

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 May 2018  
(Also the agenda for the Mayoral Committee Meeting : 30 May 2018)**

---

**4.  
HERMANUS, ERF 11154: CONSENT TO THE REMOVAL OF CONDITION B.5.  
(INCLUDING 5.1 – 5.3) FROM TITLE DEED NUMBER T45573/2014**

**7/2/3/2/**

**Anja Le Roux  
19 April 2018**

**(028) 316 - 3724**

**Hermanus Administration**

---

**1. Executive Summary**

A request was received for Council to consent to the removal of condition B.5. (including 5.1 to 5.3) from Title Deed number T45573/2014 as it has been fulfilled and has subsequently lapsed.

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

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
The encouragement of structured community participation in the matters of the municipality

**4. Delegated Authority**

None

**5. Legal Requirements**

- Western Cape Land Use Planning Act (Act 3 of 2014) (“LUPA”)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

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

**Background**

On 6 June 2014 Council sold Erf 11154 Hermanus (Westcliff) to Annenprop 9 (Pty) for the establishment of an Oncology Unit and related medical facilities after a competitive process was followed. The transaction was duly registered in the Deeds Office on 26 August 2014.

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 May 2018  
(Also the agenda for the Mayoral Committee Meeting : 30 May 2018)**

---

The Title deed of the property, T45573/2014, contains the following condition which was imposed by Council in a Council resolution dated 28 May 2014 as a condition of the sale:

*“B. SUBJECT to the following conditions imposed by the Overstrand Municipality with the sale of the property, namely:*

5. *Should the purchaser not complete the development of the medical facility on the property within a period of 2 (TWO) years from date of the registration of transfer, which time period of 2 (TWO) years may on prior written application of the purchaser to the seller stating the reasons for the request, be extended by consent of the seller given under the hand of the Municipal Manager, which consent will not be withheld unreasonably, and/or obtain the required licence for operating an Oncology Unit within 1 (ONE) year of registration of the property in its name, ownership of the property or remainder thereof shall revert back to the seller, and the purchaser, or its successors in title, shall:*
  - 5.1 *be compelled to sign the transfer documents within 7 days within receiving a notice to that effect, failing which the duly authorised agent of the seller is hereby appointed by the purchaser to sign such documentation, and*
  - 5.2 *be responsible for all transfer costs and statutory duties payable in connection with the retransfer of the property to the seller and/or any third party with regards to the purchase or retransfer of the property, and*
  - 5.3 *be entitled to a refund of the total purchase price mentioned in paragraph 2 hereof free of interest on the date of registration of transfer less any damages or loss incurred by the seller,”*

**Discussion**

The development of the Oncology Unit and related medical facilities was duly completed and the official opening of the fully functioning Hermanus Medical Village was held on 30 November 2016. The licence to operate an Oncology Unit was obtained within the one year as stipulated in the condition and the property is now being operated as both a Medical Facility and Oncology Unit. The condition as imposed by Council has therefore been met.

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 May 2018  
(Also the agenda for the Mayoral Committee Meeting : 30 May 2018)**

---

### **Evaluation**

In terms of LUPA a restrictive condition is defined as follows:

*“any condition registered against the title deed of land restricting the utilisation, development or subdivision of the land concerned, excluding servitudes creating real or personal rights”*

Should the condition contained in title deed number T45573/2014 be classified as a restrictive condition, the process as stipulated in Section 39 of LUPA must be followed.

However, in this case the above mentioned condition cannot be seen as restrictive condition as defined in LUPA. This is mainly because it was imposed as a condition of the sale to ensure that the development is completed.

### **Conclusion**

Taking the above into consideration, it is recommended that Conditions B.5. (including 5.1 to 5.3) as contained in Title Deed number T45573/2014 in relation to Erf 11154 Hermanus be removed.

### **7. Financial Implications**

None

### **8. Staff Implications**

None

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

None

### **10. Annexures**

Annexure A: Locality plan

Annexure B: Copy of Title deed number T45573/2014

### **RECOMMENDATION TO THE COUNCIL:**

1. that the removal of condition B.5. (including 5.1 to 5.3) as contained in Title Deed number T45573/2014 due to it having been fulfilled and has subsequently lapsed, **be approved**;

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 May 2018  
(Also the agenda for the Mayoral Committee Meeting : 30 May 2018)**

---

2. that the Municipal Manager be authorized to sign the required Deeds Office documents for the removal of above mentioned conditions.

<b>RESPONSIBLE OFFICIAL :</b>	<b>ANJA LE ROUX</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>8 JUNE 2018</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>15 JUNE 2018</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 May 2018  
(Also the agenda for the Mayoral Committee Meeting : 30 May 2018)**

---

**4.  
HERMANUS, ERF 11154: CONSENT TO THE REMOVAL OF CONDITION B.5.  
(INCLUDING 5.1 – 5.3) FROM TITLE DEED NUMBER T45573/2014**

**7/2/3/2**

**Anja Le Roux  
19 April 2018**

**(028) 316 - 3724**

**Hermanus Administration**

---

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
22 MAY 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the removal of condition B.5. (including 5.1 to 5.3) as contained in Title Deed number T45573/2014 due to it having been fulfilled and has subsequently lapsed, **be approved**; and
2. that the Municipal Manager be authorized to sign the required Deeds Office documents for the removal of above mentioned conditions.

**RESPONSIBLE OFFICIAL : ANJA LE ROUX**

**TARGET DATE FOR IMPLEMENTATION: 8 JUNE 2018**

**TARGET DATE TO INFORM APPLICANT: 15 JUNE 2018**

**TARGET DATE TO INFORM OBJECTOR: N/A**



301 BSNIE OOSTHUIZEN

Vorster & Steyn  
 Mitchell House  
 16 Mitchell Street  
 HERMANUS  
 7200

Prepared by me



CONVEYANCER  
 LUCAS CORNELIS STEYN

Deed Details		Page No.
Final Price/Value	R 5 000 000,00	R 15000,00
Overstrand Municipality Account		
Deed No.		Deed at 26.4

**VERBIND MORTGAGED**

VR FOR R 85 000 000,00

000000546 / 2014

2014-08-29

REGISTRAR

DATA / CAPTURE  
 2014-08-29  
 PUMELELA MNAMATA

**DEED OF TRANSFER**

T 000045573 / 2014

BE IT HEREBY MADE KNOWN THAT

**HENDRIK MALHERBE OOSTHUIZEN**

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorised thereto by a Power of Attorney granted to him by

**THE OVERSTRAND MUNICIPALITY**

which said Power of Attorney was signed at HERMANUS on 31 July 2014

DATA / VERIFY  
 02 SEP 2014  
 MASU TAMARA

GreatConvey 14.12.2.1



Page 2

And the said appearer declared that his principal had, on 8 June 2014 truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by these presents, cede and transfer to and on behalf of:

**ANNENPROP 9 PROPRIETARY LIMITED**  
**Registration Number 2003/030318/07**

its Successors in Title or Assigns, in full and free property

ERF 11154 (A PORTION OF ERF 11102) HILIRMANUS in the Overstrand Municipality, Division of Caledon, Western Cape Province

IN EXTENT 8620 (SIX THOUSAND SIX HUNDRED AND TWENTY) Square Metres

AS WILL APPEAR FROM the annexed Diagram SG Number 1542/2010 and HELD BY Certificate of Registered Title Number T 000045572 / 2014

A. SUBJECT to the conditions as are mentioned in Deed of Grant dated 5<sup>th</sup> August 1922 (Caledon Freeholds Volume 3 number 8), which reads as follows:

"3. ....

4. That the land hereby granted shall be subject to all rights and servitudes which now affect, or at any time hereafter may be found to affect, the title of the land hereby granted, or which may be binding on the Government in respect of the said land as at the date hereof."

3. SUBJECT to the following conditions imposed by the Overstrand Municipality with the sale of the property, namely:

\*1. The property may only be used for the purposes of establishing an Oncology Unit. In addition to the Oncology Unit other medical related facilities (including a day hospital and medical rooms) may be developed.

\*2. The purchaser must acquire the necessary licence for operating an Oncology Unit within 1 (ONE) year of registration of the property in its name.

3. The height of the buildings will be limited to 2 storeys.

Page 3

3. The height of the buildings will be limited to 2 storeys.
4. The development should comply with the provisions of the applicable Scheme Regulations as promulgated.
5. Should the purchaser not complete the development of the medical facility on the property within a period of 2 (TWO) years from date of the registration of transfer, which time period of 2 (TWO) years may on prior written application of the purchaser to the seller stating the reasons for the request, be extended by consent of the seller given under the hand of the Municipal Manager, which consent will not be withheld unreasonably, and/or obtain the required licence for operating an Oncology Unit within 1 (ONE) year of registration of the property in its name, ownership of the property or remainder thereof shall revert back to the seller, and the purchaser, or its successors in title, shall:
  - 5.1 be compelled to sign the transfer documents within 7 days within receiving a notice to that effect, failing which the duly authorised agent of the seller is hereby appointed by the purchaser to sign such documentation; and
  - 5.2 be responsible for all transfer costs and statutory duties payable in connection with the retransfer of the property to the seller and/or any third party with regards to the purchaser or retransfer of the property; and
  - 5.3 be entitled to a refund of the total purchase price mentioned in paragraph 2 hereof free of interest on the date of registration of transfer less any damages or loss incurred by the seller."

Page 4

WHEREFORE the said Appearer, renouncing all right and title which the said  
**OVERSTRAND MUNICIPALITY**

heretofore had to the premises, did in consequence also acknowledge it to be  
 entirely dispossessed of, and disentitled to the same, and that by these presents,  
 the said

**ANNENPROP 9 PROPRIETARY LIMITED**  
 Registration Number 2003/030318/07

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto,  
 conformably to local custom, the State, however reserving its rights, and finally  
 acknowledging the purchase price to be the sum of R5 000 000,00 (FIVE MILLION  
 RAND)(Plus Value Added Tax at 14%)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have  
 subscribed to these presents and have caused the Seal of Office to be affixed  
 thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at  
 Cape Town on 26 AUG 2014 2014

  
 \_\_\_\_\_  
 R.D.

In my presence

  
 \_\_\_\_\_  
 REGISTRAR OF DEEDS

  
 GhiesConvey 14.12.21