

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
18 February 2020  
(Also the agenda for the Mayoral Committee Meeting : 26 February 2020)**

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**4.  
IN PRINCIPLE APPROVAL FOR THE ALIENATION OF UNREGISTERED ERF 1929  
(A PORTION OF ERF 599) PEARLY BEACH AS WELL AS A PORTION OF THE  
REMAINDER OF ERF 599 PEARLY BEACH TO DE PYP TRUST**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**3 January 2020**

**(028) 316 - 3724**

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**1. Executive Summary**

To obtain approval in principle for the direct alienation of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (413m<sup>2</sup> in extent), adjacent to Erf 1930 Pearly Beach situated in Broadway Street, Pearly Beach, to the owner of Erf 1930 Pearly Beach, being De Pyp Trust.

Further, to obtain approval in principle for the direct alienation of a portion of the remainder of Erf 599 Pearly Beach (±300m<sup>2</sup> in extent), adjacent to Erven 1930 and 604 Pearly Beach situated behind Broadway Street, Pearly Beach, to the owner of Erven 1930 and 604 Pearly Beach, being De Pyp Trust. See locality map attached and marked Annexure A.

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

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priority/ies**

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**

(a) Unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (413m<sup>2</sup> in extent)

An application was received from the owner of Erf 1930 Pearly Beach, situated in Broadway Street, Pearly Beach for the purchase of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (413m<sup>2</sup> in extent) adjoining its property.

The subject property applied for is zoned as Transport Zone II: Public Road which will have to be closed, rezoned and consolidated with the applicant's property should approval be obtained.

The reason for the application to purchase is to use the property for garden purposes and to erect a steel fence on the boundary of this Municipal property to regulate access to their property thus providing more security. The steel fence will consist of props of concrete, 2 meters apart, with corner iron panels that can bolt loose. Except for the steel fence that is intended to be erected on the border, the applicant does not want to erect any further structures.

The subject property applied for has a municipal water line located on the erf and should the property be alienated without the waterline being relocated, the alienation will be subject thereto:

- that the applicant apply for the necessary way leave before the erection of the fence on the border of the property;
- that the applicant provide access at all times to the Municipality for the purposes of inspecting, maintaining, repairing or removing, if necessary at a later stage, the water line or equipment, and
- that no structures, tree or plant be erected within 1,5 metre of the water line.

Due to the lay-out, intended use and odd shape and size of the subject property it is not suitable to be developed independently. Unregistered Erf 1929 Pearly Beach is not required for access to any other erf, the only adjoining owners to the above mentioned property, besides the applicant, is the Overstrand Municipality who do not need the property for access to any other property. In light of the above the property applied for can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be

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alienated directly to the adjoining property owner, subject to certain conditions.

A condition to the alienation of the property will be that no structures, excluding a boundary fence or wall, may be erected thereon.

(b) A portion of the remainder of Erf 599 Pearly Beach ( $\pm 300\text{m}^2$  in extent)

An application was also received from the owner of Erven 1930 and 604 Pearly Beach situated in Broadway Street, Pearly Beach for the purchase of a portion of the remainder of Erf 599 Pearly Beach ( $\pm 300\text{m}^2$  in extent) adjoining its property.

The subject property applied for is zoned as Authority Use and will have to be subdivided, rezoned and consolidated with Erf 1930 Pearly Beach.

The reason for the application to purchase is to consolidate the municipal property with their property to gain access to the garages situated at the back of the Applicant's property, being Erf 1930 Pearly Beach. As the Applicant is also the owner of Erf 604 Pearly Beach, access to the said portion of municipal property applied for will be across Erf 604 Pearly Beach.

A waste transfer station is located on the majority of a portion of the remainder of Erf 599 Pearly Beach which has its own access and will not be affected negatively should the municipality alienate the portion of property applied for. Apart from the waste transfer station there is a small area of the remainder of Erf 599 Pearly Beach that is not in use.

The only adjoining owner to the said portion of the property, beside the applicant, is the Overstrand Municipality. Only the applicant can thus truly gain advantage from the purchase of the property for access purposes. The applicant already has a gravel road across its erf, Erf 604 Pearly Beach, which he uses, together with the portion applied for, to gain access to the garages built at the back of Erf 1930 Pearly Beach. Taking the above discussion, the locality, intended use and size of the property applied for into consideration the property applied for can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to the adjoining property owner, subject to certain conditions.

A condition to the alienation of the property will be that no structures, excluding a boundary fence or wall, may be erected thereon.

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Subsequent costs

The Applicant will be liable for the costs of the application, valuation, the road closure, subdivision, consolidation and rezoning of the property as well as the required Section 14 advertisement in terms of the MFMA and the Administration of Immovable Property Policy.

**Evaluation**

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

The following conditions of the said Policy will apply:

**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.”**

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”.

Unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (413m<sup>2</sup> in extent) can be classified as a non-viable immovable property due to the lay-out, intended use and odd shape and size of the subject property which makes it very difficult to develop independently and the fact that the subject property is not required for access to any other erf as the only adjoining owners to the above mentioned property, besides the applicant, is the Overstrand Municipality. The municipal water line is located on the said property, and should the property be alienated, without the waterline being relocated, the alienation will be subject thereto:

- that the applicant apply for the necessary way leave before the erection of the fence on the border of the property;
- that the applicant provide access at all times to the Municipality for the purposes of inspecting, maintaining, repairing or removing, if necessary at a later stage, the water line or equipment, and
- that no structures, tree or plant be erected within 1,5 metre of the water line.

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Due to the above restrictions no structures will thus be allowed on the property which will mean that the property which cannot be developed will not be of value to another party.

Furthermore, the portion of the remainder of Erf 599 Pearly Beach ( $\pm 300\text{m}^2$  in extent) applied for can be classified as a non-viable immovable property due to the fact that a waste transfer station is located on the majority of the property and the remaining portion of the property is very small, the only adjoining owner to the said portion of the property, beside the applicant, is the Overstrand Municipality and no other party requires the portion of property for access purposes. Only the applicant can truly gain advantage from the purchase of the property for access purposes. The applicant already has a gravel road across his erf, Erf 604 Pearly Beach, which he uses, together with the portion applied for, to gain access to the garages built at the back of Erf 1930 Pearly Beach.

Taking the above discussion, the locality, intended use, shape and size of the property applied for into consideration the property applied for can be classified as a non-viable property.

**Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted 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 are services located on unregistered Erf 1929 Pearly Beach but that the property can be alienated should no structures except for a boundary wall or fence be erected on the property. It was

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further confirmed that the subject portion of the remainder of Erf 599 Pearly Beach is not needed for the provision of the minimum level of basic municipal services.

- (b) Boland Valuers determined the market related value in November 2019 at an amount of R120.00/m<sup>2</sup> (ONE HUNDRED AND TWENTY RAND) (PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, locality, zoning proposed use of and restrictions on the property.
- (c) The reasons for 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 purchaser will be liable for all costs which include, but are not limited to, the costs for the application, valuation, road closure, subdivision and consolidation, rezoning of the property, the Section 14 advertisement and the related 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 purchaser shall be liable for all cost in this regard should it be necessary.

**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 the effect that a consolidation must be done 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.”***

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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.”**

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 in terms of Section 14 of the MFMA will be published after obtaining this in principle decision. The Applicant will be liable for the costs of the Section 14 advertisement.

**Conclusion**

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the direct alienation of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (413m<sup>2</sup> in extent) as well as a portion of the remainder of Erf 599 Pearly Beach (±300m<sup>2</sup> in extent) to the owner of Erf 1930 Pearly Beach, being De Pyp Trust, be approved in principle.

Furthermore, it is recommended that the applicant/purchaser be liable for all cost involved to affect transfer of the properties in the deeds office. Subsequently the costs will entail the road closure, subdivision and consolidation, rezoning, Section 14 advertisement and the transfer and related costs.

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**7. Financial Implications**

The Municipality stands to gain a market related purchase amount of R49,560.00 (FORTY NINE THOUSAND FIVE HUNDRED AND SIXTY RAND) (VAT excluded) for the alienation of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach.

The Municipality further stands to gain a market related purchase amount of R120.00/m<sup>2</sup> (ONE HUNDRED AND TWENTY RAND) PER SQUARE METRE (VAT excluded) per metre for the alienation of a portion of the remainder of Erf 599 Pearly Beach.

**8. Staff Implications**

None

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

- (a) Unregistered Erf 1929 (a portion of Erf 599) Pearly Beach (±413m<sup>2</sup> in extent)

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

*“Unregistered Erf 1929 Pearly Beach is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land as part of Erf 599 with a total extent of 11’028 m<sup>2</sup> and a carrying value of R1’260’000. The eventual disposal of Unregistered Erf 1929 will have to be accounted for at the selling price in order to derecognize 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 Manager: Operational Services: Mr T Steenberg (Gansbaai) – (028) 384 8312**

*“With regard to the application for the rental or sale / alienation of Erf 1929 Pearly Beach, the Department: Operational Services has no objections to the application, subject to the following conditions:*

- *That Erf 1929 be provided with a municipal water meter as per detail and requirements stipulated.*
- *That, as a municipal water line is located on the erf, and should the erf be rented or sold / alienated, the water pipeline must be relocated to a suitable position outside the erf. All work must*

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*comply with the standards of the Department: Operational Services (Gansbaai), and all costs in this regard will be for the new owners' account.*

- *That, alternatively, as unrestricted access is required to the municipal water line in case of maintenance- and / or repair work, and in order to limit damage to property should a pipe burst occur as well as to allow for upgrade and / or installation of new services, the erf may be rented out on condition that the erf is not fenced and no development is undertaken on the erf.*
- *That the erf be provided with adequate sewer conservancy tanks.*
- *That the developer investigates and determines the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400-P: 2010: Drainage.*
- *That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.*
- *That any additional and / or extended vehicle entrances will be for the owner's account.*
- *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."*

After the above comments were received, the issue regarding the municipal water line was communicated to the applicant who made contact with the Deputy Director: Engineering Planning, Mr Blignaut, to discuss the matter. After said conversation Mr Blignaut confirmed that it is acceptable should the property be alienated without the waterline being relocated, subject thereto:

- that no structure, tree or plant be erected within 1,5 metre of the water line,
- that the Municipality always have access to the property for maintenance and repairs of the waterline, and
- that the Municipality be indemnified should there be any damage to private property on the said portion of property due to maintenance or repairs to the waterline.

These conditions will be included in the Deed of Sale.

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**Manager: Building Services - Mr L Coetzee – (028) 313 8091**

*“No objection. Any proposed structure/building work, including boundary walls or fences, will require a building plan application compliant with all applicable law, which may or may not trigger a Notarial tie of the properties.”*

**Senior Town Planner - Mr S Van der Merwe – (028) 313 8906**

*“The unregistered Erf is zoned as Transport Zone II: Public Road. No objection to the proposed alienation subject thereto that the applicant will be responsible to obtain the necessary development rights at his/her cost, i.e. subdivision, rezoning, consolidation and closure of public place.”*

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

*“We have no objection. Should there be a need to reposition any existing infrastructure, the cost will be for the applicant’s account.”*

(b) A portion of the remainder of Erf 599 Pearly Beach (±300m<sup>2</sup> in extent)

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

*“The remainder of Erf 599 Pearly Beach is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a total extent of 11’028 m<sup>2</sup> and a carrying value of R1’260’000. The eventual disposal of a portion of Erf 599 will have to be accounted for at the selling price in order to derecognize 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 Manager: Operational Services - Mr T Steenberg (Gansbaai)  
– (028) 384 8312**

*“With regard to the application for the sale / alienation of the relevant Portion of Erf 599, Pearly Beach, the Department: Operational Services has no objections to the application, subject to the following conditions:*

- *That, as no municipal water- and sewerage services will be rendered to the relevant Portion of Erf 599, the applicant is*

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*responsible for the provision of any water supply and sewerage services to the development on the relevant Portion of Farm 599.*

- *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.*
- *That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.*
- *That any additional and / or extended vehicle entrances will be for the owner's account.*
- *That the Electrical- and Traffic Department, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.”*

**Senior Town Planner - Mr S Van der Merwe – (028) 313 8906**

*“Erf 599 Pearly Beach is zoned for Authority Use. The property is currently used as a waste transfer station. No objection is raised to the alienation of a 300m<sup>2</sup> portion from a planning point of view, subject to the necessary town planning approvals being obtained, namely subdivision, rezoning and consolidation. Should the title deed contain any restrictive conditions pertaining the development / use of the subdivided portion an application for removal of restrictive title conditions will also be necessary.”*

**Building Inspector - Mr R Dickson (Gansbaai) – (028) 384 8319**

*“Overstrand Building Department does not have any objection to purchase a portion of erf 599 Pearly Beach.”*

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

*“We have no objection.”*

**Senior Manager: Fire and Disaster Management & Security  
Services - Mr L Smith – (028) 313 5041**

*“Fire Safety has no objection”*

**10. Annexures**

Annexure A: Locality Plan

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**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach, adjacent to Erf 1930 Pearly Beach, (413m<sup>2</sup> in extent) to the owner of the adjoining property, De Pyp Trust, at R49,560.00 (FORTY NINE THOUSAND FIVE HUNDRED AND SIXTY RAND) (VAT excluded) be **approved in principle**;
2. that the direct alienation of a portion of the remainder of Erf 599 Pearly Beach, adjacent to Erf 1930, (±300m<sup>2</sup> in extent) to the owner of the adjoining property, De Pyp Trust, at R120.00/m<sup>2</sup> (ONE HUNDRED AND TWENTY RAND) PER SQUARE METRE (VAT excluded) be **approved in principle**;
3. that no construction except a boundary fence or wall be allowed on the properties to be alienated and this condition must be registered against the title deed of the consolidated property;
4. that Council take cognisance of the fact that the direct alienation is only possible as unregistered Erf 1929 (a portion of Erf 599) Pearly Beach and the subject portion of the remainder of Erf 599 Pearly Beach can be classified as non-viable property;
5. that, subject to the approval in 1 and 2 above, a public participation process be followed at the cost of the applicant/purchaser;
6. that it be noted that a condition for alienation will be that the subject properties to be alienated must be consolidated with the adjoining property of De Pyp Trust, being Erf 1930 Pearly Beach;
7. that the alienation of the properties to be alienated, be subject to obtaining the necessary Town Planning approvals;
8. that all costs pertaining to the transaction, e.g. application cost, valuation cost, road closure, subdivision, rezoning and consolidation, transfer and related costs, advertisement, etc be paid by the applicant/purchaser; and
9. that it is confirmed that Council has taken cognisance of the fact that the municipal properties herewith envisaged to be alienated are not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immoveable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL :</b>	<b>WILLMARY MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>13 MARCH 2020</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>27 MARCH 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**4.  
IN PRINCIPLE APPROVAL FOR THE ALIENATION OF UNREGISTERED ERF 1929  
(A PORTION OF ERF 599) PEARLY BEACH AS WELL AS A PORTION OF THE  
REMAINDER OF ERF 599 PEARLY BEACH TO DE PYP TRUST**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**3 January 2020**

**(028) 316 - 3724**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
18 FEBRUARY 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of unregistered Erf 1929 (a portion of Erf 599) Pearly Beach, adjacent to Erf 1930 Pearly Beach, (413m<sup>2</sup> in extent) to the owner of the adjoining property, De Pyp Trust, at R49,560.00 (FORTY NINE THOUSAND FIVE HUNDRED AND SIXTY RAND) (VAT excluded) be **approved in principle**;
2. that the direct alienation of a portion of the remainder of Erf 599 Pearly Beach, adjacent to Erf 1930, (±300m<sup>2</sup> in extent) to the owner of the adjoining property, De Pyp Trust, at R120.00/m<sup>2</sup> (ONE HUNDRED AND TWENTY RAND) PER SQUARE METRE (VAT excluded) be **approved in principle**;
3. that no construction except a boundary fence or wall be allowed on the properties to be alienated and this condition must be registered against the title deed of the consolidated property;
4. that Council take cognisance of the fact that the direct alienation is only possible as unregistered Erf 1929 (a portion of Erf 599) Pearly Beach and the subject portion of the remainder of Erf 599 Pearly Beach can be classified as non-viable property;
5. that, subject to the approval in 1 and 2 above, a public participation process be followed at the cost of the applicant/purchaser;
6. that it be noted that a condition for alienation will be that the subject properties to be alienated must be consolidated with the adjoining property of De Pyp Trust, being Erf 1930 Pearly Beach;
7. that the alienation of the properties to be alienated, be subject to obtaining the necessary Town Planning approvals;
8. that all costs pertaining to the transaction, e.g. application cost, valuation cost, road closure, subdivision, rezoning and consolidation, transfer and related costs, advertisement, etc be paid by the applicant/purchaser;

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9. that it is confirmed that Council has taken cognisance of the fact that the municipal properties herewith envisaged to be alienated are not required for the provision 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); and
10. that a water pipeline servitude be registered over unregistered Erf 1929, Pearly Beach in favour of the Overstrand Municipality at the cost of the applicant/purchaser with the specific conditions that:
  - (a) the applicant provides access at all times to the Overstrand Municipality for the purpose of inspecting, maintaining, repairing or removing, if necessary at a later stage, of water line or equipment; and
  - (b) no structures, trees or plants may be erected within 1,5 m (one and a half metre) on each side of the water pipeline.

<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>13 MARCH 2020</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>27 MARCH 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

ANNEXURE A

