

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
20 August 2019
(Also the agenda for the Mayoral Committee Meeting: 28 August 2019)**

2.

STANFORD: APPROVAL FOR THE ALIENATION AND TRANSFER OF ERF 2047 STANFORD TO THE DEPARTMENT OF TRANSPORT AND PUBLIC WORKS (WESTERN CAPE) FOR THE UPGRADE OF TRUNK ROAD 28/2 BETWEEN HERMANUS AND STANFORD

7/2/3/2/

A le Roux

(028) 316 - 3724

Hermanus Administration

24 July 2019

1. Executive Summary

To obtain approval for the alienation and transfer of Erf 2047 Stanford (which vests in the Overstrand Municipality) to the Western Cape Government (Department of Transport and Public Works) (“DTPW”) for the upgrading of Trunk Road 28/2 between Hermanus and Stanford.

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
Promotion of tourism, economic and social development

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

Properties:

The Municipality received a request from DTPW IN 2018 to purchase several portions of municipal owned land, as well as land vesting in the Municipality, in order to upgrade and widen the provincial road between Hermanus and Stanford, to the benefit of the community. Council subsequently on 27 March 2019 approved the alienation and transfer of the following properties to the DTPW

	<u>Erf number</u>	<u>Size</u>	<u>Value</u>
1.	Erf 5327 Hermanus	±555m ²	±R 55,500.00
2.	Erf 4831 Hermanus	±28475m ²	±R569,500.00
3.	Erf 4831 Hermanus	±2892m ²	±R 57,840.00
4.	Erf 4833 Hermanus	±3074m ²	±R 46,110.00
5.	Remainder Erf 294 Stanford	±1548m ²	±R 7,740.00
6.	Erf 594 Stanford	±688m ²	±R 34,400.00
7.	Erf 1177 Stanford (vesting)	±662m ²	±R 3,310.00

Council further noted and approved that the following portions of properties that were previously expropriated by DTPW revert back to the Municipality at a value to be deducted from the purchase prices for the properties listed above.

	<u>Erf number</u>	<u>Size</u>	<u>Value</u>
1.	Erf 4831 Hermanus	±7748m ²	± R37,240.00
2.	Erf 4831 Hermanus	±223m ²	±R 1,115.00
3.	Erf 4833 Hermanus	±2839m ²	± R10,646.25

The total estimated purchase price the Municipality will receive for the above is an amount of R723,898.75 as calculated below.

Market related value of portions properties to be alienated	±R774,400.00
<u>Less</u> value of portions of properties reverting back	(±R 50,501.25)
TOTAL	±R723,898.75

A **further request** was received on 29 April 2019 for the purchase of the following property that vests in the Municipality in terms of section 37 of the

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Western Cape Land Use Planning Act (No. 2 of 2014) and must still be transferred to the Municipality (see proposed area to be alienated attached marked Annexure A). As it is representing only a portion of the property and due to the status of the property (/public place), it cannot be transferred by the current owner to the DTPW directly.

	<u>Erf number</u>	<u>Size</u>	<u>Value</u>
1.	Erf 2047 Stanford (vesting)	$\pm 73\text{m}^2$	$\pm \text{R}365.00$

As indicated on the attached locality map marked Annexure B.

A letter will be sent to the current owner (see Annexure C attached) to request transfer of the property as required by legislation. Council must however consider to attend to the transfer at own cost should the owner delay the matter or refuse to pay the costs of the transfer.

DTPW will have to attend to the necessary Town Planning procedures (subdivision, rezoning, etc.) and transfer of the property in question at their own cost. The transfer in the Deeds Office will be attended to by the State Attorneys.

Valuation:

DTPW appointed Messrs Adval Valuation Centre CC to obtain market related price for the portion of Erf 2047 Stanford. Representatives of Adval Valuation Centre CC had a meeting with the Manager: Property Administration (A Le Roux) to discuss the status and use of the properties and whether there are any leases on the properties. The market related price in the amount of $\pm \text{R}365.00$ (VAT excluded), representing $\text{R}5.00/\text{m}^2$, was received from DTPW should we wish to be compensated for the portion of Erf 2047 Stanford:

The total expected income from the alienation to be received by the Municipality for all the properties included in the report that served before Council in March 2017 amounts to $\pm \text{R}724,263.75$ (VAT EXCLUDED) (SEVEN HUNDRED AND TWENTY FOUR THOUSAND TWO HUNDRED AND SIXTY THREE RAND AND SEVENTY FIVE CENTS VAT EXCLUDED), which now includes the purchase price for a portion of Erf 2047 Stanford.

Evaluation

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

The following conditions of the said Policy will apply:

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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.”

The portion of Erf 2047 Stanford envisaged to be alienated runs alongside the R43. It is not foreseen that it will be needed for the provision of basic municipal services.

Paragraph 12.1: “Paragraphs 7 and 10 above do not apply to the transfer of immovable property to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury in Regulation 20 of the MATR, provided that such transfers are in accordance with a prescribed framework contained in Chapter 3 of the MATR.”

Regulation 20 determines, amongst others that, “Section 14(1) to (5) of the Act does not apply if a municipality or municipal entity transfers a capital asset to an organ of state in any of the following circumstances:

- (f) any other circumstance not provided in paragraph (a) to (e), provided that –
 - (i) the capital asset to be transferred is determined by Council to be not needed for the provision of the minimum level of basic municipal services and to be surplus to the requirements of the municipality; and....”

The subject portion of Erf 2047 Stanford is needed to widen the current R43 road between Hermanus and Stanford and is thus in the interest of the community. This specific portion of road is very narrow and accidents occur there regularly.

Paragraph 12.2 “Where the requirements stipulated in Chapter 3 of the MATR are met, then notwithstanding fact that the transfer or disposal may be in respect of immovable property which is required to provide the minimum level of basic services, such disposals need not be at market related value and do not require a public participation process described in the MATR in respect of non-exempted disposals.”

As the portion of Erf 2047 Stanford will be alienated to an organ of state and further as the purpose for which the property will be utilised is of

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great value and advantage to the community, the property may be alienated and transferred without following a public participation process.

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.”*

DTPW will be held liable for all costs pertaining to the transaction, excluding the costs of transferring the property into the name of the Overstrand Municipality.

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 31: *“Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.”*

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

B: Advertisement/Notification

As the alienation and subsequent transfer of the portion of property is exempted in terms of Regulation 20 of the MATR and alienated and transferred to an organ of state for the advantage of the community, the alienation and transfer of the properties do not have to follow a public participation process.

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Conclusion

Taking the above discussion into consideration, it is recommended that the direct alienation and transfer of a portion of Erf 2047 Stanford ($\pm 73\text{m}^2$ in extent) at an amount of R5.00/m² (FIVE RAND PER SQUARE METRE)(VAT excluded) to the Western Cape Government (Department of Transport and Public Works) for road widening purposes be approved:

7. Financial Implications

The Municipality stands to gain an income to the amount of approximately R365.00 (THREE HUNDRED AND SIXTY FIVE RAND) (VAT excluded) for the alienation of a portion of Erf 2047 Stanford.

Together with the alienation of the other properties as approved by Council on 27 March 2019, the Municipality stands to gain an income to the amount of $\pm R724,263.75$ (VAT EXCLUDED) (SEVEN HUNDRED AND TWENTY FOUR THOUSAND TWO HUNDRED AND SIXTY THREE RAND AND SEVENTY FIVE CENTS VAT EXCLUDED), which amount is calculated as follows:

Market related value of portions properties to be alienated	$\pm R774,765.00$
<u>Less</u> value of portions of properties reverting back	<u>($\pm R 50,501.25$)</u>
TOTAL	<u>$\pm R724,263.75$</u>

Should the Municipality not be successful to obtain ownership of Erf 2047 Stanford on the basis that the current owner do not want to bear the costs of the transfer, it is suggested that the Municipality bear these costs which can amount to approximately R3,000.00 (THREE THOUSAND RAND). There is sufficiently budgeted for this expense in the following operational budget of Property Administration:

Item description: Operational Cost: Land Alienation
Cost Account: 10226222290000
Total Budget: R305,000.00

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

Erf 2047 Stanford is currently zoned as public open space, measuring 2255m² in extent. Although the property vests in the Municipality in terms of LUPA, the current owner has not yet transferred the title deed into the name of the

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Municipality and as such it is not currently recognized in the Fixed Asset Register. In the event of the disposal of the relevant portion of the property, a simultaneous deeds transfer will have to be done, firstly to the name of the Municipality and then to the name of the recipient.

In terms of Generally Recognised Accounting Practices 17 ("GRAP 17") the property must be registered in the Fixed Asset Register and the subsequent alienation thereof must be accounted for at the selling price in order to remove it from the Fixed Asset Register and to account for the gain / (loss).

As the application complies with the Administration of Immoveable Property Policy, there is no objection.

Town Planner: Mr P Roux – (028) 313 8900

The zoning of Erf 2047 Stanford is zoned as Open Space Zone 2 : Public Open Space.

The proposed utilization of land for transport use will require a land use application which includes the rezoning and closure of public place (where required) of land.

The land will have to be subdivided and possibly consolidated however this is exempt from a land use application in terms of Section 26 (b), (d) and (f) of the Overstrand Municipality Bylaw on Land Use Planning 2015. However the rezoning and closure of public place must first be concluded prior to the registration of the erven at the SG office.

Comments from Property Administration Department: Conditions addressing the Town Planning procedures / requirements will be included in the Deed of Sale.

Senior Manager: Electrotechnical Services (Gansbaai): Mr D Maree – (028) 384 8311

No services will be affected.

Senior Manager Operational Services (Gansbaai): Mr T Steenberg – (028) 384 8312

The Gansbaai Operational Department has no objection to the proposed alienation of the property and that it has no effect on our services. We have been in regular contact with the consulting engineers EFG Engineers throughout the design phase and they are aware of the location of our services.

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10. Annexures

- Annexure A: Documents relating to Erf 2047 Stanford
Annexure B: Locality map for Erf 2047 Stanford
Annexure C: Copy of letter to owner of Erf 2047 Stanford

RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation (sale) and transfer of a portion of Erf 2047 Stanford to the Western Cape Government (Department of Transport and Public Works) for road widening purposes at payment of a market related purchase price of R5.00/m² (FIVE RAND PER SQUARE METRE)(VAT excluded) **be approved;**
2. that a condition be registered in the title deed of the said portion of Erf 2047 Stanford to be alienated and transferred that no structures of any kind may be erected thereon;
3. that the alienation and transfer of the portion of Erf 2047 Stanford be subject to obtaining the necessary subdivision, rezoning and consolidation approvals;
4. that the costs of the valuation, subdivision and possible consolidation, rezoning, transfer of and cancellation of any endorsements against the property and the related costs be paid by the Western Cape Government (Department of Transport and Public Works);
5. that a condition be included in the Deed of Sale that the Western Cape Government (Department of Transport and Public Works), its agents and contractors must at own cost attend to the relocation of services where requested; and
6. that it be noted that the portion of Erf 2047 Stanford envisaged to be alienated 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 (Act 56 of 2003).

RESPONSIBLE OFFICIAL :

A LE ROUX

TARGET DATE FOR IMPLEMENTATION:

N/A

TARGET DATE TO INFORM APPLICANT:

11 SEPTEMBER 2019

TARGET DATE TO INFORM OBJECTOR:

N/A

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7/2/3/2/

A le Roux

(028) 316 - 3724

Hermanus Administration

24 July 2019

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 20 AUGUST 2019, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:




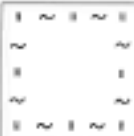

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2. that a condition be registered in the title deed of the said portion of Erf 2047 Stanford to be alienated and transferred that no structures of any kind may be erected thereon;
3. that the alienation and transfer of the portion of Erf 2047 Stanford be subject to obtaining the necessary subdivision, rezoning and consolidation approvals;
4. that the costs of the valuation, subdivision and possible consolidation, rezoning, transfer of and cancellation of any endorsements against the property and the and related costs be paid by the Western Cape Government (Department of Transport and Public Works);
5. that a condition be included in the Deed of Sale that the Western Cape Government (Department of Transport and Public Works), its agents and contractors must at own cost attend to the relocation of services where requested; and
6. that it be noted that the portion of Erf 2047 Stanford envisaged to be alienated 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 (Act 56 of 2003).

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RESPONSIBLE OFFICIAL :	A LE ROUX
TARGET DATE FOR IMPLEMENTATION:	N/A
TARGET DATE TO INFORM APPLICANT:	11 SEPTEMBER 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

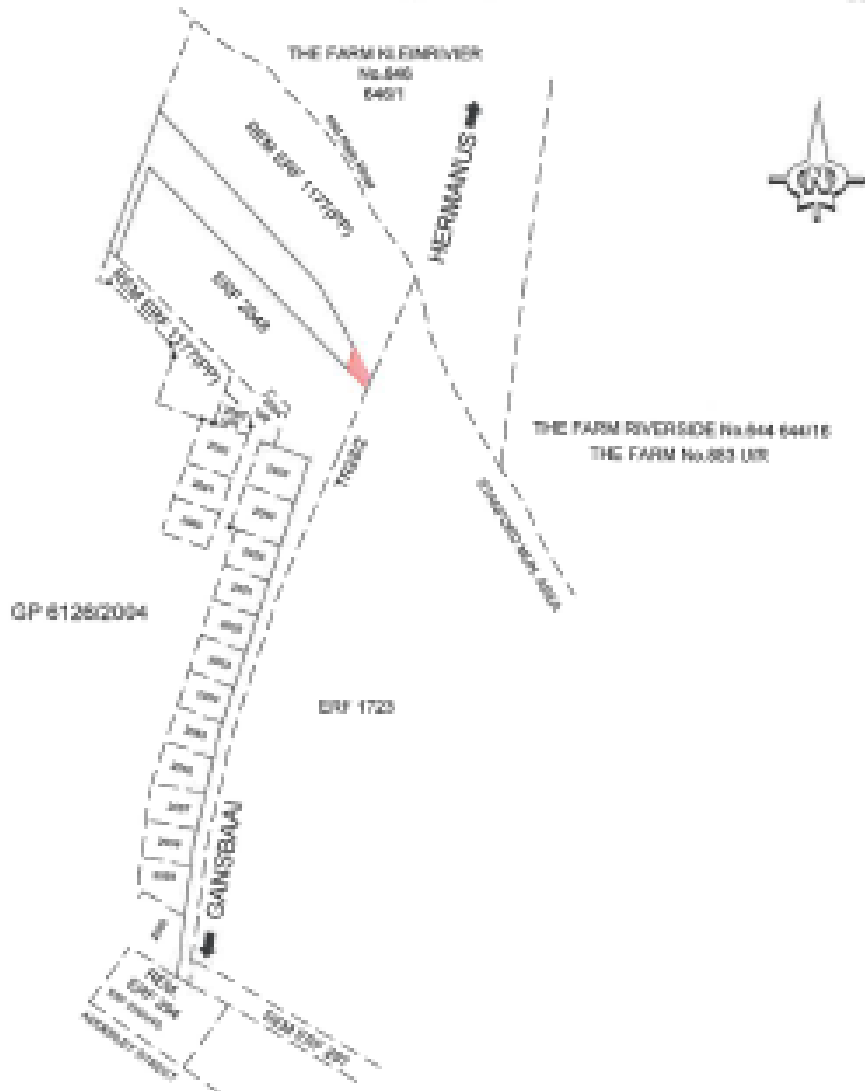
PROPERTY EINDOM ERF 2047, STANFORD SKETCH NO. 69
 ROAD STATUS PADSTATUS TRUNK ROAD 28/2 RESERVE WIDTH RESERIEWYDTE 30m (MIN)
 NAME OF JOB NAAM VAN TAAK CONTRACT NO. 1000.01, REHABILITATION OF AND/OR UPGRADING OF TR28/2
 COMPILATION SAAMGESTELDE PLAN H 1632, H1633 SURVEY OPMETINGS PLAN Hermanus Stanford, All 2D.dwg

ONVERSETERDE GROND UNIMPROVED LAND 0.0073Ha		BOORDE ORCHARDS	
BEWERKTE GROND CULTIVATED LAND		WINGERD VINEYARD	
BESPROEIDE GROND IRRIGATED LAND		PLANTASIE PLANTATION	

1. Dense reeds and grass.

PROVINCIAL ADMINISTRATION : WESTERN CAPE PROVINSIALE ADMINISTRASIE : WES-KAAP
 DEPARTMENT OF TRANSPORT & PUBLIC WORKS DEPARTMENT VAN VERVOER & OPENBARE WERKE
 ROAD NETWORK MANAGEMENT BRANCH TAN PADNETWERKBESTUUR

FILE NO. TPW 16/2017 - TRAS-239 SKETCH NO. 69
 PROPERTY REFERENCE ERF 2047, STANFORD
 SITUATED IN THE ADMINISTRATIVE DISTRICT OF CALEDON IN EXTENT 0.2255 Ha
 OWNED BY D P D E Y CC (NESTING OVERSTRAND MUNICIPALITY) TRANSFER REFERENCE NO. T57982/2012
 THE PROPOSED ERF PORTION (SHOWN IN RED) IS APPROXIMATELY 0.0073 Ha IN EXTENT 0.0073 Ha
 S.O. DIAGRAM NO. 6126/2004 S.O. COMPILATION NO. 475, M4307, 476
 L.O. NO. 6126/2004 L.O. SAMSTELLING



SCALE DRAWN 1:2500

COMPILED BY EFG ENGINEERS
 DATE NOVEMBER 2017 AA



29
HERMANUS
7200

Tel: 028 – 316 3724
Fax: 028 – 316 3721



Property Administration
Eienskaps Administrasie

e-mail: arjale@overstrand.gov.za
website: www.overstrand.gov.za

Name:
Inkqubo: Anja Le Roux
Enquiries:

Des Veroë/Our Ref: 72111 (2047 Stanford)
U Veroë/Your Ref:

Desem-
ber/Dec: 25 July 2019
Date:

DPDEV (Pty) Ltd
PO Box 315
DURBANVILLE
7551

email: teresia@rfam.co.za / amella@rfam.co.za

Dear Mr/Ms

RE: ERF 2047 STANFORD (PUBLIC PLACE) – TRANSFER TO OVERSTRAND MUNICIPALITY

The abovementioned matter refers.

According to the Deeds Office Cape Town, you are registered the owner of the of Erf 2047 Stanford, 2255m² in extent, held by the title deed of Erf 2045 Stanford, Title deed no. T67962/2012.

In terms of the General Plan for the subdivision of Erf 2045 Stanford, Erf 2047 Stanford was classified by the Surveyor-General as public place. This general plan was duly registered against the title deed of Erf 2047 Stanford in the Deeds Office on 26 June 2014 with a clear indication that Erf 2047 Stanford is public place.

It has come to our attention that the abovementioned public place has not been transferred in the Deeds Office to the Overstrand Municipality as required by the previous Land Use Planning Ordinance (No. 15 of 1985) and the current the Western Cape Land Use Planning Act (No. 2 of 2014) which both stipulate that all public places vest in the local municipality.

We therefore request you to urgently instruct attorneys to attend to the abovementioned transfer at the company's/current owner's cost. Please note, that until such time the transfer has been effected, you will bear all risk and responsibility in relation to the property in question. Please ensure that the registration is finalised before the end of **September 2019**.

Please do not hesitate to contact writer hereof should you have any enquiries.

We trust that you find the above in order.

Kind regards

MS A LE ROUX
MANAGER: PROPERTY ADMINISTRATION