

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 August 2017
(Also the agenda for the Mayoral Committee Meeting : 30 August 2017)**

4.

HERMANUS: TRANSFER OF REMAINDER ERF 2834 (EXCLUDING ERF 2836 AND INCLUDING UNREGISTERED ERF 2837) SANDBAAI, ±39,4905HA IN EXTENT, FOR MIXED RESIDENTIAL PURPOSES AND A RETIREMENT VILLAGE

7/2/3/2

M Erasmus

(028) 316 - 3724

Hermanus Administration

4 July 2017

1. Executive Summary

To obtain final approval for the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, for mixed residential purposes and a retirement village, to Mygaworx (Pty) Ltd.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Local Government: Municipal Finance Management Act, No 56 of 2003
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Overstrand Municipality Supply Chain Management Policy, as amended

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

Council initially approved in principle the alienation of the subject property by means of a competitive process on 30 October 2013 already. Tenders were

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invited in December 2016 for the sale of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, for mixed residential purposes and a retirement village.

The tender was awarded by the Municipal Manager upon a recommendation by the Bid Adjudication Committee on 13 April 2017 to Mygaworx (Pty) Ltd for an amount of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included). The amount tendered is higher than the indicative value of R60,249,000.00 (SIXTY MILLION TWO HUNDRED AND FORTY NINE THOUSAND RAND ALONE) (VAT included) as indicated in the tender document.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

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

The comments from the relevant officials confirmed that the said property is not needed for basic municipal services. Council, when the in principle approval was obtained, confirmed that the subject 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 a 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:”

The original indicative value of the property was determined by Boland Valuers at an amount R60,249,000.00 (SIXTY MILLION TWO HUNDRED AND FORTY NINE THOUSAND RAND ALONE) (VAT included).

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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 purchaser is liable for the cost of the final transfer advertisement as well as all the costs involved with the registration of the transfer in the Deeds Office, including but not limited to registering a Certificate of Registered Title and/or Certificate of Consolidated Title, if necessary. The purchaser will also be liable for the cost relating to the provision of services and bulk levy services.

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 clause to this effect will further be inserted 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 clause to this effect will be inserted 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 clause to this effect will be inserted in the Deed of Sale.

B. Advertisement/Notification

An advertisement for the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, was placed in The Village News on 23 May 2017 for a 30 (thirty) day objection/comment period. No objections/comments were received.

Conclusion

It is recommended that the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in

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extent, for mixed residential purposes and a retirement village, to Mygaworx (Pty) Ltd for the amount of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included) be approved.

7. Financial Implications

The Municipality stands to gain an income of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included) for the sale of the property and a further income relating to the bulk services levies that must be paid. In addition to this direct income, Council will further gain from rates and taxes to be levied on the property.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr. J Vorster - (028) 313 8046

Remainder Erf 2834 Sandbaai is currently reflected in the Fixed Asset Register for Investment Property: Land and Buildings with a carrying value of R36'000'000. The disposal of Remainder Erf 2834 Sandbaai will have to be accounted for at the selling price in the Fixed Asset Register.

There is no objection as the application complies with the Administration of Immoveable Property Policy.

10. Annexures

Annexure A: Locality Plan

Annexure B: Approval of Executive Mayor of 7 October 2010

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, for mixed residential purposes and a retirement village, to Mygaworx (Pty) Ltd for the amount of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included), **be approved**;

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2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai to Mygaworx (Pty) Ltd;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level 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, No 56 of 2003;
4. that Mygaworx (Pty) Ltd be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, costs involved with the registration of the transfer in the Deeds Office, including but not limited to registering a Certificate of Registered Title and/or Certificate of Consolidated Title, if necessary; and
5. that all the conditions as approved by the Executive Mayor on 7 October 2010 (attached hereto per Annexure B) be incorporated in the Deed of Sale as special conditions to the sale.

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

30 OCTOBER 2017

TARGET DATE TO INFORM APPLICANT :

22 SEPTEMBER 2017

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**4.
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MIXED RESIDENTIAL PURPOSES AND A RETIREMENT VILLAGE**

7/2/3/2

M Erasmus

(028) 316 - 3724

Hermanus Administration

4 July 2017

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 AUGUST 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, for mixed residential purposes and a retirement village, to Mygaworx (Pty) Ltd for the amount of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai to Mygaworx (Pty) Ltd;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level 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, No 56 of 2003;
4. that Mygaworx (Pty) Ltd be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, costs involved with the registration of the transfer in the Deeds Office, including but not limited to registering a Certificate of Registered Title and/or Certificate of Consolidated Title, if necessary; and
5. that all the conditions as approved by the Executive Mayor on 7 October 2010 be incorporated in the Deed of Sale as special conditions to the sale.

RESPONSIBLE OFFICIAL :

M ERASMUS

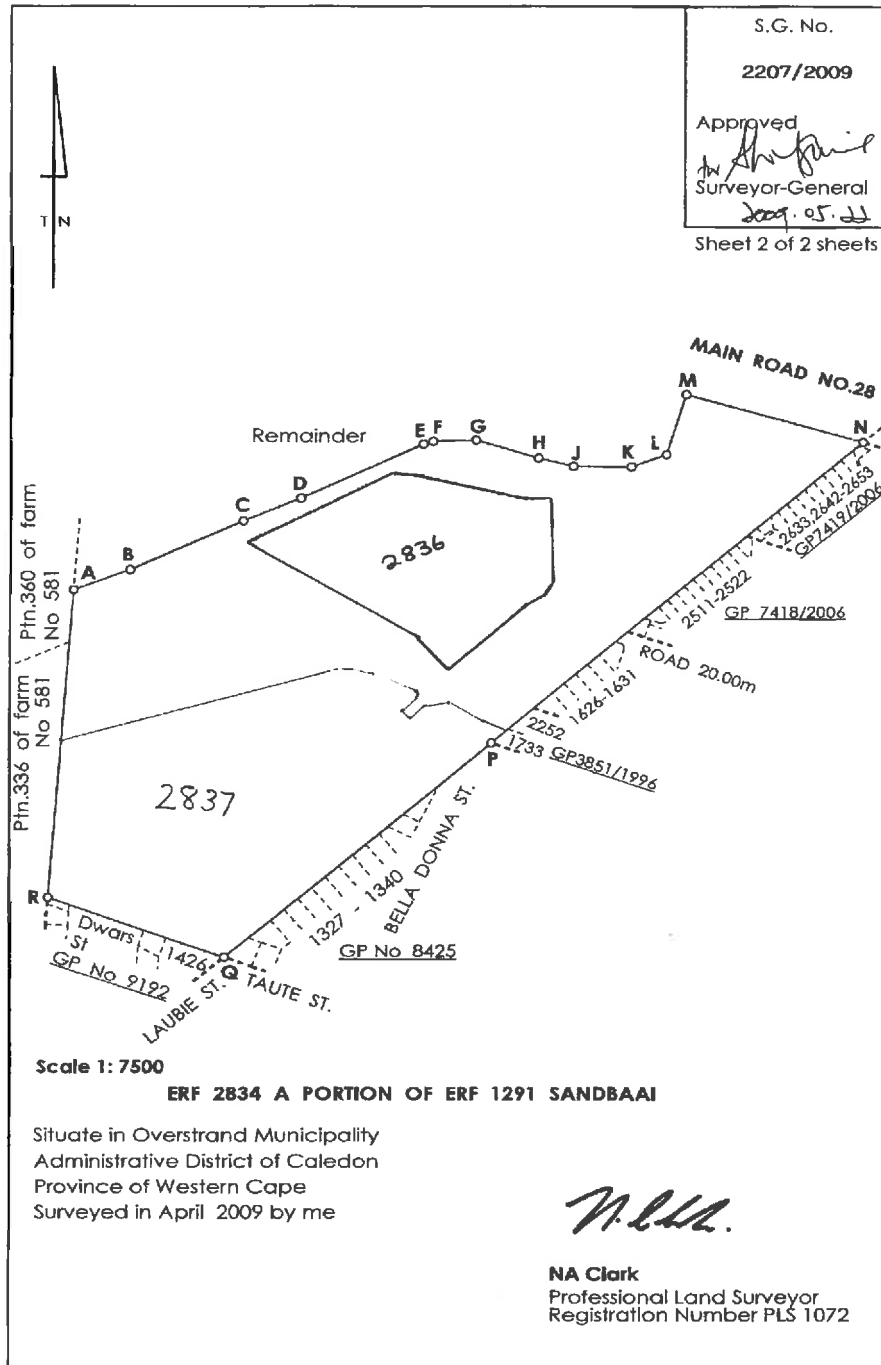
TARGET DATE FOR IMPLEMENTATION :

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TARGET DATE TO INFORM APPLICANT :

22 SEPTEMBER 2017

OFFICE COPY



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Erf 2834 SANDBAAL

4.

ERF 2834, SANDBAAI, (UNREGISTERED PORTION OF ERF 1291), OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING, SUBDIVISION, DEPARTURE AND CONSENT USE : OVERSTRAND MUNICIPALITY – “SANDBAAI COMMONAGE”

2834 HSB (1340)

H van der Stoep

5 October 2010

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

The property is located 4km from the Hermanus CBD, north of Sandbaai Township and south of the Onrust River.

An application has been received from Messrs. Plan Active on behalf of the Overstrand Municipality in terms of Scheme Regulations 8 for the following:

- Rezoning of Erf 2834, Sandbaai to Subdivisional Area in terms of Section 22 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).
- Subdivision of Erf 2834 in terms of Section 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985):

| ZONING | AMOUNT OF ERVEN/UNITS |
|----------------------|--------------------------|
| Residential Zone I | 94 erven |
| Residential Zone II | Total : 151 Res II erven |
| Cluster 1 | 53 residential erven |
| Cluster 2 | 98 residential erven |
| Residential Zone III | 322 erven |
| Institutional Zone I | 1 erf (School) |
| Business Zone I | 1 erf |
| Open Space Zone I | |
| Public Streets | |

RETIREMENT VILLAGE

| | |
|----------------------|--|
| Residential Zone I | 46 erven (Buffer erven) |
| Residential Zone II | 82 transitional erven |
| | 1 Cluster erf @ 35 units/ha Maximum 115 units |
| Residential Zone III | 1 Cluster erf (Frail care, service center, etc.) |
| Open Space Zone II | 5 private open space erven |
| Private Road | 1 private road |

MINUTES : SPECIAL MAYORAL COMMITTEE MEETING**7 OCTOBER 2010**

Departure from the Scheme Regulations 8 that a group housing cluster may not exceed the extent of 2ha in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Departure from the density of 20 units per hectare for Residential Zone II development of 3,3hectares in the retirement village to 35 units per hectare in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Consent Use in terms of Scheme Regulations 8 in order to establish frail care, service centre and associated infrastructure on Residential Zone II and III erven in the Retirement Village.

Establish a Home Owners Association for each of the Residential Zone II clusters, Retirement Village and the GAP Development in terms of Section 29 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Specialist Reports consists of a Civil Engineering Report, Traffic Impact Assessment and a Floodline Determination and Study.

The Record of Decision (ROD) issued on 29 September 2010 by the Department of Environmental Affairs and Development Planning is attached as Annexure C to the agenda.

Objections against the application were received as well as the applicant's response on the objections.

RESOLVED (UNANIMOUSLY)

1. that in terms of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 85) application for the rezoning of Erf 2834, Sandbaai to Subdivisional Area, **be approved;**
2. that in terms of Section 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 85) application for the subdivision of Erf 2834, Sandbaai for the following land uses, **be approved:**

| ZONING | AMOUNT OF ERVEN/UNITS |
|---------------------|--------------------------|
| Residential Zone I | 94 erven |
| Residential Zone II | Total : 151 Res II erven |
| Cluster 1 | 53 residential erven |
| Cluster 2 | 98 residential erven |

| | |
|----------------------|----------------|
| Residential Zone III | 322 erven |
| Institutional Zone I | 1 erf (School) |
| Business Zone I | 1 erf |
| Open Space Zone I | |
| Public Streets | |

RETIREMENT VILLAGE

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|----------------------|--|
| Residential Zone I | 46 erven (Buffer erven) |
| Residential Zone II | 82 transitional erven |
| | 1 Cluster erf @ 35 units/ha Maximum 115 units |
| Residential Zone III | 1 Cluster erf (Frail care, service center, etc.) |
| Open Space Zone II | 5 private open space erven |
| Private Road | 1 private road |

3. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 85) application for a departure from the Scheme Regulations 8 that a group housing cluster may not exceed the extent of 2ha, **be approved;**
4. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 85) application for a departure from the density of 20 units per hectare for Residential Zone II development of 3,3hectares in the retirement village to 35 units per hectare, **be approved;**
5. that in terms of Clause 4.7 of the relevant Scheme Regulations promulgated under Section 8 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 85) application for a Consent Use in terms of Scheme Regulations 8 in order to establish frail care, service centre and associated infrastructure on Residential Zone II and III erven in the Retirement Village, **be approved;**

subject to the following conditions:

- (a) that the approval does not absolve the applicant from compliance with any other relevant legislation;
- (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
- (c) that the Record of Decision dated 29 September 2010 (attached as Annexure C) be adhered to;

- (d) that all conditions imposed in the Services Report be complied with;
 - (e) that no development takes place below the 1:100 year floodline;
 - (f) that all conditions imposed in the Traffic Assessment Report be complied with;
 - (g) that the recommendations of the Western Cape and Overstrand Heritage Committees be adhered to;
 - (h) that Geotechnical investigation per tender area be done before any building plan is approved;
 - (i) that the development comply with Scheme Regulations, Regulation 8 with regard to the different land uses;
 - (j) that access be provided to the Habonim Site. Access to be at the cost of the developer;
 - (k) that services be designed in such a manner to allow for connection of Habonim, and
 - (l) that a 6m building line be adhered on the eastern boundary of the commercial erf.
6. that it be **NOTED** that Cllr A Coetsee, who is also a resident in the Bosplasia area, indicated that he was not part of the objections against the proposed development formulated apparently on behalf of the Bosplasia residents.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

TARGET DATE FOR IMPLEMENTATION :

7 OCTOBER 2010