

**AGENDA of the
Portfolio Committee: Planning & Development
19 August 2025
(Also the agenda for the Mayoral Committee Meeting: 26 August 2025)**

6.

TRANSFER OF UNREGISTERED ERF 8729 (A PORTION OF REMAINDER ERF 5504) KLEINMOND (PORTION OF PUBLIC OPEN SPACE), ADJACENT TO ERF 4711 KLEINMOND, SITUATED IN LOWER BEACH ROAD, KLEINMOND, TO EILEEN THORN FAMILY TRUST

**A Le Roux
30 June 2025**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To obtain final approval for the transfer of unregistered Erf 8729 (a portion of Remainder Erf 5504) Kleinmond (69m² in extent) adjacent to Erf 4711 Kleinmond, situated at 30 Lower Beach Road, Kleinmond (hereinafter referred to as “the Property”), to the owner of Erf 4711 Kleinmond, being Eileen Thorn Family Trust (hereinafter referred to as “the Applicant”) for parking purposes. See the locality maps attached hereto marked “Annexures A1 & A2”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priorities

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

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Finance Management Act (Act 56 of 2003) (“MFMA”)
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

Council approved the following on 30 November 2022:

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- “1. *that the direct alienation of a portion of Remainder Erf 5504 Kleinmond (adjacent to Erf 4711 Kleinmond) situated at 30 Lower Beach Road, Kleinmond (±65m² in extent), to the owner of the adjoining Erf 4711 Kleinmond, Eileen Thorn Family Trust, at an amount of R2,000.00/m² (TWO THOUSAND RAND) (PER SQUARE METRE) (VAT excluded) be approved in principle;*
2. *that it be noted that the direct alienation is possible as the said portion of Remainder Erf 554 Kleinmond can be classified as a non-viable property;*
3. *that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;*
4. *that it be noted that a condition for the alienation will be that the said portion of Remainder Erf 5504 Kleinmond must be consolidated with the adjoining property of Eileen Thorn Family Trust, being Erf 4711 Kleinmond;*
5. *that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of Remainder Erf 5504 Kleinmond, which condition must be registered against the title deed of the consolidated property;*
6. *that the alienation of said portion of Remainder Erf 5504 Kleinmond be subject to a suspensive condition that the applicant/purchaser obtains approval for all the required land use rights, which may include, the closure of public open space, rezoning, subdivision and consolidation;*
7. *that all the costs pertaining to the transaction, e.g. application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, advertisement and the related costs, etc. be paid by the Applicant/purchaser, Eileen Thorn Family Trust; and*
8. *that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council’s Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).”*

The public participation was followed as discussed in more detail below.

The required land use planning processes have been completed, and all necessary approvals have been obtained. With the subdivision of Remainder Erf 5504 Kleinmond the portion being alienated was allocated its own erf number, namely, Erf 8729 (a portion of Remainder Erf 5504) Kleinmond, and

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the final size confirmed as 69m² in extent. See the approved SG Diagram attached hereto as “Annexure B”.

Evaluation

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

The following conditions of the said Policy will apply:

Paragraph 7: “the transfer of ownership of immovable property must be fair, equitable, transparent, competitive (unless it is not applicable or unpractical e.g. non-viable immovable property) and consistent with the supply chain management policy of the Municipality in accordance with Section 14(5) of the MFMA.”

Non-viable immovable property is defined in the relevant Policy as “a property that, owing to urban planning, physical constraints or extent, cannot be developed on its own or function as a separate entity and can therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner’s property.” The subject property can be classified as a non-viable immovable property due to the location, shape, size and proposed use thereof.

Paragraph 9(1)(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of section 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services.”

Council, when the in-principle approval was obtained, confirmed that the Property is not needed to provide the minimum level of basic municipal services.

Paragraph 9(1)(b): “The Municipality may transfer ownership or otherwise dispose of non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA 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.”

HCB Property Valuations determined the fair market value on 1 August 2022 at an amount of R2,000.00/m² (TWO THOUSAND RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into

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consideration the size, shape, locality, zoning and proposed use (restriction) of the Property. The purchase amount will thus be an amount of R138,000.00 (ONE HUNDRED AND THIRTY-EIGHT THOUSAND RAND) (VAT excluded).

Paragraph 9(1)(c): “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 has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”

The direct sale of the Property to the adjoining property owner of Erf 4711 Kleinmond was approved in principle by Council on 30 November 2022.

Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as nonexempted 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 9.2(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.”**
- (a) The comments received from the relevant departments indicated that the Property is not needed for the provision of municipal services.
 - (b) HCB Property Valuations determined the fair market value on 1 August 2022 at an amount of R2,000.00/m² (TWO THOUSAND RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and

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proposed use (restriction) of the Property. The purchase amount will thus be an amount of R138,000.00 (ONE HUNDRED AND THIRTY-EIGHT THOUSAND RAND) (VAT excluded).

- (c) The reasons for the preferred direct sale are discussed above and was recorded in the minutes of the in-principle approval granted by Council on 30 November 2022”.

Paragraph 28: “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.”

The Applicant will be liable for the costs of the transaction which will include, but not be limited to, the application fee, valuation costs, rezoning and consolidation, closure of public open space, the required public participation process and transfer costs.

Paragraph 30: “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.”

A condition to this effect was included in the Deed of Sale.

Paragraph 32: “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.”

A condition to this effect was included in the Deed of Sale.

Paragraph 34: “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.”

A condition to this effect was included in the Deed of Sale.

Paragraph 35: “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.”

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A condition to this effect was included in the Deed of Sale.

B. Advertisement/Notification

An advertisement for the transfer of the Property was published in the Overstrand Herald on 7 March 2024 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

Conclusion

It is recommended that the transfer of unregistered Erf 8729 (a portion of Remainder Erf 5504) Kleinmond (69m² in extent), to Eileen Thorn Family Trust at a market related amount of R138,000.00 (ONE HUNDRED AND THIRTY-EIGHT THOUSAND RAND) (VAT excluded) for parking purposes, be approved.

7. Financial Implications

The Municipality stands to gain an income of R138,000.00 (ONE HUNDRED AND THIRTY-EIGHT THOUSAND RAND) (VAT excluded) for the sale of the Property.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“The portion of Erf 5504 (±65m² in extent) Kleinmond, adjacent to Erf 4711 Kleinmond and situated at Lower Beach Road, Kleinmond, is reflected in the fixed asset register for HA: Land as part of the overall Erf 5504 at a value of R1’122’535-10 as at 30 June 2025. As soon as the proposed alienation has been concluded the portion of the erf will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of the portion of an asset. There is no objection against the proposed alienation as the application complies with the Administration of Immovable Property Policy.”

10. Annexures

Annexures A1 & 2: Locality maps
Annexure B: SG Diagram

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RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered Erf 8729 (a portion of Remainder Erf 5504) Kleinmond, situated next to 30 Lower Beach Road, Kleinmond (69m² in extent), to the owner of the adjoining Erf 4711 Kleinmond, Eileen Thorn Family Trust, at an amount of R138,000.00 (ONE HUNDRED AND THIRTY-EIGHT THOUSAND RAND) (VAT excluded) for parking purposes, **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as unregistered Erf 8729 (a portion of Remainder Erf 5504) Kleinmond is classified as a non-viable property;
3. that it be noted that a condition of the alienation will be that the unregistered Erf 8729 (a portion of Remainder Erf 5504) Kleinmond must be consolidated with the adjoining property of Eileen Thorn Family Trust, being Erf 4711 Kleinmond;
4. that a condition be registered against the title deed of the to be consolidated property that no structures of any kind (excluding a boundary wall or fence) may be erected on the portion of property envisaged to be transferred;
5. that all costs pertaining to the transaction, e.g. application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, transfer and related costs, advertisements, etc. be paid by Eileen Thorn Family Trust; and
6. that it be noted that the municipal property herewith envisaged to be transferred is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL:

VANESSA OCTOBER

TARGET DATE FOR IMPLEMENTATION :

12 SEPTEMBER 2025

TARGET DATE TO INFORM APPLICANT:

26 SEPTEMBER 2025





RICHARD LORTON Professional Land Surveyor FILE KLM4711

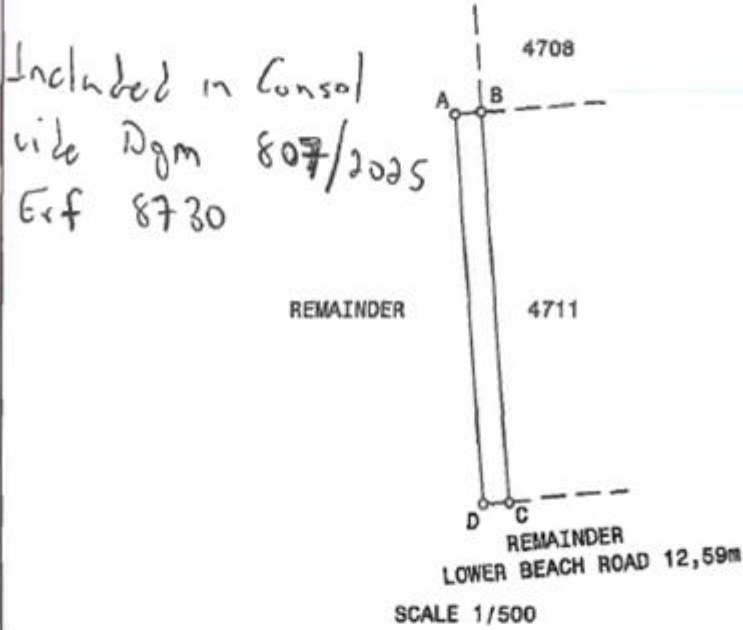
DIGITAL REGISTRATION DOCUMENT
R. Lorton
 for SURVEYOR GENERAL
 DATE 05-06-2025

SIDES Metres	ANGLES OF DIRECTION	CO-ORDINATES System WG 19		
		Y	X	
	Constants	±	0,00	+ 0,00
AB 2,20	265.29.50	A	- 1385,39	+ 3801984,41
BC 31,48	355.35.00	B	- 1387,58	+ 3801984,24
CD 2,20	85.28.40	C	- 1390,00	+ 3802015,63
DA 31,49	175.35.00	D	- 1387,81	+ 3802015,80
	30 AC6	⊕	- 1773,80	+ 3801771,05
	31 AC6	⊕	- 1492,06	+ 3801790,68

S.G. No.
806/2025
 Approved
R. Lorton
 for
 Surveyor-General
 Date: 02-06-2025

I, **RICHARD M LORTON**, PLS No. 0931
 hereby certify that this Digitally approved Deeds Registration Document was extracted by myself from the Digital Registration Document provided by the Surveyor General's office, Cape Town.
R. Lorton
 Professional Land Surveyor
 Date 17/06/2025

BEACON DESCRIPTIONS:
 A,B,C,D ... 12mm round iron peg



The figure A B C D represents 69 square metres of land, being ERF 8729, a portion of the REMAINDER OF ERF 5504 KLEINMOND

situate in the Overstrand Municipality
 Administrative District Caledon Province Western Cape
 Surveyed in March 2025
 by me, *R. Lorton*

R M LORTON
 Professional Land Surveyor No GPr LS0931

EXEMPT FROM THE PROVISIONS OF ACT 70 OF 1970
 SECTION 1(a)

Approved (In Section of Municipal Land Use Planning Bylaw Ref: 4711 & 5504 KKM
 Date: 7 April 2025

This diagram is annexed to No. dated i.f.o Registrar of Deeds

The original diagram is No.7188/1946 annexed to Transfer No. 1947.121.602B

File No. S/9250/14 v.1
 S.R. No 504/2025
 Comp. AI-3AC/X14 (421)
 General Plan No. K44 LPI C0130014 (2770)