

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

7.

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF
REMAINDER ERF 249 HERMANUS (PORTION OF PUBLIC ROAD), ADJACENT
TO ERF 6135 HERMANUS, SITUATED IN CLIFF ROAD, HERMANUS, TO P & D
TURPIE**

**A Le Roux
9 July 2025**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To obtain approval in principle for the direct alienation of a portion of Remainder Erf 249 Hermanus ($\pm 446\text{m}^2$ in extent) adjacent to Erf 6135 Hermanus, situated at 18 Cliff Road, Hermanus (hereinafter referred to as “the Property”), to the owners of Erf 6135 Hermanus, being P & D Turpie (hereinafter referred to as “the Applicants”). See the locality maps attached hereto marked “Annexure 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, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

An application was received from the Applicants for the purchase of the Property adjacent to their own property, Erf 6135 Hermanus, situated in Cliff Road, Hermanus.

The Applicants acknowledge that the Property was originally earmarked for a public road, however, this road was never developed and is no longer required, as the surrounding area has established roads on two sides of the properties.

The Applicants, therefore, seeks to incorporate the Property into their existing erf to establish a landscaped garden. Additionally, they intend to secure the area by constructing boundary walls, thereby improving its management and maintenance and enhancing the visual character of the surrounding area while addressing risks associated with unmanaged open land.

The Applicants further outlined several considerations as part of the application motivation. First, the Property has not been developed for road purposes and, in its current state, remains underutilized, serving no municipal function. Lastly, transferring the underutilized land into private ownership will facilitate its optimal use. The proposed landscaped garden and boundary walls will enhance the area's aesthetics and ensure the Property is maintained to a high standard.

In addition, the owners of the other neighbouring property, Erf 299 Hermanus, has confirmed in writing that they do not object to the alienation of the Property to the Applicants and are not interested in acquiring the Property themselves.

The Applicants are further of the opinion that the proposed alienation will not negatively impact existing municipal services, as they are committed to registering a services servitude for the existing waterline on the Property in favour of the Municipality. This servitude will safeguard access to existing infrastructure and ensure that the Municipality retains all necessary rights to manage and maintain service lines.

Due to the locality, intended use and size of the Property, it cannot be developed independently, and thus it can be classified as a non-viable property. The Property, being only $\pm 446\text{m}^2$ in extent, is too small for a residential development as it is smaller than the minimum developable property size for the area. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to adjoining property owner, subject to certain conditions.

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One of the conditions to the alienation will be that no structures of any kind (excluding a boundary wall or fence) may be erected on the Property.

Evaluation

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

The following conditions of the said Policy will apply:

Paragraph 4: “No application for the purchase, lease or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for the financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidation, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.”

The Applicant completed the formal application form and made payment of the application fee.

Paragraph 5: “The Municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a municipal immovable property needed to provide the minimum level of basic services, save where the transfer is to another organ of state, as provided for in section 14(6) of the MFMA read with Regulation 24 in Chapter 3 of the MATR.

Although there is a municipal water pipeline located on the Property a condition to the alienation of the Property will be that a service servitude will be registered in favour of the Municipality allowing access to the infrastructure at all times. It was confirmed that the Property is not needed for any further services. See the locality map illustrating the waterline attached hereto marked “Annexure B”.

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.”

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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 Property can be classified as a non-viable immovable property due to the location, size and proposed use thereof. The Applicants are the only adjoining neighbouring property owners who expressed interest in purchasing the Property for gardening and boundary wall purposes. The other neighbouring property owners of Erf 299 Hermanus confirmed in writing that they do not object to the alienation of the Property to the Applicants and have no interest in applying to purchase the Property. The Property is smaller than the minimum developable size of property in the area and can therefore not be used for residential development.

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 indicate that there is a municipal water pipeline located on the Property. A condition to the alienation of the Property will be that a service servitude will be registered in favour of the Municipality allowing access to the infrastructure at all times. It was confirmed that the Property is not needed for any further services.
 - (b) HCB Property Valuations determined the fair market value on 1 June 2025 at an amount of R2,000.00/m² (TWO THOUSAND

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RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, locality, zoning and proposed use (restriction) of the Property.

- (c) The reasons for the preferred direct sale are discussed above and will subsequently be recorded in the minutes.

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 Applicants will be liable for the costs of the transaction which will include, but not be limited to, the application fee, valuation costs, removal of restrictive conditions (if any), closure of portion of road, subdivision, rezoning and consolidation, the required public participation and transfer costs.

Paragraph 29: “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.”

The Applicants will be responsible for the cost of registering a service servitude in favour of the Municipality.

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 will be 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 will be included in the Deed of Sale.

Paragraph 33: “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.”

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A condition to this effect will be 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 will be 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.”

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

B. Advertisement/Notification

The necessary advertisement will be published after obtaining this in principle decision. The Applicants will be liable for the costs of the public participation process.

Conclusion

Considering the comments of the internal departments, as well as the above discussion, it is recommended that the direct alienation of the Property to the Applicants be approved in principle.

7. Financial Implications

The Municipality stands to gain an income of R2,000.00/m² (TWO THOUSAND RAND PER SQUARE METRE) (VAT excluded) for the alienation 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 Remainder of Erf 249 Hermanus (±460m² in extent), situated at 18 Cliff Road, Westcliff, Hermanus is reflected in the Fixed Asset Register for PPE Land, as part of the global Erf 249, at a total carrying value of R7’000’000-00

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(SEVEN MILLION RAND) as on 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.”

Principal Technologist Civil - Mr T Marx

“We do not have any objection with this application, but the new owners must be aware that there is a waterline across the Property so if we need to do maintenance, we will need access. I don't think it's necessary to register a servitude, but the Applicants need to keep in mind that should the water pipe bursts the municipality do need to do maintenance.”

The registration of a service servitude is required to secure the Municipality's infrastructure and ensure access thereto at all times.

Town Planner - Mr B Minnaar

“The alienation and subsequent sale of the Property is supported from a town planning perspective. On consultation with architects regarding the subject property and Erf 6135 Westcliff, it is of the opinion that the Property be rezoned and consolidated with Erf 6135 Westcliff.”

Building Control Officer – Mr G Coetzee

“No objection from Building Control.”

Senior Superintendent: Technical Planning: Electrical Services– Mr J Klem

“There is no service connection to this erf. The Electrical Department does not need this property for future use.”

Assistant Chief: Fire, Health and Safety – Mr E Solomons

“The Fire Safety Department has no comments.”

Senior Superintendent: Traffic Operations - Mr P de Gruchy

“The Traffic Department has no objection towards this application.”

Manager: Environmental Management & Conservation – Ms P Aplon

“This office has no objection to this application to purchase a remainder of Erf

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249, Hermanus, on condition that the sole use is for gardening purposes, as per the application.”

10. Annexures

Annexures A1 & 2: Locality maps
Annexure B: Map indicating the existing waterline

RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation of a portion of Remainder Erf 249 Hermanus ($\pm 446\text{m}^2$ in extent), situated next to 18 Cliff Road, Hermanus, to the owners of the adjoining Erf 6135 Hermanus, P & D Turpie, at an amount of R2,000.00/m² (TWO THOUSAND RAND PER SQUARE METRE) (VAT excluded) for security and gardening purposes, **be approved in principle**;
2. that it be noted that the direct alienation is possible as the portion of Remainder Erf 249 Hermanus 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 Applicants/purchasers;
4. that it be noted that a condition for the alienation will be that the portion of Remainder Erf 249 Hermanus must be consolidated with the adjoining property of P & T Turpie;
5. that the Applicants/purchasers must at own cost, simultaneous with the transfer of the portion of Remainder Erf 249 Hermanus, register a services pipeline servitude that runs parallel with the property boundary, in favour of the Municipality, for the protection of the existing municipal infrastructure;
6. that the property may only be used for gardening purposes and no structures of any kind (excluding a boundary wall or fence) may be erected on the portion of Remainder Erf 249 Hermanus, which conditions must be registered against the title deed of the consolidated property;
7. that the alienation of the portion of Remainder Erf 249 Hermanus be subject to a suspensive condition that the Applicants/purchasers obtain approval for all the required land use rights, which may include, the closure of a portion of road, subdivision, rezoning and consolidation;
8. that all costs pertaining to the transaction, e.g. application costs, valuation costs, closure of a portion of road, subdivision, rezoning and consolidation, the required public participation, transfer and related costs, etc. be paid by the Applicants/purchasers, P & D Turpie, and

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9. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of further 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 APPLICANTS:

26 SEPTEMBER 2025





Illustration 1: Waterline

