6.5. The Municipal property policy must therefore recognise the importance of balancing financial considerations with social objectives when allocating municipal property for community-based initiatives.

3.7. Municipal Property and Environmental Stewardship

- 3.7.1. Municipal land often includes environmentally sensitive areas such as wetlands, nature reserves, river corridors, mountain catchments and biodiversity conservation areas.
- 3.7.2. The management of such areas forms an important part of the environmental responsibilities of the municipality. The Municipal property policy must therefore ensure that environmentally sensitive land is identified, protected and managed in accordance with applicable environmental legislation and municipal environmental management plans.
- 3.7.3. The preservation of environmentally sensitive municipal land contributes to biodiversity conservation, climate resilience, water resource protection and the provision of recreational spaces for communities.
- 3.7.4. The Municipality must therefore ensure that environmental considerations are integrated into property management decisions and that environmentally important areas are protected from inappropriate development.

3.8. Strategic Property Portfolio Management

- 3.8.1. Effective municipal property management requires the municipality to maintain a comprehensive understanding of its property portfolio and to manage this portfolio strategically.
- 3.8.2. This involves identifying which properties are required for service delivery, which properties may support economic or social development initiatives, and which properties may be surplus to municipal requirements.
- 3.8.3. The Municipal property portfolio should therefore be periodically reviewed and classified according to its strategic function. Such classification assists the municipality in determining the most appropriate management approach for each property and ensures that property assets are utilised in a manner that maximises public value.
- 3.8.4. Strategic portfolio management also enables the municipality to identify opportunities for land rationalisation, development partnerships and investment facilitation.

3.9. Integrating Property Management with Municipal Planning

- 3.9.1. The effective management of municipal immovable property requires close coordination between the municipal property management function and other municipal planning processes.
- 3.9.2. Property management decisions must be aligned with the municipality's Integrated Development Plan, spatial development framework, infrastructure investment plans and economic development strategies.
- 3.9.3. This requires ongoing collaboration between municipal departments responsible for property management, town planning, infrastructure services, financial management and economic development.
- 3.9.4. Through such collaboration municipalities can ensure that property decisions support broader development objectives and that municipal land resources are used effectively to advance the strategic priorities of local government.

3.10. Conclusion

- 3.10.1. Municipal immovable property represents a strategic public resource that plays a central role in enabling the municipality to fulfil its developmental mandate.
- 3.10.2. The effective management of municipal property requires the municipality to move beyond a purely administrative approach to property management and to adopt a strategic perspective that recognises the multiple roles that municipal land and buildings play in

supporting service delivery, economic growth, social development and environmental stewardship.

- 3.10.3. By integrating property management with municipal planning processes and development strategies, the municipality can ensure that its property portfolios contribute meaningfully to the long-term sustainability and prosperity of the communities they serve.

CHAPTER 4

4. MUNICIPAL PROPERTY GOVERNANCE MODEL

4.1. Introduction

- 4.1.1. The effective administration of municipal immovable property requires a clearly defined governance structure that establishes accountability for property management decisions and ensures compliance with the legislative framework governing municipal assets.
- 4.1.2. Municipal immovable property forms part of the public resource base of the municipality and must therefore be managed in accordance with sound governance principles, including transparency, accountability, oversight and responsible financial stewardship.
- 4.1.3. A structured governance model is necessary to ensure that decisions relating to municipal property are taken at the appropriate institutional level and that responsibilities are clearly allocated between political leadership, administrative management and operational property management units.
- 4.1.4. This chapter establishes the governance framework through which the municipality should administer its immovable property portfolio and clarifies the institutional roles and responsibilities involved in municipal property management.

4.2. Governance Principles for Municipal Property Administration

- 4.2.1. Municipal property governance must be guided by a number of fundamental principles that ensure responsible administration of public assets.
- 4.2.2. First, the municipal property must be administered in the public interest and for the benefit of the community served by the municipality. Decisions relating to the use, leasing, development or disposal of municipal property must therefore be motivated by considerations of public value rather than purely private interests.
- 4.2.3. Second, municipal property management must operate within a transparent and accountable governance framework that ensures property transactions are properly documented, evaluated and approved in accordance with applicable legislation.
- 4.2.4. Third, municipal property decisions must be taken within a framework of institutional accountability, where the roles and responsibilities of political office bearers, senior management and operational officials are clearly defined.
- 4.2.5. Fourth, municipal property administration must ensure compliance with the legislative framework governing municipal asset management, including the requirements governing the transfer or disposal of municipal capital assets and the granting of rights to use, control or manage municipal property.

- 4.2.6. These principles form the basis of the municipal property governance model described in this chapter.

4.3. Role of the Municipal Council

- 4.3.1. The Municipal Council represents the highest decision-making authority within the municipality and exercises legislative and executive authority over municipal affairs.
- 4.3.2. In the context of municipal property administration, the Council is responsible for establishing the policy, framework and strategy governing the management of municipal immovable property and for ensuring that property assets are administered in a manner that protects the interests of the municipality and the community.
- 4.3.3. The responsibilities of the Municipal Council include the adoption of municipal property policies, the approval of strategic property management frameworks and strategies and the oversight of major property transactions that may have significant financial, strategic or public interest implications.
- 4.3.4. In terms of the legislative framework governing municipal assets, certain property decisions must be taken by the Council itself, particularly where such decisions involve the disposal or transfer of municipal capital assets or where public participation processes are required.
- 4.3.5. Council therefore provides the strategic and governance oversight necessary to ensure that municipal property assets are managed responsibly and in accordance with the objectives of local government.

4.4. Role of the Accounting Officer

- 4.4.1. The Municipal Manager, as the Accounting Officer of the municipality, holds primary administrative responsibility for the management of municipal assets.
- 4.4.2. The responsibilities of the Accounting Officer include ensuring that the municipality maintains appropriate systems for the administration and control of municipal assets and that property transactions are undertaken in compliance with the legislative framework governing municipal financial management.
- 4.4.3. The Accounting Officer must ensure that municipal property management systems include accurate property registers, proper record keeping and effective monitoring mechanisms that enable the municipality to manage its property portfolio responsibly.
- 4.4.4. The Accounting Officer is also responsible for implementing the policies and decisions adopted by the Municipal Council and for ensuring that municipal officials perform their duties in accordance with the governance framework established by this strategy.

- 4.4.5. Where permitted by legislation and municipal delegations, the Accounting Officer may also exercise delegated authority to approve certain property transactions, provided that such authority is exercised within the limits prescribed by the legislative framework governing municipal assets.

4.5. Role of the Municipal Property Management Unit

- 4.5.1. The operational administration of municipal immovable property is performed by a specialised municipal property management unit or department responsible for the management of municipal land and buildings.
- 4.5.2. The primary responsibilities of the municipal property management unit include maintaining the municipal immovable property register, administering lease agreements and other property rights, coordinating property transactions and ensuring that municipal property assets are utilised effectively and in accordance with municipal policies.
- 4.5.3. The property management unit is also responsible for monitoring compliance with lease conditions, enforcing contractual obligations relating to municipal property and ensuring that municipal property records are kept up to date.
- 4.5.4. In addition, the property management unit plays a key role in identifying opportunities for the strategic use or development of municipal land and in supporting municipal initiatives aimed at promoting economic development, social programmes and infrastructure expansion.
- 4.5.5. The property management unit therefore functions as the central administrative custodian of the municipal immovable property portfolio.

4.6. Interdepartmental Coordination

- 4.6.1. Municipal property management requires close coordination between several municipal departments whose functions intersect with the administration of municipal land and buildings.
- 4.6.2. The town planning department plays an important role in ensuring that property transactions and development proposals comply with zoning regulations, spatial development frameworks and land use management requirements.
- 4.6.3. The infrastructure or technical services departments are responsible for identifying land requirements for service infrastructure and ensuring that municipal property is available for infrastructure development where required.

- 4.6.4. The finance department must ensure that property transactions are properly recorded within the municipal asset register and that financial implications of property transactions are appropriately managed.
- 4.6.5. Legal services within the municipality may also provide guidance on contractual matters, property rights, servitudes and compliance with applicable legislation.
- 4.6.6. Effective municipal property management therefore requires coordinated institutional collaboration to ensure that property decisions are informed by the expertise of multiple municipal functions.

4.7. Municipal Investment Steering Unit acting as the Property Management Steering Unit

- 4.7.1. The existing Municipal Investment Steering Unit should act as the interdepartmental Property Management Steering Unit for major or strategic property matters and should evaluate proposals before submission to the legally competent decision-maker.
- 4.7.2. The Unit should include Property Management, Town Planning / Land Use Management, Finance, Legal Services, Infrastructure / Technical Services, Traffic Services and Local Economic Development, with other specialists co-opted when necessary.
- 4.7.3. Its role is advisory: it tests strategic alignment, affordability, legal classification, service and infrastructure impacts, valuation, market route, risk and implementation readiness, and records a consolidated recommendation.
- 4.7.4. The Unit does not replace Council, the Accounting Officer, a bid committee, a delegated authority or any statutory public-participation process; its review must not become an unnecessary approval gate for routine matters that are complete and fall within a valid delegation.

4.8. Delegation of Authority

- 4.8.1. Municipal property governance requires a clear system of delegations that specifies which property decisions may be taken by Council, which may be delegated to the Accounting Officer and which may be exercised by authorised municipal officials.
- 4.8.2. The delegation framework must be aligned with the legislative provisions governing municipal asset transfers and the granting of rights to use municipal property.
- 4.8.3. While certain routine administrative decisions may be delegated to municipal officials, strategic property transactions such as the disposal of municipal land or the granting of long-term property rights may require approval at higher levels of governance.

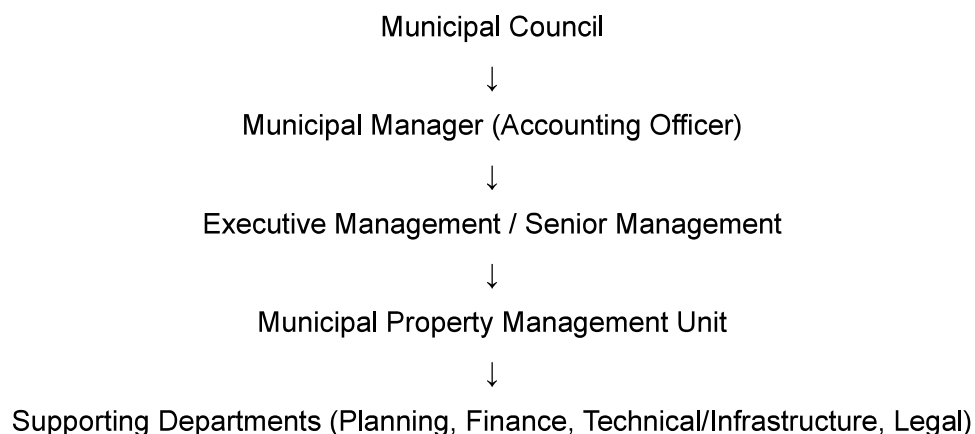
- 4.8.4. The purpose of the delegation system is to ensure that property decisions are taken efficiently while maintaining appropriate oversight and accountability.
- 4.8.5. Municipal delegations relating to property management must therefore be clearly documented and regularly reviewed to ensure compliance with the applicable legislative framework.

4.9. Governance Oversight and Accountability

- 4.9.1. The municipal property governance model established in this chapter seeks to ensure that property administration operates within a system of institutional accountability.
- 4.9.2. This includes oversight by the Municipal Council, administrative accountability by the Accounting Officer and operational responsibility within the municipal property management unit.
- 4.9.3. Regular reporting on property transactions, lease administration, asset management and property portfolio performance should be provided to municipal leadership structures to ensure transparency and effective oversight.
- 4.9.4. Such reporting mechanisms assist the municipality in monitoring the utilisation of municipal property assets and in identifying areas where governance improvements may be required.

4.10. Municipal Property Governance Model

- 4.10.1. The municipal property governance structure may be illustrated through the following institutional hierarchy:



- 4.10.2. This governance model ensures that property decisions are taken within a structured institutional framework that balances strategic oversight, administrative accountability and operational efficiency.

CHAPTER 5

5. MUNICIPAL IMMOVABLE PROPERTY REGISTER AND PROPERTY INFORMATION SYSTEMS

5.1. Introduction

- 5.1.1. The effective administration of municipal immovable property requires the municipality to maintain accurate and comprehensive records of all land and buildings owned, controlled or administered by the municipality.
- 5.1.2. Municipal property assets represent a significant component of the municipal asset base and must therefore be recorded and managed through formal asset management systems that ensure transparency, accountability and effective oversight.
- 5.1.3. The Municipal Immovable Property Register forms the foundation of this asset management system. The register provides an official record of municipal property assets and serves as the primary reference point for all property management decisions.
- 5.1.4. The property register must be supported by integrated information systems that enable the municipality to manage property information efficiently and ensure that property data is linked to spatial planning systems, financial asset registers and municipal administration processes.
- 5.1.5. The establishment and maintenance of such systems is essential for ensuring that the municipality are able to exercise proper control over its immovable property assets and make informed decisions regarding the management and utilisation of those assets.

5.2. Purpose of the Municipal Immovable Property Register

- 5.2.1. The Municipal Immovable Property Register serves as the official record of all immovable property owned or administered by the municipality.
- 5.2.2. The purpose of the register is to provide a comprehensive inventory of municipal land and buildings and to ensure that accurate information regarding municipal property assets is readily available to support governance, planning and financial management functions.
- 5.2.3. The property register enables the municipality to identify the location, ownership status, legal characteristics and strategic function of each property within the municipal portfolio.
- 5.2.4. This information is essential for a range of municipal activities, including infrastructure planning, property transactions, land development initiatives, asset valuation and financial reporting.

- 5.2.5. The property register also assists the municipality in safeguarding municipal assets by ensuring that property ownership and property rights are properly documented and monitored.

5.3. Legal Basis for Property Registers

- 5.3.1. The requirement for the municipality to maintain proper asset management systems arises from the legislative framework governing municipal financial management.
- 5.3.2. In terms of the Local Government: Municipal Finance Management Act, municipalities must maintain appropriate asset registers that accurately reflect the assets owned by the municipality and that enable the municipality to manage those assets effectively.
- 5.3.3. The Municipal asset register must include information relating to the value, location and condition of municipal assets and must be updated regularly to reflect changes arising from acquisitions, disposals or other asset transactions.
- 5.3.4. The requirements relating to municipal asset management are further reinforced by the Municipal Asset Transfer Regulations, which require municipalities to ensure that property transactions are properly recorded and that municipal capital assets are managed in a manner that protects the interests of the municipality and the public.
- 5.3.5. The Municipal Immovable Property Register therefore forms an integral part of the municipality's broader asset management framework and must be maintained in accordance with applicable legislative and financial governance requirements.

5.4. Scope of the Property Register

- 5.4.1. The Municipal Immovable Property Register must include all immovable property assets owned or controlled by the municipality.
- 5.4.2. This includes land parcels, buildings, servitudes, public open spaces, infrastructure sites, municipal facilities and any other immovable property rights held by the municipality.
- 5.4.3. The register should include, at a minimum, the following categories of information for each property asset:
- a) property description and location
 - b) erf or land parcel number
 - c) title deed reference
 - d) registered ownership details
 - e) property extent

- f) zoning and land use rights
 - g) current use of the property
 - h) strategic classification of the property
 - i) valuation information
 - j) encumbrances or servitudes affecting the property
 - k) lease agreements or rights granted over the property
 - l) restrictions or development conditions associated with the property
- 5.4.4. Maintaining such comprehensive information ensures that the municipality have a clear understanding of the characteristics and status of each property within the municipal portfolio.

5.5. Verification of Property Ownership and Legal Rights

- 5.5.1. An essential component of the property register is the verification of legal ownership and property rights associated with municipal land and buildings.
- 5.5.2. The Municipality must ensure that title deeds relating to municipal property are properly recorded and that any restrictions, servitudes or conditions affecting the property are identified and documented.
- 5.5.3. The registration of property ownership and property rights must comply with the legal framework governing property registration under the Deeds Registries Act.
- 5.5.4. Where municipal property has been acquired through historical transfers, vesting processes or land reform initiatives, the municipality must ensure that the ownership of such property has been properly registered and that the municipality holds valid title to the property.
- 5.5.5. Where property ownership remains uncertain or where vesting processes have not been completed, the municipality should take steps to regularise such ownership in order to ensure legal certainty and protect the municipality's interests.

5.6. Integration with Geographic Information Systems

- 5.6.1. Modern municipal property management requires the integration of property registers with Geographic Information Systems (GIS).
- 5.6.2. GIS technology enables the municipality to visualise the spatial distribution of municipal property assets and to integrate property information with other spatial datasets such as

zoning information, infrastructure networks, environmental features and development boundaries.

- 5.6.3. The integration of property registers with GIS platforms enables the municipality to undertake spatial analysis of their property portfolios and to identify opportunities for development, infrastructure expansion or land rationalisation.
- 5.6.4. GIS-based property information systems also improve the ability of the municipality to monitor encroachments, track land use changes and support planning and development decisions.

5.7. Integration with Financial Asset Registers

- 5.7.1. Municipal property information must also be integrated with the municipality's financial asset register.
- 5.7.2. Financial asset registers record the financial value of municipal assets and form part of the municipality's financial reporting and auditing processes.
- 5.7.3. Integration between the property register and the financial asset register ensures that municipal property assets are properly reflected in the municipality's financial statements and that asset valuations are updated when property transactions occur.
- 5.7.4. Such integration also assists municipalities in identifying under-utilised assets and assessing the financial performance of municipal property portfolios.

5.8. Property Information Management Systems

- 5.8.1. In addition to maintaining a property register, the municipality should establish integrated property information management systems that enable efficient administration of municipal property assets.
- 5.8.2. Such a system may include electronic databases, property management software and digital mapping systems that enable the municipal officials to access and update property information in a centralised platform.
- 5.8.3. Property information management systems may incorporate modules for lease management, servitude administration, development applications and property valuation records.
- 5.8.4. The use of integrated digital systems enhances the efficiency and reliability of municipal property administration and reduces the risk of data inconsistencies or information loss.

5.9. Maintenance and Updating of Property Records

- 5.9.1. The Municipal Immovable Property Register must be maintained as a living record that is regularly updated to reflect changes in the municipal property portfolio.

- 5.9.2. Updates to the property register should occur whenever property transactions take place, including the acquisition or disposal of land, the granting or termination of lease agreements, the registration of servitudes or the completion of development projects.
- 5.9.3. Regular audits of the property register should also be undertaken to ensure that property records remain accurate and complete.
- 5.9.4. Such audits assist the municipality in identifying discrepancies, verifying property ownership records and ensuring that municipal property assets are properly safeguarded.

5.10. Importance of Accurate Property Information

- 5.10.1. Accurate property information is essential for effective municipal governance.
- 5.10.2. Without reliable information regarding municipal property assets, the municipality cannot make informed decisions regarding property development, leasing, disposal or infrastructure planning.
- 5.10.3. Inaccurate or incomplete property records may also expose the municipality to legal disputes, financial losses or governance failures arising from the mismanagement of public assets.
- 5.10.4. The establishment of a comprehensive and reliable property register therefore represents a fundamental requirement for effective municipal immovable property management.

CHAPTER 6

6. INTERNAL USER GOVERNANCE OF OPERATIONAL IMMOVABLE PROPERTY

(Interdepartmental User Arrangements, Accountability, Safety, Security, Maintenance and Optimisation)

6.1. Introduction

- 6.1.1. The effective governance of municipal immovable property does not end with ownership, registration or allocation of an asset. Once an immovable property is placed in operational use for the execution of a municipal mandate, that property must be governed through a clear internal accountability system regulating the relationship between the municipal property custodian and the department making operational use of the property.
- 6.1.2. Municipal immovable property used for service delivery, administration, storage, depots, public amenities, utility purposes, community facilities, economic development initiatives or any other operational purpose must therefore be subject to a formal interdepartmental governance arrangement which defines accountability for the use, control, safeguarding, maintenance and optimisation of the property.
- 6.1.3. The purpose of this chapter is to establish a structured internal governance framework for the management of operational immovable property by user departments, while preserving the Municipality's central custodial oversight through the Property Management function.

6.2. Purpose of Internal User Governance

- 6.2.1. The purpose of internal user governance is to ensure that each operational immovable property is:
 - a) allocated to a clearly identified user department;
 - b) managed in a safe, secure and lawful manner;
 - c) maintained in a condition appropriate to its operational purpose and public character;
 - d) protected against neglect, unlawful occupation, unauthorised use, deterioration and avoidable loss;
 - e) monitored for performance, utilisation and strategic suitability; and
 - f) periodically reviewed for continued retention, repurposing, shared use, redevelopment, lease, rationalisation or disposal.
- 6.2.2. This governance component further seeks to eliminate uncertainty as to which municipal department bears day-to-day operational responsibility for a property, without detracting

from the central custodial role of Property Management in relation to the overall municipal immovable property portfolio.

6.3. Institutional Roles

6.3.1. Property Management as Custodian

6.3.1.1. The Property Management Unit is the central custodian of the Municipality's immovable property governance system and must:

- a) maintain custodial oversight over the immovable property register and allocation status of operational properties;
- b) coordinate the formal allocation, reallocation, withdrawal, transfer or surrender of operational immovable property between departments;
- c) maintain the official record of the responsible user department for each operational immovable property;
- d) monitor whether operational immovable properties remain aligned with municipal planning, governance, legal and portfolio objectives;
- e) intervene where a property is neglected, under-utilised, insecure, unlawfully occupied, no longer required, or materially misaligned with its approved purpose; and
- f) coordinate internal governance escalation where interdepartmental disputes or management failures arise.

6.3.1.2. Property Management remains the custodian of the immovable property from a governance, portfolio and record-management perspective, even where day-to-day operational accountability rests with a user department.

6.3.2. User Department Accountability

6.3.2.1. A user department is the municipal department to which an operational immovable property, or a defined portion thereof, has been formally allocated for service delivery, administrative, technical, community, safety, utility or related municipal purposes.

6.3.2.2. The user department shall be accountable for the day-to-day use, management and control of the allocated operational immovable property, including responsibility for:

- a) ensuring that the property is used only for its approved operational purpose;
- b) controlling access to the property and preventing unauthorised occupation or use;
- c) ensuring reasonable site safety, security and safeguarding of the property and improvements thereon;

- d) identifying, planning and reporting maintenance needs and, where applicable, ensuring execution of routine operational maintenance within approved internal systems and budgets;
- e) ensuring that health, safety, fire, occupational and statutory compliance matters affecting the operational use of the property are addressed through the appropriate municipal systems;
- f) ensuring that the property is kept in a reasonably functional, secure and serviceable condition;
- g) reporting incidents of vandalism, unlawful occupation, structural deterioration, unsafe conditions, boundary invasions, service failures or other material risks affecting the property;
- h) keeping records of operational issues, incidents, maintenance requests and management interventions relevant to the property; and
- i) cooperating with Property Management, Technical Services, Public Safety, Building Control, Town Planning, Finance and any other relevant function in relation to the property.

6.3.2.3. Internal arrangements with another department, municipal function, contractor or service provider do not transfer accountability for the operational immovable property away from the designated user department unless the allocation itself is formally amended in accordance with this Strategy.

6.3.3. Mandatory Internal User Arrangement

6.3.3.1. No operational immovable property should remain in active municipal use without a recorded internal user arrangement identifying the responsible user department.

6.3.3.2. The internal user arrangement may take the form of:

- a) a Property User Allocation Record;
- b) an Internal User Agreement;
- c) an Internal Custodian–User Memorandum;
- d) a Multi-User Property Management Plan; or
- e) any other formal internal instrument approved by the Accounting Officer, provided that the substance of this chapter is complied with.

6.3.3.3. At a minimum, the internal user arrangement must record:

- a) the property description, extent and location;
- b) the identified user department;

- c) the approved operational purpose;
- d) whether the property is exclusive-use or multi-use;
- e) the agreed safety, security and access-control responsibilities;
- f) the maintenance and defect-reporting responsibilities;
- g) the budgeting and cost-responsibility principles applicable internally;
- h) the reporting and escalation pathway for incidents, non-compliance or disputes;
- i) the effective date of the arrangement; and
- j) the review date.

6.3.4. User Property Management Plan

- 6.3.4.1. Each user department must, for the operational immovable properties allocated to it, participate in a user-side planning process coordinated by Property Management.
- 6.3.4.2. The Municipality may require each directorate or major user department to maintain a User Property Management Plan or similar internal planning schedule in respect of the immovable properties under its operational control.
- 6.3.4.3. Such plan should, where applicable, identify:
 - a) the properties used by the department;
 - b) the operational purpose served by each property;
 - c) current suitability and utilisation levels;
 - d) known condition, safety and security concerns;
 - e) routine maintenance and major repair needs;
 - f) accommodation pressures, space shortages or under-utilisation;
 - g) properties no longer required or suitable for the department's mandate; and
 - h) proposed optimisation, consolidation, shared use, relocation or surrender actions.

6.3.5. Safety and Security Governance

- 6.3.5.1. Every user department must ensure that reasonable operational measures are in place to safeguard the immovable property under its control against theft, vandalism, unlawful occupation, fire risk, avoidable deterioration and misuse.
- 6.3.5.2. The existence of central municipal security, external guarding, community oversight or outsourced services does not remove the user department's obligation to actively manage the safety and security risks associated with the property.
- 6.3.5.3. Where a property is vacant, partially vacant, intermittently used or operationally vulnerable, the user department must immediately notify Property Management and

the relevant support departments so that a risk-based protection or interim management response can be implemented.

- 6.3.5.4. Material safety or security incidents affecting an operational immovable property must be recorded and escalated through the prescribed internal reporting chain without delay.

6.3.6. Maintenance Governance

- 6.3.6.1. Maintenance governance for operational immovable property must distinguish between:

- a) day-to-day operational upkeep and user-related management responsibilities;
- b) planned maintenance;
- c) urgent defect response;
- d) statutory compliance interventions; and
- e) capital renewal, upgrading or redevelopment interventions.

- 6.3.6.2. The user department must ensure that maintenance needs are identified timeously and processed through the relevant municipal maintenance, infrastructure, project or budgeting systems.

- 6.3.6.3. The user department may not allow an operational immovable property to deteriorate materially through inaction, neglect or failure to report known defects or operational risks.

- 6.3.6.4. Where the condition of an operational immovable property compromises safety, service continuity, public use, asset preservation or legal compliance, the matter must be escalated jointly by the user department and Property Management for intervention through the appropriate municipal governance and budgeting channels.

6.3.7. Optimisation and Performance Review

- 6.3.7.1. Operational immovable property must be used in a manner that promotes efficient service delivery, value retention and appropriate municipal benefit.

- 6.3.7.2. Property Management, in consultation with the user department, must periodically assess whether an operational immovable property:

- a) remains aligned to the user department's mandate;
- b) is being used efficiently and lawfully;
- c) is under-utilised, over-burdened, obsolete or no longer fit for purpose;
- d) could support shared use with another department;
- e) requires repurposing, redevelopment or consolidation; or

- f) should be surrendered, reallocated, rationalised or otherwise dealt with under the Municipality's immovable property governance framework.

6.3.7.3. The continued occupation or control of an operational immovable property by a user department does not create a perpetual entitlement to that property where strategic municipal needs, poor utilisation, changed operational models or governance considerations justify review and reallocation.

6.3.8. Multi-User Operational Properties

6.3.8.1. Where an immovable property is used by more than one municipal department, the Municipality must identify:

- a) a Primary User Department; and
- b) any Secondary User Department or shared-use participant.

6.3.8.2. A Multi-User Property Management Plan must be prepared for such property, recording:

- a) the parts of the property used by each department;
- b) the predominant use and primary coordination responsibility;
- c) access, security and key-control arrangements;
- d) maintenance coordination and defect reporting;
- e) cleaning, utilities, service-area and common-space responsibilities;
- f) incident reporting and dispute-escalation arrangements; and
- g) any operational standards required to ensure compatibility of uses.

6.3.8.3. Where necessary, the Municipality may require a formal interdepartmental operational-level arrangement for multi-use properties to regulate shared responsibilities and dependencies.

6.3.9. Reallocation, Temporary Internal Use and Surrender

6.3.9.1. A user department may not permanently or materially cede control of an operational immovable property, or any substantial portion thereof, to another department without the involvement of Property Management and formal recordal of the revised arrangement.

6.3.9.2. Temporary internal use by another department must be for a defined area, purpose and duration, and must not occur in a manner that creates ambiguity regarding accountability, safety, maintenance or restoration responsibilities.

6.3.9.3. Where a user department no longer requires an operational immovable property, it must:

- a) notify Property Management in writing;
- b) continue to exercise reasonable control, safety and security over the property until formal handover or alternative arrangements are made;
- c) disclose all known defects, incidents, encroachments, unauthorised occupation, maintenance backlogs and operational issues affecting the property; and
- d) cooperate in the handover, reallocation, optimisation or disposal process.

6.3.10. Reporting, Compliance and Consequence Management

- 6.3.10.1. Property Management must maintain a record of user-department accountability for operational immovable property and may require periodic compliance confirmations from user departments.
- 6.3.10.2. Compliance indicators relating to the use, condition, safety, security, maintenance responsiveness, utilisation and governance of operational immovable property may be incorporated into internal management reporting, oversight reporting and, where appropriate, departmental performance management systems.
- 6.3.10.3. Repeated neglect of operational immovable property, failure to report material risks, unauthorised changes in use, non-cooperation in internal governance processes, or failure to comply with recorded user responsibilities must be addressed through the Municipality's applicable management, disciplinary, performance and consequence-management systems.

6.3.11. Relationship with the Broader Immovable Property Governance Framework

- 6.3.11.1. This chapter must be read together with the Municipality's immovable property strategy, immovable property policy, delegations, maintenance systems, occupational health and safety framework, public safety protocols, municipal budgeting processes and any approved standard operating procedures dealing with municipal property.
- 6.3.11.2. This chapter governs the internal allocation and management relationship between Property Management and municipal user departments. It does not authorise an external lease, disposal, servitude, transfer, encroachment approval or any other external property right.

CHAPTER 7

7. MUNICIPAL PROPERTY PORTFOLIO STRATEGY AND PLANNING

7.1. Introduction

- 7.1.1. The Municipal immovable property portfolio represent a significant public resource that must be managed strategically to support the long-term development objectives of the municipality.
- 7.1.2. While the day-to-day administration of municipal property involves activities such as leasing, maintenance and record management, effective property governance requires the municipality to adopt a broader strategic perspective that considers how municipal property assets can contribute to service delivery, economic development, spatial restructuring and environmental sustainability.
- 7.1.3. Municipal property portfolio strategy therefore refers to the systematic planning and management of municipal property assets in order to ensure that these assets are utilised in a manner that advances the strategic priorities of the municipality.
- 7.1.4. The purpose of a municipal property portfolio strategy is to ensure that municipal land and buildings are aligned with the municipality's Integrated Development Plan, spatial development framework, infrastructure investment programmes and economic development initiatives.
- 7.1.5. This strategic approach ensures that municipal property assets are not managed in isolation but are integrated into the broader development agenda of the municipality.

7.2. Strategic Importance of Municipal Property Portfolios

- 7.2.1. The Municipal property portfolio often include a wide range of assets located throughout the municipal area, including land reserved for infrastructure development, public facilities, environmental conservation areas, economic development initiatives and community services.
- 7.2.2. These assets have the potential to influence the development patterns of towns and cities and to support a variety of municipal objectives.
- 7.2.3. For example, strategically located municipal land may be used to facilitate housing development, attract private investment, establish public transport corridors or create community facilities that improve the quality of life of residents.
- 7.2.4. The Municipal property portfolio may also contain land that has become under-utilised or surplus to municipal requirements as a result of changing development patterns or service delivery needs.

- 7.2.5. A strategic property portfolio approach enables the municipality to identify such opportunities and to determine the most appropriate use of municipal property assets.
- 7.2.6. By proactively managing the property portfolio, the municipality can ensure that public land is utilised in a manner that maximises public value and supports the long-term sustainability of municipal communities.

7.3. Alignment with Municipal Planning Frameworks

- 7.3.1. Municipal property portfolio strategies must be aligned with the broader planning frameworks that guide municipal development.
- 7.3.2. The most important of these frameworks is the municipality's Integrated Development Plan (IDP), which establishes the long-term development vision and priorities of the municipality.
- 7.3.3. Municipal property decisions must therefore support the strategic objectives contained in the IDP and must contribute to the implementation of municipal development programmes.
- 7.3.4. Similarly, property management decisions must be consistent with the municipality's spatial development framework prepared in terms of the Spatial Planning and Land Use Management Act.
- 7.3.5. Spatial development frameworks provide guidance regarding the desired spatial form of the municipality and identify priority development areas, infrastructure corridors, environmental protection zones and economic development nodes.
- 7.3.6. Municipal property portfolio strategies must therefore ensure that municipal land is allocated and managed in a manner that supports the spatial vision of the municipality and promotes integrated and sustainable development.

7.4. Strategic Land Banking

- 7.4.1. Strategic land banking refers to the acquisition and retention of municipal land for future public purposes.
- 7.4.2. The Municipality often require land for infrastructure expansion, housing development, public amenities and economic development projects that may only be implemented many years after the land is initially secured.
- 7.4.3. By strategically acquiring and retaining land in areas expected to experience future growth or development, the municipality can ensure that sufficient land is available to support long-term service delivery and development needs.

- 7.4.4. Strategic land banking also allows the municipality to prevent speculative land development that may undermine municipal planning objectives or limit future infrastructure expansion.
- 7.4.5. The identification of land suitable for strategic land banking should therefore form part of the municipality's property portfolio planning process.

7.5. Identification of Development-Ready Municipal Land

- 7.5.1. The Municipality often hold land that may be suitable for development initiatives aimed at promoting economic growth, investment and job creation.
- 7.5.2. The identification of such land requires the municipality to evaluate the development potential of municipal properties by considering factors such as location, accessibility, infrastructure availability, zoning status and market demand.
- 7.5.3. Properties identified as development-ready may be included in municipal investment promotion initiatives or made available for development through transparent property transaction processes.
- 7.5.4. Where the municipality intend to release land for development purposes, careful planning must be undertaken to ensure that the development aligns with municipal planning frameworks and contributes to sustainable economic development.
- 7.5.5. Development-ready land initiatives may include projects such as tourism developments, commercial developments, industrial parks, agricultural projects or mixed-use developments.

7.6. Infrastructure Corridor Protection

- 7.6.1. The Municipal property portfolio include land reserved for infrastructure corridors such as roads, pipelines, electricity transmission lines, stormwater systems and other essential municipal infrastructure.
- 7.6.2. It is essential that such land be identified and protected to ensure that future infrastructure development can occur without obstruction.
- 7.6.3. Municipal property portfolio planning must therefore include the identification and reservation of land required for infrastructure corridors and must ensure that such land is protected from inappropriate development or disposal.
- 7.6.4. Failure to protect such land may result in costly expropriation processes or infrastructure constraints in the future.

7.7. Rationalisation of Surplus Municipal Land

- 7.7.1. Over time the municipality may accumulate land that is no longer required for municipal purposes.
- 7.7.2. Such land may arise from historical acquisitions, changes in infrastructure planning or the consolidation of municipal facilities.
- 7.7.3. Municipal property portfolio strategies must therefore include processes for identifying and evaluating surplus municipal land.
- 7.7.4. Where property is determined to be surplus to municipal requirements and not required for future development purposes, the municipality may consider options for leasing, development partnerships or disposal of such property in accordance with the applicable legislative framework.
- 7.7.5. The rationalisation of surplus municipal land assists the municipality in improving the efficiency of their property portfolios and may also generate financial resources that can be reinvested in service delivery programmes.

7.8. Environmental and Conservation Considerations

- 7.8.1. The Municipal property portfolio often include environmentally sensitive land that must be protected for ecological conservation purposes.
- 7.8.2. Such land may include wetlands, river corridors, nature reserves, coastal zones and biodiversity conservation areas.
- 7.8.3. The Municipal property portfolio strategy must therefore incorporate environmental considerations to ensure that environmentally sensitive land is protected and managed in accordance with environmental legislation and municipal environmental management plans.
- 7.8.4. The protection of environmentally sensitive municipal land contributes to biodiversity conservation, climate resilience and the sustainable management of natural resources.

7.9. Periodic Review of Municipal Property Portfolios

- 7.9.1. The Municipal property portfolio should not remain static. Regular review of municipal property assets is necessary to ensure that municipal land continues to serve the strategic objectives of the municipality.
- 7.9.2. Periodic property portfolio reviews enable the municipality to assess whether property assets remain aligned with municipal development priorities and whether opportunities exist for property optimisation or rationalisation.

- 7.9.3. Such reviews may include the evaluation of property utilisation, the identification of development opportunities, the assessment of infrastructure requirements and the identification of surplus or under-utilised land.
- 7.9.4. Through regular portfolio reviews, the municipality can ensure that their property assets remain strategically aligned with the evolving needs of the municipality and the communities it serves.

7.10. Integration with Municipal Property Lifecycle Management

- 7.10.1. The municipal property portfolio strategy forms an important component of the broader municipal property lifecycle management framework established in this strategy.
- 7.10.2. Portfolio planning occurs at several stages of the property lifecycle, including the identification of property assets, the strategic evaluation of land uses and the determination of whether properties should be retained, developed, leased or disposed of.
- 7.10.3. By integrating property portfolio planning into the lifecycle approach, the municipality can ensure that property management decisions are taken within a coherent strategic framework that supports long-term municipal development objectives.

7.11. Conclusion

- 7.11.1. The Municipal property portfolio strategy represents an essential component of modern municipal property governance.
- 7.11.2. Through strategic planning and proactive management of the municipal property portfolio, the municipality can ensure that public land and buildings are utilised effectively to support service delivery, economic development, spatial planning and environmental sustainability.
- 7.11.3. The adoption of a strategic property portfolio approach allows the municipality to maximise the public value derived from municipal property assets while ensuring that property management decisions remain aligned with the long-term development objectives of local government.

CHAPTER 8

8. PROPERTY CLASSIFICATION AND PORTFOLIO SEGMENTATION

8.1. Introduction

- 8.1.1. The Municipality typically own and administer a wide range of immovable property assets that serve diverse purposes within the municipal area. These assets may include land required for infrastructure, buildings used for administrative purposes, public amenities, environmentally sensitive areas, land reserved for future development and properties that generate revenue through leasing or commercial activities.
- 8.1.2. Given the diversity of these assets, the municipality require a structured system for classifying municipal property according to its strategic role and intended use. Such classification assists the municipality in managing its property portfolio effectively and ensures that decisions relating to the leasing, development or disposal of municipal property are informed by the strategic importance of the asset.
- 8.1.3. A property classification system also assists the municipality in identifying properties that must be protected for essential service delivery, properties that may be used for economic development initiatives and properties that may be considered surplus to municipal requirements.
- 8.1.4. This chapter establishes a classification framework that the municipality may use to categorise municipal immovable property assets in a manner that supports strategic planning, governance oversight and responsible asset management.

8.2. Purpose of Property Classification

- 8.2.1. The classification of municipal immovable property serves several important governance and management purposes.
- 8.2.2. Firstly, classification enables the municipality to determine the strategic importance of individual property assets and to ensure that such assets are managed in accordance with their intended role within the municipal development framework.
- 8.2.3. Secondly, classification assists the municipality in identifying which properties must be retained for essential service delivery and which properties may be made available for development, leasing or disposal.
- 8.2.4. Thirdly, classification improves the transparency and accountability of municipal property management by ensuring that property decisions are taken within a clearly defined strategic framework.

- 8.2.5. Finally, property classification supports the implementation of the legislative requirements governing municipal asset management, including the determination of whether a property is required for the provision of a minimum level of basic municipal service prior to any consideration of disposal or transfer.
- 8.2.6. Such determinations are required under the legislative framework established by the Municipal Asset Transfer Regulations and the Local Government: Municipal Finance Management Act, which regulate the transfer or disposal of municipal capital assets.

8.3. Principles of Municipal Property Classification

- 8.3.1. The classification of municipal immovable property should be guided by a number of key principles designed to ensure that municipal property assets are managed in a responsible and strategic manner.
- 8.3.2. Municipal property classification must be aligned with the municipality's Integrated Development Plan and spatial development framework so that property assets support the strategic development priorities of the municipality.
- 8.3.3. Classification must also consider the long-term service delivery requirements of the municipality. Properties required for infrastructure expansion or the provision of public amenities must be protected from disposal or inappropriate development.
- 8.3.4. The classification process must further recognise the potential economic value of certain municipal properties and the opportunities such properties may present for development initiatives that support local economic growth.
- 8.3.5. At the same time, classification must recognise that certain municipal properties may have social, environmental or cultural significance that warrants special protection or management.

8.4. Strategic Municipal Assets

- 8.4.1. Strategic municipal assets are properties that hold long-term importance for the municipality in terms of service delivery, spatial planning or economic development.
- 8.4.2. Such properties may include land required for future infrastructure expansion, major public facilities, strategic development sites or land located within key development corridors identified in municipal spatial development frameworks.
- 8.4.3. Strategic municipal assets must be carefully protected and managed to ensure that they remain available for future municipal initiatives. These properties should generally not be disposed of unless it can be clearly demonstrated that the property is no longer required

for strategic municipal purposes and that the disposal would advance the long-term interests of the municipality.

- 8.4.4. Decisions relating to strategic municipal assets should therefore be subject to enhanced governance oversight and careful evaluation.

8.5. Operational Service Delivery Assets

- 8.5.1. Operational service delivery assets are properties that are actively used for the provision of municipal services.
- 8.5.2. Examples of such assets include land used for water infrastructure, electricity substations, waste management facilities, municipal depots, administrative offices, fire stations and other facilities required for the daily functioning of the municipality.
- 8.5.3. These properties are essential for the delivery of municipal services and must therefore be protected from disposal or encumbrance that may compromise service delivery operations.
- 8.5.4. Operational assets should remain under the control of the municipality and should be managed in a manner that ensures the continued provision of services to the community.

8.6. Community and Social Assets

- 8.6.1. Community and social assets include municipal land and buildings used for public amenities and social development programmes.
- 8.6.2. Such properties may include sports facilities, community halls, libraries, cultural centres, recreational parks, public open spaces and facilities used by community organisations, religious organisations or non-profit entities.
- 8.6.3. The Municipality may choose to make such properties available to community groups or social organisations through lease agreements or other arrangements that support community development initiatives.
- 8.6.4. While such arrangements may not generate significant financial returns for the municipality, they contribute to the social well-being of communities and support important public services and programmes.
- 8.6.5. Community and social assets must therefore be managed in a manner that balances financial considerations with the social objectives of the municipality.

8.7. Investment and Revenue-Generating Assets

- 8.7.1. Investment assets are municipal properties that are used primarily for the purpose of generating revenue or facilitating economic development.

- 8.7.2. Such assets may include commercial properties leased to private businesses, land allocated for tourism developments, industrial land or properties used for commercial activities.
- 8.7.3. These properties may generate income for the municipality through rental agreements, development partnerships or other commercial arrangements.
- 8.7.4. Municipalities must ensure that such assets are managed in a manner that maximises financial returns while also supporting local economic development objectives.
- 8.7.5. The management of investment assets should therefore include careful monitoring of lease agreements, rental escalations, maintenance obligations and development conditions.

8.8. Environmental and Conservation Assets

- 8.8.1. Environmental and conservation assets include municipal land that has been reserved for environmental protection or biodiversity conservation.
- 8.8.2. Examples include wetlands, nature reserves, river corridors, mountain catchments, coastal areas and other environmentally sensitive areas.
- 8.8.3. Such properties must be protected from inappropriate development and managed in accordance with environmental legislation and municipal environmental management plans.
- 8.8.4. The preservation of environmentally sensitive land contributes to the sustainability of municipal ecosystems and supports broader environmental management objectives.

8.9. Surplus or Non-Core Municipal Assets

- 8.9.1. Surplus or non-core assets are properties that are no longer required for municipal service delivery or strategic development purposes.
- 8.9.2. Such properties may have become redundant due to changes in infrastructure planning, relocation of municipal facilities or evolving development patterns within the municipal area.
- 8.9.3. Where a property is identified as surplus, the municipality may consider options for leasing, development partnerships or disposal of the property in accordance with the Theewaterskloof Municipal Administration of immovable Property Policy governing municipal asset transfers.
- 8.9.4. Before a property may be classified as surplus, the municipality must ensure that the property is not required for the provision of a minimum level of basic municipal service and that the property does not hold strategic importance for future municipal development.

8.10. Property Classification Review

- 8.10.1. The classification of municipal property assets should not remain static. The Municipal property portfolio evolves over time as development patterns change and municipal priorities shift.
- 8.10.2. The Municipality should therefore undertake periodic reviews of property classifications to ensure that municipal property assets remain appropriately categorised and aligned with municipal development objectives.
- 8.10.3. Such reviews may identify properties that should be reclassified due to changes in their use, strategic importance or development potential.
- 8.10.4. Regular classification reviews assist the municipality in maintaining an accurate understanding of their property portfolios and ensure that property management decisions remain aligned with the strategic priorities of the municipality.

8.11. Integration with Property Portfolio Strategy

- 8.11.1. The property classification framework established in this chapter forms an essential component of the broader municipal property portfolio strategy introduced in Chapter 7.
- 8.11.2. By categorising municipal property assets according to their strategic purpose, the municipality are better able to manage its property portfolio and ensure that each asset is utilised in a manner that supports municipal development objectives.
- 8.11.3. Property classification also provides the foundation for subsequent property management decisions relating to leasing, development, retention or disposal of municipal property.

8.12. Conclusion

- 8.12.1. The classification of municipal immovable property provides the municipality with a structured approach to managing its property portfolios and ensures that property assets are utilised in a manner consistent with the strategic priorities of local government.
- 8.12.2. By categorising municipal property according to its function and strategic importance, the municipality can protect essential service delivery assets, support community initiatives, facilitate economic development and identify opportunities for property rationalisation.
- 8.12.3. The property classification framework established in this chapter therefore forms a key component of the overall municipal immovable property management framework.

CHAPTER 9

9. ACQUISITION OF MUNICIPAL IMMOVABLE PROPERTY

9.1. Introduction

- 9.1.1. The Municipality require immovable property to perform a wide range of functions related to service delivery, infrastructure development, community facilities and economic development initiatives. The acquisition of land and buildings is therefore an important mechanism through which the municipality expand its capacity to fulfil its constitutional mandate and implement development programmes.
- 9.1.2. Municipal property acquisition must however be undertaken within a clearly defined governance framework that ensures acquisitions are justified, strategically aligned with municipal planning frameworks and conducted in accordance with applicable legislation governing municipal financial management and property transactions.
- 9.1.3. The acquisition of immovable property represents a significant financial and strategic decision for a municipality. Such decisions must therefore be supported by proper planning, due diligence and evaluation processes to ensure that acquisitions are necessary, financially sustainable and aligned with municipal development priorities.
- 9.1.4. This chapter establishes the policy framework governing the acquisition of municipal immovable property and provides guidance on the processes that municipalities should follow when acquiring land or buildings.

9.2. Purpose of Municipal Property Acquisition

- 9.2.1. The Municipality may acquire immovable property for a variety of purposes related to the performance of its statutory functions and development responsibilities.
- 9.2.2. The acquisition of land or buildings may be necessary to support infrastructure development such as water supply systems, electricity infrastructure, road networks, stormwater systems or waste management facilities. In many cases the municipality must secure land in advance of infrastructure development in order to ensure that sufficient space is available for the expansion of municipal services.
- 9.2.3. The Municipality may also acquire land for the establishment of community facilities such as libraries, sports facilities, parks, administrative offices, community halls and other public amenities.
- 9.2.4. In addition, municipal property acquisition may occur in support of strategic development initiatives, including housing development programmes, economic development projects, environmental conservation initiatives or urban regeneration programmes.

- 9.2.5. The acquisition of municipal property must therefore be guided by the strategic development objectives of the municipality and must be aligned with municipal planning frameworks such as the Integrated Development Plan and spatial development framework prepared in terms of the Spatial Planning and Land Use Management Act.

9.3. Legislative Framework Governing Property Acquisition

- 9.3.1. The acquisition of municipal immovable property must comply with the legislative framework governing municipal financial management and asset administration.
- 9.3.2. In terms of the Local Government: Municipal Finance Management Act, the municipality must ensure that all financial transactions, including the acquisition of assets, are conducted in accordance with sound financial management principles and within the approved municipal budget.
- 9.3.3. Municipal property acquisitions must therefore be properly authorised and funded through the municipal budgeting process. Acquisitions must also comply with the municipality's supply chain management policies where applicable, particularly where acquisition processes involve competitive procurement procedures or negotiated agreements with private parties.
- 9.3.4. Where the acquisition of property involves the transfer of land or property rights, the transaction must be registered in accordance with the legal requirements governing property ownership and property registration.
- 9.3.5. Municipal property acquisitions must therefore comply with the legal framework governing property registration under the Deeds Registries Act.

9.4. Strategic Planning Prior to Property Acquisition

- 9.4.1. Before acquiring immovable property, the municipality must ensure that the proposed acquisition has been properly evaluated and justified.
- 9.4.2. Property acquisitions should not occur on an ad hoc basis but must instead form part of the municipality's broader property portfolio strategy and infrastructure planning processes.
- 9.4.3. Prior to initiating an acquisition process, the municipality should undertake an assessment to determine whether the acquisition is necessary for the fulfilment of municipal functions or development initiatives. This assessment should consider the strategic objectives of the municipality, the long-term demand for municipal services and the availability of alternative property resources.

- 9.4.4. The Municipality must also ensure that the acquisition aligns with municipal spatial planning frameworks and does not conflict with existing development plans or environmental protection requirements.
- 9.4.5. Strategic planning prior to property acquisition assists the municipality in ensuring that property acquisitions contribute to sustainable development and do not result in unnecessary financial commitments.

9.5. Methods of Property Acquisition

- 9.5.1. The Municipality may acquire immovable property through several different mechanisms depending on the circumstances of the acquisition and the nature of the property involved.
- 9.5.2. The most common method of acquisition is through the purchase of property from private landowners or other public entities. Such purchases are typically conducted through negotiated agreements in which the municipality and the property owner agree on the purchase price and terms of transfer.
- 9.5.3. The Municipality may also acquire property through land exchanges, where municipal land is exchanged for privately owned land that is required for municipal purposes.
- 9.5.4. In certain cases the municipality may acquire property through donation or transfer from other organs of state or public entities. Such transfers may occur in support of public development initiatives or government programmes.
- 9.5.5. Municipal property may also be acquired through statutory vesting processes where legislation provides for the transfer of property from other entities to the municipality.
- 9.5.6. Each acquisition method requires careful evaluation to ensure that the transaction is conducted in a manner that protects the interests of the municipality and complies with applicable legislation.

9.6. Due Diligence and Property Evaluation

- 9.6.1. Prior to acquiring immovable property, the municipality must undertake appropriate due diligence processes to ensure that the property is suitable for its intended purpose and that no legal or financial risks are associated with the acquisition.
- 9.6.2. Due diligence may include the verification of property ownership, the examination of title deed conditions, the identification of servitudes or other encumbrances affecting the property and the assessment of zoning and land use rights.
- 9.6.3. The Municipality must also evaluate whether environmental constraints, infrastructure limitations or planning restrictions may affect the intended use of the property.

- 9.6.4. The purpose of due diligence is to ensure that the municipality acquires property with a full understanding of the legal, financial and planning implications associated with the acquisition.

9.7. Property Valuation

- 9.7.1. The acquisition of municipal property must be supported by an appropriate valuation process to ensure that the municipality pays a fair and reasonable price for the property.
- 9.7.2. Valuations should be conducted by qualified professional valuers who are able to assess the market value of the property based on recognised valuation methodologies.
- 9.7.3. Valuation ensures that the municipality does not overpay for property and that property acquisitions are conducted in a financially responsible manner.
- 9.7.4. Valuation processes also provide transparency and accountability in municipal property transactions by ensuring that the basis for determining the purchase price is properly documented.

9.8. Financial Considerations

- 9.8.1. Municipal property acquisitions have financial implications that must be carefully evaluated before acquisition decisions are taken.
- 9.8.2. The Municipality must ensure that funds for property acquisition are provided for in the municipal budget and that the acquisition does not place undue strain on municipal financial resources.
- 9.8.3. Where property acquisitions form part of larger development initiatives, the municipality must consider the long-term financial implications associated with infrastructure development, maintenance costs and operational requirements.
- 9.8.4. The financial sustainability of property acquisitions must therefore form part of the decision-making process when evaluating proposed acquisitions.

9.9. Expropriation as a Last Resort

- 9.9.1. In circumstances where property is required for essential municipal purposes and cannot be acquired through negotiation or agreement, the municipality may consider the use of statutory expropriation powers.
- 9.9.2. Expropriation involves the compulsory acquisition of property by the state for public purposes or in the public interest and must be undertaken in accordance with the legal framework governing expropriation.

- 9.9.3. While expropriation may be necessary in certain circumstances, it should generally be regarded as a measure of last resort after reasonable efforts have been made to acquire property through voluntary negotiation.
- 9.9.4. The Municipality must ensure that expropriation processes comply with all applicable legal requirements and that property owners are treated fairly and provided with appropriate compensation where required by law.

9.10. Registration of Acquired Property

- 9.10.1. Once a municipal property acquisition has been completed, the transfer of ownership must be registered in accordance with the legal requirements governing property registration.
- 9.10.2. Registration ensures that the municipality obtains legal title to the property and that the ownership of the property is properly recorded within the national deeds registration system.
- 9.10.3. Following registration, the property must be recorded in the municipal immovable property register and incorporated into the municipality's property management system.
- 9.10.4. Proper registration and record management ensure that the municipality's property assets are accurately documented and protected.

9.11. Integration with Municipal Property Portfolio Strategy

- 9.11.1. Property acquisitions must be integrated into the broader municipal property portfolio strategy established in Chapter 7 of this strategy.
- 9.11.2. By aligning acquisition decisions with strategic property planning processes, the municipality can ensure that newly acquired properties contribute to the long-term development objectives of the municipality and support the efficient management of the municipal property portfolio.
- 9.11.3. Strategic integration also assists the municipality in avoiding unnecessary property acquisitions and ensures that municipal land resources are managed in a coordinated and sustainable manner.

9.12. Conclusion

- 9.12.1. The acquisition of municipal immovable property represents an important mechanism through which the municipality secure the land and buildings required to fulfil their service delivery responsibilities and development objectives.
- 9.12.2. Property acquisitions must be undertaken in a structured and transparent manner that ensures compliance with the legislative framework governing municipal financial management and property administration.

- 9.12.3. By following the governance principles and procedures established in this chapter, municipalities can ensure that property acquisitions support sustainable development and contribute to the effective management of municipal property portfolios.
- 9.12.4. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

CHAPTER 10

10. GRANTING OF RIGHTS TO MUNICIPAL PROPERTY

(Leases, Servitudes, Concessions, Permits and Development Rights)

10.1. Introduction

- 10.1.1. The Municipality frequently grant rights to individuals, organisations or businesses to use, occupy or develop municipal property while the municipality retains ownership of the property.
- 10.1.2. Such arrangements form an important component of municipal property management because they enable the municipality to utilise its property assets in ways that support economic development, community initiatives and service delivery activities.
- 10.1.3. These arrangements may take several forms, including lease agreements, servitudes, concessions, permits for temporary occupation or development rights granted through contractual agreements.
- 10.1.4. While such arrangements may generate financial returns for the municipality, they may also be used to support community development initiatives or facilitate public infrastructure development.
- 10.1.5. The granting of rights to municipal property must therefore be governed by clear policy principles and procedures to ensure that such arrangements are transparent, equitable and aligned with the strategic objectives of the municipality.

10.2. Legislative Framework Governing Property Rights

- 10.2.1. The granting of rights to use, control or manage municipal property is regulated by the legislative framework governing municipal asset management.
- 10.2.2. In terms of the Municipal Asset Transfer Regulations, the granting of rights to use, control or manage municipal capital assets must be conducted in accordance with prescribed governance procedures.
- 10.2.3. For each proposed right, the municipality must first apply regulation 33(3). A right that is indefinite or undetermined, effectively exceeds the asset's useful or economic life, includes an option to acquire ownership, or confers beneficial-owner type control must be processed under Chapter 2 or Chapter 3 as a transfer-type transaction rather than as an ordinary lease or permit.
- 10.2.4. If regulation 33(3) is not triggered, a qualifying right to use, control or manage a capital asset is processed under Chapter 4. The additional regulations 34 to 36 process applies as a long-term high-value transaction only where the proposed term, including renewal or

extension options, exceeds three years and the fair market value of the capital asset exceeds R10 million.

10.2.5. All Chapter 4 rights require the mandatory considerations in regulation 36 and approval in principle by Council or a lawfully authorised delegate. Only Council may authorise the prescribed public-participation process, and Council may not delegate approval in principle for a long-term high-value right.

10.3. Purpose of Granting Property Rights

10.3.1. The Municipality may grant rights to use municipal property for several purposes related to service delivery, economic development and community development.

10.3.2. Such arrangements may enable private entities to develop infrastructure or facilities that benefit the municipality and its residents. For example, municipalities may lease land for tourism developments, commercial facilities or industrial activities that create employment and stimulate local economic growth.

10.3.3. Municipal property may also be made available to community organisations, non-profit institutions or social care organisations that provide services or programmes that benefit the local community.

10.3.4. In some cases the municipality may grant servitudes or rights of way to utilities or other infrastructure providers for the installation of pipelines, electricity lines, communication infrastructure or transportation facilities.

10.3.5. These arrangements allow the municipality to leverage their property assets to support development initiatives and public services while maintaining ownership of the land.

10.4. Types of Property Rights Granted by the Municipality

10.4.1. The Municipality may grant several different types of rights in relation to municipal property depending on the nature of the proposed activity.

a) Lease Agreements

- i. Lease agreements represent the most common form of property right granted by the municipality. Through lease agreements, the municipality allows individuals, businesses or organisations to occupy and use municipal property for a defined period in exchange for rental payments or other forms of consideration.
- ii. Lease agreements may be concluded for short-term occupation or for longer periods where significant investments are required for development projects.

- iii. Lease agreements must clearly define the rights and responsibilities of the parties, including rental obligations, maintenance responsibilities, permitted land uses and conditions relating to development or improvements to the property.

b) Servitudes

- i. Servitudes are property rights that allow a third party to use a portion of municipal property for specific purposes such as infrastructure installation or access routes.
- ii. Examples include servitudes for electricity transmission lines, water pipelines, sewer infrastructure, telecommunications infrastructure or access roads.
- iii. Servitudes may be registered against the title deed of the property and therefore require careful legal consideration to ensure that the rights granted do not compromise the municipality's ability to utilise the property for future municipal purposes.

c) Concessions

- i. Concessions may be granted where a municipality allows a private entity to operate a facility or service on municipal land for a specified period.
- ii. Such arrangements may involve tourism facilities, recreational facilities or commercial operations located on municipal property.
- iii. Concession agreements typically involve contractual arrangements where the concessionaire is responsible for developing and operating the facility while the municipality retains ownership of the land.

d) Temporary Occupation Permits

- i. The Municipality may grant temporary occupation rights where individuals or organisations require short-term access to municipal property for specific purposes.
- ii. Examples may include events, temporary markets, construction staging areas or other short-term activities.
- iii. Such arrangements are usually governed by permits or temporary occupation agreements rather than formal lease agreements.

e) Development Rights / Service Level Agreement

- i. The Municipality may grant development rights or service level agreements to private entities or development partners as part of development agreements that enable the development of municipal land for commercial, residential or mixed-use purposes.

- ii. Development agreements typically include detailed provisions relating to development timelines, infrastructure contributions, community benefits and compliance with planning regulations.

10.5. Strategic Considerations in Granting Property Rights

- 10.5.1. When granting rights to municipal property, the municipality must consider a range of strategic factors to ensure that property arrangements support municipal development objectives.
- 10.5.2. The Municipality must ensure that property rights granted to third parties are consistent with municipal planning frameworks, including spatial development frameworks and land use management policies established under the Spatial Planning and Land Use Management Act.
- 10.5.3. The Municipality must also ensure that the granting of property rights does not compromise land required for infrastructure development or other essential municipal purposes.
- 10.5.4. In cases where property rights involve long-term occupation or development of municipal land, the municipality must carefully evaluate the long-term implications of such arrangements and ensure that the municipality retains appropriate control over the property.

10.6. Competitive Processes and Fair Allocation

- 10.6.1. In order to promote fairness and transparency, the municipality should generally allocate municipal property rights through competitive processes where appropriate.
- 10.6.2. Competitive processes may include public tenders, requests for proposals or public bidding processes that allow interested parties to submit proposals for the use or development of municipal property.
- 10.6.3. Such processes help ensure that municipal property is allocated in a manner that promotes equal opportunity, prevents favouritism and maximises the benefits derived from municipal assets.
- 10.6.4. In certain circumstances the municipality may consider direct negotiations where such arrangements are justified by strategic considerations or where specialised expertise or development partnerships are required.
- 10.6.5. However, such arrangements must be properly motivated and documented to ensure transparency and compliance with governance principles.

10.6.6. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

10.7. Financial Considerations

10.7.1. The Municipality must ensure that the granting of property rights generates appropriate value for the municipality and does not result in the undervaluation or inappropriate use of municipal assets.

10.7.2. Lease agreements and other property rights should generally be granted at market-related values unless the municipality has adopted specific policies or frameworks allowing reduced rental levels for community organisations or social development initiatives. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

10.7.3. Rental escalation provisions, maintenance responsibilities and other financial considerations should be clearly defined in property agreements to ensure the long-term sustainability of such arrangements.

10.8. Monitoring and Compliance

10.8.1. Once property rights have been granted, the municipality must ensure that the terms of the agreement are properly monitored and enforced.

10.8.2. This includes monitoring rental payments, compliance with land use conditions, adherence to development timelines and maintenance obligations associated with the property.

10.8.3. Failure to enforce property agreements may result in financial losses or the misuse of municipal property assets.

10.8.4. Municipal property management units must therefore maintain proper records of all property agreements and implement monitoring mechanisms to ensure compliance with contractual obligations.

10.9. Protection of Municipal Interests

10.9.1. The Municipality must ensure that property agreements include provisions that protect the long-term interests of the municipality.

10.9.2. Such provisions may include conditions relating to the termination of agreements in cases of non-compliance, reversion clauses for development agreements, restrictions on subleasing and requirements for the restoration of property upon termination of occupation.

10.9.3. The inclusion of such provisions ensures that municipal property remains protected and that the municipality retains the ability to regain control of property where agreements are breached.

10.10. Integration with Property Lifecycle Management

- 10.10.1. The granting of rights to municipal property forms an important component of the municipal property lifecycle management framework established in this policy.
- 10.10.2. Property rights may be granted during various stages of the property lifecycle, including the utilisation, development and optimisation stages of municipal property management.
- 10.10.3. By integrating property rights into the broader lifecycle framework, the municipality can ensure that property arrangements contribute to the strategic utilisation of municipal property assets.

10.11. Conclusion

- 10.11.1. The granting of rights to municipal property enables the municipality to utilise its property assets to support development initiatives, community programmes and service delivery activities while retaining ownership of public land.
- 10.11.2. Such arrangements must however be governed by clear policy principles and procedures to ensure that municipal property is allocated in a transparent, equitable and responsible manner.
- 10.11.3. The governance framework established in this chapter provides the municipality with guidance on how to structure and administer property rights arrangements in accordance with the legislative framework governing municipal asset management.
- 10.11.4. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

CHAPTER 11

11. DISPOSAL AND TRANSFER OF MUNICIPAL IMMOVABLE PROPERTY

11.1. Introduction

- 11.1.1. Municipal immovable property forms part of the public asset base of a municipality and must therefore be administered with a high degree of responsibility and accountability. The disposal or transfer of municipal property represents the permanent alienation of public assets and must accordingly be governed by strict legislative and policy requirements designed to protect the public interest.
- 11.1.2. The Municipality may, in certain circumstances, determine that particular property assets are no longer required for municipal service delivery purposes or that the disposal of such assets would advance the strategic objectives of the municipality. However, such decisions must be carefully evaluated to ensure that the municipality does not dispose of assets that may be required for future service delivery or development initiatives.
- 11.1.3. The disposal of municipal property must therefore be undertaken within a structured governance framework that ensures compliance with applicable legislation, promotes transparency and safeguards the long-term interests of the municipality and its residents.
- 11.1.4. This chapter establishes the policy principles and procedures governing the disposal and transfer of municipal immovable property.
- 11.1.5. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

11.2. Legislative Framework Governing Property Disposal

- 11.2.1. The disposal of municipal immovable property is regulated by the legislative framework governing municipal financial management and asset administration.
- 11.2.2. The primary legislation governing the disposal of municipal capital assets is the Local Government: Municipal Finance Management Act, which establishes the financial governance framework applicable to municipalities and regulates the management and transfer of municipal assets.
- 11.2.3. The MFMA is supplemented by the Municipal Asset Transfer Regulations, which provide detailed procedures governing the transfer or disposal of municipal capital assets.
- 11.2.4. These regulations require the municipality to determine whether an asset is required for the provision of a minimum level of basic municipal service before such asset may be

disposed of. The regulations also prescribe processes relating to asset valuation, public participation and competitive bidding procedures where appropriate.

- 11.2.5. The purpose of these legislative provisions is to ensure that the municipality do not dispose of public assets in a manner that undermines service delivery or results in the loss of valuable public resources.

11.3. Circumstances in Which Municipal Property May Be Disposed

- 11.3.1. Municipal property may be considered for disposal where the municipality has determined that the property is no longer required for municipal service delivery purposes or for the fulfilment of strategic development objectives.
- 11.3.2. Such circumstances may arise where infrastructure has been relocated, municipal facilities have been consolidated or development patterns within the municipal area have changed.
- 11.3.3. Municipal property may also be disposed of as part of strategic development initiatives where the transfer of land to private developers or other entities is necessary to facilitate development projects that contribute to economic growth, housing development or infrastructure expansion.
- 11.3.4. Before any decision to dispose of municipal property is taken, the municipality must ensure that the property is not required for the provision of a minimum level of basic municipal service and that the disposal would not compromise future municipal service delivery requirements.

11.4. Determination of Strategic Importance

- 11.4.1. Prior to initiating any disposal process, the municipality must evaluate the strategic importance of the property under consideration.
- 11.4.2. This evaluation should consider whether the property forms part of the municipality's strategic property portfolio and whether the property may be required for future infrastructure development, community facilities or environmental protection.
- 11.4.3. Where a property has been classified as a strategic municipal asset in terms of the property classification framework established in this policy, the disposal of such property should only be considered in exceptional circumstances and must be supported by a comprehensive strategic assessment.
- 11.4.4. The evaluation of strategic importance ensures that the municipality do not inadvertently dispose of land that may be required for long-term municipal development.

11.5. Valuation of Municipal Property

- 11.5.1. The disposal of municipal property must be supported by an independent valuation to determine the market value of the property.
- 11.5.2. Valuation ensures that the municipality are aware of the financial value of the asset being disposed of and assists in ensuring that the municipality receives fair compensation for the transfer of public property.
- 11.5.3. Valuations should be conducted by qualified professional valuers who apply recognised valuation methodologies in determining the market value of the property.
- 11.5.4. The valuation process also assists the municipality in evaluating development proposals and determining whether proposed transactions represent fair value to the municipality.

11.6. Methods of Disposal

- 11.6.1. The Municipality may dispose of immovable property through several different mechanisms depending on the nature of the property and the strategic objectives of the municipality.

a) Public Auction

- i. Public auction represents one of the most transparent methods of disposing of municipal property. Through this process the property is offered for sale to the public and interested buyers may participate in an open bidding process.
- ii. Public auctions promote transparency and competition and may be appropriate for the disposal of properties where the primary objective is to obtain the highest possible financial return for the municipality.

b) Competitive Tender or Request for Proposals

- i. The Municipality may also dispose of property through competitive tender processes or requests for development proposals.
- ii. Such processes allow the municipality to evaluate proposals not only on the basis of purchase price but also on the basis of development proposals, investment commitments and potential community benefits associated with the proposed development.
- iii. This approach is particularly appropriate where the municipality seek to achieve broader development objectives through the disposal of municipal land.

c) Negotiated Disposal

- i. In certain circumstances the municipality may consider negotiated disposal processes where strategic considerations justify direct negotiations with a specific entity.
- ii. Examples may include development partnerships, intergovernmental transfers or specialised development initiatives that require collaboration with particular institutions or investors.
- iii. Negotiated disposals must however be properly motivated and must comply with the legislative framework governing municipal asset transfers.
- iv. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

d) Transfer to Other Organs of State

- i. Municipal property may also be transferred to other organs of state where such transfers support public service delivery initiatives or government programmes.
- ii. Such transfers may occur between municipalities, provincial governments or national government departments where land is required for public facilities or infrastructure development.

11.7. Development Conditions and Reversion Clauses

- 11.7.1. Where municipal property is disposed of for development purposes, municipalities may impose development conditions as part of the sale agreement.
- 11.7.2. Such conditions may require the purchaser to develop the property within specified timeframes, to implement specific development proposals or to deliver infrastructure or community benefits associated with the development project.
- 11.7.3. Development conditions ensure that municipal land transferred for development purposes is utilised in accordance with the objectives of the municipality.
- 11.7.4. The Municipality may also include reversion clauses in property disposal agreements. A reversion clause provides that the property may revert to municipal ownership if the purchaser fails to comply with the development conditions specified in the agreement.
- 11.7.5. Such clauses provide an important safeguard against speculative land acquisition or the failure of development projects.

11.8. Public Participation and Transparency

- 11.8.1. The disposal of municipal property must be conducted in a manner that promotes transparency and public accountability.
- 11.8.2. In certain circumstances the legislative framework governing municipal asset transfers requires the municipality to undertake public participation processes before property disposal decisions may be finalised.
- 11.8.3. Public participation processes provide community members and stakeholders with an opportunity to comment on proposed property transactions and to raise concerns regarding the potential impact of such transactions.
- 11.8.4. These processes contribute to transparent governance and ensure that property disposal decisions are informed by community input.
- 11.8.5. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

11.9. Registration of Property Transfers

- 11.9.1. Once a municipal property disposal transaction has been completed, the transfer of ownership must be registered in accordance with the legal requirements governing property registration.
- 11.9.2. The registration of property transfers must comply with the provisions of the Deeds Registries Act.
- 11.9.3. Registration ensures that the new ownership of the property is legally recognised and recorded within the national deeds registration system.
- 11.9.4. Following registration, the municipality must update its property register to reflect the disposal of the property and ensure that the municipal asset register is amended accordingly.

11.10. Monitoring and Compliance

- 11.10.1. Where municipal property is disposed of subject to development conditions or other contractual obligations, the municipality must monitor compliance with such conditions.
- 11.10.2. Monitoring may include verifying that development timelines are adhered to, ensuring that infrastructure commitments are fulfilled and confirming that land uses comply with applicable planning approvals.
- 11.10.3. Effective monitoring ensures that the municipality receives the intended benefits

associated with property disposal transactions and protects the municipality against potential non-compliance by purchasers.

11.11. Conclusion

- 11.11.1. The disposal and transfer of municipal immovable property represents a significant governance responsibility for municipalities. Such decisions must be taken with careful consideration of the long-term interests of the municipality and the communities it serves.
- 11.11.2. By following the policy principles and procedures established in this chapter, The municipality can ensure that property disposal transactions are conducted in a transparent, legally compliant and strategically responsible manner.
- 11.11.3. Please refer to the Theewaterskloof Municipal Administration of Immoveable Property Policy for statutory guidance.

CHAPTER 12

12. MUNICIPAL ASSET TRANSFER REGULATIONS DECISION FRAMEWORK

12.1. Introduction

- 12.1.1. Municipal immovable property constitutes a category of municipal capital assets and is therefore subject to the legislative framework governing the management, transfer and disposal of municipal assets.
- 12.1.2. The transfer, disposal or granting of rights to municipal immovable property must comply with the requirements established by the Municipal Asset Transfer Regulations.
- 12.1.3. These regulations were issued in terms of the Local Government: Municipal Finance Management Act and establish detailed procedures governing the transfer or disposal of municipal capital assets as well as the granting of rights to use, control or manage such assets.
- 12.1.4. The purpose of the regulations is to ensure that the municipality exercise appropriate governance oversight when dealing with municipal assets and that public assets are not disposed of in a manner that compromises municipal service delivery or undermines the public interest.
- 12.1.5. This chapter provides the municipality with a structured decision framework that assists municipal officials and decision-makers in determining the appropriate procedures to follow when municipal property transactions are proposed.

12.2. Capital Assets and Municipal Property

- 12.2.1. In terms of the legislative framework governing municipal financial management, immovable property owned by a municipality constitutes a capital asset.
- 12.2.2. Capital assets include land, buildings, infrastructure and other immovable property resources that form part of the municipality's asset base and contribute to the delivery of municipal services.
- 12.2.3. Because municipal property is classified as a capital asset, any decision to transfer, dispose of or grant rights to such property must comply with the requirements established by the Municipal Asset Transfer Regulations.
- 12.2.4. The regulations therefore apply not only to the permanent disposal of municipal property but also to certain arrangements that involve granting third parties the right to use, control or manage municipal assets for extended periods.

12.3. Determination of Asset Classification

- 12.3.1. Before any municipal property transaction may proceed, the municipality must determine whether the property concerned constitutes an exempted capital asset or a non-exempted capital asset.
- 12.3.2. An Exempted Capital Asset is a capital asset transferred to another organ of state in one of the circumstances recognised by section 14(6) of the MFMA and regulation 20, and processed under Chapter 3 of the Municipal Asset Transfer Regulations. Exempt status depends on the transferee and statutory circumstances; it does not arise merely because an asset is surplus or not needed for minimum basic services.
- 12.3.3. A Non-Exempted Capital Asset is any capital asset that does not qualify for the Chapter 3 exemption. Under section 14(1), a capital asset needed to provide the minimum level of a basic municipal service may not be transferred or permanently disposed of, except through a qualifying exempted organ-of-state transfer that preserves service continuity. For any other non-exempted asset, Council must make the section 14(2) determinations in a meeting open to the public before disposal.
- 12.3.4. The classification sequence must therefore ask: first, whether the proposal is a transfer, permanent disposal or right; second, whether a transfer to an organ of state falls within regulation 20; third, whether the asset is needed for minimum basic services; and fourth, which value, aggregation, participation, approval and competitive-process rules apply.

12.4. Determination of Minimum Level of Basic Municipal Services

- 12.4.1. One of the central requirements of the Municipal Asset Transfer Regulations is the determination of whether a municipal asset is required for the provision of a minimum level of basic municipal services.
- 12.4.2. The Municipality must therefore evaluate whether the property concerned is currently used for service delivery purposes or may reasonably be required for future service delivery infrastructure.
- 12.4.3. Examples of such assets may include land used for water infrastructure, electricity distribution networks, waste management facilities, public roads, stormwater systems or other critical municipal infrastructure.
- 12.4.4. Where an asset is required for the provision of essential municipal services, the municipality must ensure that the disposal of the asset will not compromise service delivery.
- 12.4.5. If the disposal of the asset would negatively affect the municipality's ability to provide essential services, the disposal may not proceed.

12.5. Determination of Fair Market Value

- 12.5.1. The Municipal Asset Transfer Regulations require the municipality to determine the fair market value of municipal assets before such assets may be transferred or disposed of.
- 12.5.2. This requirement ensures that the municipality is aware of the financial value of the asset and that the disposal of municipal property does not result in the loss of public resources through undervaluation.
- 12.5.3. Valuations must therefore be conducted by qualified professional valuers using recognised valuation methodologies.
- 12.5.4. The determination of market value also assists the municipality in evaluating development proposals and determining whether a proposed transaction represents fair value to the municipality.

12.6. Determination of Appropriate Disposal Method

- 12.6.1. Once the municipality has determined that the property may legally be disposed of and has established the market value of the asset, the municipality must determine the appropriate method of disposal.
- 12.6.2. In many cases the disposal of municipal property should occur through competitive processes such as public auctions, tenders or requests for development proposals.
- 12.6.3. Competitive processes promote transparency and ensure that municipal property is allocated in a fair and equitable manner.
- 12.6.4. In certain circumstances the municipality may consider negotiated disposal processes where such arrangements are justified by strategic considerations or where development partnerships are required.
- 12.6.5. However, such arrangements must be properly motivated and documented to ensure compliance with the legislative framework governing municipal assets.

12.7. Public Participation Requirements

- 12.7.1. The Municipal Asset Transfer Regulations require the municipality to conduct public participation processes in certain circumstances when disposing of municipal capital assets.
- 12.7.2. Public participation ensures that community members and stakeholders are provided with an opportunity to comment on proposed property transactions and to raise concerns regarding the potential impact of such transactions.
- 12.7.3. Such participation processes contribute to transparent governance and ensure that municipal decisions relating to public assets are informed by community input.

12.7.4. Public participation processes may include public notices, stakeholder consultations and opportunities for written representations.

12.8. Authority for Decision-Making

12.8.1. The authority to approve municipal property transactions is determined by the legislative framework governing municipal asset management and by the delegation framework established within the municipality.

12.8.2. Certain property transactions, particularly those involving the disposal of municipal capital assets or the granting of significant rights to use municipal property, require approval by the Municipal Council.

12.8.3. Other transactions of a more routine or administrative nature may be delegated to the Accounting Officer or authorised municipal officials in terms of the municipality's delegation framework.

12.8.4. The purpose of the delegation framework is to ensure that property decisions are taken efficiently while maintaining appropriate governance oversight.

12.8.5. The Municipality must ensure that delegations relating to property transactions comply with the legislative requirements governing municipal asset transfers.

12.8.6. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

12.9. Decision Framework for Municipal Property Transactions

12.9.1. The decision-making process for municipal property transactions may be summarised through the following structured framework:

- a) Identification of the property asset and proposed transaction.
- b) Determination of whether the asset constitutes a capital asset.
- c) Determination of whether the asset is required for the provision of a minimum level of basic municipal service.
- d) Determination of whether the asset is classified as exempted or non-exempted.
- e) Determination of the fair market value of the asset through professional valuation.
- f) Determination of the appropriate method of disposal or property transaction.
- g) Determination of whether public participation processes are required.
- h) Submission of the proposed transaction to the appropriate decision-making authority.

- i) Implementation of the transaction and registration of property rights where applicable.

12.9.2. This structured framework provides the municipality with a practical mechanism for ensuring that property transactions comply with the legislative requirements governing municipal assets.

12.10. Integration with Municipal Property Governance

- 12.10.1. The decision framework established in this chapter forms an essential component of the broader municipal property governance system established by this strategy.
- 12.10.2. Municipal officials responsible for property administration must ensure that the decision framework is applied consistently when evaluating property transactions.
- 12.10.3. The framework assists the municipality in ensuring that property transactions are conducted in a legally compliant and transparent manner and that public assets are protected from inappropriate disposal or misuse.

12.11. Conclusion

- 12.11.1. The Municipal Asset Transfer Regulations provide an essential governance framework for the administration of municipal assets and ensure that property transactions are conducted in a manner that protects the interests of the municipality and the communities it serves.
- 12.11.2. By adopting the decision framework established in this chapter, the municipality can ensure that property transactions comply with the legislative requirements governing municipal assets and that municipal property is managed in a responsible and accountable manner.
- 12.11.3. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

CHAPTER 13

13. PUBLIC PARTICIPATION AND TRANSPARENCY REQUIREMENTS

13.1. Introduction

- 13.1.1. The Municipality exercise public authority when making decisions relating to municipal property. These decisions may include the disposal of municipal land, the granting of long-term property rights, the allocation of property for development initiatives or the establishment of servitudes affecting municipal land.
- 13.1.2. Because municipal property constitutes a public asset held on behalf of the community, decisions relating to its use or disposal must be taken in a manner that promotes transparency, accountability and meaningful public participation.
- 13.1.3. Public participation enables community members, stakeholders and affected parties to provide input on municipal decisions that may have economic, social or environmental implications. Such participation contributes to democratic governance and assists municipalities in making informed decisions that reflect the interests of the communities they serve.
- 13.1.4. This chapter establishes the framework governing public participation and transparency in municipal property decision-making processes.

13.2. Constitutional Principles of Public Participation

- 13.2.1. The Constitution of the Republic of South Africa establishes democratic governance as a fundamental principle of local government. The Municipality are required to encourage community involvement in matters of local government and to ensure that municipal decision-making processes are open and transparent.
- 13.2.2. Public participation therefore forms an integral component of municipal governance and must be incorporated into municipal property management processes where decisions may affect the rights or interests of the public.
- 13.2.3. Through public participation processes, the municipality provide residents, businesses, civil society organisations and other stakeholders with an opportunity to comment on proposed property transactions and to raise concerns regarding potential impacts associated with such decisions.
- 13.2.4. Meaningful participation not only strengthens democratic governance but also assists the municipality in identifying potential risks or opportunities associated with property transactions.

13.3. Legislative Framework for Administrative Justice

- 13.3.1. Municipal property decisions must comply with the legal principles established by the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- 13.3.2. The Promotion of Administrative Justice Act requires administrative action to be lawful, reasonable and procedurally fair. A municipal property decision must first be classified on its facts; where it is administrative action the Act applies, while every decision remains subject to the constitutional principle of legality.
- 13.3.3. Procedural fairness requires that individuals or organisations whose rights or interests may be adversely affected by a municipal decision must be provided with a reasonable opportunity to make representations before such decision is taken.
- 13.3.4. The Municipality must therefore ensure that property decisions are supported by fair procedures that allow affected parties to participate in the decision-making process where appropriate.
- 13.3.5. Failure to comply with the principles of administrative justice may expose municipal property decisions to legal challenge or judicial review.

13.4. Transparency and Access to Information

- 13.4.1. Transparency forms an essential component of responsible municipal governance.
- 13.4.2. Members of the public have a legitimate interest in understanding how municipal assets are managed and how decisions relating to public property are taken.
- 13.4.3. The Promotion of Access to Information Act establishes the legal framework through which individuals may request access to information held by public bodies, including municipalities.
- 13.4.4. The Municipality must therefore ensure that information relating to property transactions, property policies and municipal asset management is accessible to the public in accordance with applicable legislation.
- 13.4.5. Transparency in municipal property administration promotes accountability and helps to build public confidence in municipal governance processes.

13.5. Public Participation in Municipal Property Disposal

- 13.5.1. The Municipal Asset Transfer Regulations require municipalities to undertake public participation processes when disposing of municipal capital assets in certain circumstances.

13.5.2. These participation processes are intended to ensure that communities are informed about proposed property transactions and that stakeholders are given an opportunity to provide input before decisions are finalised.

13.5.3. Public participation processes may include public notices, stakeholder consultations, public meetings or the submission of written representations.

13.5.4. The municipality must consider the representations received during the participation process before making a final decision regarding the proposed property transaction.

13.6. Public Notification Procedures

13.6.1. The Municipality must provide adequate notice to the public when undertaking property transactions that require public participation.

13.6.2. Public notices should be published through appropriate communication channels such as local newspapers, municipal websites, public notice boards or other communication platforms accessible to community members.

13.6.3. Such notices should clearly describe the proposed property transaction, identify the property concerned and provide information regarding the procedures through which members of the public may submit comments or objections.

13.6.4. The notice period must allow sufficient time for stakeholders to review the proposal and prepare representations where necessary.

13.7. Consideration of Public Representations

13.7.1. Where public participation processes are undertaken, municipalities must carefully consider the representations received from stakeholders.

13.7.2. The purpose of public participation is not merely to inform the public of municipal decisions but to provide a meaningful opportunity for stakeholders to influence the decision-making process.

13.7.3. Municipal officials responsible for property administration must therefore review the comments received during public participation processes and assess whether such comments raise valid concerns or considerations that should influence the final decision.

13.7.4. The outcome of the participation process and the municipality's response to public representations should be documented as part of the decision-making record.

13.8. Protection of Legitimate Expectations

13.8.1. In certain circumstances individuals or organisations may have legitimate expectations regarding the use or continued availability of municipal property.

13.8.2. For example, community groups may have historically utilised municipal land for recreational or social purposes, or businesses may rely on municipal property for economic activities.

13.8.3. The Municipality must therefore carefully evaluate whether proposed property transactions may affect such expectations and whether appropriate consultation with affected parties is required.

13.8.4. The protection of legitimate expectations contributes to fair administrative practices and helps to maintain positive relationships between municipalities and their communities.

13.9. Documentation and Record Keeping

13.9.1. All public participation processes associated with municipal property transactions must be properly documented.

13.9.2. The Municipality must maintain records of public notices issued, stakeholder consultations conducted and representations received during the participation process.

13.9.3. Such documentation forms part of the administrative record supporting municipal property decisions and may be required if decisions are subject to review or audit.

13.9.4. Proper record keeping ensures transparency and assists the municipality in demonstrating that property decisions were taken in accordance with legal and procedural requirements.

13.10. Integration with Municipal Governance Processes

13.10.1. Public participation and transparency mechanisms must be integrated into the broader municipal governance framework governing property administration.

13.10.2. Municipal officials responsible for property management must ensure that public participation requirements are identified and implemented during the evaluation of property transactions.

13.10.3. This integration ensures that participation processes occur at the appropriate stage of decision-making and that the results of such processes are considered before final decisions are taken.

13.11. Conclusion

13.11.1. Public participation and transparency are essential elements of responsible municipal property governance.

13.11.2. By incorporating meaningful participation processes into property decision-making, the municipality strengthen democratic governance, promote accountability and ensure that community interests are considered in decisions relating to public assets.

- 13.11.3. The governance framework established in this chapter ensures that municipal property transactions are conducted in a manner that complies with the principles of administrative justice and transparency established in South African law.

CHAPTER 14

14. VALUATION, FINANCIAL CONSIDERATIONS AND MUNICIPAL ASSET VALUE PROTECTION

14.1. Introduction

- 14.1.1. Municipal immovable property constitutes a valuable public asset that must be managed in a financially responsible manner. The acquisition, leasing, development or disposal of municipal property may have significant financial implications for the municipality and must therefore be governed by sound financial management principles.
- 14.1.2. The Municipality must ensure that property transactions are conducted in a manner that protects the financial interests of the municipality and prevents the inappropriate loss or undervaluation of public assets. At the same time, the municipality must recognise that municipal property may also be utilised to support social development initiatives or economic development programmes that generate broader public benefits beyond purely financial returns.
- 14.1.3. The governance framework established in this chapter seeks to balance these considerations by establishing financial management principles that ensure responsible stewardship of municipal property assets while enabling the municipality to utilise their property portfolio strategically.

14.2. Financial Governance Framework

- 14.2.1. The financial management of municipal property is governed by the legislative framework established by the Local Government: Municipal Finance Management Act.
- 14.2.2. This legislation requires the municipality to manage public resources in a manner that promotes financial sustainability, transparency and accountability.
- 14.2.3. Municipal property transactions must therefore be evaluated not only in terms of their legal compliance but also in terms of their financial implications for the municipality. Decisions relating to the acquisition, leasing or disposal of property must consider factors such as asset value, revenue potential, operational costs and long-term financial sustainability.
- 14.2.4. The Municipality must also ensure that property transactions are properly recorded within the municipal financial system and that property assets are accurately reflected within the municipal asset register.

14.3. Valuation of Municipal Property

- 14.3.1. The valuation of municipal property is a critical component of responsible asset management.

- 14.3.2. Before municipal property may be sold, leased or otherwise made available for development purposes, the municipality must determine the market value of the property. This requirement ensures that the municipality are aware of the financial value of their assets and that property transactions are conducted on a fair and transparent basis.
- 14.3.3. The valuation of municipal property must be undertaken by suitably qualified professional valuers who apply recognised valuation methodologies.
- 14.3.4. Valuation assists municipalities in determining appropriate rental levels for lease agreements, establishing reserve prices for property sales and evaluating development proposals involving municipal land.
- 14.3.5. Valuation processes also provide an important safeguard against the undervaluation of municipal assets and help ensure that public property is not transferred at values that do not reflect its true market potential.

14.4. Market Value Principle

- 14.4.1. The Municipal Asset Transfer Regulations establish the principle that municipal assets should generally be transferred or disposed of at market value.
- 14.4.2. The purpose of this requirement is to protect municipal assets from being transferred at values that do not reflect their financial worth and to prevent the inappropriate loss of public resources.
- 14.4.3. However, the regulations recognise that the municipality may in certain circumstances transfer property at less than market value where such transfers support public interest objectives such as social development, community initiatives or public service delivery programmes.
- 14.4.4. Where property is transferred at below market value, municipalities must ensure that such decisions are properly motivated and that the public benefits associated with the transaction justify the reduction in financial return.

14.5. Rental Determination for Municipal Property

- 14.5.1. The Municipality frequently generate revenue through the leasing of municipal property.
- 14.5.2. Lease agreements must therefore incorporate rental provisions that reflect the value of the property and the nature of the activity being conducted on the property.
- 14.5.3. Rental levels should generally be based on market-related values determined through appropriate valuation processes. Rental escalation provisions should also be included in lease agreements to ensure that rental income remains aligned with market conditions over time.

- 14.5.4. In certain circumstances the municipality may adopt differentiated rental guidelines that provide reduced rental levels for community organisations, non-profit institutions or social development initiatives.
- 14.5.5. Such arrangements must however be governed by clear policy provisions to ensure transparency and fairness in the allocation of municipal property.
- 14.5.6. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

14.6. Revenue Management and Property Income

- 14.6.1. Municipal property assets may generate revenue through rental agreements, concession arrangements or development partnerships.
- 14.6.2. Revenue generated from municipal property forms part of the municipality's financial resources and may be utilised to support service delivery programmes or infrastructure development initiatives.
- 14.6.3. The Municipality must therefore ensure that property income is properly recorded within municipal financial systems and that revenue generated from property transactions is monitored and collected in accordance with municipal financial management procedures.
- 14.6.4. The effective management of municipal property income contributes to the financial sustainability of the municipality and supports the efficient utilisation of public assets.

14.7. Municipal Immovable Property Reinvestment Reserve Framework

- 14.7.1. Council should establish a Municipal Immovable Property Reinvestment Reserve (MIPRR) through a Council resolution and aligned amendments to the Funding and Reserves Policy, Budget Policy, Asset Management Policy and mSCOA general ledger. The MIPRR is an internally restricted, cash-backed accounting arrangement; it is not a separate bank account, trust, off-budget fund or system of fund accounting.
- 14.7.2. All disposal proceeds, rentals and other property receipts must be deposited into the Municipality's primary or other approved bank account and recognised in accordance with GRAP, mSCOA, VAT rules and the approved budget. No amount may be spent directly against a reserve. Expenditure requires an appropriation in an approved annual or adjustments budget and compliance with the Supply Chain Management Policy.
- 14.7.3. The MIPRR must contain two separately tracked components: (a) a Capital Property Reinvestment Component within, or as a designated subcomponent of, the cash-backed Capital Replacement Reserve; and (b) an Operating Property Sustainability Component created and accounted for through the Funding and Reserves Policy and accumulated

surplus, with all movements processed through the prescribed financial statements and budget.

14.7.4. Net Cash Disposal Proceeds means cash actually received from the transfer of municipal immovable property, less VAT where applicable, refundable amounts, conveyancing, valuation, survey, advertising and other transaction costs borne by the Municipality, and any debt or encumbrance that must be discharged in terms of regulation 16 or the transaction documents. Accounting gains or losses remain separately recognised under GRAP and must not be confused with cash proceeds.

14.7.5. Eligible Rental Collections means rental cash actually collected, excluding VAT, deposits, service-charge and utility recoveries, grants, arrears not collected and amounts belonging to third parties. The allocation is calculated on cash collected so that the component remains cash-backed and does not convert uncollected revenue into an expenditure commitment.

14.7.6. The following scale is recommended as the default Council policy. It takes effect only after the required financial-policy amendments and budget appropriations have been adopted.

Receipt source	Allocation base	Proposed ring-fenced scale	Accounting destination / control
Immovable-property disposals	Net Cash Disposal Proceeds	100% from commencement. In an exceptional liquidity event Council may approve a temporary lower allocation, never below 75%, only in an annual or adjustments budget supported by a CFO cash-flow certificate, reasons and a restoration plan.	Capital Property Reinvestment Component within the cash-backed CRR; capital uses only.
Rental of municipal immovable property	Eligible Rental Collections	Year 1: 20% | Year 2: 25% | Year 3 onward: 30%. Council may approve a higher percentage where collection performance and liquidity permit.	Operating Property Sustainability Component, with capital portions transferred to the capital component through the approved budget and GRAP-compliant entries.

14.7.7. The ring-fenced rental allocation should be distributed through the annual three-year Property Reinvestment Plan on the following proposed scale, measured as a percentage of the amount transferred from Eligible Rental Collections:

Purpose	Share	Budget classification	Typical eligible work
Property preservation	50%	Operating	Planned, preventive and emergency repairs; condition surveys; statutory, safety and accessibility compliance; anti-vandalism and building-protection work.
Renewal and enhancement	25%	Capital where recognition criteria are met	Renovations, refurbishment, renewal, upgrades and improvements that enhance service potential, useful life, income or asset value.
Expansion and strategic investment	15%	Capital	Strategic acquisition, land assembly, development, redevelopment and co-funding of approved investment-property projects.
Planning and professional services	10%	Operating or capital according to GRAP	Valuation, feasibility, cadastral and land-use work, environmental and heritage processes, legal/conveyancing work, investment packaging and other professional services.

14.7.8. Net disposal proceeds should be prioritised through the Property Reinvestment Plan for strategic acquisition and development, capital renewal and enhancement, and

professional services directly attributable to bringing a capital asset to the condition necessary for its intended use. Ordinary repairs and maintenance may not be charged to the CRR and must be funded through the operating component and operating budget.

14.7.9. Property Management must prepare an annually updated three-year Property Reinvestment Plan listing each proposed project, property, lifecycle need, strategic rationale, classification, full cost, operating consequences, procurement route, readiness, projected return or public benefit and measurable outcome. The Municipal Investment Steering Unit reviews the plan in an advisory capacity; the CFO certifies cash backing, affordability, funded-budget compliance, mSCOA classification and GRAP treatment; the Accounting Officer recommends it; and Council approves allocations through the MTREF or an adjustments budget.

14.7.10. Prioritisation must first address life-safety, statutory compliance and prevention of material asset deterioration; then protect occupied and revenue-generating property; then unlock development-ready land and approved strategic acquisitions; and thereafter pursue catalytic or portfolio-enhancement projects. No reserve balance creates an automatic entitlement to spend and no commitment may be made before appropriation and completion of the applicable procurement and property-governance process.

14.7.11. Unspent cash-backed balances remain designated for property reinvestment and must be reappropriated through the next lawful budget process. Any proposed redirection, temporary reduction or release must be expressly approved by Council on a CFO report addressing liquidity, funded-budget status, service-delivery risk, the impact on the maintenance backlog and the date or mechanism for restoration.

14.7.12. Quarterly reports must reconcile opening balance, cash receipts, transfers, commitments, expenditure and closing balance for each component, and must report rental collection performance, arrears, maintenance backlog, project progress, procurement status and realised outcomes. The annual financial statements and annual immovable-property governance report must disclose the Council-created reserve treatment and reconcile it to the general ledger, budget and cash-backing calculation.

14.8. Financial Risk Assessment

14.8.1. Municipal property transactions may expose municipalities to financial risks if not properly evaluated.

14.8.2. Examples of potential risks include the acquisition of property at inflated prices, the granting of long-term lease agreements at undervalued rental levels or the disposal of valuable municipal land without adequate compensation.

- 14.8.3. The Municipality must therefore undertake financial risk assessments when evaluating proposed property transactions. Such assessments should consider the potential financial benefits and risks associated with the transaction and evaluate whether the proposed arrangement represents a financially responsible decision for the municipality.
- 14.8.4. Where development partnerships or concession arrangements are proposed, the municipality must also evaluate the financial viability of the development project and the capacity of the development partner to fulfil contractual obligations.

14.9. Protection of Municipal Asset Value

- 14.9.1. The Municipality must implement measures to protect the financial value of municipal property assets.
- 14.9.2. Such measures may include the maintenance and upgrading of municipal buildings, the enforcement of lease agreements and the protection of municipal land from unlawful occupation or encroachment.
- 14.9.3. Failure to protect municipal property assets may result in financial losses and may reduce the long-term value of the municipal property portfolio.
- 14.9.4. Municipal property management systems must therefore include monitoring mechanisms that ensure municipal property assets are properly maintained and that contractual obligations associated with property agreements are enforced.

14.10. Integration with Municipal Budgeting Processes

- 14.10.1. Municipal property management must be integrated with the municipal budgeting process.
- 14.10.2. Property acquisitions, development initiatives and infrastructure projects involving municipal land must be aligned with the municipality's capital investment programme and budget planning processes.
- 14.10.3. Similarly, revenue generated from municipal property must be incorporated into municipal revenue projections and financial planning processes.
- 14.10.4. This integration ensures that property decisions are financially sustainable and consistent with the broader financial management framework of the municipality.

14.11. Financial Reporting and Oversight

- 14.11.1. Municipal property assets and property transactions must be reflected in municipal financial reporting processes.
- 14.11.2. Financial reports should include information relating to property acquisitions, property disposals, lease income and the valuation of municipal property assets.

- 14.11.3. Such reporting ensures that municipal leadership structures, including the Municipal Council and audit committees, are able to exercise oversight over the financial management of municipal property assets.
- 14.11.4. Regular financial reporting also assists the municipality in identifying opportunities to improve the financial performance of its property portfolios.

14.12. Conclusion

- 14.12.1. The financial management of municipal immovable property represents a critical component of responsible municipal governance.
- 14.12.2. By ensuring that property transactions are supported by appropriate valuation processes, financial oversight mechanisms and revenue management systems, the municipality can protect the financial value of municipal property assets while utilising those assets to support development and service delivery initiatives.
- 14.12.3. The financial governance framework established in this chapter therefore ensures that municipal property management operates in accordance with the principles of financial sustainability and responsible asset stewardship.

CHAPTER 15

15. CONTRACTUAL GOVERNANCE AND MUNICIPAL PROPERTY AGREEMENTS

15.1. Introduction

- 15.1.1. Municipal property transactions, whether involving the acquisition, leasing, development or disposal of municipal property, must be implemented through legally enforceable agreements.
- 15.1.2. Such agreements establish the contractual relationship between the municipality and the party receiving rights to municipal property. These agreements define the conditions under which municipal property may be used, developed or transferred and provide the legal mechanisms through which the municipality may enforce compliance with such conditions.
- 15.1.3. The governance of municipal property agreements must therefore be structured to ensure that contractual arrangements are legally sound, consistent with municipal policies and aligned with the legislative framework governing municipal assets.
- 15.1.4. This chapter establishes the framework governing the preparation, approval and administration of municipal property agreements.

15.2. Legal Framework Governing Municipal Property Agreements

- 15.2.1. Municipal property agreements must comply with the legislative framework governing municipal asset management and public administration.
- 15.2.2. In particular, agreements relating to the disposal or transfer of municipal property must comply with the requirements of the Municipal Asset Transfer Regulations issued under the Local Government: Municipal Finance Management Act.
- 15.2.3. These legislative provisions regulate the conditions under which the municipality may transfer, dispose of or grant rights to municipal property and require that such transactions be conducted in a manner that protects the interests of the municipality and the public.
- 15.2.4. Municipal property agreements must also comply with the legal principles governing property ownership and property registration under the Deeds Registries Act.
- 15.2.5. Where agreements involve development rights, land use changes or building activities, such agreements must also comply with planning and building legislation including the Spatial Planning and Land Use Management Act and the National Building Regulations and Building Standards Act.

15.3. Types of Municipal Property Agreements

15.3.1. Municipal property management may involve several different types of contractual agreements depending on the nature of the property transaction.

a) Deeds of Sale

- i. A deed of sale is the legal agreement through which municipal property is transferred to a purchaser.
- ii. The deed of sale must clearly define the purchase price, payment conditions, development conditions where applicable and the obligations of both parties regarding the transfer of the property.
- iii. Where municipal land is disposed of for development purposes, the deed of sale may also include development obligations and timelines that require the purchaser to develop the property within specified periods.

b) Lease Agreements

- i. Lease agreements govern the occupation and use of municipal property by third parties for defined periods.
- ii. Lease agreements must specify the duration of the lease, rental obligations, permitted land uses, maintenance responsibilities and termination conditions.
- iii. Lease agreements must also include provisions governing rental escalation, payment procedures and compliance with municipal regulations.

c) Servitude Agreements

- i. Servitude agreements provide legal rights for specific uses of municipal property, such as the installation of infrastructure or access routes.
- ii. Servitudes may be registered against the title deed of the property and must therefore be carefully structured to ensure that the rights granted do not compromise the municipality's ability to utilise the property for future municipal purposes.

d) Development Agreements

- i. Development agreements are used where municipal property is made available for development initiatives involving private sector partners or other entities.
- ii. Such agreements may include detailed provisions governing development timelines, infrastructure contributions, environmental compliance, land use approvals and community benefit obligations.

- iii. Development agreements may also include conditions requiring the developer to provide certain public infrastructure or community facilities as part of the development project.

e) Concession Agreements

- i. Concession agreements allow private entities to operate facilities or services on municipal property for a specified period.
- ii. Such arrangements may involve tourism facilities, recreational facilities, commercial developments or other activities conducted on municipal land.
- iii. Concession agreements must clearly define the rights and responsibilities of the concessionaire, including operational obligations, revenue-sharing arrangements and maintenance responsibilities.

15.4. Essential Provisions in Municipal Property Agreements

- 15.4.1. Municipal property agreements must include essential provisions that protect the interests of the municipality and ensure that property arrangements are properly regulated.
- 15.4.2. Such provisions may include the identification of the parties to the agreement, a clear description of the property involved and the specific rights granted to the contracting party.
- 15.4.3. Agreements must also define the duration of the agreement, the financial obligations associated with the property arrangement and the permitted uses of the property.
- 15.4.4. In addition, property agreements must include provisions relating to maintenance responsibilities, insurance requirements and compliance with municipal regulations.
- 15.4.5. These provisions ensure that municipal property is properly maintained and that the activities conducted on municipal land are consistent with municipal planning and regulatory frameworks.

15.5. Development Conditions

- 15.5.1. Where municipal property is disposed of or leased for development purposes, the municipality may impose development conditions as part of the property agreement.
- 15.5.2. Development conditions may require the purchaser or developer to commence development within specified timeframes and to complete development projects within agreed periods.
- 15.5.3. Such conditions ensure that municipal land is not acquired for speculative purposes and that development initiatives proceed in accordance with the objectives of the municipality.

15.5.4. Development conditions may also include requirements relating to infrastructure provision, compliance with planning approvals and the delivery of community benefits associated with development projects.

15.6. Reversion Clauses

15.6.1. Municipal property agreements may include reversion clauses that provide for the return of the property to municipal ownership if the contracting party fails to comply with the conditions of the agreement.

15.6.2. Reversion clauses are particularly important in development agreements where the municipality transfers land for development purposes.

15.6.3. Such clauses ensure that the municipality retains the ability to reclaim the property if development obligations are not fulfilled or if the property is not utilised in accordance with the agreed conditions.

15.6.4. The inclusion of reversion clauses protects the municipality against speculative land acquisition and ensures that municipal property continues to serve public development objectives.

15.7. Enforcement of Contractual Obligations

15.7.1. The Municipality must ensure that contractual obligations associated with municipal property agreements are properly monitored and enforced.

15.7.2. Property management units should maintain records of all property agreements and track compliance with contractual conditions such as rental payments, development timelines and maintenance obligations.

15.7.3. Where contracting parties fail to comply with the conditions of property agreements, the municipality must take appropriate enforcement action to protect municipal interests.

15.7.4. Such action may include issuing breach notices, enforcing penalty provisions or initiating legal proceedings where necessary.

15.7.5. Effective contract enforcement ensures that municipal property agreements deliver the intended benefits to the municipality and the community.

15.8. Record Management and Contract Administration

15.8.1. The Municipality must maintain proper records of all municipal property agreements.

15.8.2. These records should include copies of signed agreements, records of rental payments, documentation relating to development approvals and correspondence relating to the administration of property agreements.

15.8.3. Effective contract administration systems assist the municipality in monitoring property agreements and ensure that contractual obligations are fulfilled.

15.8.4. Such systems also support transparency and accountability in municipal property management.

15.9. Integration with Municipal Property Management Systems

15.9.1. Municipal property agreements must be integrated into the broader municipal property management system established in Chapter 5 of this strategy.

15.9.2. Lease agreements, servitudes, development agreements and other property arrangements must be recorded in the municipal property register and linked to the municipality's property information management system.

15.9.3. This integration ensures that municipal officials have access to accurate information regarding property rights granted over municipal assets and assists in monitoring the utilisation of municipal property.

15.10. Conclusion

15.10.1. Municipal property agreements form the legal foundation through which municipal property transactions are implemented.

15.10.2. By establishing clear governance principles for the preparation and administration of such agreements, the municipality can ensure that property transactions are conducted in a legally sound and transparent manner.

15.10.3. The contractual governance framework established in this chapter ensures that municipal property agreements protect municipal interests, support development objectives and promote responsible management of public assets.

CHAPTER 16

16. RISK MANAGEMENT AND LEGAL COMPLIANCE IN MUNICIPAL PROPERTY ADMINISTRATION

16.1. Introduction

- 16.1.1. Municipal immovable property represents a valuable public resource that must be safeguarded against misuse, mismanagement and legal disputes. The administration of municipal property involves a wide range of activities including property acquisition, leasing, development partnerships, property disposal and the granting of servitudes or other property rights.
- 16.1.2. Each of these activities may expose municipalities to legal, financial and operational risks if not properly governed. Effective risk management therefore forms an essential component of responsible municipal property administration.
- 16.1.3. The Municipality must adopt systematic approaches to identifying potential risks associated with municipal property transactions and must implement governance mechanisms designed to mitigate such risks. These mechanisms should ensure compliance with the legislative framework governing municipal asset management and should protect municipal assets from loss or misuse.

16.2. Legislative Compliance Obligations

- 16.2.1. Municipal property administration must comply with a range of legislative requirements governing municipal governance, financial management and property transactions.
- 16.2.2. Among the most important legislative instruments regulating municipal property administration are the Local Government: Municipal Finance Management Act and the Municipal Asset Transfer Regulations.
- 16.2.3. These legislative frameworks establish the governance procedures that the municipality must follow when transferring or disposing of municipal capital assets or when granting rights to use, control or manage such assets.
- 16.2.4. Failure to comply with these legislative requirements may expose the municipality to legal challenges, audit findings and financial losses.
- 16.2.5. Municipal officials responsible for property administration must therefore ensure that property transactions are conducted in strict compliance with the legislative framework governing municipal assets.

16.3. Risk of Unlawful Occupation

- 16.3.1. Unlawful occupation of municipal land represents one of the most common risks faced by the municipality.
- 16.3.2. Such occupation may occur where individuals or organisations occupy municipal land without authorisation or where property agreements have expired but occupation continues without renewal or enforcement.
- 16.3.3. Unlawful occupation may result in financial losses to the municipality, interfere with planned development initiatives and create legal disputes between the municipality and occupants.
- 16.3.4. The Municipality must therefore implement monitoring mechanisms to identify unlawful occupation and must take appropriate legal steps to address such situations in accordance with applicable legislation.
- 16.3.5. Early identification and proactive management of unlawful occupation assists the municipality in protecting municipal property assets and preventing the escalation of disputes.

16.4. Encroachments on Municipal Property

- 16.4.1. Encroachments occur where private developments or structures extend onto municipal land without the necessary approvals or property rights.
- 16.4.2. Such encroachments may occur unintentionally as a result of surveying errors or boundary disputes, or intentionally where property owners expand developments beyond the boundaries of their property.
- 16.4.3. Encroachments may interfere with municipal infrastructure, restrict access to municipal land or compromise the future development potential of municipal property.
- 16.4.4. The Municipality must therefore monitor municipal land boundaries and investigate reported encroachments. Where encroachments are identified, the municipality must evaluate appropriate remedies which may include removal of the encroaching structures, the establishment of servitudes or negotiated settlements where appropriate.
- 16.4.5. Please refer to the Theewaterskloof Municipal Administration of Immovable Property Policy for statutory guidance.

16.5. Breach of Lease Agreements

- 16.5.1. Lease agreements represent a significant component of municipal property management and may generate substantial revenue for the municipality.

- 16.5.2. However, breaches of lease agreements may occur where tenants fail to comply with rental obligations, fail to maintain municipal property or utilise the property for purposes not permitted under the lease agreement.
- 16.5.3. The Municipality must therefore establish monitoring systems that track compliance with lease agreements and identify potential breaches at an early stage.
- 16.5.4. Where breaches occur, municipalities must take appropriate enforcement action in accordance with the terms of the lease agreement. Such action may include issuing breach notices, imposing penalties or terminating the lease agreement where necessary.
- 16.5.5. Effective enforcement of lease agreements ensures that municipal property assets are protected and that property arrangements continue to serve municipal objectives.

16.6. Risk of Improper Asset Disposal

- 16.6.1. Improper disposal of municipal property represents a significant governance risk for the municipality.
- 16.6.2. Disposal of municipal land without proper valuation, without compliance with legislative procedures or without appropriate governance oversight may result in the loss of valuable municipal assets and may expose the municipality to allegations of misconduct or maladministration.
- 16.6.3. The Municipality must therefore ensure that all property disposal transactions comply with the requirements established by the Municipal Asset Transfer Regulations and are subject to appropriate internal review and approval processes.
- 16.6.4. Proper documentation of property disposal decisions and adherence to competitive processes where required assists the municipality in mitigating the risk of improper asset disposal.

16.7. Financial Risk in Property Transactions

- 16.7.1. Municipal property transactions may expose the municipality to financial risks if not properly evaluated.
- 16.7.2. Such risks may include acquiring property at inflated prices, entering into development agreements with financially unstable partners or granting long-term leases at undervalued rental levels.
- 16.7.3. The Municipality must therefore conduct financial risk assessments when evaluating proposed property transactions. Such assessments should consider the financial viability of proposed developments, the financial capacity of contracting parties and the long-term financial implications of the transaction.

16.7.4. Financial oversight mechanisms assist the municipality in protecting the financial value of municipal property assets and ensuring that property transactions contribute positively to municipal finances.

16.8. Legal Disputes and Litigation Risk

16.8.1. Municipal property transactions may give rise to legal disputes in circumstances where contractual obligations are contested, property boundaries are disputed or stakeholders challenge municipal decisions relating to property transactions.

16.8.2. The Municipality must therefore ensure that property decisions are supported by proper legal documentation, that agreements are carefully drafted and that decision-making processes comply with the principles of administrative justice.

16.8.3. The adoption of clear policies and governance procedures for municipal property management reduces the likelihood of legal disputes and strengthens the municipality's position should litigation arise.

16.9. Governance and Oversight Mechanisms

16.9.1. Effective governance oversight is essential for mitigating risks associated with municipal property administration.

16.9.2. The Municipality should ensure that property transactions are subject to internal review processes and that property decisions are evaluated by relevant municipal departments including property management, legal services, finance and planning.

16.9.3. Regular reporting on municipal property transactions and property portfolio performance should be provided to municipal leadership structures to ensure transparency and oversight.

16.9.4. Such governance mechanisms assist the municipality in identifying potential risks and ensuring that municipal property administration remains aligned with policy and legislative requirements.

16.10. Integration with Municipal Risk Management Systems

16.10.1. Municipal property management risks should be integrated into the municipality's broader risk management framework.

16.10.2. Municipal risk registers should include risks associated with property administration such as unlawful occupation, lease compliance failures, improper asset disposal and property-related litigation.

16.10.3. By integrating property risks into the municipal risk management system, the

municipality can ensure that such risks are monitored and addressed as part of the municipality's overall governance and risk management strategy.

16.11. Conclusion

- 16.11.1. Risk management forms an essential component of responsible municipal property administration.
- 16.11.2. By identifying potential risks associated with municipal property transactions and implementing governance mechanisms designed to mitigate such risks, the municipality can safeguard public assets and ensure that municipal property management is conducted in a responsible and legally compliant manner.
- 16.11.3. The risk management framework established in this chapter contributes to the protection of municipal property assets and strengthens the overall governance of municipal immovable property management.

CHAPTER 17

17. MONITORING, REPORTING AND INSTITUTIONAL OVERSIGHT

17.1. Introduction

- 17.1.1. The effective administration of municipal immovable property requires continuous monitoring and oversight to ensure that municipal assets are managed in accordance with the framework established in this document.
- 17.1.2. Municipal property transactions, lease agreements, development partnerships and property disposals must be monitored to ensure compliance with contractual obligations, legislative requirements and municipal policy provisions.
- 17.1.3. Monitoring and oversight mechanisms enable municipalities to assess whether municipal property assets are being utilised effectively, whether property transactions deliver the intended benefits to the municipality and whether governance procedures relating to municipal property management are functioning as intended.
- 17.1.4. This chapter establishes the framework through which the municipality should monitor property management activities, report on property portfolio performance and ensure appropriate institutional oversight over municipal immovable property administration.

17.2. Purpose of Monitoring and Oversight

- 17.2.1. The monitoring and oversight of municipal property management serves several important governance purposes.
- 17.2.2. Firstly, monitoring enables municipalities to verify that property agreements, including leases, servitudes and development agreements, are being implemented in accordance with their contractual terms.
- 17.2.3. Secondly, monitoring ensures that property transactions approved by the municipality are implemented in compliance with the legislative framework governing municipal assets, including the Municipal Asset Transfer Regulations and the Local Government: Municipal Finance Management Act.
- 17.2.4. Thirdly, monitoring assists municipalities in identifying potential governance risks or operational challenges associated with municipal property administration.
- 17.2.5. Finally, monitoring and reporting processes support institutional accountability by enabling municipal leadership structures to exercise oversight over municipal property management activities.

17.3. Property Portfolio Monitoring

- 17.3.1. The Municipality must establish systems for monitoring the performance and utilisation of its property portfolio.
- 17.3.2. Property portfolio monitoring should include the review of property utilisation levels, compliance with lease agreements, implementation of development conditions and the performance of revenue-generating property assets.
- 17.3.3. Regular portfolio monitoring enables municipalities to identify under-utilised assets, opportunities for property development and potential risks associated with property administration.
- 17.3.4. Municipal property management units should therefore conduct periodic reviews of the municipal property portfolio to ensure that municipal land and buildings continue to support the strategic objectives of the municipality.
- 17.3.5. The municipal property portfolio must be subject to structured review at intervals determined by the Accounting Officer, provided that such reviews occur not less than once annually for strategic oversight purposes and more frequently where operational risk, development conditions, high-value transactions or public-interest considerations so require.

17.4. Monitoring of Property Agreements

- 17.4.1. The Municipality must monitor all property agreements entered into with third parties to ensure compliance with contractual obligations.
- 17.4.2. Such monitoring should include the verification of rental payments, compliance with development timelines, adherence to permitted land uses and maintenance obligations associated with the property.
- 17.4.3. Monitoring systems should also track the expiry dates of property agreements to ensure that lease agreements or other arrangements are renewed, renegotiated or terminated in accordance with municipal policies.
- 17.4.4. Effective monitoring of property agreements assists municipalities in protecting municipal assets and ensuring that property arrangements deliver the intended financial and developmental benefits.
- 17.4.5. The Municipality must maintain a complete administrative and contractual record for all material immovable property agreements and transactions, including approvals, valuations, notices, objections, correspondence, internal comments, signed agreements, monitoring reports and enforcement steps, in order to ensure institutional memory, auditability and defensibility in the event of dispute, review or litigation.

17.5. Financial Monitoring

- 17.5.1. Municipal property transactions may have significant financial implications for the municipality and must therefore be monitored within the municipal financial management framework.
- 17.5.2. Financial monitoring should include the tracking of revenue generated from municipal property assets, including rental income, concession fees and development contributions.
- 17.5.3. The Municipality must also monitor financial obligations associated with property transactions such as infrastructure contributions, maintenance costs or development incentives provided as part of development agreements.
- 17.5.4. Financial monitoring ensures that property transactions contribute positively to municipal finances and supports the financial sustainability of municipal property management.

17.6. Reporting to Municipal Leadership Structures

- 17.6.1. Municipal property management activities must be reported to relevant municipal leadership structures in order to ensure transparency and accountability.
- 17.6.2. Regular reports on municipal property administration should be submitted to senior management structures and may include information relating to property acquisitions, property disposals, lease administration, property portfolio performance and compliance with municipal property policies.
- 17.6.3. Such reports assist municipal leadership in understanding the status of municipal property assets and enable decision-makers to provide strategic direction regarding property management activities.
- 17.6.4. Minimum reporting frequency:
 - a) Internal operational reporting on municipal property administration should occur on a routine basis determined by the Accounting Officer.
 - b) Strategic property management and compliance reporting should, as a minimum, be submitted quarterly to relevant senior management structures.
 - c) A consolidated annual immovable property governance and portfolio performance report should be submitted to the Municipal Council or relevant oversight structure.
- 17.6.5. Minimum content of property management reports
 - a) Reports should, where applicable, include:
 - i. acquisitions and disposals concluded or pending;
 - ii. leases entered into, renewed, terminated or in breach;
 - iii. below-market allocations and quantified social contributions;
 - iv. servitudes and encroachment matters;

- v. unlawful occupation and regularisation matters;
- vi. property portfolio performance and under-utilised assets;
- vii. compliance findings and corrective actions; and
- viii. strategic property matters requiring management or Council attention.
- ix. MIPRR receipts, transfers, commitments, expenditure, cash backing and closing balances for each component;
- x. rental collection rate, arrears, maintenance backlog, property-condition risk and performance against the approved Property Reinvestment Plan; and
- xi. measurable financial, service-delivery, spatial and community outcomes achieved by reinvestment projects.

17.7. Oversight by Municipal Council

- 17.7.1. The Municipal Council exercises ultimate oversight over municipal property management and must ensure that municipal property assets are administered in accordance with applicable legislation and municipal policies.
- 17.7.2. Council oversight may include the review of major property transactions, the adoption of property management policies and the evaluation of property portfolio performance reports.
- 17.7.3. Through its oversight function, the Council ensures that municipal property decisions remain aligned with the development objectives of the municipality and that municipal assets are managed in the public interest.

17.8. Role of Audit and Governance Structures

- 17.8.1. Municipal audit committees and other governance structures play an important role in monitoring compliance with the legislative and financial framework governing municipal property management.
- 17.8.2. These structures may review property transactions as part of internal audit processes and assess whether property management practices comply with the provisions of the Local Government: Municipal Finance Management Act.
- 17.8.3. Audit oversight assists the municipality in identifying governance weaknesses and implementing corrective measures where necessary.

17.9. Compliance Reviews and Audits

- 17.9.1. The Municipality should conduct periodic compliance reviews to evaluate whether municipal property management practices comply with applicable legislation and municipal policy provisions.

- 17.9.2. Such reviews may include the examination of property registers, lease agreements, development agreements and property disposal transactions.
- 17.9.3. Compliance reviews assist the municipality in identifying procedural weaknesses, governance risks and areas where improvements in property management practices may be required.
- 17.9.4. The findings of such reviews should be used to strengthen municipal property governance and improve the effectiveness of municipal property management systems.
- 17.9.5. The Municipality should adopt a formal review cycle for immovable property governance compliance, which should include at least an annual compliance assessment of the immovable property register, major agreements, high-risk transactions, legislative compliance, and implementation of this Strategy and the associated Policy.

17.10. Continuous Improvement of Property Governance

- 17.10.1. Municipal property management practices should evolve over time in response to changing governance standards, legislative developments and municipal development priorities.
- 17.10.2. The Municipality should therefore periodically review their property management policies and procedures to ensure that they remain aligned with best practice and legislative requirements.
- 17.10.3. Continuous improvement initiatives may include the enhancement of property information systems, the development of improved property management procedures and the adoption of innovative approaches to municipal property utilisation.
- 17.10.4. Such initiatives contribute to the long-term sustainability and effectiveness of municipal property governance.
- 17.10.5. The Municipality should formally review the immovable property governance strategy, policy, procedures and associated implementation instruments at intervals determined by Council or the Accounting Officer, provided that such review should occur not less than once every three years, or sooner where legislative amendment, audit findings, judicial developments or municipal operational experience make such review necessary.

17.11. Conclusion

- 17.11.1. Monitoring, reporting and institutional oversight represent essential components of responsible municipal property administration.

- 17.11.2. By establishing structured monitoring systems and governance oversight mechanisms, the municipality can ensure that municipal property assets are managed effectively and that property transactions comply with the legislative and policy framework governing municipal assets.
- 17.11.3. The governance framework established in this chapter completes the comprehensive Municipal Immovable Property Management Strategy presented in this document and provides the municipality with the institutional mechanisms necessary to ensure the responsible stewardship of municipal immovable property assets.

CHAPTER 18

18. IMPLEMENTATION, ALIGNMENT AND ROLLOUT OF THE MUNICIPAL IMMOVABLE PROPERTY GOVERNANCE FRAMEWORK

18.1. Introduction

18.1.1. The successful implementation of this Strategy requires structured institutional alignment, operational planning, and the integration of this governance framework into the Municipality's day-to-day property administration systems.

18.2. Implementation responsibility

18.2.1. The Accounting Officer bears primary responsibility for ensuring that this Strategy and the associated Administration of Immovable Property Policy are implemented across the Municipality.

18.2.2. The Property Management Unit shall serve as the operational custodian of implementation, subject to the support of Legal Services, Finance, Town Planning, Infrastructure / Technical Services, and other affected municipal functions.

18.3. Council workshop and adoption readiness

18.3.1. Before final adoption, Council should workshop this Strategy and the Administration of Immovable Property Policy together with the municipal Investment Property Profile and Marketing Strategy so that portfolio priorities, legal approval paths and proposed revenue-reinvestment choices are understood as one governance system.

18.3.2. The workshop record should identify any amendments requested by Council. Legal Services, the Chief Financial Officer, Supply Chain Management and Property Management must certify that the version tabled for adoption is consistent with current legislation, the adopted delegation system, the funded MTREF, the tariff structure and all affected municipal policies.

18.4. Immediate implementation actions

18.4.1. Following adoption of this Strategy, the Municipality should, within a reasonable administrative period, undertake the following:

- a) align the immovable property register and supporting systems with this framework;
- b) confirm or update the municipal property classification system;
- c) review delegations and approval pathways for consistency with applicable legislation;
- d) identify legacy agreements, expired occupancies, encroachments and non-standard arrangements requiring regularisation;

- e) standardise templates, checklists and transaction records; and
- f) communicate the approved framework to all affected municipal departments.
- g) table and adopt aligned amendments to the Funding and Reserves Policy, Budget Policy, Asset Management Policy, Supply Chain Management Policy where necessary, tariff instruments, mSCOA general-ledger mapping and delegation schedule before the MIPRR becomes operative;
- h) approve the first three-year Property Reinvestment Plan and the commencement-year rental allocation percentage through the annual or adjustments budget;
- i) issue standard legal-classification, valuation, public-participation, direct-allocation, servitude, encroachment, below-market and reserve-reconciliation templates; and
- j) complete a baseline property-condition assessment, rental debtor reconciliation and maintenance-backlog register for all income-generating and operational immovable property.

18.5. Systems alignment

18.5.1. The Municipality should ensure that the immovable property register, GIS, financial asset register, agreement register and compliance monitoring systems operate in an integrated manner to support lawful and efficient immovable property administration.

18.6. Capacity building and institutional awareness

18.6.1. Municipal officials involved in immovable property matters should be orientated and, where necessary, trained on the requirements of this Strategy, the associated Policy, the MFMA, the Municipal Asset Transfer Regulations, the delegation framework and other applicable governance instruments.

18.7. Transitional regularisation

18.7.1. The implementation process should include a structured review of legacy and pending immovable property matters in order to bring such matters into alignment with the governance system established by this Strategy.

18.8. Ongoing improvement

18.8.1. Implementation should not be treated as a once-off event, but as an ongoing governance process through which the Municipality strengthens institutional control, improves data quality, enhances compliance and supports strategic property decision-making.

ANNEXURE A

MUNICIPAL PROPERTY LIFECYCLE MODEL

1. Introduction:

- 1.1. The Municipal Property Lifecycle Model provides a structured framework through which the municipality manage immovable property assets throughout their entire lifecycle.
- 1.2. Rather than viewing property transactions as isolated administrative activities, the lifecycle model recognises that municipal property must be managed through a continuous process of strategic planning, administration, utilisation and review.
- 1.3. The lifecycle approach ensures that municipal property assets remain aligned with municipal development priorities and that decisions relating to property acquisition, leasing or disposal are taken within a coherent governance framework.

2. Lifecycle Stages of Municipal Property

2.1. Stage 1

2.1.1. Property Identification and Registration

- a) The lifecycle of municipal property begins with the identification and recording of municipal immovable property assets within the municipal property register.
- b) This stage involves verifying title deeds, identifying property boundaries, recording property characteristics and integrating property data with municipal geographic information systems.
- c) Accurate property identification and registration provide the foundation for effective municipal property administration.

2.2. Stage 2

2.2.1. Strategic Property Classification

- a) Once municipal property assets have been identified, the municipality must classify these assets according to their strategic role within the municipal property portfolio.
- b) Property classification determines whether a property should be retained for service delivery purposes, utilised for economic development initiatives, preserved for environmental purposes or considered for disposal.
- c) The classification stage ensures that property assets are managed in accordance with their strategic importance to the municipality.

2.3. Stage 3

2.3.1. Strategic Property Planning

- a) Following classification, the municipality must integrate municipal property assets into the municipality's strategic planning framework.
- b) This includes aligning property assets with the municipality's Integrated Development Plan, spatial development framework and infrastructure investment programmes.
- c) Strategic planning ensures that municipal property assets are utilised to support long-term development objectives.

2.4. Stage 4

2.4.1. Property Utilisation

- a) At this stage municipal property is actively utilised for its intended purpose.
- b) Utilisation may include the operation of municipal infrastructure facilities, the occupation of municipal buildings for administrative purposes, the leasing of municipal land to third parties or the allocation of municipal property for community programmes.
- c) Effective utilisation ensures that municipal property assets contribute to service delivery and community development.

2.5. Stage 5

2.5.1. Property Optimisation

- a) Property optimisation involves identifying opportunities to enhance the value or productivity of municipal property assets.
- b) Such opportunities may include development partnerships, improved lease arrangements, infrastructure upgrades or redevelopment of under-utilised municipal land.
- c) Property optimisation ensures that municipal assets generate maximum public value.

2.6. Stage 6

2.6.1. Property Review and Rationalisation

- a) Municipal property portfolios should be periodically reviewed to determine whether properties continue to serve municipal objectives.
- b) Where property is determined to be surplus to municipal requirements, the municipality may consider alternative uses, development opportunities or disposal of the property in accordance with applicable legislation.
- c) This stage ensures that municipal property portfolios remain efficient and strategically aligned with municipal priorities.

2.7. Stage 7

2.7.1. Property Disposal or Redeployment

- a) The final stage of the lifecycle involves the disposal or redeployment of municipal property where such actions are justified.
- b) Disposal must comply with the legislative framework governing municipal asset transfers and must ensure that municipal assets are not disposed of in a manner that compromises service delivery or public interests.

ANNEXURE B

MUNICIPAL PROPERTY GOVERNANCE MODEL

1.1. Introduction

- 1.1.1. The Municipal Property Governance Model establishes the institutional framework through which municipal property administration is governed.
- 1.1.2. The purpose of this model is to clarify the roles and responsibilities of municipal governance structures and ensure that property decisions are taken at the appropriate institutional level.

1.2. Governance Hierarchy

1.2.1. Level 1

a) Municipal Council

- i. Municipal Council exercises the highest level of authority over municipal property administration.
- ii. Council is responsible for adopting municipal property policies, approving strategic property transactions and exercising oversight over the municipal property portfolio.
- iii. Major decisions involving the disposal of municipal capital assets or the granting of high-value, long-term property rights must typically be approved by Council.

1.2.2. Level 2

(b) Municipal Manager (Accounting Officer)

- i. The Municipal Manager, acting as the Accounting Officer, is responsible for the administrative management of municipal property assets.
- ii. The Accounting Officer must ensure that appropriate systems are in place for property administration and that property transactions comply with the legislative framework governing municipal assets.

1.2.3. Level 3

a) Executive Management

- i. Executive management structures are responsible for coordinating municipal property management activities across municipal departments.

- ii. These structures ensure that property decisions align with municipal planning frameworks, infrastructure development programmes and financial management requirements.

1.2.4. Level 4

a) Municipal Property Management Unit

- i. The municipal property management unit serves as the operational custodian of the municipal property portfolio.
- ii. This unit is responsible for maintaining the municipal property register, administering property agreements, coordinating property transactions and monitoring the utilisation of municipal property assets.

1.2.5. Level 5

a) Supporting Departments

- i. Several municipal departments support property administration functions, including:
 - (a) Town Planning
 - (b) Infrastructure Services
 - (c) Finance
 - (d) Legal Services
 - (e) Economic Development
- ii. These departments contribute specialised expertise to property decision-making processes.

ANNEXURE C

ALIGNED DEFINITIONS AND LEGAL TRIGGERS

These definitions align the Strategy with the Administration of Immovable Property Policy. If a statutory definition changes, the statute or regulation prevails and the documents must be updated at the next review.

Term	Aligned meaning
Accounting Officer	The municipal manager of Theewaterskloof Municipality. A delegate exercises delegated authority but does not become the Accounting Officer.
Council	The Municipal Council of Theewaterskloof Municipality. A committee or official acts only under a lawful delegation and does not become Council.
Exempted Capital Asset	A municipal capital asset transferred to an organ of state in a circumstance recognised by MFMA section 14(6) and MATR regulation 20 and processed under Chapter 3.
Non-Exempted Capital Asset	A municipal capital asset that does not qualify for the Chapter 3 exemption and whose transfer or permanent disposal is governed by MFMA section 14 and Chapter 2 of MATR.
High-Value Capital Asset	A capital asset whose fair market value exceeds the lesser of R50 million or 1% of the total value of the Municipality's capital assets in the latest audited financial statements, or a lower amount determined by Council.
Right to use, control or manage	A qualifying contractual right, generally an exclusive right exceeding one calendar month, under which ownership is retained, subject to the definitions and exclusions in MATR.
Long-Term High-Value Right	A Chapter 4 right whose proposed term, including renewal or extension options, exceeds three years and whose capital asset value exceeds R10 million.
Transfer-Type Right	A right described in MATR regulation 33(3): indefinite or undetermined; effectively beyond the asset's useful/economic life; containing an option to acquire ownership; or conferring beneficial-owner type control.
Net Cash Disposal Proceeds	Cash actually received on disposal, net of VAT where applicable, refunds, municipal transaction costs and debt or encumbrances that must be discharged. It is not the accounting gain.
Eligible Rental Collections	Rental cash actually collected, excluding VAT, deposits, service/utility recoveries, grants, uncollected arrears and third-party amounts.

MIPRR	The Council-created, cash-backed Municipal Immovable Property Reinvestment Reserve Framework, comprising separately tracked capital and operating components and implemented only through approved municipal financial policies and budgets.
Below-Market Transaction	A lease, sale, transfer, servitude or other right for less than the applicable market value or on concessionary terms, requiring a documented public-interest basis, quantified concession and the full statutory and competitive process.

Theewaterskloof Municipality

Administration of Immovable Property Policy

Disposal, Acquisition, Granting of Rights, Servitudes and Related Land Governance Matters

Document status: Component of the Theewaterskloof Municipal Immovable Property Management Governance Strategy.

Table of Contents

1. PURPOSE & AUTHORITY.....	3
2. DEFINITIONS	4
3. FOUNDATIONAL LEGAL POSITION.....	8
4. APPLICATION OF THE POLICY	8
5. INSTITUTIONAL GOVERNANCE STRUCTURE	9
6. Property Transaction Protocol.....	11
7. COMPENSATION, VALUATION AND BELOW-MARKET TRANSACTIONS	14
8. GRANTING RIGHTS TO USE, CONTROL OR MANAGE IMMOVABLE PROPERTY	15
9. DISPOSAL / TRANSFER OF IMMOVABLE PROPERTY.....	21
10. ACQUISITION OF IMMOVABLE PROPERTY	27
11. SERVITUDES	28
12. PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS.....	29
13. APPROVAL MATRIX	32
14. PUBLIC PARTICIPATION TRIGGERS	33
15. GUIDELINES FOR ALLOCATION OF MUNICIPAL FIXED PROPERTY TO NON-PROFIT SOCIAL CARE / SERVICE ORGANISATIONS AND PLACES OF WORSHIP.....	34
16. TRANSITIONAL ARRANGEMENT, LEGACY MATTERS AND PENDING TRANSACTIONS	38
ANNEXURE 1: PROPERTY LEASE PROCESS FLOW (TABLE).....	40
ANNEXURE 2: PROPERTY DISPOSAL PROCESS FLOW (TABLE).....	44
ANNEXURE 3: PROPERTY ACQUISITION PROCESS FLOW (TABLE).....	47
ANNEXURE 4: SERVITUDE GOVERNANCE PROCESS (TABLE).....	49
ANNEXURE 5: PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS FRAMEWORK PROCESS (TABLE).....	51

1. PURPOSE & AUTHORITY

1.1. Purpose

- 1.1.1. The purpose of this Policy is to establish a uniform municipal decision-making system for all immovable property transactions, including:
- (a) acquisition of immovable property;
 - (b) sale or other disposal of immovable property;
 - (c) granting of rights to use, control or manage municipal property;
 - (d) registration or granting of servitudes;
 - (e) categorisation of transactions involving viable and non-viable property;
 - (f) differentiated treatment of commercial, social-care, non-profit, place of worship, and sports club uses.

1.2. Authority

- 1.2.1. WHEREAS the Municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in Section 151(3) of the Constitution and Section 4(1)(a) of the Systems Act.
- 1.2.2. AND WHEREAS the Municipality has executive and legislative authority in respect of and has the right to administer the matters provided for in Sections 156(1) and 229 of the Constitution, Sections 8(1) and 11(1) of the Systems Act and Section 83(1) of the Structures Act.
- 1.2.3. AND WHEREAS the municipal council makes decisions concerning the exercise of all the powers and the performance of all the functions of the Municipality, save for those matters excluded by legislation in accordance with Section 160(1)(a) of the Constitution;
- 1.2.4. AND WHEREAS the Municipality has the right to do anything reasonably necessary for, or incidental to, the effective performance of its functions and the exercise of its powers in terms of Section 156(5) of the Constitution and Section 8(2) of the Systems Act;
- 1.2.5. AND WHEREAS the municipal council, within the Municipality's financial and administrative capacity and having regard to practical considerations, has the duty to use the resources of the Municipality in the best interests of the local community in terms of Section 4(2)(a) of the Systems Act; and
- 1.2.6. AND WHEREAS there is a need to provide a policy framework for the management of the Municipality's immovable property, to establish criteria for determining various categories of immovable property in order to regulate the use, sale and lease thereof and to establish criteria within which property transactions may be regulated;

1.2.7. This Policy is the Municipality's adopted immovable-property transaction policy and must be applied with the Supply

Chain Management (SCM) Policy, approved delegation system, Integrated Development Plan (IDP), Spatial Development Framework (SDF), Funding and Reserves Policy, Budget Policy, Asset Management Policy, tariff instruments and applicable land-use legislation. MFMA section 14 governs the Municipality's transfer or permanent disposal of capital assets, and the Municipal Asset Transfer Regulations (MATR) regulate transfers, disposals and qualifying rights to use, control or manage capital assets. MFMA section 90 concerns municipal entities and applies only if this Policy is separately and lawfully extended to such an entity.

2. DEFINITIONS

2.1. Interpretation

2.1.1. In this Policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act has the same meaning as assigned to it in that Act.

2.1.2. For the purposes of this Policy, the following definitions apply:

Term	Definition
Accounting Officer	The municipal manager of Theewaterskloof Municipality, including a person lawfully acting in that office. A person exercising delegated authority does not thereby become the Accounting Officer.
Basic Municipal Service	The level of municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health, safety or the environment. For purposes of this Policy, basic municipal services include but are not limited to: electricity, refuse removal, sanitation, local roads, stormwater drainage, fire services and water services.
Bid Adjudication Committee	A committee established in terms of the Municipality's Supply Chain Management Policy responsible for the adjudication of competitive procurement processes.
Capital Asset	Any immovable asset owned or controlled by the municipality that forms part of the municipal asset base, including land and buildings. Such assets fall within the asset management regime established under the MFMA.

Chief Financial Officer	The official appointed as the Chief Financial Officer of the Municipality, including a person lawfully acting in that office. A delegate exercises delegated authority but does not become the Chief Financial Officer.
Community Value	The extent of benefit or gain generated when municipal resources, policies or processes contribute to improving the wellbeing of individuals or the community as a whole.
Commercial Property	Municipal property intended or suitable for market-related leasing, development, concessioning or disposal primarily for revenue generation or economic return.
Competitive Process	A process used by the municipality to allocate property rights or dispose of property in a transparent and competitive manner, including: a call for proposals, public tender, closed tender, public auction.
Council / Municipal Council	The Municipal Council of Theewaterskloof Municipality referred to in section 18 of the Local Government: Municipal Structures Act. A committee or official acts only under a lawful delegation and does not become Council.
Disposal	Includes permanent disposal and, in the regulatory sense, transactions where ownership is lost otherwise than by direct transfer, including demolition/dismantling consequences where applicable.
Eligible Rental Collections	Rental cash actually collected, excluding VAT, deposits, service-charge or utility recoveries, grants, arrears not collected and amounts belonging to third parties.
Encroachment	Any use of or physical object that intrudes upon or over municipal property or property controlled by the municipality, including property in respect of which a servitude or other property right exists in favour of the municipality.
Exempted Capital Asset	A municipal capital asset transferred to an organ of state in a circumstance recognised by MFMA section 14(6) and MATR regulation 20 and processed under Chapter 3 of MATR. Exempt status does not arise merely because an asset is surplus or not needed for minimum basic services.
Fair Market Value	The value at which a knowledgeable and willing buyer would purchase an asset from a knowledgeable and willing seller in an arm's length transaction.
High Value	A capital asset whose fair market value exceeds the lesser of R50 million or one percent of the total value of the Municipality's capital assets reflected in its latest audited financial statements, or a lower amount determined by Council.
Informal Trading	The sale of legal goods or services by individuals or groups within areas demarcated by the municipality for informal trading.

<i>Landlocked Property</i>	A property that has no legal means of access and is therefore practically unusable unless access rights are created.
<i>Long Term</i>	A period exceeding three years, calculated by aggregating the initial term and any renewal, extension or option period that the proposed agreement permits or makes reasonably available.
<i>Long-Term High-Value Right</i>	A right governed by MATR Chapter 4 whose proposed term exceeds three years and whose capital asset value exceeds R10 million. Both elements must be present for the additional regulations 34 to 36 public-participation and non-delegable Council process.
<i>MATR</i>	The Municipal Asset Transfer Regulations issued under the MFMA and published in Government Gazette No. 31346 (22 August 2008).
<i>MFMA</i>	The Local Government: Municipal Finance Management Act.
<i>Municipal Immovable Property Reinvestment Reserve (MIPRR)</i>	The Council-created, cash-backed reinvestment framework in the Governance Strategy, comprising separately tracked capital and operating components and implemented only through approved financial policies, mSCOA and an annual or adjustments budget.
<i>Municipality</i>	The Theewaterskloof Municipality.
<i>National Treasury Guidelines</i>	Official National Treasury guides, circulars and implementation material. They assist interpretation but must be distinguished from binding Acts, regulations and gazetted instruments issued under statutory authority.
<i>Net Cash Disposal Proceeds</i>	Cash actually received from an immovable-property disposal, less VAT where applicable, refunds, municipal transaction costs and debt or encumbrances that must be discharged. It is distinct from the accounting gain or loss.
<i>Non-Exempted Capital Asset</i>	A municipal capital asset that does not qualify for the Chapter 3 exemption and whose transfer or permanent disposal is governed by MFMA section 14 and Chapter 2 of MATR.
<i>Non-Profit Organisation</i>	A non-profit institution, association, company or public benefit organisation whose primary activities are not intended for private profit extraction.
<i>Non-Viable Property</i>	A property that, owing to physical constraints, zoning limitations or extent, cannot be developed or utilised independently and can only become functional if alienated or leased to an adjoining property owner.
<i>Notice Boards</i>	The official notice boards located at municipal offices and municipal libraries.

<i>Organ of State</i>	Any national or provincial department, municipality, municipal entity or other public institution as defined in Section 239 of the Constitution of the Republic of South Africa.
<i>Place of Worship</i>	Property used primarily for religious worship and related lawful faith-based community activities.
<i>Public Facilities</i>	Facilities providing services to the community including: recreation, sport, education, health, public administration, cultural or social services.
<i>Public Property</i>	Land owned by an organ of state that is used, managed or protected in the public interest, including road reserves, open spaces and state land vested in the municipality.
<i>Public Road</i>	Any road, street or public place commonly used by the public, including: sidewalks and verges, bridges or drifts, structures forming part of a public road.
<i>Real Rights</i>	Rights registered against property title deeds allowing access or other use of land, typically created by notarially registered servitudes.
<i>Right to Use, Control or Manage</i>	A qualifying contractual right under which ownership is retained, generally involving exclusive use for longer than one calendar month, subject to the definitions and exclusions in MATR and the regulation 33(3) transfer-type gateway.
<i>Servitude</i>	A limited real right over municipal land for access, utilities, engineering services, wayleave-type permanent rights, or ancillary support of lawful neighbouring or public infrastructure uses.
<i>Social Care</i>	Activities conducted on a non-profit basis that provide social services to the community primarily to advance childcare facilities, welfare organisations, rehabilitation centres, shelters for vulnerable persons, youth, cultural or ECD centres, amateur sporting or recreational organisations.
<i>Sports Club</i>	An organisation using property primarily for amateur or organised sporting activities and community recreation.
<i>Structures Act</i>	The Local Government: Municipal Structures Act.
<i>Supply Chain Management Policy</i>	The Supply Chain Management Policy adopted by the Municipality as amended from time to time.
<i>Systems Act</i>	The Local Government: Municipal Systems Act.
<i>The Constitution</i>	The Constitution of the Republic of South Africa.

Transfer	The transfer of ownership of municipal property as a result of sale, donation, exchange or any other transaction.
Viable Property	Property that has an identifiable current or foreseeable strategic, service-delivery, social, or market use, or can reasonably support municipal or community objectives.

3. FOUNDATIONAL LEGAL POSITION

3.1. Section 14 MFMA: Municipal Property

- 3.1.1. A municipality may not transfer ownership or permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- 3.1.2. Other capital assets may only be disposed of after Council, in a meeting open to the public, decides on reasonable grounds that the asset is not needed for minimum basic municipal services and considers the fair market value and the economic and community value to be received in exchange.
- 3.1.3. Any transfer under section 14(2) must be fair, equitable, transparent, competitive, and consistent with the municipality's SCM policy.

3.2. Municipal Asset Transfer Regulations: Disposal and Granting of Rights

- 3.2.1. The MATR regulates the transfer and permanent disposal of non-exempted capital assets;
- 3.2.2. transfer of exempted capital assets to organs of state in prescribed circumstances; and
- 3.2.3. granting rights to use, control or manage capital assets.

3.3. Treasury Guidance

- 3.3.1. National Treasury publishes MFMA implementation guidance, circulars and the Guide to Municipal Asset Transfers to support implementation. Binding Acts, regulations and gazetted instruments must be distinguished from explanatory guidance; where there is a conflict, the binding law prevails.

4. APPLICATION OF THE POLICY

4.1. This Policy applies to:

- 4.1.1. the transfer or disposal of immovable property by the Municipality;
- 4.1.2. the acquisition of immovable property by the Municipality;
- 4.1.3. the registration of servitudes over municipal immovable property; and

4.1.4. the granting by the Municipality of rights to use, control or manage immovable property.

4.2. This Policy does not apply, to the stated extent, to:

4.2.1. a transfer of municipal housing or land for housing for the poor that is exempt under MATR regulation 3(2)(d) and regulation 20(1)(d), to the extent that the transaction is governed by the applicable housing framework; other transactions involving housing-administered property remain subject to this Policy;

4.2.2. a transaction forming an integral part of a public-private partnership governed by MFMA section 120 and the Municipal Public-Private Partnership Regulations, to the extent covered by that framework; and

4.2.3. the ordinary hiring of a public amenity or the grant of a non-exclusive right for one calendar month or less, subject to the Municipality's applicable facility, tariff and operational rules.

No exclusion may be used to avoid a statutory process. Legal Services must determine the route where the substance of a transaction is uncertain.

4.3. Interface with excluded matters

4.3.1. Where a matter falls outside the direct scope of this Policy, the responsible official must identify and record in writing the legislation, policy, delegation or operational instrument that governs it.

4.3.2. No excluded matter may proceed outside a recorded governance framework.

4.3.3. If it is uncertain whether a matter falls within this Policy or another governance instrument, the Property Management Unit must, with Legal Services and the relevant directorate, record the correct governance pathway before any substantive step is taken.

4.3.4. Even where a matter is excluded from this Policy, legality, transparency, proper recordkeeping, financial prudence and protection of municipal immovable property remain applicable.

4.3.5. The exclusion of a matter from this Policy does not exempt the Municipality from compliance with applicable legislation, approved delegations, or any other Council-approved policy governing such matter.

5. INSTITUTIONAL GOVERNANCE STRUCTURE

5.1. Council

5.1.1. Council must decide:

(a) whether an immovable capital asset is not needed to provide the minimum level of basic municipal services and the other determinations reserved to Council under MFMA section 14(2);

- (b) whether strategic, high-value, or politically sensitive property may be sold or otherwise permanently disposed of;
- (c) whether long-term high-value rights to use, control, or manage capital assets should be granted where the Regulations require Council approval in principle;
- (d) whether the prescribed public-participation process should be authorised for a long-term high-value right under regulation 34(1)(a) of the MATR.

5.2. Municipal Manager / Accounting Officer

5.2.1. The Accounting Officer must:

- (a) ensure lawful process design;
- (b) coordinate due diligence, valuation, departmental comments, and reporting;
- (c) run any public-participation process required by regulation 35 of MATR, or by the disposal chapter, once Council authorises it;
- (d) implement Council decisions;
- (e) exercise only those delegated powers legally capable of delegation.

5.3. Property Management Unit

5.3.1. This unit must:

- (a) maintain the immovable property register;
- (b) classify property;
- (c) initiate and coordinate transaction files;
- (d) monitor compliance, rentals, expiries, and conditions;
- (e) consolidate inter-departmental inputs within the Municipality.

5.4. Municipal Investment Steering Unit acting as the Property Management Steering Unit

5.4.1. Every major or strategic transaction should be reviewed by an advisory interdepartmental panel consisting of:

- (a) Property Management;
- (b) Town Planning / Land Use Management;
- (c) Finance;
- (d) Legal Services;
- (e) Infrastructure / Engineering and Technical Services;
- (f) Traffic Services;
- (g) LED.

- (h) Any other department and / or personnel as may be co-opted from time to time, as may be necessary.
- (i) The Unit must record a consolidated advisory recommendation on legal classification, strategy, planning, infrastructure, affordability, valuation, market route and risk. It does not replace Council, the Accounting Officer, a bid committee, a delegated authority or a statutory process, and it must not delay a complete routine matter within a valid delegation.

6. Property Transaction Protocol

	Step / Heading	Governance action and requirements
6.1.	Application of Protocol	This protocol applies to all acquisition, disposal, granting of rights, and servitude matters.
6.1.1.	Step 1: Open a Property Transaction File	No transaction may proceed without a formal file containing: a. Title deed b. SG diagram / cadastral description c. Zoning and land-use status d. Aerial / GIS map e. Valuation instruction or valuation report (where required) f. Register extract g. Photographs and site inspection report h. Internal departmental comments
6.1.2.	Step 2: Verify Ownership and Legal Status	Property Management Unit must confirm: a. Ownership in Deeds Registry b. Vesting (if applicable) c. Restrictions, endorsements, mortgages, interdicts, conditions, servitudes d. Unlawful occupation or pending dispute e. Whether land is already committed in a contract or planning process
6.1.3.	Step 3: Classify the Property	The property must be classified as: a. Service delivery b. Strategic reserve c. Commercial / investment d. Social / community e. Non-viable / surplus candidate
6.1.4.	Step 4: Determine Transaction Type	Property Management must determine if the proposal is: a. Acquisition b. Permanent disposal c. Short-term lease or licence d. Long-term lease / concession / development right e. Encroachment on municipal land f. Servitude g. Transfer to organ of state h. Below-market social allocation
6.1.5.	Step 5: Apply the MFMA / MATR	For disposal by the Municipality, MFMA section 14 and MATR Chapters 2 or 3 apply. For rights, apply MATR regulation 33(3) first; if the right is not transfer-

	Classification and Threshold Tests	type, Chapter 4 applies. Record high-value, annual 5% aggregate and long-term high-value triggers.
6.1.6.	Step 6: Determine whether the Asset is Required for Minimum Basic Municipal Services	Property Management Unit must determine whether municipal services are affected. This is mandatory before any sale or permanent disposal. a. MFMA section 14(1) prohibits transfer or permanent disposal of a capital asset needed for the minimum level of basic municipal services.
6.1.7.	Step 7: Determine Strategic Importance	Even if the property is not needed for minimum basic services, assess whether the land: a. Is in a future corridor b. Supports future infrastructure c. Has strategic development importance d. Is needed for community or environmental objectives e. Should be retained for future municipal or public use
6.1.8.	Step 8: Obtain Valuation / Market Benchmark	MFMA section 14(2)(b) requires Council to consider fair market value and economic/community value to be received. The Regulations also require fair-market-value consideration in exempt and non-exempt transactions. Obtain a valuation and/or market benchmark where required.
6.1.9.	Step 9: Determine Approval Path	Determine the approval pathway using the municipality's decision rules and delegations (e.g., delegated authority, Accounting Officer, Council), depending on transaction type, value and legal triggers.
6.1.10.	Step 10: Apply Public Participation if Triggered	Public participation must be applied where legislation/regulations trigger it, especially for high-value disposals and certain long-term high-value rights.
6.1.11.	Step 11: Run the Appropriate Allocation Method	Usually one of: a. Public tender b. Auction c. Request for proposals d. Direct negotiation only where legally justified and recorded in writing. MFMA section 14(5) requires transfers to be fair, equitable, transparent, competitive and SCM-consistent.
6.1.12.	Step 12: Conclude and Register the Transaction	Use the correct instrument: a. Deed of sale b. Lease c. Servitude deed d. Development agreement e. Transfer agreement
6.1.13.	Step 13: Post-Approval Monitoring	Update: a. Property register b. GIS c. Finance / asset register d. Compliance diary e. Contractual milestones.

6.2. Mandatory compliance checklist for all material property transactions

- (a) No proposal for Council, delegated approval, tender issue, direct negotiation, disposal, lease, servitude, or below-market allocation may proceed unless accompanied by a completed municipal immovable property compliance checklist.
- (b) The checklist must, as applicable, confirm:
 - (i) ownership and vesting status;
 - (ii) title deed restrictions and servitudes;
 - (iii) zoning and land use position;
 - (iv) property classification;
 - (v) section 14 / MATR classification and threshold test;
 - (vi) valuation or tariff basis;
 - (vii) strategic assessment;
 - (viii) public participation trigger;
 - (ix) Treasury consultation trigger where applicable;
 - (x) approval authority;
 - (xi) draft contractual instrument; and
 - (xii) record-update requirements after approval.
- (c) The completed checklist must form part of the official administrative record.

6.3. Transaction finalisation and systems update rule

- (a) No immovable property transaction shall be regarded as fully implemented until the approved transaction has been recorded, where applicable, in:
 - (i) the immovable property register;
 - (ii) the GIS / spatial property record;
 - (iii) the municipal financial or asset register;
 - (iv) the contract or agreement register;
 - (v) the compliance diary; and
 - (vi) any monitoring or milestone-tracking system applicable to the transaction.
- (b) The responsible official must ensure that all relevant municipal systems reflect the final approved legal and financial status of the property transaction within a reasonable administrative period after approval or registration.
- (c) Proof of such updating must be retained on the transaction file.

7. COMPENSATION, VALUATION AND BELOW-MARKET TRANSACTIONS

7.1. Compensation

- 7.1.1. The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property must be determined or supported by an independent professional valuer or professional associated valuer registered under the Property Valuers Profession Act 47 of 2000, or successor legislation. The Municipality must appoint or instruct the valuer and retain control of the brief. An applicant may be required to reimburse the cost under an approved tariff, but may not select, brief or influence the valuer.
- 7.1.2. The Municipality must generally require market-related compensation. It may approve a below-market transaction only where the public interest or plight of the poor justifies it, the concession is quantified, regulation 13(2) is applied to a transfer, regulation 36 and the same public-interest principles are applied to a right, and the required fair, equitable, transparent and competitive process and approval record are completed. The following are not permitted without that record:

- (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;

A tariff or guideline does not create an entitlement to a concession and does not displace valuation, competition, public participation or Council-reserved decisions.

- 7.1.3. 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.
- 7.1.4. In the case of a direct lease of immovable property to registered social care organisations/ institutions, sports/public facilities or registered non-profit organisations, the rental must be determined by the competent authority under the approved tariff and delegation, supported by the below-market memorandum and the recorded community value of the lease.

7.2. Mandatory motivation for below-market allocations and concessions

- 7.2.1. Any proposal to lease, sell, transfer, allocate, or otherwise make municipal immovable property available at less than market-related rental, less than fair market value, or on concessionary terms, must be supported by a written below-market motivation memorandum.

- 7.2.2. The memorandum must, at minimum, record:
- (a) the property description and transaction type;
 - (b) the market-related rental, fair market value, tariff or benchmark;
 - (c) the proposed reduced rental, reduced purchase price or concessionary term;
 - (d) the quantified social contribution or financial concession to be granted by the Municipality;
 - (e) the public interest, community value, developmental purpose or social benefit relied upon;
 - (f) the legal basis upon which the concession is proposed;
 - (g) the financial implications and risks for the Municipality;
 - (h) the proposed term, review mechanism and exit provisions; and
 - (i) the reasons why the Municipality considers the concession to be justified and defensible.
- 7.2.3. No below-market transaction may be submitted for approval unless the required memorandum forms part of the record.
- 7.2.4. Council or the delegated authority, as the case may be, must expressly record the concession and the reasons therefor in the relevant resolution or decision record.
- 7.3. Property receipts and reinvestment governance
- 7.3.1. All sale proceeds, rentals, deposits, recoveries and other consideration must be paid into the Municipality's primary or another approved bank account, recorded under mSCOA and dealt with through an approved annual or adjustments budget.
- 7.3.2. Net Cash Disposal Proceeds and Eligible Rental Collections must be treated in accordance with the Municipal Immovable Property Reinvestment Reserve Framework in the Governance Strategy after Council has adopted the required amendments to the Funding and Reserves Policy, Budget Policy, Asset Management Policy and general-ledger structure.
- 7.3.3. The MIPRR does not authorise direct expenditure, a separate bank account or fund accounting. Capital and operating expenditure must remain separately classified under GRAP and may be incurred only after appropriation and completion of the applicable SCM process.

8. GRANTING RIGHTS TO USE, CONTROL OR MANAGE IMMOVABLE PROPERTY

8.1. Leasing of immovable property

- 8.1.1. 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:
- (a) a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 8.1.2 below; or
 - (b) a direct lease.

- 8.1.2. A competitive process must at all times be followed in circumstances where:
- (a) the proposed right is long-term and the fair market value of the capital asset exceeds R10 million;
 - (b) the lease is for a formal business premises with a market related rental;
 - (c) more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or
 - (d) by discretion of the municipality, a competitive process will best serve the interests of the community.
- 8.1.3. Long-term high-value right over municipal immovable property:
- (a) The Municipality may grant a right whose proposed term exceeds three years and whose capital asset value exceeds R10 million only after:
 - (i) the Accounting Officer has, through the Property Administration Department, conducted a public participation process; and
 - (ii) the Municipal Council has approved in principle that the right may be granted.
- 8.1.4. The prescribed public-participation process 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 high-value right;
 - (b) any expected benefits to the Municipality as a result of the proposed right;
 - (c) any expected proceeds to be received by the Municipality from the proposed right; and
 - (d) any expected gain or loss to be realised or incurred by the Municipality arising from the proposed right.
- 8.1.5. If the public participation is authorised, the accounting officer must at least 60 days before the meeting of Council at which approval in principle of the proposed right will be 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.
- 8.1.6. The Municipal Council must, when considering a proposed long-term high-value right over municipal immovable property, take into account all matters listed in regulation 36 of MATR and the outcome of the prescribed public-participation process.
- 8.2. **Other Chapter 4 rights that are not long-term high-value:**

8.2.1. The Municipality may grant a Chapter 4 right that is not long-term high-value only after:

- (a) Council, or the Accounting Officer under a valid regulation 34(4) delegation, has considered regulation 36 and approved the right in principle;
- (b) the allocation method is fair, equitable, transparent, competitive and cost-effective, unless a direct route is lawfully permitted by the disposal management system and fully motivated in writing; and
- (c) the competent authority has approved the award under the adopted delegation and SCM system. Any local notice or administrative-fairness process required by this Policy must be completed before final approval.

8.3. Short term lease of municipal immovable property:

8.3.1. The Municipality may grant a short-term right to lease immovable property for a total period not exceeding three years, including any renewal or extension option, only after Council or a validly delegated authority has considered regulation 36 where Chapter 4 applies and approved the right in principle.

8.3.2. A short-term right is not subject to the prescribed regulation 35 process merely because it falls under Chapter 4, but it remains subject to the Municipality's fair and transparent rule and;

It is also subject to the following:

- (a) the lessee shall be responsible for all costs regarding the connection of services, service fees and any other costs associated with the lease;
- (b) the Municipality shall, if it is not prescribed that market related rental must be charged, determine the rental;
- (c) the lessee shall undertake in writing to compensate the Municipality for damages caused to the immovable property for whatever reason;
- (d) the lessee shall indemnify the Municipality against any claims; and
- (e) the Municipality may request proof of financial viability to honour the lease.

8.4. A renewal, extension or replacement agreement is a new decision unless the existing approval and agreement lawfully provide otherwise. All option periods must be aggregated when the legal threshold and approval route are determined, and approval in principle must be obtained from the competent authority before expiry.

8.5. The Municipality may:

- 8.5.1. enter into a contract which will impose financial obligations on the Municipality beyond a financial year, but if the contract will impose financial obligations on the Municipality beyond the three years covered in the annual budget for that financial year, it may only do so in accordance with the provisions of Section 33 of the MFMA, and
- 8.5.2. enter into a public-private partnership agreement, but only in accordance with the provisions of Section 120 of the MFMA and the Municipal Public-Private Partnership Regulations.

8.6. Conditions of lease

- 8.6.1. All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.
- 8.6.2. An agreement for the lease of municipal immovable property shall be in writing, stipulating the terms and conditions of the contract or agreement, which shall include provisions providing for:
 - (a) the termination of the contract or agreement in the case of non- or under-performance.
 - (b) dispute resolution mechanisms to settle disputes between the parties;
 - (c) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years;
 - (d) any other matters that may be prescribed, and
 - (e) escalation in terms of paragraph 8.6.5 of this policy.
- 8.6.3. No immovable property shall be sub-let and no lease may be ceded or assigned without the prior written approval of the Municipality.
- 8.6.4. An owner of immovable property who leases adjoining municipal property may be substituted by his successor in title for the duration of the remainder of the lease term.
- 8.6.5. 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).
- 8.6.6. The lessee shall, as a rule, be liable for the payment of service charges in respect of the leased property. Any concession on municipal service charges or tariffs must be separately authorised under the applicable tariff, credit-control or indigent framework and recorded as part of the quantified concession. A lease of municipally owned property does not itself create an entitlement to a property-rates rebate.

- 8.6.7. The letting of lanes, public open spaces, road reserves and the like can be approved, subject to the following:
- (a) closing off/securing by the lessee of the leased area to the satisfaction and discretion of the Municipality;
 - (b) the Lessee shall be responsible for the cost of relocation or installation of services where required and for the securing of servitudes, and
 - (c) the closure of the lanes, public open spaces and road in terms of the applicable legislation shall be done at the cost of the Lessee.
- 8.6.8. The lessee shall indemnify the Municipality against any possible claims arising from the lease or use of the immovable property.
- 8.6.9. Where land is leased for development, a condition, taking into consideration the nature of the development, may be included in the lease agreement stipulating that such development must be completed within two years from date of conclusion of the lease agreement. Likewise a suspensive condition may be included in the lease agreement to provide for cancellation in the event that the development has not been completed, unless a written extension has been granted by the Municipality.
- 8.6.10. Save with prior written approval of the Municipality the property may only be used for the purpose for which it was let.
- 8.6.11. The Municipality shall at all reasonable times be entitled to enter and inspect the immovable property.
- 8.6.12. Subject to paragraph 8.6.11 above, immovable property let by the Municipality shall be inspected at least once a year, on a risk-based programme, to ensure compliance with the lease or other right-of-use agreement. Post-transfer monitoring of a sale applies only to enforceable conditions that survive registration.
- 8.6.13. The lessee shall be responsible for maintaining the leased property including all improvements thereon to the satisfaction of the Municipality.
- 8.6.14. Improvements provided by the Lessee and which the Council wishes to retain, shall revert, free of charge, to the Municipality once the lease period has terminated and/or in the event the agreement, due to breach of conditions, has been cancelled. Alternatively, agreement may be reached to the effect that the Lessee may remove any improvements erected from its own funds within three months of termination of the lease agreement, failing which such improvements shall revert to the Municipality free of charge without damage and if provided for in the agreement. The Lessee shall be liable for the cost involved in the removal of such improvements not required by the Municipality.

8.6.15. The Municipality reserves the right, where necessary, to resume immovable property let, or portion thereof, only under a clearly drafted contractual resumption or termination clause, exercised lawfully, rationally and procedurally fairly, with notice and compensation where the agreement or law requires it. The clause may not authorise arbitrary cancellation.

8.7. Legal Test

Legal test refers to the criteria or standard applied to determine whether an action, decision or situation complies with the law. Before the Municipality may grant any right to use, control or manage municipal immovable property, it must first determine the true legal nature of the proposed transaction. A transaction described as a lease or similar right may, in substance, amount to a transfer or disposal and must then be dealt with under the stricter legal framework applicable to capital assets. This legal test therefore serves as a gateway step to ensure that the correct statutory process and approval pathway are applied from the outset

	Legal test / question	Test criteria / triggers	Governance rule / consequence
8.7.1.	First Legal Test: Is it really a lease, or is it so extensive it becomes a transfer?	Under MATR regulation 33(3), a right must be dealt with as a transfer under Chapter 2 or 3 if it: (a) is indefinite or undetermined; (b) exceeds the useful life or economic usefulness of the asset; (c) includes an option to buy; (d) confers beneficial-owner type control.	If YES, do not process as an ordinary lease.
8.7.2.	Second Legal Test: Is Chapter 4 right long-term high-value?	The additional regulations 34 to 36 process is triggered only if the proposed term, including options, exceeds three years AND the capital asset value exceeds R10 million.	If YES, only Council may authorise the 60-day process and approve the right in principle. If NO, regulation 36 still applies and Council or a valid delegate approves in principle.

8.8. Short-term leasing framework Process

	Component	Content / Requirements
8.8.1.	Short-Term Leasing Framework	This framework governs the granting of short-term rights to use municipal property through leasing arrangements.
8.8.2.	When short-term leasing should be used	Short-term leasing should be used where: (a) the use is temporary, operational, seasonal, or low-risk; (b) no beneficial-owner type control is granted; (c) the municipality requires flexibility; (d) the land may be needed in the near future.
8.8.3.	Step-by-step process	Refer to Annexure: 1A Short-Term Lease

8.9. Long-term leasing Framework Process

	Component	Content / Requirements
8.9.1.	Use where	Long-term leasing / concessions / development rights should be used where: (a) capital investment by the tenant/developer is required; (b) there is a strategic development objective; (c) the municipality retains ownership but grants substantial use rights.
8.9.2.	Step-by-step process (core steps)	Refer to Annexure: 1B. Long-Term Lease

9. DISPOSAL / TRANSFER OF IMMOVABLE PROPERTY

- 9.1. The Municipality may not transfer ownership or permanently dispose of a municipal immovable capital asset needed to provide the minimum level of basic municipal services, except through a transfer to an organ of state that qualifies under MFMA section 14(6), falls within a circumstance in MATR regulation 20 and complies with the applicable Chapter 3 of the MATR safeguards, including continuity of service.
- 9.2. A decision by the municipal council that a specific immovable property is not needed to provide the minimum level of basic municipal services, may not be reversed by the Municipality after that immovable property has been sold, transferred or otherwise disposed of in accordance with Section 14(3) of the MFMA.
- 9.3. The transfer of ownership of immovable property must be fair, equitable, transparent, competitive and consistent with the Municipality's SCM Policy in accordance with MFMA section 14(5). A direct route may be used only where the disposal management system and applicable SCM rules permit it and the written record explains why competition is lawfully inapplicable or impractical. Classification as non-viable does not by itself remove this duty.

9.4. Transfer or disposal of a non-exempted high value immovable property

9.4.1. The Municipality may transfer ownership or otherwise dispose of a non-exempted high value immovable property only after:

- (a) the Accounting Officer, through the Property Administration Department, has conducted a public participation process to facilitate the determinations the municipal council must make in terms of sections 14(2)(a) and (b) of the MFMA; and
- (b) the municipal council has, in terms of sections 14(2)(a) and (b) of the MFMA,:
 - (i) decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services;
 - (ii) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and
 - (iii) has as a consequence to 9.4.1(b)(i) and (ii) above approved in principle that the immovable property asset may be transferred or disposed of.

9.4.2. The public participation process in terms of paragraph 9.4.1(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) a valuation and the method used to determine the value of the immovable property to be transferred or disposed of;
- (b) the reasons for the proposed transfer or disposal of the immovable property;
- (c) any expected benefits to the Municipality as a result of the proposed transfer or disposal;
- (d) any expected proceeds to be received by the Municipality from the proposed transfer or disposal, and
- (e) any expected gain or loss to be realised or incurred by the Municipality arising from the proposed transfer or disposal.

9.4.3. 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 9.4.1(b)(i) and (ii) above are considered –

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

9.5. Transfer or disposal of a non-exempted immovable property (not high Value)

- 9.5.1. The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:
- (a) decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services;
 - (b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and
 - (c) has as a consequence to 9.5.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.
- 9.5.2. The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted immovable property which can be of no practical use to any other person, directly to adjoining property owner(s), only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:
- (a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;
 - (b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and
 - (c) has as a consequence to 9.5.2(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer.
- 9.5.3. For a proposed transfer not already subject to the prescribed 60-day high-value or annual-aggregate process, the Municipality shall not act in terms of the applicable lower-value or direct-route provisions unless it has completed the following local notice process.
- (a) advertised its intention so to act by causing a notice to that effect to be:
 - (i) affixed to the public notice boards of the Municipality;
 - (ii) published in a newspaper that is circulated within the area of the town where the relevant property is situated;
 - (iii) published on the official website of the Municipality, and
 - (iv) in the case of immovable property valued at R2,5 million or higher, published in regional newspapers that are circulated within the province of the town where the relevant immovable property is situated unless a property valued less than R2,5 million at the sole

discretion of the Municipality warrants publication in these newspapers, in accordance with Section 21A of the Systems Act,

(v) in which any person who wishes to object to the exercise of any such intention, is called upon to lodge his/her comments, objection or representations in respect of such intention in writing with the Municipal Manager within a period of not less than thirty days from the date of the publication of the notice in the newspaper;

(b) considered the objections or counter offers (if any) lodged in accordance with the advertisement contemplated by paragraph 9.5.3(a).

9.5.4. Approval in terms of 9.5.1(c) and 9.5.2(c) may be given subject to any conditions, including:

(a) the way in which the immovable property is to be sold or disposed of;

(b) a reserve price or minimum compensation for the immovable property;

(c) whether the immovable property may be transferred or disposed of for less than its fair market value, in which case the criteria set out in clause 9 must be considered, and

(d) a framework within which direct negotiations for the transfer or disposal of the immovable property must be conducted with another person, if transfer or disposal is subject to direct negotiations.

9.6. Transfer or disposal of an exempted immovable property

9.6.1. Paragraphs 9.3 and 9.5.3 above do not apply to the transfer of immovable property to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury in Regulation 20 of the MATR, provided that such transfers are in accordance with a prescribed framework contained in Chapter 3 of the MATR.

9.6.2. Where the requirements stipulated in Chapter 3 of the MATR are met, then notwithstanding fact that the transfer or disposal may be in respect of immovable property which is required to provide the minimum level of basic services, such disposals need not be at market related value and do not require a public participation process described in the MATR in respect of non-exempted disposals.

9.6.3. For an exempted transfer, Council and the Accounting Officer must apply the Chapter 3 provisions relevant to the actual regulation 20 category. Regulation 7 applies to non-exempted Chapter 2 transfers, not to exempted transfers. The additional determinations in regulation 20(1)(f)(ii) apply only where the catch-all circumstance in regulation 20(1)(f) is used.

- 9.6.4. Sections 14(1) to (5) of the MFMA and Chapter 2 of the MATR must be applied if a municipality transfers an immovable property to an organ of state where none of the circumstances mentioned in regulation 20 apply, including when the immovable property is transferred in the course of an ordinary commercial transaction between the municipality and the organ of state.

9.7. Alienation of immovable property by means of a competitive process

- 9.7.1. The transfer of immovable property must ordinarily be effected through an open competitive process. A closed process or direct negotiation may be used only where authorised by the disposal management system and applicable SCM rules, supported by a written legal and factual justification and approved by the competent authority. A competitive process may include a public tender, auction or request for proposals. The selected method and evaluation criteria must be stated in the solicitation documents.
- 9.7.2. The upset price for immovable property to be alienated by means of a competitive process will be determined in such a way that it corresponds with a fair market value and must include the recoverable development costs such as municipal services, advertising and survey costs.
- 9.7.3. In assessing bids, the Municipality may take account only of price, development commitments, improvements and other criteria that were objectively measurable and disclosed in advance in the solicitation and evaluation methodology. A post-closing improvement offer or an unadvertised package element may not be used to change the published basis of comparison. Any enforceable development or improvement commitment counted in evaluation must be incorporated into the final agreement with measurable milestones and remedies.
- 9.7.4. The Municipality is not obliged to accept the highest monetary offer where the published evaluation methodology lawfully weights other public-value outcomes. The award decision must apply the disclosed criteria consistently and record full, rational reasons.
The record must include the evaluation report, bid-committee or delegated decision, reasons, conflict declarations and any objection or appeal outcome required by the SCM system.
- 9.7.5. In cases where tenders are according to the findings of the bid adjudication committee identical and the provisions of paragraphs 9.7.4 are not applicable, the successful bidder may be determined by the drawing of lots in the presence of the involved parties.
- 9.7.6. The Municipality shall at all times when considering the alienation of its immovable property, take into consideration the Municipality's obligation to, as part of its process of integrated development planning, all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to identify and designate land for housing development in terms of the Housing Act, 1997 (Act 107 of 1997).

9.8. Conditions of sale

- 9.8.1. All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.
- 9.8.2. Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser.
- 9.8.3. Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exist which, in the opinion of the Municipality, make such consolidation undesirable.
- 9.8.4. Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, should be included in the deed of sale stipulating measurable milestones and a reasonable completion period. Remedies for non-performance must be drafted by Legal Services and the conveyancer and may include cancellation, retransfer, a registered reversionary condition, a call option, security, specific performance or an enforceable penalty. Automatic forfeiture must not be used without confirming its legality, proportionality, registration mechanism and consequences under applicable contract, consumer and conventional-penalties law.
- 9.8.5. Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes.
- 9.8.6. The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation.
- 9.8.7. A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality.
- 9.8.8. Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser.

9.9. Property Disposal / Transfer Process

	Heading	Requirements / Governance Rules
9.9.1.	Step-by-step Property Disposal Framework	This framework governs the lawful disposal (transfer/permanent alienation) of municipal immovable property and must be applied for all disposal transactions. Refer to Annexure 2: Property Disposal Process Flow

9.10. Viable vs Non-viable property in sale decisions

	Category / Component	Requirements / Governance Rules
9.10.1.	Viable vs Non-Viable Property in Sale Decisions	Decision rules guiding disposal motivation and governance approach based on viability category.
9.10.2.	Viable property	Viable property may be sold only if conditions in 9.10.3(a) are satisfied.
9.10.3.	Conditions for sale of viable property	May be sold if: (a) not needed for minimum basic services; (b) not strategic; (c) disposal produces better public value than retention; (d) process is competitive and fair.
9.10.4.	Non-viable property	Non-viable property may justify simplified disposal motivation where conditions in 9.10.5 apply.
9.10.5.	Simplified disposal motivation for non-viable property	May justify simplified disposal motivation where: (a) independent beneficial use is limited; (b) maintenance/holding cost is irrational; (c) boundary regularisation or consolidation is sensible; (d) sale resolves encroachment or inefficiency.
9.10.6.	Section 14 still applies	Even where non-viable property is disposed of, section 14 still applies if it is a capital asset.

10. ACQUISITION OF IMMOVABLE PROPERTY

10.4. Acquisition of immovable property

10.4.1. The Municipality may acquire immovable property within its boundary, or outside it where the acquisition is rationally connected or reasonably incidental to a lawful municipal power or function.

Every acquisition must be supported by an approved budget, delegated or Council authority, planning alignment, lifecycle affordability and due diligence.

- 10.4.2. The Municipality should not proceed with a purchase of immovable property above the independently assessed market value. An exceptional strategic premium may be considered only where a written business case demonstrates that no reasonably equivalent alternative exists, quantifies the premium and avoided costs, confirms affordability and public value, and is supported by independent valuation the CFO and approval by Council or the competent authority under the delegation system.
- 10.4.3. The Municipality may accept a donation only after title, conditions, contamination, occupation, land-use, tax, infrastructure, maintenance and other lifecycle liabilities have been investigated and budgeted. Restrictive conditions and future financial obligations must be legally reviewed and, where MFMA section 33 is triggered, processed accordingly.
- 10.4.4. An exchange of land is both an acquisition and a disposal. The municipal asset given in exchange must independently comply with MFMA section 14 and MATR, while the asset acquired must comply with this acquisition section; values, rights and balancing payments must be separately stated.
- 10.4.5. Refer to Annexure 3: Property Acquisition Framework Process (Table)

11. SERVITUDES

- 11.1. A servitude can be defined as a right which one person has over the immovable asset of another and includes instances in which the Municipality grants a party a right over a municipal owned immovable property. Servitudes result in a burden on the immovable property for extensive periods of time, sometimes permanently. It is for this reason that servitudes should only be granted after careful assessment of the impact of the proposed servitude on the immovable asset.
- 11.2. If the proposed servitude will result in the immovable property, in discretion of the municipality, being negatively affected, including the impairment of the ability to productively enjoy, utilise, permanently dispose or otherwise deal with the immovable asset, then such servitude might not be granted.
- 11.3. Subject to paragraph 55 above, servitudes may be granted to any person (private or state organ) subject to payment of an appropriate market related compensation by such person provided that in certain circumstances, e.g. where another organ of state requires a servitude for the benefit of the general public or in cases of so called "land locked" property, and subject to the necessary authority having been obtained, the payment to the granting of the servitude, may be waived.

- 11.4. The party requiring the servitude on municipal immovable property is responsible for all costs relating to the granting and registration of the servitude.
- 11.5. Before a servitude is processed, the Municipality must classify whether it is (a) a servitude acquired in favour of the Municipality over third-party land, which is an acquisition route, or (b) a servitude granted over municipal land, which is an outgoing right and must be tested under MATR regulation 33(3).
- 11.6. A permanent, indefinite or beneficial-owner type servitude over municipal land, or a servitude that effectively exhausts the asset's useful or economic life, must be processed under Chapter 2 or Chapter 3 as a transfer-type right. A time-limited servitude that does not trigger regulation 33(3) is processed under Chapter 4, including regulation 36 and the long-term high-value test where applicable.
- 11.7. Land-use, environmental, heritage, road, public-place, cadastral, engineering and Deeds Registry approvals are separate from the property-transaction approval and must be identified before approval. No servitude may be registered until the competent authority, legal classification, compensation decision and notarial documentation are complete.
- 11.8. **Categories**
 - 11.8.1. municipal benefit servitudes over third-party land;
 - 11.8.2. third-party benefit servitudes over municipal land;
 - 11.8.3. utility / engineering servitudes;
 - 11.8.4. access/right-of-way;
 - 11.8.5. regularisation of historical encumbrance.
- 11.9. Refer to Annexure 4: Servitudes Governance Framework Process (Table)

12. PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS

- 12.1. All costs pertaining to an encroachment shall be borne by the encroacher, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs. Where necessary, a deposit to cover the costs may be required.
- 12.2. Every encroachment application must first be classified as a non-exclusive and revocable landscaping or operational permission, a lease/licence/right under MATR Chapter 4, or a transfer-type right under regulation 33(3). The description 'permit' or 'encroachment' does not determine the legal route.

- 12.3. A no-fee landscaping permission must remain non-exclusive, revocable on reasonable notice, subject to uninterrupted public passage and municipal access, and must create no real right, ownership claim or legitimate expectation of renewal. Exclusive occupation or enclosure requires a written agreement, valuation or tariff, the applicable competitive route and approval under this Policy.
- 12.4. Approval under this section does not close, alienate, reduce or change the land-use status of a public street, public place, road reserve, open space or conservation area. Any closure, reduction, rezoning, subdivision or departure must follow the separate legislation and by-law process before the resulting property transaction is concluded.
- 12.5. The Municipality may, subject to such conditions as it may deem fit –
- 12.1.1. permit encroachments on road reserves and public thoroughfares in order to encourage adjoining owners to maintain the road reserves adjoining their properties provided inter alia that:
- (a) the planting of trees, shrubs and alien lawn or the erection of seating, statuary or other similar objects within 1,5 metres measured from the tarred or gravel surface of the road, are not permitted;
 - (b) the 1,5 meter area referred to in paragraph 12.2.1(a) may be planted with lawn of a type approved by the relevant directorate of the Municipality or paved at own costs to the satisfaction of the Municipality and subject to the owner of the adjoining property allowing at all times the free movement of pedestrians in those encroached areas;
 - (c) no such encroachment shall be partially or wholly enclosed or fenced by any means whatsoever, permanently or otherwise, for the exclusive use of the encroacher; and
 - (d) no encroachment fee shall be charged by the Municipality and no formal agreement need to be entered into in respect of the above encroachment; and
 - (e) the Municipality shall have the right of free access to the encroachment at all times for inspection, maintenance and repair of any services which may traverse the encroachment or to install such services in which case the Municipality shall not be liable for any damage to the encroachment which may arise from such inspection, maintenance, repair or installation, or
- 12.1.2. permit the erection or retention of a veranda, balcony, sign, sign-board or similar structure, device or contrivance which projects or extends into, under or over or on any public place, public street or public thoroughfare, provided inter alia that:
- (a) the erection or retention thereof shall not be permitted on the level of more than one floor;
 - (b) no such projection or structure shall be partially enclosed to a height of more than 1,5 metres measured from the floor level thereof except with the prior written approval of the municipality and subject to such conditions as it may impose,

- (c) an annual encroachment fee, determined by the municipality, be levied on successful applicants municipal account for the right obtained to encroach and a formal agreement be entered into in respect of the above encroachment;
- (d) the Municipality shall have the right of free access to the encroachment at all times for inspection, maintenance and repair of any services which may traverse the encroachment or to install such services in which case the Municipality shall not be liable for any damage to the encroachment which may arise from such inspection, maintenance, repair or installation; or

12.1.3. permit encroachments onto commonage, public open spaces or conservation areas provided inter alia that:

- (a) written applications accompanied with proof of payment of the application fee shall be submitted to the Municipality;
- (b) the delegated authority, through the Property Administration Department, shall:
 - (i) obtain the comments of the relevant municipal directorates/departments;
 - (ii) cause the said application to be advertised in terms of paragraph 9.5.3(a) of this policy;
 - (iii) where objections against the said application are received, submit it to the applicant for his/her comment;
 - (iv) submit the application and all relevant documents to the Delegate Authority;
 - (v) notify the applicant of the decision and where applicable furnish him/her with a copy of any conditions imposed by the Council or its delegate; and
 - (vi) issue a permit (to the successful applicant to give effect to the approval of the application.
- (c) the planting of trees, shrubs and alien lawn or the erection of seating, statuary or other similar objects, are not permitted;
- (d) no such encroachment shall be partially or wholly enclosed or fenced by any means whatsoever, permanently or otherwise, for the exclusive use of the adjacent property owner; and
- (e) an annual encroachment fee, determined by Council, be levied on successful applicants municipal account for the right obtained to encroach.

12.1.4. permit the enclosure or exclusive use of portions of the commonage, public open spaces, public thoroughfares or any municipal owned immovable property for gardening purposes, provided inter alia that:

- (a) written applications accompanied with proof of payment of the application fee shall be submitted to the Municipality;
- (b) the delegated authority, through the Property Administration Department, shall:
 - (i) obtain the comments of the relevant municipal directorate/departments;

- (ii) cause the said application to be advertised in terms of paragraph 9.5.3(a) of this policy;
- (iii) where objections against the said application are received, submit it to the applicant for his/her comment;
- (iv) submit the application and all relevant documents to the Delegate Authority for approval;
- (v) notify the applicant of the decision and where applicable furnish him/her with a copy of any conditions imposed by the Council or its delegate; and
- (vi) issue a permit to the successful applicant to give effect to the approval of the application;
- (c) the planting of trees, shrubs and alien lawn or the erection of seating, statuary or other similar objects, are not permitted.
- (d) a monthly encroachment fee, determined by council, be levied on successful applicants municipal account for the right obtained to encroach.

12.1.5. permit the use of municipal land for outdoor seating adjoining a restaurant or for parking of vehicles, provided inter alia that this will be dealt with as a formal lease agreement and the procedure for a lease agreement be followed

12.2. The Municipality may consider reducing or closing the extent of a public place or public street only through the separate statutory and land-use process applicable to that land. An encroachment approval is not authority for closure, reduction, subdivision, rezoning or disposal.

12.3. Refer to Annexure 5: Projections, Projecting Structures and Encroachments Framework Process (Table)

13. APPROVAL MATRIX

13.1. Council approval should be mandatory for:

13.1.1. the non-delegable MFMA section 14(2) determinations for the sale or permanent disposal of municipal immovable capital assets;

13.1.2. any section 14(2) determination;

13.1.3. authorisation of the prescribed public-participation process for a high-value disposal, an annual aggregate regulation 5 trigger, or a long-term high-value right;

13.1.4. long-term rights over assets valued above R10 million;

13.1.5. below-market allocations of major public significance;

13.1.6. strategic development property;

13.1.7. major servitudes that materially affect municipal land use.

13.2. Municipal Manager / delegated approval may be used for:

13.2.1. short-term leases within approved policy limits;

- 13.2.2. Chapter 4 rights that are not long-term high-value, where a valid regulation 34(4) delegation applies;
- 13.2.3. routine renewals where lawful and where no new preferential benefit arises;
- 13.2.4. minor licenses/temporary occupation;
- 13.2.5. minor servitudes that do not prejudice strategic use and are covered by delegations.
- 13.3. Never rely on delegation where the law reserves the matter
- 13.4. MFMA section 14(4) permits delegation of the section 14(2) determinations only for movable capital assets below a value determined by Council; the section 14(2) determinations for immovable property remain with Council. The subsequent bid evaluation, award and implementation steps follow the SCM system and delegations and must not be confused with Council's statutory determinations.
- 13.5. Conflict of authority and interpretation:
 - 13.5.1. where any doubt exists concerning the correct approval authority, the matter must be referred to the Accounting Officer and Legal Services for a written determination before the transaction proceeds.
 - 13.5.2. no official may rely on an administrative practice, past custom, or informal instruction to bypass a statutory or Council-reserved approval requirement.
 - 13.5.3. where legislation, this Policy, the delegation system, the Supply Chain Management Policy, or another Council-approved governance instrument appear to overlap, the interpretation most consistent with legality, public accountability and protection of municipal immovable property must be preferred, unless Council determines otherwise within the bounds of the law.

14. PUBLIC PARTICIPATION TRIGGERS

14.1. Disposal

- 14.1.1. For a non-exempted high-value capital asset, Council must first authorise the prescribed process; the Accounting Officer must then publish the information statement and invite community and Treasury views at least 60 days before the open Council meeting at which the section 14(2) determinations are made. If the combined value of assets proposed for transfer or disposal in the financial year exceeds 5% of the Municipality's total assets in the latest audited financial statements, regulation 5 and regulation 8 require the prescribed process for each affected asset, irrespective of individual value.

14.2. Long-term rights

14.2.1. Public participation is mandatory only if:

- (a) a long-term right is proposed; and
- (b) the capital asset value exceeds R10 million.

14.3. Best-practice extension

14.3.1. Even where not legally mandatory, public transparency is recommended for:

- (a) social care land of community significance;
- (b) sports grounds;
- (c) places of worship on prominent municipal land;
- (d) disposals affecting public open space or community assets.

15. GUIDELINES FOR ALLOCATION OF MUNICIPAL FIXED PROPERTY TO NON-PROFIT SOCIAL CARE / SERVICE ORGANISATIONS AND PLACES OF WORSHIP

15.1. Title and Status

15.1.1. This guideline is an administrative decision-support instrument for applications by qualifying non-profit social-care/service and faith-based organisations. It promotes consistent assessment, transparent recordkeeping, equal treatment and uniform application of concessions lawfully approved by Council.

15.2. Purpose of guideline

15.2.1. The purpose of this guideline is to serve as an administrative guide when evaluating and allocating fixed property, including the determination of reduced rentals and reduced sale prices to:

- (a) non-profit social care/service organisations; and
 - (b) places of worship, where fixed property is leased or sold for qualifying social care/service purposes.
- (a) This guideline does not replace the MFMA / MATR decision framework. All allocations remain subject to compliance with the Municipal Property Governance Framework, the Supply Chain Management Policy, Council-approved delegations, and any public participation / competitive process requirements applicable to the transaction category and value.

15.3. Non-Profit Social Care / Service Organisations

15.3.1. For purposes of this guideline, non-profit social care/service organisations include registered welfare, charitable, non-profit, cultural and religious organisations providing services that are intended to support social welfare, community development and similar public-interest outcomes on a non-profit basis.

15.4. Social Care Practices

15.4.1. Definition

- (a) Social care is defined as services rendered by registered welfare, charitable, non-profit, cultural and religious organisations. Social care uses may include, but are not limited to, the categories below.

15.4.2. Social Care Practices that fall within the mandate of municipalities

- (a) The following uses may be considered social care practices that fall within the municipal mandate for purposes of allocating municipal fixed property:
 - (i) Child care facilities, insofar as such facilities contribute to the functionality of multipurpose child care facilities and are operated on a non-profit basis.
 - (ii) Youth activity centres, including organisations such as the Girl Guides, Voortrekkers and after-care centres.
 - (iii) Facilities for the housing, care and burying of animals.
 - (iv) Local sport clubs or centres. Applications must be assessed on demonstrated demand, equitable geographic access, existing provision, utilisation, financial and governance capacity, opportunities for shared or multi-code use, and measurable community benefit. No applicant is entitled to exclusivity merely because it is the first or only club in a code.

15.4.3. Social Care Practices that do not fall within the municipal mandate

- (a) The following uses may be considered social care/service practices but do not fall within the municipality's mandate in the same manner. These may still qualify for consideration under this guideline, provided the Municipality is satisfied that the public benefit and community value justify the allocation:
 - (i) A place of worship to the extent that it is used for social care purposes and religious gatherings and provides social/pastoral assistance to worshippers and the broader community.
 - (ii) Retirement villages, limited to those portions of the buildings or facilities that are available for general public use at subsidised or nominal prices.
 - (iii) Schools or centres used as facilities for disabled people.

- (iv) Non-profit rehabilitation centres.
- (v) Houses or centres for poor, abused or needy people.
- (vi) Organisations for homeless and elderly people.

15.5. Requirements for the Allocation of Municipal Fixed Property

15.5.1. An organisation applying for the lease or purchase of municipal fixed property under this guideline must submit the following documentation, and the Municipality must verify completeness before the application is evaluated:

- (a) A clear statement of the purpose of the organisation and the intended use of the property.
- (b) Proof of registration as a non-profit organisation.
- (c) Where the applicant is a local sport club, proof that the club is affiliated with a recognised sport body.
- (d) The constitution or founding documents of the organisation.
- (e) Audited or independently reviewed annual financial statements where legislation or the organisation's founding documents require them; otherwise recent management accounts and an income-and-expenditure statement proportionate to the transaction risk. A newly formed organisation may submit opening budgets and governance-approved projections.
- (f) Up to six (6) months of bank statements or equivalent proof of banking, including authenticated electronic statements. The Municipality may request further verification where risk justifies it.
- (g) A business plan that includes proof of feasibility.
- (h) Proof of work already done by the organisation (track record and practical implementation evidence).
- (i) Evidence of a credible funding plan. Final proof of committed funding may, where justified, be made a suspensive condition before occupation, transfer or commencement of development rather than an inflexible application-stage requirement, and may include:
 - (i) A letter from the funder confirming that the project will be funded;
 - (ii) In the case of a crèche, a letter from the funder confirming interest in funding the project;
 - (iii) In the case of a crèche, proof of funding within one year of allocation, failing which the allocation option expires;
 - (iv) Bank statements confirming that funding is available for the project where applicable.

15.6. Factors considered when selecting and awarding municipal fixed property

15.6.1. In evaluating whether municipal fixed property should be allocated to a qualifying applicant, the Municipality must consider the following factors, and must record its findings in the evaluation memorandum:

- (a) Whether the organisation serves the broader community.
- (b) Whether the organisation serves a defined sector of the community.
- (c) The number of staff employed by the organisation.
- (d) The number of people served by the organisation.
- (e) The community value of the organisation and the proposed project.
- (f) Whether the organisation has the necessary funding for both the construction of the facility (where applicable) and the operation of the facility/project.
- (g) Whether the organisation presents a financial risk to Council, including the risk of default, abandonment, or inability to sustain the proposed use.

15.7. Lease (excluding community halls) and Sale Tariffs for qualifying organisations

15.7.1. General principle: social contribution

15.7.1.1. Where Council approves reduced tariffs under this guideline, the difference between the market-related rental or fair market value and the reduced tariff must be recorded as a social contribution granted by Council to the organisation and the broader community.

15.7.2. Lease tariffs

15.7.2.1. A qualifying non-profit local sport, child-care or animal-care organisation may be considered for a nominal or reduced lease tariff approved annually by Council. The tariff is a guideline and not an entitlement; the decision must quantify the concession, record the public benefit, apply the lawful allocation process and include a fixed review period and performance conditions.

15.7.2.2. For another qualifying non-profit social-care/service organisation, a discount of up to 50% of market-related rent may be considered as a benchmark ceiling, not an automatic tariff. The competent authority must determine the actual concession from the valuation, affordability, community benefit, alternative demand, term and risks, and must record the difference as a social contribution.

15.7.3. Sale tariffs

15.7.3.1. A below-market sale to a qualifying child-care or animal-care organisation is exceptional and may not be automatic. Any proposed price, including a price at 50% of market value, must comply with MFMA section 14, MATR regulation 13(2), independent valuation, the applicable

participation and competitive process, and an express Council record of the public interest, quantified concession, conditions and reversionary protection.

- 15.7.3.2. The same rule applies to any other non-profit social-care/service or faith-based organisation. A sale benchmark of up to a 50% discount may inform the motivation but creates no entitlement and may be approved only after Council has applied the statutory factors, compared the disposal with retention or lease alternatives and recorded why the public benefit justifies permanent loss of the asset.

15.8. Recordkeeping and Governance Controls

15.8.1. All allocations under this guideline must be supported by a documented record confirming:

- (a) compliance with the municipal property transaction protocol;
- (b) submission and verification of all required documents;
- (c) evaluation against the factors listed in section 15.6;
- (d) confirmation of the applicable tariff category; and
- (e) Council approval where required by law, delegations or policy.

16. TRANSITIONAL ARRANGEMENT, LEGACY MATTERS AND PENDING TRANSACTIONS

16.1. Existing agreements, occupancies, servitudes, encroachments and other immovable-property arrangements in force when this Policy is adopted must be reviewed and categorised by the Property Management Unit within a reasonable implementation period determined by the Accounting Officer.

16.2. Such review must identify, amongst others:

- (a) expired lease agreements;
- (b) unlawful occupation;
- (c) undocumented permissions or historical arrangements;
- (d) unregistered servitudes or encumbrances;
- (e) non-compliant below-market arrangements; and
- (f) pending transfer, disposal, acquisition or rights-allocation matters.

16.3. Pending transactions that were formally initiated prior to the adoption of this Policy may continue, provided that the responsible official records which procedural steps have already been completed and confirms which provisions of this Policy must still be complied with before finalisation.

16.4. No pending transaction may be finalised in a manner inconsistent with any mandatory legislative requirement or any approval reserved by law.

- 16.5. The Municipality must maintain a legacy regularisation register for all non-standard, historical, disputed or incomplete immovable property matters requiring remedial action.

ANNEXURE 1: PROPERTY LEASE PROCESS FLOW (TABLE)

A. Short-Term Lease

Step	Action	Requirements / Governance Rules	Key Rules	Output
Step 0	Scope: Short-Term Lease Framework	Short-term leasing is used where the use is temporary, operational, seasonal, or low-risk; no beneficial-owner type control is granted; the municipality needs flexibility; and the land may be needed in the near future.	Must remain a genuine short-term right and not resemble beneficial ownership.	Lease category confirmed; file opened
Step 1	Confirm ownership and zoning	Verify municipal ownership and confirm zoning/land-use status and legality of intended use.	Pre-condition for lawful occupation and correct use rights.	Ownership/zoning confirmation filed
Step 2	Confirm not required for municipal service delivery	Confirm that the property is not required for immediate municipal service delivery use.	Prevents conflict with service delivery requirements and operational needs.	Service-delivery confirmation filed
Step 3	Classify the property	Classify property (service delivery / strategic / commercial / social / non-viable) prior to allocation.	Classification determines rental approach and approval pathway.	Classification recorded in file/register
Step 4	Determine rental structure	Determine rental structure according to category: (a) commercial market rental (b) community use rental (c) social care tariff.	Reduced tariffs must be supported by proper motivation and governance record.	Rental determination memo filed
Step 5	Determine allocation method	Normally: (a) public tender or request for proposals. (b) Direct allocation only where justified by policy and law, and recorded in writing.	Default position is competitive allocation unless lawful exception applies.	SCM route and justification filed

Step 6	Delegated approval	Obtain delegated approval where permitted by policy and delegation schedule.	Short-term leases normally fall within administrative delegations.	Approval record filed
Step 7	Conclude written agreement	Conclude written agreement. Agreement must define: (a) rental, (b) term, (c) permitted (d) use, (e) maintenance, (f) termination rights.	Agreement must prevent subletting/transfer unless approved (where applicable).	Signed agreement filed
Step 8	Monitor expiry and occupation	Monitor expiry dates, compliance, and occupation.	Ensures renewals do not become “indefinite” or irregular.	Compliance diary and monitoring notes updated

B. Long-Term Lease

Step	Action	Requirements / Governance Rules	Key Rules	Output
Step 0	Scope: Long-Term Lease / Concession / Development Rights	Used where: (a) capital investment by tenant/ developer is required; (b) there is a strategic development objective; and (c) municipality retains ownership but grants substantial use rights.	Long-term rights require additional scrutiny and may trigger public participation and Council approvals under MATR.	Transaction pathway confirmed; file opened
Step 1	First Legal Test (MATR reg 33(3)): lease vs transfer-type right	Determine whether the right is so extensive that it becomes a transfer-type matter. Indicators include: (a) indefinite/undetermined term; (b) exceeds useful/economic life; (c) option to purchase; (d) beneficial-owner type control.	If YES → do not process as an ordinary lease; treat as disposal/transfer pathway.	Determination note filed (lease vs disposal)
Step 2	Determine capital asset value	Determine the value of the capital asset.	Value drives R10 million public participation threshold and approval limits.	Valuation / value confirmation filed

Step 3	Second Legal Test (MATR reg 34): long-term + value > R10m	If long-term right + asset value exceeds R10 million, the special process must be applied, including public participation and Council approval in principle.	Council may not delegate approval for long-term rights over capital assets valued above R10 million.	Trigger determination filed
Step 3A	R10m Trigger Sub-process	If triggered: (a) prepare information statement; (b) seek Council authorisation to conduct public participation; (c) conduct section 21A public notice process; (d) solicit National Treasury and relevant provincial treasury views; (e) return to Council for approval in principle.	Must be completed before finalising the transaction.	Information statement, notices, treasury inputs, Council resolutions filed
Step 4	Public participation	Conduct public participation where required (public notice, comment period, consideration of representations).	Must be procedurally fair and properly documented.	Participation record and outcome report filed
Step 5	Competitive procurement (default)	Run an open competitive process unless a direct route is lawfully justified and recorded in writing. Normally via Tender; Auction or Request for Proposals (RFP).	RFP preferred where development outcomes matter.	Procurement record and evaluation report filed
Step 6	Feasibility evaluation	Evaluate legal, planning, Public Safety, Technical/Operational/engineering, and financial feasibility.	Ensures municipality can lawfully and practically support proposed use.	Multi-departmental evaluation pack filed
Step 7	Approve and conclude agreement	Approve and conclude the agreement in accordance with required approval path.	Agreement should set development obligations, milestones, remedies and termination rights.	Signed agreement filed

Step 8	Register notarial lease (if required)	Register notarial lease where required by law or where long-term rights must be enforceable against successors.	Supports enforceability and protects municipal rights.	Notarial deed and registration proof filed
Step 9	Monitor development and performance obligations	Monitor compliance, milestones, rental payments and performance obligations.	Enables enforcement of conditions and remedies.	Compliance diary, monitoring reports, enforcement record

C. Category Rules for Leasing Decisions

	Category	Default Position / Permitted Deviations	Required Governance Record	Council Record (Non-market allocations)
1	Commercial Property	Default: market-related tariff/rent; competitive process; full financial due diligence; development conditions where applicable.	Standard transaction file + valuation + SCM record.	Not generally required unless deviation from market/competitive route.
2	Social Care / NPO / Place of Worship / Sports Club	May justify: reduced rental; social benefit weighting; direct allocation only if policy and law permit and justification is recorded; additional controls against private benefit.	Proof of legal status; constitution/founding docs; public benefit motivation; why below-market support is justified; why no higher and better municipal use is prejudiced.	Council should expressly record: public interest served; financial implication; duration and review period; reversion/termination triggers.

ANNEXURE 2: PROPERTY DISPOSAL PROCESS FLOW (TABLE)

Step	Action	Requirements / Governance Rules	Key Rules	Output
Step 0	Step-by-step Disposal Framework (Scope)	This framework governs the lawful disposal (transfer/permanent alienation) of municipal immovable property and must be applied for all disposal transactions.	Disposal framework must strictly comply with MFMA Section 14 .	Disposal file and decision pathway established
Step 1	Identify property and open transaction file	Identify the property and open the transaction file in the municipal property system.	Confirm capital asset status (as part of file initiation).	Transaction file opened; asset status confirmed
Step 2	Confirm ownership and restrictions	Confirm ownership and all restrictions (title deed conditions, endorsements, servitudes, unlawful occupation, disputes, planning commitments).	Ensure legal ability to transfer and identify constraints early.	Deeds verification; restriction summary filed
Step 3	Determine viability category	Determine viability classification: (a) viable but no longer municipal core use; (b) non-viable/uneconomic; (c) strategic; (d) service-delivery.	Classification informs disposal motivation and approval pathway.	Viability memo filed
Step 4	Obtain departmental comments (service need)	Obtain written departmental comments on service need and future infrastructure planning.	Supports the minimum basic services test under MFMA.	Departmental comments filed
Step 5	Apply MFMA section 14(1) prohibition test	Apply section 14(1) prohibition test. If required for minimum basic municipal services → disposal prohibited.	If yes → disposal prohibited.	Service delivery determination recorded
Step 6	Prepare strategic assessment	Prepare strategic assessment aligned with IDP/SDF/ infrastructure plans and municipal property strategy to determine whether the property should be retained as strategic.	Consider: (a) infrastructure planning (b) spatial planning	Strategic assessment memo/report

			(c) community use.	
Step 7	Obtain valuation	Obtain valuation / market benchmark appropriate to the asset and method of disposal.	Professional valuation required.	Valuation report filed
Step 8	Preliminary Council authorisation where prescribed	For a high-value asset or annual aggregate trigger, prepare the information statement and request Council to authorise the statutory public-participation process. For a lower-value asset, identify any local notice process required by this Policy.	This is not the final section 14(2) determination.	Preliminary Council report and resolution; information statement filed
Step 9	Public participation before final decision	Complete the applicable process. For prescribed high-value/aggregate cases, publish at least 60 days before the Council meeting and solicit National and Provincial Treasury views; otherwise complete the local notice process where required.	All representations and responses must form part of the record before final decision.	Notices, submissions, Treasury views and outcome report filed
Step 10	Final Council section 14 determinations	After considering the full record, Council in an open meeting decides on reasonable grounds that the asset is not needed for minimum basic services, considers fair market value and economic/community value, and approves or rejects disposal in principle.	The section 14(2) determinations for immovable property may not be delegated.	Final Council report and resolution filed
Step 11	Competitive disposal / lawful direct route	Run the published competitive process, or a direct route only where the disposal management system lawfully permits it and written reasons establish why competition is inapplicable or impractical.	Evaluation must use criteria disclosed in advance.	SCM record and evaluation recommendation filed

Step 12	Award and conclude deed of sale	The competent SCM/delegated authority makes the award and the Municipality concludes a deed of sale containing payment, suspensive, development, security and lawful reversion/retransfer remedies.	Council's section 14 determination is distinct from the award.	Award record and signed deed of sale filed
Step 13	Transfer and registration	Transfer through the Deeds Registry and update municipal registers.	Conveyancer confirms conditions, proceeds and encumbrance settlement.	Proof of registration and updated registers filed
Step 14	Post-transfer compliance monitoring	Monitor enforceable conditions that survive transfer, including development milestones and registered reversionary protection.	Use only lawful contractual and real-right remedies.	Compliance diary, milestone and enforcement record

ANNEXURE 3: PROPERTY ACQUISITION PROCESS FLOW (TABLE)

Step	Action	Requirements	Key Rules	Output
Step 0	Scope: Property Acquisition Framework	Acquisition must support municipal objectives and must be lawful, budget-supported and financially prudent.	Acquisition is not governed by MFMA section 14 disposal rules in the same way, but must comply with MFMA financial governance, planning alignment, legality and prudence.	Transaction file opened; acquisition route confirmed
Step 1	Confirm need for acquisition	Confirm the municipal need for acquisition. Examples include: infrastructure expansion; housing development; strategic land assembly.	Need must be linked to municipal mandate, service delivery, or strategic development objectives.	Needs analysis / motivation memorandum filed
Step 2	Planning alignment	Confirm alignment with municipal planning instruments.	Alignment should be tested against IDP, SDF, infrastructure master planning and property portfolio strategy (where applicable).	Planning alignment note filed
Step 3	Due diligence investigation	Review title, zoning, servitudes, environmental and heritage constraints, contamination, occupation/tenure, access, tax, infrastructure, conditions, litigation and lifecycle liabilities. Apply the same diligence to donations.	No acquisition may externalise unbudgeted liabilities onto the Municipality.	Due-diligence pack and risk allocation filed
Step 4	Obtain market valuation and assess price	Obtain an independent market valuation. An exceptional strategic premium requires a quantified business case, alternatives analysis, affordability certificate, legal	Value for money includes lifecycle cost and avoided cost, not purchase price alone.	Valuation and price-reasonableness memorandum filed

		review and competent approval.		
Step 5	Assess affordability and funding	Assess affordability and confirm availability of budget/funding.	Must confirm that acquisition is financially sustainable including purchase price and life-cycle/holding costs where relevant.	Financial assessment and budget confirmation filed
Step 6	Determine acquisition mechanism	Determine negotiated purchase, intergovernmental transfer, donation, exchange or other lawful route. For an exchange, separately apply MFMA section 14/MATR to the municipal asset disposed of. If expropriation is contemplated, obtain transaction-specific advice under the expropriation legislation then in force.	Mechanism and legal basis must be recorded before negotiations create expectations.	Acquisition mechanism and legal memorandum filed
Step 7	Council approval for major acquisitions	Obtain Council approval for major acquisitions.	Council approval required where acquisition is strategic, high value, or outside delegations.	Council report + resolution filed
Step 8	Conclude acquisition documentation	Conclude deed of sale / transfer instrument / donation agreement as applicable.	Legal Services review recommended for enforceability and conditions.	Signed agreement and conveyancing instructions filed
Step 9	Transfer registration and updating of registers	Register transfer in Deeds Registry and update municipal registers.	Update property register, asset register, GIS, and any portfolio classification records.	Proof of registration; registers updated

ANNEXURE 4: SERVITUDE GOVERNANCE PROCESS (TABLE)

Step	Action	Requirements / Governance Rules	Key Rules	Output
Step 0	Scope: Servitude Process Framework	Servitudes grant limited rights over land (e.g., access, pipelines, electrical lines) and must be evaluated as long-term constraints on municipal land.	Because servitudes may permanently affect land use and development potential, they require strategic and technical review.	Servitude transaction file opened
Step 1	Classify direction and MATR route	Determine whether the Municipality acquires the servitude over third-party land or grants it over municipal land. For an outgoing servitude, apply regulation 33(3); use Chapter 2/3 if transfer-type, otherwise Chapter 4 and the long-term high-value test.	The label 'servitude' does not displace the statutory gateway.	Written legal classification filed
Step 2	Confirm necessity of servitude	Confirm the necessity of the servitude and why alternatives are not feasible.	Must demonstrate functional need (access/utilities/engineering services/wayleave-type use).	Motivation note filed
Step 3	Confirm no prejudice to future municipal development	Confirm that the servitude will not prejudice future municipal development or strategic land use.	Must consider SDF/IDP alignment, future corridors, municipal infrastructure plans and environmental/community objectives.	Strategic impact confirmation filed
Step 4	Obtain technical comments	Obtain technical comments; Engineering department must confirm feasibility.	Must confirm route, technical standards, safety and services coordination.	Engineering/technical report filed
Step 5	Planning and legal compliance check	Confirm planning and legal compatibility.	Confirm land use planning implications, access constraints and whether additional approvals are required.	Planning/legal check note filed

Step 6	Determine compensation where applicable	Determine compensation where applicable.	Where servitude primarily benefits a private party, compensation should ordinarily apply unless clearly justified otherwise.	Compensation assessment filed
Step 7	Determine approval authority by impact	Approval authority determined by impact. Major servitudes require Council approval; minor technical servitudes may fall within delegation.	Major = material impact on land use, strategic land, or high public interest; Minor = routine technical/engineering servitudes with limited impact.	Approval route recorded; delegation check filed
Step 8	Prepare servitude documentation	Prepare notarial servitude deed and supporting diagrams/SG information as required.	Must clearly define extent, purpose, maintenance, access, responsibilities and termination (if applicable).	Draft notarial deed and diagrams filed
Step 9	Registration	Servitude registered via notarial deed.	Registration must occur in Deeds Registry and be reflected in municipal registers.	Registration proof filed; registers updated
Step 10	Post-registration recordkeeping and monitoring	Maintain record and monitor compliance where servitude conditions impose obligations.	Update property register, GIS, asset register and any maintenance/service responsibility schedules.	Updated registers; monitoring notes (if applicable)

ANNEXURE 5: PROJECTIONS, PROJECTING STRUCTURES AND ENCROACHMENTS FRAMEWORK PROCESS (TABLE)

Step	Category	Requirements / Governance Rules	Fees / Agreement	Output
Step 1	Legal classification gate	Classify the proposal as a revocable non-exclusive permission, a Chapter 4 lease/licence/right, or a regulation 33(3) transfer-type right. Identify any separate closure, land-use, road, public-place, environmental or building approval.	No permit may be used to bypass MATR, competition or a separate statutory approval.	Classification and approval map filed
Step 2	Cost responsibility (General rule)	All costs pertaining to an encroachment shall be borne by the encroacher, including survey, advertisements, valuation, rezoning, relocation or provision of services where necessary. The Municipality may waive recovery of costs where it is to the Municipality's advantage to bear the costs.	Costs recoverable from encroacher unless waived	Cost schedule and cost recovery decision filed
Step 3 (Deposit)	Deposit (General rule)	Where necessary, a deposit to cover costs may be required.	Deposit may be required	Proof of deposit/receipt filed
Step 4	Municipal discretion (General rule)	The Municipality may permit encroachments subject to such conditions as it may deem fit and subject to the category-specific rules below.	—	Decision record and conditions filed

Step 5	Category 1: Road reserves and public thoroughfares	Step 1: Encroachments may be permitted to encourage adjoining owners to maintain road reserves adjoining their properties. Step 2: Prohibition zone—planting of trees, shrubs and alien lawn or erection of seating, statuary or similar objects within 1.5 metres measured from the tarred/gravel road surface is not permitted. Step 3: The 1.5 metre area may be planted with lawn approved by the relevant directorate or paved at own cost to the satisfaction of the Municipality, subject to free movement of pedestrians at all times. Step 4: No encroachment may be partially/wholly enclosed or fenced for exclusive use. Step 5: Municipality retains free access at all times for inspection, maintenance and repair of services traversing the encroachment or to install services; Municipality not liable for damage arising from such work.	No encroachment fee and no formal agreement required for this category	Encroachment category determination ; site inspection note; conditions notice to owner filed
Step 6	Category 2: Projections into/over public places (veranda, balcony, sign, sign-board, similar structure/device)	Step 1: Municipality may permit erection/retention of projecting structure into/under/over/on any public place/public	Annual encroachment fee determined by	Approved application; agreement signed; billing instruction;

		street/public thoroughfare subject to compliance. Step 2: Projection not permitted on level of more than one floor. Step 3: Projection/structure may not be partially enclosed above 1.5 metres from floor level except with prior written approval and conditions imposed. Step 4: Municipality retains free access at all times for inspection, maintenance and repair of services traversing the encroachment or to install services; Municipality not liable for damage arising from such work.	Municipality; formal agreement required	compliance diarised
Step 7	Category 3: Encroachments onto commonage, public open spaces or conservation areas	Step 1: Written application with proof of payment of application fee. Step 2: Delegated authority through Property Administration obtains comments from relevant directorates/departments. Step 3: Application advertised in terms of paragraph 9.5.3(a) of the policy. Step 4: Where objections received, submit to applicant for comment.	Annual encroachment fee determined by Council; permit issued	Application pack; proof of advert; objection register; decision notice; permit; billing record

		Step 5: Submit application and relevant documents to the Delegated Authority. Step 6: Notify applicant of decision and conditions imposed by Council or delegate. Step 7: Issue permit to successful applicant. Step 8: Prohibited: planting of trees/shrubs/alien lawn or erection of seating/statuary or similar objects. Step 9: No fencing/enclosure for exclusive use by adjacent property owner.		
Step 8	Category 4: Enclosure or exclusive use for gardening (commonage/open spaces/thoroughfares/municipal land)	Step 1: Written application with proof of payment of application fee. Step 2: Delegated authority through Property Administration obtains comments from relevant directorates/departments. Step 3: Application advertised in terms of paragraph 9.5.3(a) of the policy. Step 4: Where objections received, submit to applicant for comment. Step 5: Submit application and relevant	Monthly encroachment fee determined by Council; permit issued	Application pack; advert proof; objections; decision; permit; billing record; compliance notes

		documents to Delegated Authority for approval. Step 6: Notify applicant of decision and conditions imposed. Step 7: Issue permit to successful applicant. Step 8: Prohibited: planting of trees/shrubs/alien lawn or erection of seating/statuary or similar objects.		
Step 9	Category 5: Outdoor seating adjoining a restaurant / parking of vehicles	Use of municipal land for outdoor seating adjoining a restaurant or for parking of vehicles must be treated as a formal lease agreement. The leasing procedure must therefore be followed (short-term or long-term leasing framework as applicable).	Lease agreement required; lease tariffs apply	Lease file, agreement, SCM record (if required), billing and monitoring diarised
Step 10	Possible closure or reduction of public place/public street	Treat closure, reduction, subdivision, rezoning and disposal as separate statutory and land-use processes. An encroachment approval alone does not authorise any of them.	Complete all external approvals before concluding a resulting property transaction.	Separate statutory approvals and updated registers filed