

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
17 August 2021  
(Also the agenda for the Mayoral Committee Meeting : 24 August 2021)**

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**5.  
GANSBAAI: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 1886  
FRANSKRAALSTRAND (SITUATED AT FOUCHE STREET,  
FRANSKRAALSTRAND) BY MEANS OF A COMPETITIVE PROCESS**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**7 July 2021**

**(028) 316-5623**

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**1. Executive Summary**

To obtain in principle approval for the alienation of Erf 1886 Gansbaai, 1,5447 Hectare in extent, for the purpose of a group housing development by means of a competitive process.

The locality of Erf 1886 Gansbaai is indicated on a locality plan attached per "Annexure A".

**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

Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)

Overstrand Municipality Supply Chain Management Policy, as amended

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

**Background/Discussion**

An application was received to purchase Erf 1886 Franskraalstrand (the "Property") for the purpose of a group housing development. The application was made by Wright Approach Investments 136 CC, acting behalf of its client Starcrow 111 CC, who is the owner of Erf 1885 Franskraalstrand, which is directly adjacent to the Property.

The Property is 1,5447 (one comma five four four seven) Hectares in extent, vacant and situated at Fouche Street, Franksraalstrand. Services are available in the vicinity of the Property.

Historically, the previous owner of Erf 1885 reserved the right to negotiate a right of way across the Property, however as far as can be established, the previous owner never proceeded with any negotiation in this regard. The orange lines on the attached locality map indicates where the parties noted an access right of way could be made, however as mentioned before, this was never enforced, and it is only a right to negotiate a right of way. The right to negotiate is akin to an agreement to agree, which is generally not legally enforceable. This right to negotiate a right of way does not prevent or obstruct any possible alienation of the Property to a third party.

The Property is zoned Undetermined Zone and accordingly the successful bidder will be responsible for the rezoning of the Property as will be discussed in more detail below. After consideration by the Town-Planning Department, it was agreed by all officials that in this instance it would not be a viable exercise to attend to the rezoning of the Property in-house prior to making the Property available by means of a competitive process because the application was initiated from the adjacent owner of Erf 1885 Franskraalstrand, which is directly adjacent to the Property. In the event that the applicant is the successful bidder after the due procedure was followed, the owner of Erf 1885 Franskraalstrand would also need to follow additional Town Planning processes (i.e., consolidations, etc.). In such an event a detailed Town Planning application is necessary as opposed to a general rezoning application as would be done in-house. In addition thereto, the Town-Planning application to be made by any successful bidder will have to be detailed in any event which would be influenced by any potential developer's detailed proposals.

As there is a need for group housing in the area and from a town planning perspective the development of group housing is considered consistent with the applicable forward planning for the area, it is recommended that the Property be made available as soon as possible.

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**Evaluation**

A. Evaluation in terms of the Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply to this report:

**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 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 Senior Manager: Operational Services confirmed that a municipal water line is located on the Property, approximately 1 metre below the existing ground level. The water line is capable of being moved and it will be a material condition of the alienation of the Property that the water line be moved at the cost of the successful bidder. Accordingly, the water service provision will not be negatively affected by the proposed alienation.

The Senior Manager: Electrotechnical Services commented that the Municipality has main service lines on the outer boundary of the Property. Please see the attached locality map “marked Annexure B” indicating where these service lines are situated. The Senior Manager: Electrotechnical Services has no objection but further commented that a five (5) metre servitude should be kept to both sides of these services at all times, to ensure that the electrical service provision will not be negatively affected by the proposed alienation.

The comments received from the relevant officials confirmed that the subject Property is not needed for the provision of 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 has, 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.”*

Boland Valuers determined the market related value of the Property on 13 July 2021 at an amount of R 2,200,000.00 (TWO MILLION TWO HUNDRED THOUSAND RAND) (VAT excluded).

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**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 purpose of this report is to request in principle approval from Council for the alienation of the Property by means a competitive process.

**Paragraph 15.1: “The transfer of immovable property must, except in the case of non-viable immovable property, be affected by means of competitive process, which may include a public or closed tender, auction or proposal call.”**

It is recommended that the Property be alienated by means of a competitive 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.”**

The successful bidder will be liable for all costs pertaining to the transaction, excluding the cost for the valuation of the property. Costs for the successful bidder will include, but is not limited to, a Section 14 advertisement, transfer costs, connection of services, relocation of services, registration of servitudes for services, Town Planning processes and any other costs pertaining to the transaction and proposed development.

**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.”**

A municipal water line located on the Property, will have to be moved at the cost of the successful bidder.

A servitude must be registered, at the cost of the successful bidder, against the title deed of the Property to accommodate the main electrical service lines.

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**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 included in any deed of sale to be entered into between the Municipality and the successful bidder.

**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 included in any deed of sale to be entered into between the Municipality and the successful bidder.

**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 included in the deed of sale to be entered into between the Municipality and the successful bidder.

**B. Advertisement/Notification**

The necessary advertisement in terms of Section 14 of the MFMA will be published after the tender is duly awarded. The successful bidder will be liable for the costs of the Section 14 advertisement.

**Conclusion**

It is recommended that Erf 1886 Franskraalstrand (1,5447 Hectares in extent) be alienated for the purposes of developing group housing, by means of a competitive process, at not less than the market related value.

Furthermore, it is recommended that the successful bidder/ be liable for all costs, excluding the costs for the valuation of the Property.

**7. Financial Implications**

The Municipality stands to gain a market related purchase price for the Property.

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**8. Staff Implications**

None

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

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

Erf 1886 Franskraalstrand is reflected in the Fixed Asset Register for Investment Property at a value of R310'000,00 (THREE HUNDRED AND TEN THOUSAND RAND) (VAT included) as on 30 June 2021. The eventual disposal of Erf 1886 Franskraalstrand will have to be accounted for as a disposal in order to remove it from the Fixed Asset Register and to account for the gain/(loss).

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

**Senior Town Planner: Mr S van der Merwe – (028) 313 8938**

*“The property is zoned Undetermined Zone ito the Land Use Scheme, 2020 and situated within the Urban Conservation Zone, Category C ito the Environmental Management Overlay Zone (EMOZ). As such, comment from Environmental Management Services to be obtained.*

*The subject property is situated within the Urban Edge of Franskraal. In terms of the 2020 SDF no new urban development areas are proposed for Franskraal. Housing need should be addressed in terms of densification in accordance with the OMGMS. The subject property is indicated as a sensitive development area due to its location within the EMOZ. It allows for limited development with the focus on maintaining sense of place, environmental and heritage resources. In terms of the OMGMS the subject property is situated within a densification corridor in between 10 – 20 dwelling units per ha. Two storey development is proposed with an average gross density of 14,3 dwelling units per ha.*

*Having had regard to above, from a planning point of view the development of group housing is considered consistent with the applicable forward planning policies of the area and supported. Engineering Services Department to comment with regard to capacity and availability of services. The successful tenderer will be responsible to obtain the relevant development approvals demonstrating the overall development concept is in accordance with the forward planning vision for the area prior to the commencement of development. Comment from Environmental Management Services should be obtained regarding any implications in terms of the EMOZ.*

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*NEMA might be applicable. Rezoning of a property larger than 5000m<sup>2</sup> will also trigger the provisions of the National Heritage Resources Act.”*

Comments from the Property Administration Department: The valuer was specifically instructed to take into account the town planning procedures that the successful bidder will have to undertake at its cost. The comments from the Environmental Department were obtained as set out below.

**Assistant Environmental Officer: B Kondokter – (028) 384 8320**

*“The Environmental Management Section does not have any comments to the abovementioned application.*

*The abovementioned application does not have any impact on the NEMA Regulations and the Overstrand Environmental Management Overlay Zone (EMOZ) therefore the Environmental Management Section does not have any objection.”*

**Senior Manager: Gansbaai/Stanford Administration: Mr F Myburgh – (028) 384 8365**

*“I am in full support of the proposed alienation of Erf 1886, Franskraal for the purposes of development of the property for group housing. The development will result in a substantial financial input in the local economy and will also serve a need for group housing in Franskraal. The proposed right of easy access Erf 1886 to Erf 1885 is NOT supported as it will have a negative and detrimental effect on future development potential of Erf 1886.*

*The developer should be held responsible for costs involved in moving/relocation of the underground water infrastructure (if needs be).”*

**Senior Manager: Operational Services: J Solomons – (028) 384 8312**

Detailed and lengthy comments on this application were received by this user department, of which the Property Administration Department is appreciative. For ease the comments have been summarised in the body of this report. Please see the full comments received attached marked “Annexure C”.

The operational department has no objections, the most significant comments being that (i) a water pipeline will have to be relocated and that (ii) the proposed development will significantly impact on the tanker’s sewerage service delivery capacity. The summarised state of each services are as follows:

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Water

The existing municipal water reticulation network is available in the vicinity of the Property. A municipal water line is located on the Property, approximately 1m below the existing ground level, and if sold, this will have to be relocated outside the erf at the purchaser's cost.

Sewer

No municipal sewer network is available in the vicinity of the Property. Adequate sewerage conservancy tanks will have to be installed. The proposed development will significantly impact on the existing sewer tanker service. The Department: Infrastructure and Planning must comment on the relevant development items and costs required to accommodate the proposed development.

Streets

Access can be obtained from Meyer/Faure/Fouche Street in Franskraal.

Storm Water

The "common law" shall apply to storm water drainage.

Parking

Parking to be supplied on-site, in line with Town Planning ratio requirements.

Refuse removal

Refuse will be removed from sidewalks as per municipal arrangement.

Irrigation water

No irrigation water is available in this area.

Waste Water Treatment Works ("WWTW")

The proposed alienation / rental will not have a significant impact on the WWTW.

Any Rezoning and / or development of the Property will have an impact on the sewer outflow to the WWTW and may result in a service development contribution to upgrading of the WWTW.

Bulk Water Supply

The proposed alienation / rental will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure.

Any Rezoning and / or development of the relevant erven will have an impact on the water demand for the erf and bulk water supply network, and may result in a service development contribution with regards to upgrading of the bulk water supply, reservoirs or other bulk water infrastructure.

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Comments from the Property Administration Department: As explained above, it will be a condition of the alienation that the successful bidder will bear the costs of the water pipe relocation and furthermore, the relevant conditions imposed will be included in any deed of sale entered into.

**Manager: Engineering Services: R Andrew – (028) 313 5073**

*“If the application is approved:*

1. *The developer should identify and locate all municipal services located on the property under consideration.*
2. *The existing municipal services have to stay intact and can't be compromised. If any of the existing services need to be relocated, it will be done by the applicants at his cost, and to the satisfaction of the Director: Infrastructure and Planning. Servitudes should be registered for all municipal services on private property.*
3. *The developer will only utilized the existing roads/accesses and no new additional roads/accesses will be created without the written approval of the Senior Operational Manager: Gansbaai.*
4. *The developer will be the responsible for the payment of bulk contributions levies in line with the relevant policy and approved tariffs.*
5. *The developer will be responsible for the construction and provision of all municipal services to the proposed development.”*

Comments from the Property Administration Department: The relevant conditions imposed will be included in the deed of sale.

**Senior Superintendent: Operations: Mr P De Gruchy – (028) 313 0999**

*“Kindly note that there are no objections from the traffic department towards the application that has been lodged.”*

**Senior Manager: (Building Services): Mr L Coetsee – (028) 313 8091**

*“BUILDING CONTROL has no objection.”*

**Assistant Chief: Fire Safety & Health and Safety: E Solomons - (028) 313 8979**

*“The Fire Department have no objection.”*

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**10. Annexures**

- Annexure A: Locality Map indicating the old proposed right of way
- Annexure B: Locality Map Indicating Electrical Service Line
- Annexure C: Comments from the Senior Manager: Operational Services

**RECOMMENDATION TO THE COUNCIL:**

1. that the alienation of Erf 1886 Franskraalstrand, 1,5447 Hectares in extent, for the purpose of a group housing development by means of a competitive process at a market related price **be approved in principle**;
2. that the successful bidder/purchaser will be required to obtain all the necessary Town Planning and axillary approvals, at its own cost, to be able to develop the Property for group housing purposes;
3. that the water service pipeline located on the Property be relocated at the cost of the successful bidder/purchaser;
4. that the successful bidder/purchaser register a services servitude for the main electrical service lines on the outer boundary of the Property against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;
5. that all costs pertaining to the transaction, including, but not limited to, the transfer costs, water, sewer and electricity connections, the section 14 advertisement, services relocation costs and servitude registration costs, but excluding the valuation costs, be paid by the successful bidder/purchaser;
6. that a condition be registered against the title deed of the Property that it may only be used and developed for group housing purposes;
7. that the relevant conditions stipulated and imposed by the Senior Manager: Operational Services and the Manager: Engineering Services be included in the deed of sale; and
8. that it is hereby confirmed by Council that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL :</b>	<b>R MARINUS</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>25 OCTOBER 2021</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>3 SEPTMEBER 2021</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**5.  
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FRANSKRAALSTRAND (SITUATED AT FOUCHE STREET,  
FRANSKRAALSTRAND) BY MEANS OF A COMPETITIVE PROCESS**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**7 July 2021**

**(028) 316-5623**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
17 AUGUST 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

that the item **be referred to** the upcoming Mayoral Committee meeting.

**RESPONSIBLE OFFICIAL :**

**R MARINUS**

**TARGET DATE FOR IMPLEMENTATION :**

**25 OCTOBER 2021**

**TARGET DATE TO INFORM APPLICANT :**

**3 SEPTMEBER 2021**

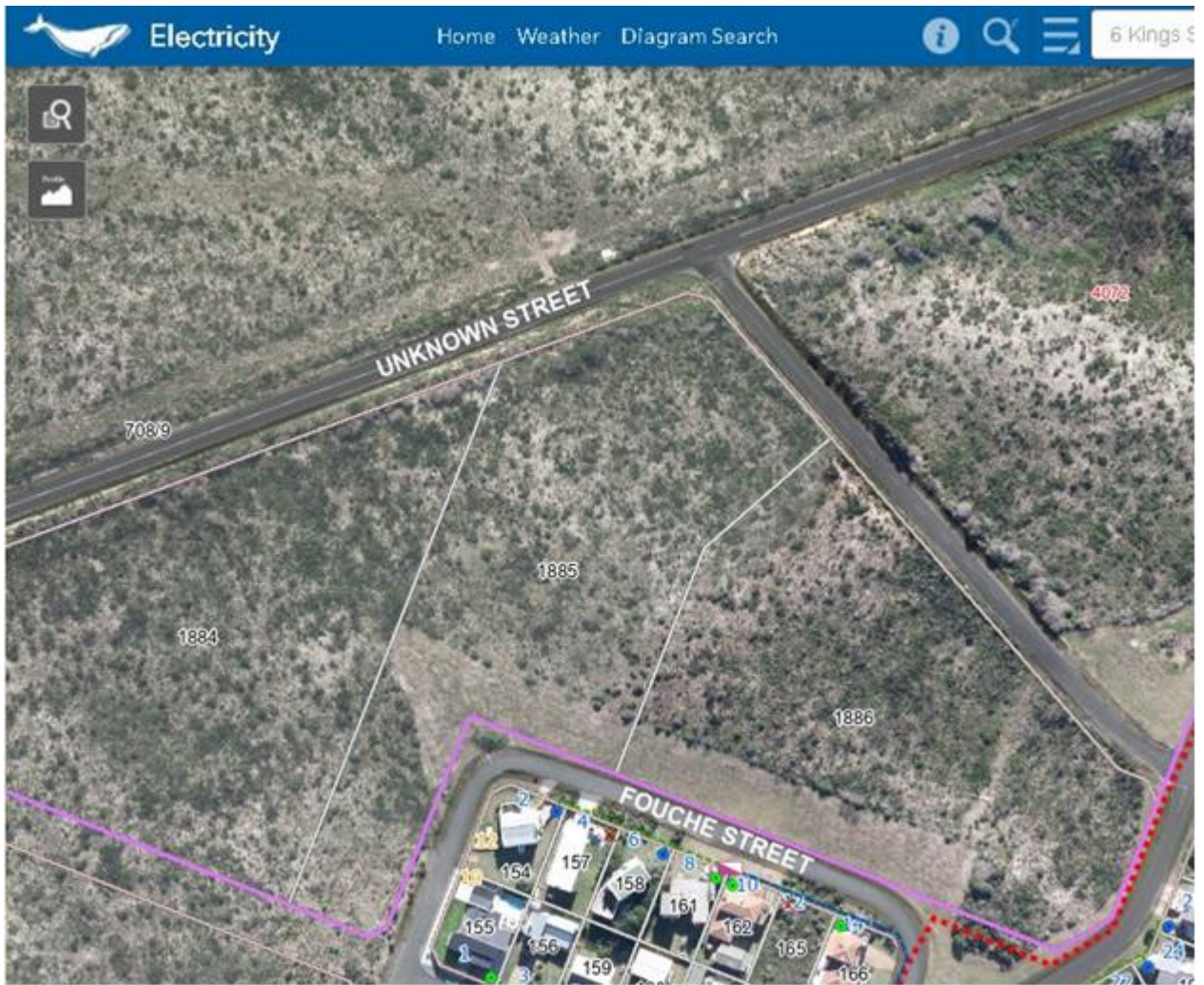
**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

ANNEXURE A



ANNEXURE B



*Munisipaliteit – U-Masipala – Municipality*  
**OVERSTRAND**

**INTERNAL MEMORANDUM**

<b>Aandag / For Attention:</b>	Property Administration: R. Marinus	<b>Van / From:</b>	Department: Operational Services
<b>Afskrif / Copy:</b>		<b>Datum / Date:</b>	21 January 2021

Ref: Erf 1886

**RE: RENTAL OR SALE/ALIENATION OF MUNICIPAL LAND– ERF 1886, FRANSKRAAL**

The request for comment from the Department: Operational Services (Gansbaai) dated 13 November 2020 with regard to the abovementioned proposal refers.

The proposal entails the following:

- Sale / alienation of Erf 1886, Franskraal.

**1. ANALYSIS**

**1.1. Water**

- 1.1.1. The existing municipal water reticulation network is available in the vicinity of Erf 1886. The Directorate: Infrastructure and Planning must however give comment with regard to network capacity.
- 1.1.2. Erf 1886 is not currently serviced with a metered water connection to the municipal water network. Should Erf 1886 be rented or sold / alienated, the erf must be serviced with an individual metered water connection to the Municipal system, which must comply with the standards of the Department: Operational Services (Gansbaai).
- 1.1.3. In order to affect this, application must be made to the Department: Operational Services (Gansbaai) by the owner for the provision of the water connection, to which Erf 1886 must connect to.
- 1.1.4. Application for the Municipal connection must be made at least 3 weeks prior to requirement. A job card will be opened, and the owner will be responsible for all costs.

- 1.1.5. A municipal water line is located on the erf. The water line is laid at a depth of approximately 1m below the existing ground level.
  - 1.1.6. Should the erf be sold / alienated, the water pipeline must be relocated to a suitable position outside the erf. All work must comply with the standards of the Department: Operational Services (Gansbaai), and all costs in this regard will be for the new owners' account.
- 1.2. Sewer**
- 1.2.1. No municipal sewer network is available in the vicinity of Erf 1886.
  - 1.2.2. Should Erf 1886 be sold / alienated, Erf 1886 must be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services (Gansbaai).
  - 1.2.3. Sewerage will be removed from the sewer conservancy tanks as per municipal arrangement.
  - 1.2.4. The developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 1400 – P: 2010: Drainage*.
  - 1.2.5. The proposed alienation of Erf 1886 will have a significant impact on the existing municipal sewer tanker service. The Department: Infrastructure and Planning must however give comment with regard to the relevant development items and –costs required to accommodate the development.
- 1.3. Streets**
- 1.3.1. Access can be obtained from Meyer/Faure/Fouche Street.
  - 1.3.2. Any additional and / or extended vehicle entrances will be for the owner's account.
- 1.4. Storm water**
- 1.4.1. The "Common Law" shall apply with regards to storm water discharge.
- 1.5. Parking**
- 1.5.1. "On-site parking" must be provided. The parking areas are to be provided at a ratio as described by the Town Planning Scheme, with permanent surfaces and layout to the satisfaction of the Department: Operational Services.

**1.6. Other services**

- 1.6.1. The Department: Operational Services does not have any information regarding any Telkom-, other telecommunications- and / or Electrical services which may be affected by the proposed development. The Electrical- and Traffic departments, as well as Telkom and other relevant service providers, must therefore also give their recommendations regarding the application.

**1.7. Refuse removal**

- 1.7.1. Refuse will be removed from sidewalks as per municipal arrangement.

**1.8. Irrigation water**

- 1.8.1. No irrigation water is available in this area.

**1.9. Waste Water Treatment Works (WWTW)**

- 1.9.1. The proposed alienation will not have a significant impact on the Waste Water Treatment Works. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant plant capacity.
- 1.9.2. Any rezoning and / or development of Erf 1886 will have an impact on the sewer outflow to the Wastewater Treatment Works, **and may result in a service development contribution with regards to upgrading of the Waste Water Treatment Works.**

**1.10. Bulk Water Supply**

- 1.10.1. The proposed sale / alienation will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.
- 1.10.2. Any rezoning and/or development of Erf 1886 will have an impact on the water demand for the erf and bulk water supply network, **and may result in a service development contribution with regards to upgrading of the bulk water supply, reservoirs or other bulk water infrastructure.**

## 2. RECOMMENDATION

- 2.1. With regard to the application for the rental or sale / alienation of Erf 1886, Franskraal, the **Department: Operational Services has no objections to the application, subject to the following conditions:**
- 2.1.1. That Erf 1886 be provided with a municipal water meter as per detail and requirements stipulated.
- 2.1.2. That, as a municipal water line is located on the erf, and should the erf be sold / alienated, the water pipeline must be relocated to a suitable position outside the erf. All work must comply with the standards of the Department: Operational Services (Gansbaai), and all costs in this regard will be for the new owners' account.
- 2.1.3. That the erf be provided with adequate sewer conservancy tanks.
- 2.1.4. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*.
- 2.1.5. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.
- 2.1.6. That any additional and / or extended vehicle entrances will be for the owner's account.
- 2.1.7. That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.

Yours faithfully



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**W. Germishuys**  
Principal Technician: Operational Services  
Gansbaai



4622

**J. Solomons**  
Senior Manager: Operational Services  
Gansbaai