

14.

**HOUSING: APPLICATION TO APPROVE THE COMMENCEMENT OF A PROCESS TO DECLARE IDENTIFIED PROJECTS AND LAND FOR EMERGENCY ACCOMMODATION SITES**

17/5/4/1

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Hermanus Administration

18 January 2018

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**1. Executive Summary**

The purpose of this report is to obtain a Council resolution to approve the commencement of a process to declare sites and land identified by the Manager: Property Administration as temporary emergency accommodation sites and land.

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

Directorate: Community Services  
Department: Housing Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services  
Creation and maintenance of a safe and healthy environment

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of South Africa, 1996  
Housing Act 107 of 1997  
The National Housing Code. 2009  
Overstrand Municipality : Housing Selection Policy for Beneficiaries in Ownership-based Subsidy Project  
Municipal Finance Management Act 56 of 2003

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

An eviction application was served on the residents of Paradise Park in terms of the Prevention of Illegal Eviction (PIE) Act. Subsequent to the notice of eviction, a social worker was appointed by the new owner of Paradise Park, who, through her reports, identified a total of approximately one hundred and twenty (120) permanent residents who are in need of emergency

accommodation. Since then, three (3) lawyers for the households in Paradise Park have filed affidavits setting out their circumstances. It appears as if the numbers of those they say may be genuinely homeless, if evicted, are very similar to those provided by the social worker, although they may vary slightly.

### **Discussion**

In the circumstances where an eviction is sought and may be granted, the municipality's constitutional obligation to provide emergency accommodation is triggered. A municipality is obligated to provide housing opportunities or if these are not immediately available, emergency accommodation, which is a plot, with shared services, and an informal structure of a minimum of 24m<sup>2</sup>. If this is not provided, the Municipality may be found to be in breach of their Constitutional obligations.

Emergency accommodation is not formal housing and is temporary and the beneficiaries, when they qualify for other housing opportunities or can accommodate themselves, will move from the emergency accommodation. The criteria for emergency accommodation are simply that the households will be genuinely homeless, if evicted or if they find themselves in a crisis situation. The normal National qualifying criteria do not apply. In other words, if they will be genuinely homeless, it does not matter if they were previously homeowners or whether their income exceeds the minimum threshold for BNG housing.

As set forth in the Senior Manager: Legal Services memorandum (marked annexure "A"), "if any occupiers are likely to be left homeless as a result of the eviction order, the municipality must outline in a housing report, what steps the municipality proposes to put in place to address and alleviate such homelessness by way of the provision of alternative land with services and a structure or emergency accommodation". This view is supported by a senior counsel opinion by Advocate Andrew Breytenbach (SC) that if all, or any of the occupiers in Paradise Park will become homeless, the municipality's housing report to the court must state how such homelessness will be alleviated through the provision of alternative temporary emergency accommodation. This is a constitutional duty bestowed on the municipality which cannot be ignored. All of the approximately one hundred and twenty (120) households must be accommodated in emergency accommodation until such time as they qualify for and are offered other housing opportunities or can accommodate themselves. A report must be filed, in the High Court, as to how the municipality intends to provide emergency accommodation to the approximately one hundred and twenty (120) households in Paradise Park, by February 2018. The Manager: Housing Administration confirms that only a few families may qualify for affordable housing but this will not be available for years.

The Manager: Property Administration considered the Stanford plots, provided a layout of this project (marked as annexure "B"), looked at the size of land available to accommodate those in need of emergency accommodation, provided a list of affordable housing options, and the criteria to apply for affordable accommodation. The Manager: Property Administration further

confirmed in her report that regulation 4(3) (b) of the Asset Transfer Regulations, 2008 clearly stipulates that the procedures for the transfer and disposal of non – exempted capital assets are not applicable to the transfer of housing on municipal land and the transfer of municipal land to beneficiaries of such housing. This implies that where housing legislation and criteria are applicable to the alienation and subsequent transfer of the property, it is not necessary to follow a competitive process.

The municipality must provide emergency accommodation for the one hundred and twenty (120) families who face imminent eviction on a temporary basis and until such time as they can accommodate themselves or qualify for other housing opportunities.

## **7. Financial Implications**

Operational Budget Provision for Emergency Housing Projects (EHP):

2017/2018: R280 000.00

Vote Number: 12990220200000; Unique Key: 20170525078701

2018/2019: R300 000.00

2019/2020: R320 000.00

2020/2021: R340 000.00

Provisional Funding Allocation by Department of Human Settlements (DoHS) still to be gazetted:

2018/2019: R67 700 000.00

2019/2020: R74 040 000.00

2020/2021: R69 000 000.00

An amount of R4 500 000.00 has been allocated by DoHS for the Stanford project for the 2018/2019 financial year.

It should be noted that additional funding for the specific emergency housing emanating from Paradise Park will have to be motivated to DoHS as the above-mentioned funding do not include this priority.

## **8. Staff Implications**

None

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

### **Senior Manager : Overstrand, Mr D Hendriks - (028) 313 5059**

Municipal bulk services are sufficient to provide for basic municipal services to the proposed land. No internal municipal services are currently available for the provision of services to the proposed land. The Municipality must apply for funding for the provision of basic municipal services to the Provincial Department in terms of the National Housing Code, 2009, for the proposed land.

No electrical services are available. Council must budget for the provision of electrical services.

**10. Annexures**

- Annexure A: Memorandum by the Senior Manager: Legal Services
- Annexure B: Analysis by Property Administration
- Annexure C: Housing Report by Manager: Housing Administration
- Annexure D: Layout of Stanford project

**RECOMMENDATION TO THE COUNCIL:**

1. that the allocation of as many plots within the Stanford development as are required to meet the needs of those who require emergency accommodation in Paradise Park or elsewhere, with services and structures erected thereon, **be approved;**
2. that the allocation of land identified by the Manager: Property Administration in the alternative for the development of emergency accommodation for all of those who qualify for same in Paradise Park or elsewhere, **be approved;** and
3. that an application to Province for land and/or funding in terms of the Housing Code for emergency accommodation **be approved.**

**RESPONSIBLE OFFICIAL :****D HENDRIKS  
B LOUW  
F FRANS****TARGET DATE FOR IMPLEMENTATION :****N/A**

**ROLE OF MUNICIPALITIES TO PROVIDE ALTERNATIVE EMERGENCY ACCOMMODATION IN EVICTION PROCEEDINGS**

1. This memorandum, enclosed to Council's report, arises from recent reports obtained by a social worker appointed by the new owner of Paradise Park and given to our attorneys, which clearly identifies permanent residents of Paradise Park in need of emergency accommodation. 3 attorneys representing the residents of Paradise Park have subsequently filed affidavits on behalf of the residents and although the numbers may vary slightly the estimate of approx. 120 household requiring of emergency accommodation appears to be accurate.
2. The purpose of this memorandum is to highlight the Municipality's role and responsibilities to provide alternative accommodation to those residents qualifying for emergency accommodation as prescribed by the legislature and the Constitutional Court..
3. In the first instance, section 26(3) of the Constitution prohibits evictions without a court order and imposes on courts, when considering an eviction application, a duty to take all relevant circumstances into account. Essentially, an eviction order may only be granted if it is just and equitable to do so given the relevant circumstances. The duties and responsibilities of municipalities in all evictions must not be underestimated. The provisions of the eviction legislation, and other constitutional directives, especially those specifically applicable to local government, must be applied in a holistic manner.
4. If the circumstances of a particular eviction trigger the municipality's constitutional obligation to provide emergency accommodation, the court must investigate the issue of homelessness, and those who face homelessness are to be provided, at least, with temporary emergency accommodation by the municipality. The court will have to identify those who, as a result of poverty and disadvantage, are unable to make alternative accommodation arrangements for themselves and will require assistance from the municipality. Such a determination will be applied by the court also in the Paradise Park eviction application.
5. Municipalities are obliged pursuant to s 26 of the Constitution to progressively realise the right of access to adequate housing and a reasonable housing programme cannot disregard those who are most in need including those rendered genuinely homelessness as a result of an eviction. These obligations exist separately from the question of whether it is just and equitable for a court to grant an eviction order. The municipalities must provide of emergency accommodation to those who will be genuinely homeless if evicted. This is a form of housing, less than formal housing, where plots are provided with shared services and informal structures. The normal qualifying criteria for BNG housing do not apply. This is temporary emergency accommodation, until they can accommodate themselves or qualify for other housing opportunities.
6. As local government we have to consider whether we are in a position to address an emergency housing situation out of our own means. Case law dictates that as local government we have a duty to plan and budget proactively for emergency situations where households may might be faced with eviction or another form of crisis and who are rendered homeless as a result. The court must have all of the facts at its disposal, including the resources and capability of the municipality to make alternative emergency accomodation available.

7. Section 25 of the Constitution clearly states that that no one may be deprived of property except in terms of a law of general application and no law may permit arbitrary deprivation of property. Section 26 accords everyone the right to have access to adequate housing and section 26(2) requires a municipality, as organ of state, to take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.
8. The principal legislative instruments to give effect to the aforementioned constitutional housing obligations are the National Housing Act, 107 of 1997 and the National Housing Code, 2009. The objective of the Housing Act is to facilitate a sustainable housing development process and to define the functions of national, provincial, and local government in respect of housing development. Section 9 of the Housing Act requires municipalities, as part of the process of integrated development planning, to take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to ensure, amongst other things, that the inhabitants of their respective areas have access to adequate housing on a progressive basis.
9. The housing obligations must be considered within the context of a municipality's functions and responsibilities as set out in the Municipal Systems Act, 32 of 2000. Section 23 (1) of the Systems Act requires municipalities to undertake developmentally-orientated planning to achieve the objects of local government set out in section 152 of the Constitution, thus giving effect to a municipality's developmental duties in terms of section 153 of the Constitution.
10. Due regard should also be given to section 4 of the Housing Act which requires the publication of the Housing Code that must reflect the national housing policy and set out the principles, guidelines and standards that apply to various housing programs affected by the state. The Housing Code, introduced after the Constitutional Court's decision in Grootboom in 2000, provides for housing assistance in emergency housing circumstances, and provides for assistance to people who find themselves in a housing emergency for reasons beyond their control
11. An emergency can be defined as a situation where people are evicted or threatened with imminent eviction from land or from unsafe buildings, or situations where pro-active steps ought to be taken to forestall such consequences. Through the court documents and reports received from the social worker appointed by the new owner of Paradise Park, it appears that an emergency situation exists at Paradise Park as it is anticipated that approx. 120 households will be genuinely homeless if evicted.
12. There are a number of arguments as to why local government is not primarily responsible to fulfill everyone's right to have access to adequate housing. First, it may be argued that the functional area of 'Housing' appears in Part A to Schedule 4 of the Constitution which confers concurrent national and provincial legislative competence, and not in Part B of Schedules 4 and 5 that provide for local government functions. Secondly, it can also be argued that the Housing Act requires local government to act as a point of delivery only, and on this basis states that local government is thus entirely dependent on national and provincial government and confined to acting within the parameters set in national and provincial policies. It is however important to note that chapter 12 of the Housing Act is interpreted in light of the relevant constitutional and statutory framework of which it is a part. For example, section 9 of the Housing Act requires municipalities to take all reasonable and necessary steps to ensure access to adequate housing. Section 4(1) and 8(2) of the Systems Act empowers municipalities with a degree of general financial and institutional autonomy to carry out their functions, and section 4(2) of the Systems Act

places a duty on them to provide for democratic governance and efficient provision of services to their communities. Section 4(2)(j) requires municipalities to contribute, together with other organs of state, to the progressive realization of the fundamental rights contained in sections 24, 25, 26, 27 and 29 of the Constitution.

13. When considering the wording of chapter 12 there is no unequivocal indication that local government's capacity to provide emergency accommodation is dependent solely on funding by provincial government. It is further recognized by the Constitutional Court that besides truly exceptional or unforeseen circumstances, the budgetary demands for a number of emergency occurrences are foreseeable, especially with regard to evictions. Predictions can be made on the basis of available information.
14. The provisions of Chapter 12 are very important. Section 12(4)(1) states that municipalities must initiate, plan, and formulate applications for projects relating to emergency housing situations. Section 12(6)(1)(b) state that the provision for possible emergency housing needs must be identified through pro – active planning or in response or reaction to a request for assistance from the public. Section 12(6) (1) (c) state that a municipality must immediately investigate and assess the identified need giving due consideration to the following aspects, namely whether the situation requires intervention, and, if so, whether the municipality can itself address the situation utilizing its own means. If the situation requires immediate or emergency assistance beyond the means of the municipality, in which case the provincial housing department must be notified immediately and the requested assisted.
15. The decision in the Constitutional Court judgment of *Government of South Africa v Grootboom*, paved the way for government to provide at least temporary shelter to those with no access to land. That precedent was recently followed by the Constitutional Court judgment of *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others*.
16. Regard must be given to the *Grootboom* judgment which held that a reasonable housing program cannot disregard those who are most in need. A differentiation cannot be made between occupiers on public and private property. The personal circumstances of each affected individual must be taken into consideration, particularly the rights of children, the elderly, people with disability, or women-headed households, for whom the need for housing is great or for whom, homelessness would result in disastrous consequences. Individuals may have a range of incomes - some may be able to afford subsidized housing - while others may be left completely destitute. Once an emergency or homelessness is created, it matters little to the evicted who the evictor is.
17. There is a clear differentiation between emergency housing needs and housing needs that do not constitute an emergency. The most important consideration is to establish whether the eviction of the occupiers will result in homelessness, namely an emergency situation. Based on the determination of the personal circumstances of the occupiers, including both their income, and demographic position within the development, it is clear that the municipality must act on its constitutional responsibility and obligation to provide emergency accommodation.
18. The view held by the legal services department is supported by Advocate Andrew Breitenbach's (SC) legal opinion on the Municipality's role in eviction proceedings.
19. In paragraph 20 of Senior Counsel's opinion, it is clearly stated that if the circumstances of an eviction may (not must) trigger the municipality's constitutional obligations to provide emergency accommodation, the court must investigate the issue of possible

- homelessness, and that those who face homelessness are provided at least with temporary emergency accommodation, otherwise the municipality will have failed to discharge its constitutional obligations.
20. Paragraph 24 of Senior Counsel's legal opinion further states with reference to decisions of the Supreme Court of Appeal, that in all eviction proceedings a municipality is required to file a report, and where a municipality's constitutional obligations are engaged, the practice of filing a general report detailing the Municipality's current housing policy without addressing the facts of the particular case is inadequate. This report needs to be filed by the municipality by February 2018 in respect of Paradise Park.
  21. Senior Counsel further clearly states in paragraph 25 that the municipality's housing report must specify the following:
    - 21.1. the information available to the municipality about the property in respect of which the eviction is sought;
    - 21.2. whether continued occupation of the property gives rise to health and safety concerns and express an opinion on whether it is desirable, in the interests of the health and safety of the occupiers, to be living in such circumstances;
    - 21.3. the information available to the municipality pertaining to the occupiers, their approximate number, and personal circumstances;
    - 21.4. whether in the municipality's view, an eviction order is likely to result in all or any of the occupiers becoming homeless;
    - 21.5. If any occupiers are likely to be left homeless, what steps the municipality proposes to put in place to address and alleviate such homelessness by way of the provision of alternative land or emergency accommodation, and must deal with the issue of proximity. The Constitutional Court has, however, held that the Constitution does not guarantee a person a right to housing at government's expense at the locality of his or her choice. Locality is determined by various factors, including the availability of land.
  22. It is thus evident from Senior Counsel's opinion that if all, or any of the occupiers in Paradise Park, will become homeless, we must in the municipality's report to the court address how such homelessness will be alleviated through the provision of alternative land or emergency accommodation. This is a constitutional duty bestowed on the municipality which cannot be ignored.
  23. Senior Counsel also endorses legal services' view that in terms of section 26 of the Constitution, a reasonable housing programme cannot disregard those who are most in need. Our housing programme must make provision for the most desperate and vulnerable. There is further no mistake, as confirmed by Senior Counsel, that all levels of government, including our Municipality, have constitutional obligations under section 26 to those in need of housing, particularly those whose needs are of an emergency character, such as those faced with homelessness as a result of an eviction. Senior Counsel further endorse that the above constitutional obligation exist separately from any question of whether it is just and equitable for a court to grant an eviction order.
  24. Senior Counsel secondly held that besides Municipalities entitlement to approach province for assistance, it has both the power and duty to finance its own emergency housing scheme. We must thus first consider whether we are able to address an emergency situation out of our own means. We thus have a duty to plan and budget proactively for emergency situations such as currently being faced by the identified residents of Paradise Park.



25. Senior Counsel further expressly states in his legal opinion, with which we fully agree, that evictions trigger an obligation on a municipality to provide emergency and basic shelter to any occupier in need. Various Constitutional Court judgments confirm this obligation, with the result that to the municipality cannot sit back once we have obtained information, as we have from Paradise Park, that all or some of a group of occupiers will be left homeless as a result of an eviction.
26. ***To conclude it is both the view of Legal Services and Senior Counsel that the Municipality has a constitutional obligation in terms of section 26 of the Constitution to provide alternative emergency accommodation to those occupiers who will be left destitute as a result of an eviction. The housing report filed in court must clearly set out that those who will face homelessness will be provided with at least temporary emergency accommodation. If we do not address the issue of temporary accommodation in our housing report the court will definitely issue an order that we failed to discharge our constitutional obligations.***

**COMMENTS FROM THE PROPERTY ADMINISTRATION DEPARTMENT.****LEGISLATION**

Chapter 2 of the Municipal Asset Transfer Regulations, 2008, (Regulations to the Municipal Finance Management Act, no. 56 of 2003) deals with the transfer or permanent disposal of non-exempted capital assets (the latter including land and buildings) and stipulates the processes to be followed. However, regulation 4(3)(b) clearly stipulates that the procedures for the transfer or disposal of non-exempted capital assets as stipulated in the said chapter are "*not applicable to the transfer of housing on municipal land and the transfer of municipal land for the poor to beneficiaries of such housing*". This means that where Housing legislation and criteria are applicable to the alienation and subsequent transfer of the property, it is not necessary to follow a competitive process.

This is also reflected in the Overstrand Municipality's Administration of Immovable Property Policy as adopted by Council in 2015. Paragraaf 2 of the said Policy stipulates that:

- "2. *This Policy does not apply to:*
- (a) *immovable property that falls within the area of responsibility of the Municipality's Housing Department;*

It is however prudent that the approval of Council is obtained for the alienation and subsequent transfer of the asset in terms of the Municipal Finance Management Act. The MFMA stipulates further in section 14(5) that:

- "(5) *Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.*"

As criteria in terms of the National Housing Code are used for the allocation of properties to beneficiaries in the case of low cost housing and criteria are applicable to the alienation of affordable housing properties to beneficiaries, coupled with a form of public participation, the requirements as stipulated in section 14(5) are met. In emergency accommodation the criteria for qualification is merely that they will be genuinely homeless if evicted or in another form of crisis, the normal criteria for subsidised housing does not apply.

**AFFORDABLE HOUSING OPPORTUNITIES**

The following affordable housing opportunities are underway for which beneficiaries can apply. As this is affordable housing, the beneficiary will have to pay a purchase price for the property (it will be a developed property).

The project comprises of the development of three different sites and will start in the 2017/2018 financial year of the Municipality.

**(A) Swartdam Road Site C1**

The property is known as Site C1 in Zwelihle, and it is located adjacent to Mariner's Village and the Zwelihle Clinic, alongside Swartdam Road. It will comprise of the development of 150 houses on serviced erven. The development will be completed in phases.

The houses will all be approximately 40m<sup>2</sup> in size. 20% of the 150 units in the development (30 units) will be further subsidised throughout the GAP project, in order to target the lower end of the affordable market (R9 000.00 – R12 000.00). Should the household be eligible for a FLISP subsidy, the selling price could possibly be lower as Department of Human Settlements would then pay the subsidy amount (which will vary depending on the monthly income) directly over to the bank, where the bond is registered, reducing the monthly repayable bond instalment. This will enable the lower end of the affordable housing income group to also enter the housing market. The subsidised 30 units will be allocated to the lowest possible end of the affordable market. Those thirty (30) units will be sold at approximately R335 000.00 (incl. VAT) each and the balance of 120 units will be priced at approximately R435 000.00 (incl. VAT) each. These sale prices will increase annually in line with inflation.

The criteria that will be applicable to the allocation of these developed properties are as follows:

- (i) For Beneficiaries in the income group of R3,501.00 to R15,000.00 the following criteria are applicable to qualify in terms of the Finance Linked Individual Programme ("FLISP"):
  - (a) The Beneficiary must fall within the income group of R3,501.00 to R15,000.00 per month;
  - (b) The Beneficiary must be a South African Citizen with a valid identity document or be a permanent resident with a permanent residence permit with the proviso that in this development preference will be given to families residing in the Hermanus area and subsequently the rest of the Overstrand municipal area.
  - (c) The Beneficiary must not have qualified for a government housing subsidy before;
  - (d) The Beneficiary must be a first time home-owner;
  - (e) The Beneficiary must be competent to contract, being 18 years or older in age, or legally married or legally divorced and of a sound mind;
  - (f) The Beneficiary must be married or co-habiting or single with financial dependents.
- (ii) For Beneficiaries in the income group of R3,501.00 to R25,000.00 where FLISP is not applicable the criteria as listed in clauses (b) to (f)

(c) above will be applicable with the proviso that first time home-owners will receive preference in the allocation.

**(B) Mount Pleasant Village**

The site is known as the Sportsfield Site and is located next to the Mount Pleasant Sportsfield in Angelier Street, lower Mount Pleasant. It comprises the development of 22 houses on serviced erven. The development will also be completed in phases.

Three different house types will range from 43m<sup>2</sup> to 82m<sup>2</sup> in size. Prices will start from R469 436.00 (incl. VAT) per unit up to R708 436.00 (incl. VAT). These sale prices will increase annually in line with inflation.

The criteria that will be applicable to the allocation of these developed properties are the same as the criteria set for the Swartdam Road C1 development.

**(C) Mount Pleasant Heights**

The site is located in upper Mount Pleasant in Katjeepering- and Jasmyn Streets and there are a total of 17 serviced erven available for development. This will also be developed in phases.

Three different house types will range from 43m<sup>2</sup> to 100m<sup>2</sup>, all with the possibility of future extensions. Selling prices of the developed properties will start from R670 000.00 (incl. VAT) with extension possibilities and the largest units will sell for R1 259 000.00 (incl. VAT) each. The prices will increase annually in line with inflation.

There will be no specific criteria for the allocation of these developed properties to beneficiaries.

**(D) Applying for the abovementioned properties**

Interested Beneficiaries will be able to apply formally to partake in the development by completing an application form and submitting it with supporting documents. The application forms can be obtained from the Municipality's implementing agent, Suppliers To All t/a MCape Overstrand who will attend to the allocation in collaboration with the Municipality. All Deeds Office registration costs to affect transfer will be for the account of the Beneficiary.

A public participation process will be followed to inform the public as to the process to follow to apply to partake in the development.

**2. Fountainhill, Gansbaai**

The site is known as Fountainhill and is located in Buitekant Street, Gansbaai close to the industrial area in Gansbaai. It comprises the development of 155 houses on serviced erven. The development will be completed in phases and the properties are sold as a "plot and plan" to an interested buyer. A total of 11 of the 155 erven are developed and the rest will be developed in phases on the successful conclusion of deeds of sale.

The prices of the developed properties range from R439 150.00 to R973 600.00 depending on the size of the erf and the size of the house. The house sizes range from 42m<sup>2</sup> to 98m<sup>2</sup> with a selection of 5 different types and sizes of houses.

There are no fixed criteria to purchase these properties. The purchaser will only be liable for payment of the bond registration costs as the transfer costs are paid by the implementing agent.

Interested buyers can partake in the development by contacting the Municipality's implementing agent, Suppliers To All t/a MCape Overstrand.

#### **BREAKING NEW GROUND HOUSING PROJECT STANFORD**

This housing project is discussed by the Manager: Housing, Mr Frankie Frans. It must however be noted that the development makes provision for 770 residential erven. Clarity must just be obtained as to how many of these 770 erven will be serviced and/or developed.

The Housing criteria will be applicable to the allocation of erven in this project for housing. If emergency accommodation is provided there this will be for those who face imminent eviction and will be genuinely homeless if evicted.

#### **VACANT SERVICED ERVEN FOR SALE IN PRIVATE SECTOR**

Suppliers To All (Pty) Ltd currently has 12 serviced vacant properties in Hawston for sale, which properties are zoned for residential use. The sizes of the vacant properties range from 315m<sup>2</sup> to 423m<sup>2</sup> with the prices ranging from R139 000.00 to R189 000.00 depending on the size of the property.

#### **POSSIBLE MUNICIPAL COMMONAGE**

Land in the Gansbaai area on so called "commonage" (Remainder Erf 210 Gansbaai) can be made available for emergency housing subject thereto that the necessary approvals are obtained.

As this is still commonage, it can only be made available once all the town planning approvals (which entails several public participation processes) and the approval from Council are obtained. This entails, amongst others, the following:

1. Request status report regarding the property to establish whether it is necessary to formally apply for a closure thereof (if public place);
2. Subdivision in terms of Section 16(2)(d) of the Remainder of Erf 210 Gansbaai to create Portion A;
3. Rezoning in terms of Section 16(2)(a) of Portion A of Remainder of Erf 210 Gansbaai to a Subdivisional Area;
4. Subdivision in terms of Section 16(2)(d) in order to create the required number of erven (including public open spaces and public roads) – the “general plan”;
5. Possible departure in terms of Section 16(2)(b) in order to relax the lateral building lines applicable to the proposed residential erven from 1m to 0m (only one lateral building line of the respective erven will be relaxed);
6. Deviation of the Overstrand Growth Management Strategy (2010) in order to provide the necessary residential density;
7. Approval of new street names in terms of Section 96 of the Overstrand By-Law on Municipal Land Use Planning, 2016;
8. Amendment of the Overstrand Growth Management Strategy;

Additional to that the following further studies need to be done:

1. Environmental Impact Assessment;
2. Traffic Impact Assessment;
3. Visual Impact Assessment.

The abovementioned processes can take two to three years to finalize before any allocations can be done. This is of course if no objections are received.

Then all the necessary registrations in the Deeds Offices need to be done, i.e. Certificate of Registered Title, Registration of General Plan, etc. which needs to be budgeted for.

Funding then also needs to be obtained to service the development and individual properties (water, electricity, sewerage, storm water, etc.) as well as to establish the public roads (surfacing). In some of the instances it will also be needed to obtain funding from the Department of Human Settlements for top structures on the properties.

## OVERSTRAND MUNICIPALITY

## HOUSING DEPARTMENT

## PARADISE PARK

## SUMMARY

This report is to obtain approval for approximately 120 emergency accommodation sites to be developed to accommodate those who may be genuinely homeless, if evicted, from Paradise Park. The Municipality must, in terms of the Constitution and the Constitutional court's interpretation of their mandate, provide emergency accommodation to all those who may be genuinely homeless, if evicted, or who face a disaster situation. If the Municipality does not do so the court will in all likelihood find that the Municipality has not met its Constitutional obligation in as far as emergency accommodation is concerned. The Municipality must file a housing report to advise the court what emergency accommodation it plans to make available to those residents of Paradise Park. The data used to come to this number of households, was obtained from a social worker, employed by the new owner, but as most of the Respondents have now filed affidavits these figures may vary slightly.

## 1. HOUSING DEMAND

A total number of 770 sites are earmarked for the incremental development of Breaking New Ground (BNG) housing project in Stanford. The anticipated commencement date for phase 1 (infrastructure installation) is January 2019 and the estimated completion date is October 2019. The total applicants registered on the housing demand database (HDDDB) for Stanford are 509 with a total number of 83 families residing in Die Kop, an informal settlement, who are not registered on the HDDDB.

In terms of Provincial Circular 10/2015, applicants younger than 30 years old will not be assisted in a low cost housing project.

At this stage it is estimated that as many as 120 households may require emergency accommodation, if evicted from Paradise Park. Emergency accommodation, is not housing but plots with shared services and a structure of no less than 24m<sup>2</sup>.

## STANFORD DEVELOPMENT

<b>SUMMARY : POTENTIAL HOUSING OPPORTUNITIES</b>	
Waiting list (incl. backyard dwellers)	509
Less: Applicants younger than 30 years (Prov Circular 10/2015)	-60
Die Kop (not registered on HDDDB)	83
Total housing demand	532
<b>EMERGENCY HOUSING (PARADISE PARK)</b>	<b>120</b>
Surplus of serviced sites	118
<b>TOTAL HOUSING OPPORTUNITIES</b>	<b>770</b>

TABLE 1: HOUSING OPPORTUNITIES

## 2. POTENTIAL BENEFICIARIES/FAMILIES : PARADISE PARK

A total number of 120 families face possible eviction from Paradise Park where they have been residing for a number of years and all the families are potentially in need of emergency accommodation. We must assume all of them will require emergency accommodation until they are able to accommodate themselves or qualify for other housing opportunities. In order to qualify for emergency accommodation, the normal National housing criteria do not apply. If you will be genuinely homeless, if evicted or facing any other crisis situation, irrespective of your household income, whether you have been a homeowner etc, you qualify for emergency accommodation in terms of the Housing Code.

Of the 120 families, 36 families could be verified on the HDDB, of which only one applicant applied for registration. Eighty four (84) applicants/families could not be verified whether they are registered on the HDDB (which I seriously doubt) due to the absence of ID numbers (refer list B).

In an emergency housing situation such as Paradise Park, as stated above, the income threshold, the ownership of properties etc. do not apply. All those to be evicted who will be genuinely homeless if evicted qualify for emergency accommodation..

Only a few families may qualify for affordable housing due to income and age and about 12 potential beneficiaries may qualify for a BNG housing project, provided they comply with the national housing criteria. MCape (previously Motlekar) will consider the few potential beneficiaries in the **Gansbaai 155 GAP project but this will not be an immediate solution as houses will only be built once they have enough sales.** Applicants could also be assisted in terms of the Finance Linked Individual Subsidy Programme (FLISP). Again as reiterated above, until they actually qualify for and are offered an affordable housing or BNG unit there qualify for emergency accommodation.

## 3. QUALIFYING CRITERIA FOR EMERGENCY ACCOMODATION

The only qualifying criteria, in terms of the National Housing Code, for emergency accommodation, is that the household will be genuinely homeless, if evicted or find themselves in some other form of crisis. This temporary accommodation and not comparable other forms of housing opportunities. Households who later qualify for housing opportunities will then no longer require emergency accommodation.

## 4. QUALIFYING CRITERIA FOR LOW COST HOUSING (BNG)

This programme will benefit persons who:

- Lawfully reside in South Africa (i.e. citizen of the Republic of South Africa or in possession of permanent residence permit). Certified copies of the relevant documents must be submitted with the application.



- Are legally competent to contract (i.e. over 18 years of age or legally married or legally divorce or declared competent by court of law and sound of mind)
- Neither the applicant nor his or her spouse has previously benefited from government housing assistance.
- Have not owned fixed residential property; and
- Have previously owned fixed residential property but such a person may only qualify for purchase of vacant service site

In addition to the above the following criteria must also be satisfied

- Persons must be married or habitually cohabit
- Single persons must have financial dependants
- Single aged persons, disabled persons and military veterans without financial dependants may be assisted. Aged persons refer to, must comply with the criteria on aged as defined by the Department of Social Development
- Households must earn a monthly income in the range as annually approved (currently R0 – R 3 500,00 per month or R 42 000,00 per annum); and
- Persons who have benefited from the Land Restitution Programme and who satisfy all other relevant criteria may also be assisted.

*(National Housing Code, 2009 : 13,14)*

In addition to the above, the particular household head(s) must be registered on the municipal demand database for a minimum period of **three (3) years** (Par 5.2(b)(a) : Overstrand Municipality: Housing Selection Policy)

#### 4. QUALIFYING CRITERIA FOR THE FLISP SUBSIDY

The following principles apply:

- a) The FLISP Subsidy is available to a qualifying beneficiary who is able to access mortgage loan finance to acquire a residential property or to construct a house.
- b) The Programme provides individual subsidies linked to the household income of the applicant and is subject to the approval of a mortgage loan. All applicants must satisfy the qualification criteria to enable them access to the benefits of the Programme. Households will only be able to access one Finance Linked Individual Subsidy and where the subsidy is accessed by applicants that are married or who are cohabiting with partners, the property must be registered in the names of both the applicant and his/her spouse.
- c) The FLISP subsidy represents a once-off subsidy, to qualifying beneficiaries who will not qualify for and further or other state-assisted housing assistance. Beneficiaries will only benefit once in their lifetime from Government's housing assistance programmes.

- d) The FLISP subsidy is only available to a first time home owner whose monthly household income exceeds the cut off margin applicable to the Housing Subsidy Scheme and that monthly income is less than the maximum income limit set for the FLISP as announced from time to time. The 2012 income category for the FLISP is R3 501 to R15 000 per month.
- e) The FLISP subsidy may be utilized to meet any deposit requirements that may be imposed by the relevant financial institution.
- f) Where the FLISP subsidy is adequate to cover the lender's deposit requirements, the beneficiaries of the Programme will not be required to make any further financial contributions.
- g) The FLISP subsidy will only be awarded to qualifying beneficiaries who will acquire a residential property, the value of which may not exceed the maximum property value set for the Programme as announced from time to time. The current property value is set at R300 000,00.

Furthermore, applicants must also comply with the aforementioned criteria applicable to low cost housing, except for income specified under 4(d) above.

## 5. POSSIBLE SCENARIOS

The following scenarios are presented:

### STANFORD DEVELOPMENT

<b>SUMMARY : HOUSING OPPORTUNITIES</b>	<b>TOTAL</b>
Waiting list (incl. backyard dwellers)	509
Less: Applicants younger than 30 years (Prov Circ 10/2015)	-60
Less : Estimated failed subsidy applications (30%)	-135
Die Kop (not registered on HDDB)	83
Total housing demand	397
<b>EMERGENCY HOUSING (PARADISE PARK)</b>	<b>120</b>
Surplus of serviced sites	253
<b>TOTAL HOUSING OPPORTUNITIES</b>	<b>770</b>

The total housing demand for the Stanford project could be 397 applicants, based on:

- the subtraction of applicants younger than 30 years from the demand database; and
- an estimated 30% of failed subsidy applications (subsidy applications that do not meet the national housing criteria).

If the housing demand of Paradise Park is added, the total demand could be 517, with a surplus of 253 sites.

## 6. AVAILABLE LAND FOR EMERGENCY HOUSING

Stanford is the first port of call for those requiring emergency housing accommodation. If there is a shortfall, specific pieces of land must be identified.

## 7. TIMEFRAME TO ASSIST BENEFICIARIES FOR EMERGENCY HOUSING

The anticipated commencement date for phase 1 (infrastructure installation) in the Stanford housing project is January 2019 and the estimated completion date is October 2019.

## 8. CONCLUSION

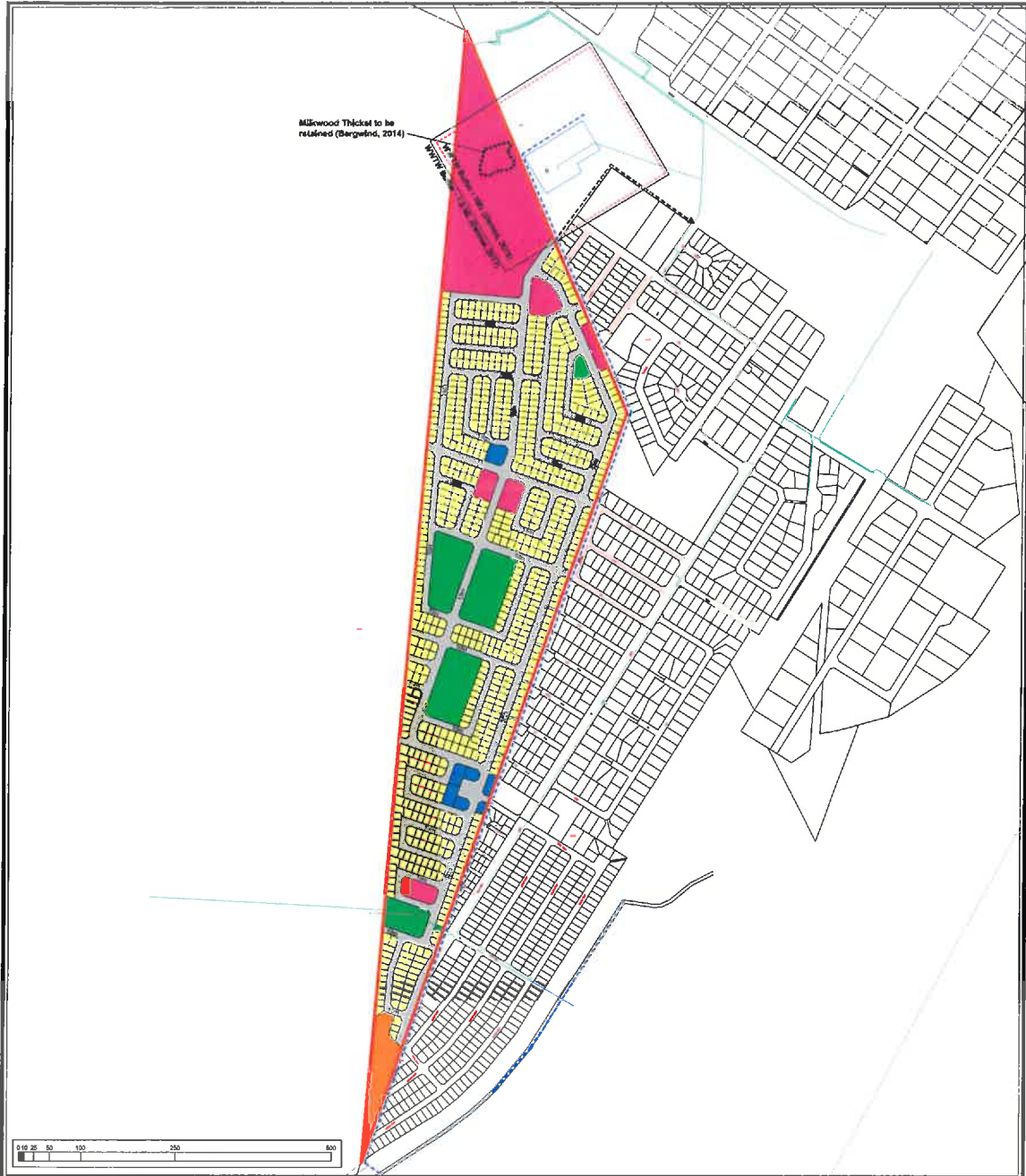
From the analysis it is clear that approx. 120 families are in need of emergency accommodation. Provision has to be made to accommodate the aforementioned families in emergency accommodation. They only come off the list for emergency accommodation if they can be accommodated by family or accommodate themselves or if they qualify for and are offered other housing opportunities before they are evicted. For e.g. a few families from Paradise Park could also be offered a housing opportunity in the **Gansbaai 155** GAP project or in BNG accommodation or old age homes.

The exact number of families willing to accept the emergency housing option can only be determined through interaction with the affected families by the Housing Department and after they have been assessed for other housing opportunities or alternative accommodation.

A housing report must be filed in the High Court by February 2018 setting out what planning the Municipality has put in place to accommodate those who will be genuinely homeless if evicted in emergency accommodation. For this reason approval is required to accommodate them in emergency accommodation in the Stanford project and on a piece of land as identified should there be any shortfall in the Stanford Project.

Compiled by: FW Frans  
Manager, Housing Administration.

Date : 18 January 2018



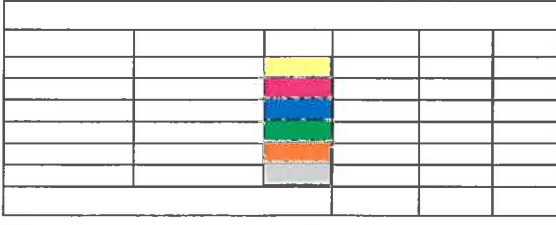
# STANFORD

## PREFERRED LAYOUT 1

DATE 14 March 2017  
 SCALE See Linescale  
 PLAN NO. 10

URBAN DYNAMICS WESTERN CAPE  
 TOWN & REGIONAL PLANNERS  
 100 Main Road, Cape Town  
 8001  
 Tel: +27 (0)21 461 1111  
 Fax: +27 (0)21 461 1112  
 Email: info@urban-dynamics.co.za

Application Area - ±28,73ha    Refer Subdivision Plan    Interim Urban Edge (Edge of existing built area)



PLEASE NOTE:  
 All boundary line positions, distances and property sizes need to be verified by a Professional Land Surveyor.

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