

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
18 May 2021  
(Also the agenda for the Council Meeting: 26 May 2021)**

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**6.  
TRANSFER OF MUNICIPAL OWNED ERVEN 3661 AND 3662 BETTY'S BAY  
(SITUATED IN MYRICA ROAD, BETTY'S BAY) TO JC KANNEMEYER IN  
EXCHANGE FOR ERF 4013 BETTY'S BAY (SITUATED IN DISA CIRCLE, BETTY'S  
BAY)**

**7/2/3/2**

**R Kuchar**

**Senior Manager: Town & Spatial Planning**

**23 April 2021**

**(028) 313 - 8087**

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**1. Executive Summary**

To obtain approval for the transfer of municipal owned Erven 3661 and 3662 Betty's Bay (situated in Myrica Road, Betty's Bay) to JC Kannemeyer in exchange for Erf 4013 Betty's Bay (situated in Disa Circle, Betty's Bay) as indicated on the attached locality maps marked Annexure "A1" and Annexure "A2".

**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**

Council at its meeting held on 24 February 2021 approved the following in principle:

- “1. *that the direct alienation of Erven 3661 and 3662, Betty’s Bay (respectively 840m<sup>2</sup> and 1044m<sup>2</sup> in extent) situated in Myrica Road, Betty’s Bay, to Mr James Charles Kannemeyer in exchange for Erf 4013, Betty’s Bay, situated in Disa Circle, Betty’s Bay (17772m<sup>2</sup> in extent) **be approved in principle;***
2. *that the deviation from paragraphs 7 and 15.1 of the Administration of Immovable Property Policy, 2015 in order to alienate the municipal properties to Mr James Charles Kannemeyer without following a competitive process, be approved;*
3. *that it be noted that the requested deviation and direct alienation are only considered as the proposal is to exchange properties of similar value in order not to affect the cash flow of the Municipality in budgeting for the purchase price for Erf 4013, Betty’s Bay, which amount is higher than the combined value for Erven 3661 and 3662, Betty’s Bay;*
4. *that, subject to the approval in 1 above, a public participation process be followed at the cost of the Municipality;*
5. *that Erven 3661 and 3662, Betty’s Bay may only be used for Single Residential purposes as defined the relevant legislation, which condition must be registered against the title deed of the properties;*
6. *that all the costs pertaining to the transaction, i.e. transfer and related costs, etc. be paid by the Municipality;*
7. *that it be noted that the municipal properties herewith envisaged to be exchanged is 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);*
8. *that the comment and support for the exchange be obtained from National and Provincial Treasury; and*
9. *that an item serve before Council after public participation process and comments from National and Provincial Treasury has been obtained to request the final approval, if no objections, to the proposed exchange.*

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**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; and***

***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.”***

As the municipal properties envisaged to be exchanged are developable properties, a deviation will have to be requested to transfer the properties to Mr Kannemeyer in exchange for Erf 4013 Betty’s Bay. Although it is not a standard practice to consent to this type of deviation as it entails the transfer of developable properties, which in effect must be done by means of a competitive process, the exchange will have the result that the Municipality will obtain a valuable property on behalf of the community which has a major environmental importance as it forms part of the coastal protection zones and will ensure coastal access for the public.

The Council’s intention to exchange Erven 3661 and 3662 Betty’s Bay has been advertised for comments to ensure public participation and transparency. No objection or counteroffer were received.

The properties have been valued and the exchanging of the properties would thus be done on the values determined by the valuer.

Further the owner of Erf 4013 Betty’s Bay, Mr JC Kannemeyer, indicated that it is his preference to obtain property in Betty’s Bay in exchange for his current property. Thus, the exchange is the mechanism to achieve this.

***Paragraph 9.1: “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:***

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- (a) ***decided on reasonable grounds that the 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 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”***
- (a) Erven 3661 and 3662 Betty’s Bay are currently zoned Single Residential and are vacant. These properties are not needed for basic service delivery.
- (b) The valuation of Erf 4013 is slightly higher than the combined values of Erven 3661 and 3662. However, the value for the environment as well as the community for outweighing the value of the properties (Erven 3661 and 3662) which Council would exchange. The valuations were done by a registered professional valuer on 11 November 2020.
- (c) Council has approved in principle the sale as well as the method of sale.

***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.”***

It is recommended that Council bear all the costs relating to the transfer of the properties taking into consideration that the Municipality will obtain ownership of an asset with a higher value than the assets to be exchanged.

***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.”***

No services need to be relocated and no servitude needs to be registered.

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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 condition to this effect will be included in the Exchange Agreement and registered against the title deed of Erf 4013 Betty’s Bay. Erven 3661 and 3662 are zoned Single Residential and will be used as such.

***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.”***

This is not applicable as no purchase price will be paid, but an asset will be transferred to the Municipality in exchange.

***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.”***

This is not applicable as no purchase price will be paid, but an asset will be transferred to the Municipality in exchange.

**B: Advertisement/Notification**

An advertisement in terms of Section 14 of the MFMA for the transfer of Erven 3661 and 3662 Betty’s Bay (840m<sup>2</sup> and 1044m<sup>2</sup> in extent) to JC Kannemeyer in exchange for Erf 4013 Betty’s Bay (17772m<sup>2</sup> in extent) was placed in The Village News on 10 March 2021 for a thirty (30) day objection/comment period. No objection was received against the Council’s intention.

However, a letter of support was received from the Betty’s Bay Ratepayers’ Association (attached per Annexure “B”).

**Conclusion**

It is recommended that the transfer of Erven 3661 and 3662 Betty’s Bay (situated in Myrica Road, Betty’s Bay) to JC Kannemeyer in exchange for Erf 4013 Betty’s Bay (situated in Disa Circle, Betty’s Bay) be approved.

Furthermore, it is recommended that the Municipality be liable for all costs relating to the transaction, including the transfers in the Deeds Office.

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Subsequently the costs will entail the aforementioned Section 14 advertisement, valuation costs and transfer costs.

## 7. Financial Implications

Erf 4013 Betty's Bay was valued at an amount of R75.67/m<sup>2</sup> (VAT excluded). This brings the total to R1,344,807.24 (ONE MILLION THREE HUNDRED AND FOURTY FOUR THOUSAND EIGHT HUNDRED AND SEVEN RAND TWENTY-FOUR CENTS) (VAT excluded).

Erf 3661 Betty's Bay was valued at R690.00/m<sup>2</sup> (VAT excluded) with a total value of R579,600.00 (FIVE HUNDRED AND SEVENTY-NINE THOUSAND SIX HUNDRED RAND) (VAT excluded).

Erf 3662 Betty's Bay was valued at R690.00/m<sup>2</sup> (VAT excluded) with a total value of R720,360.00 (SEVEN HUNDRED AND TWENTY THOUSAND THREE HUNDRED AND SIXTY RAND) (VAT excluded).

The combined value of Erven 3661 and 3662 Betty's Bay is therefore R1,299,960.00 (ONE MILLION TWO HUNDRED NINETY-NINE THOUSAND NINE HUNDRED AND SIXTY RAND) (VAT excluded). This is R448 472.24 (FOUR HUNDRED AND FOURTY EIGHT THOUSAND FOUR HUNDRED AND SEVENT TWO RAND AND TWENTY-FOUR CENTS) (VAT excluded) less than the valuation for Erf 4013 Betty's Bay. The Municipality stands to gain a more valuable property.

The estimated costs related to the transaction, to be borne by the Municipality are R78 292.50 (SEVENTY EIGHT THOUSAND TWO HUNDRED AND NINETY TWO RAND FIFTY CENTS) and will be paid as follows:

<b>OPERATIONAL BUDGET</b>	
Valuation cost (VAT excluded):	R5,100.00
Funding Source:	Property Rates: Levies
SCOA Description:	Infrastructure and Planning: Town Planning
Cost Acc:	12200201070000
B-Key:	20200630034808
Balance	R898 689.00

<b>OPERATIONAL BUDGET</b>	
Advertisement cost (VAT excluded):	R3 312.00
Funding Source:	General Revenue: Sales of Goods & Rendering of S
SCOA Description:	Infrastructure and Planning: Town Planning
Cost Acc:	12200103460000

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B-Key:	20200630036236
Balance	R32 306.44

<b>CAPITAL BUDGET</b>	
Estimated transfer cost (VAT excluded):	R69,115.50
Funding Source:	<b>Surplus Funding</b>
SCOA Description:	Cost: Acquisitions
Cost Acc:	5 02 0100 019 1
B-Key:	20200226072276
Balance	R107 930.50

### 8. Staff Implications

None

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

**Manager: Property Administration: Ms A Le Roux – (028) 316 5623**

*“In theory and taking the relevant legislation into consideration, the procedures that should be followed are as follows:*

- (a) Erven 3661 and 3662 to be sold by means of a competitive process at a market related price (the latter is already obtained), which process can take a considerable time and will cost the Municipality approximately R15 000.00 in advertisement costs. All subsequent costs will be for the bidder/purchaser’s account.*
- (b) Budget in a capital budget for the purchase of Erf 4013, Betty’s Bay at a market related price (the latter is already obtained). This budget will have to make provision for the purchase price and all costs to finalise the transfer.*

The above is a cumbersome, expensive and lengthy process and will not be cost effective, efficient or effective.”

**Town Planning Department: Town Planner: Ms H van der Stoep – (028) 313 8900**

*“To the benefit of the environment.”*

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**Environmental Department: Environmental Officer: Ms T Zweig – (028) 271 8420**

*See Annexure C attached.*

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

*“There is no objection against the exchange of the properties. Erven 3661 and 3662, Betty’s Bay are currently reflected in the fixed asset register for Investment Property: Land at a carrying value of R675’000.00 and R700’000.00 respectively as at 30 June 2020. In total this amounts to R1’375’000.00. Once the proposed exchange has been concluded these erven will have to be written out of the fixed asset register at the applicable market value in order to account for actual gain / (loss) on the disposal of an asset.*

*Erf 4013, Betty’s Bay must be recognised in the fixed asset register for Heritage Assets: Land on date of registration at the market related value.”*

**National and Provincial Treasury**

The comments from National and Provincial Treasury has not been received as on date of this report. Council will be notified if the comments are not in favour of the transaction.

**10. Annexures**

- Annexure A: Locality Maps
- Annexure B: Comment: Betty’s Bay Ratepayers Association
- Annexure C: Environmental Department’s comments

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of Erven 3661 and 3662, Betty’s Bay (respectively 840m<sup>2</sup> and 1044m<sup>2</sup> in extent), situated in Myrica Road, Betty’s Bay, to Mr James Charles Kannemeyer in exchange for the transfer of Erf 4013 Betty’s Bay (17772m<sup>2</sup> in extent), situated in Disa Circle, Betty’s Bay from Mr James Charles Kannemeyer to Overstrand Municipality, **be approved**;
2. that the estimated costs related to the transaction in the amount of R78 292.50 (SEVENTY EIGHT THOUSAND TWO HUNDRED AND NINETY TWO RAND FIFTY CENTS) be borne by the Municipality;

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3. that it be noted that the requested deviation and direct alienation are only considered as the proposal is to exchange properties of similar value in order not to affect the cash flow of the Municipality in budgeting for the purchase price for Erf 4013 Betty's Bay, which amount is higher than the combined value for Erven 3661 and 3662 Betty's Bay;
4. that Erven 3661 and 3662 Betty's Bay may only be used for Single Residential purposes as defined by the relevant legislation, which condition must be registered against the title deed of these two properties;
5. that Council be informed should the comments of National and Provincial Treasury not be in support of the transaction; and
6. that it be noted that the municipal properties herewith envisaged to be transferred 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).

<b>RESPONSIBLE OFFICIAL:</b>	<b>R KUCHAR</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>9 JUNE 2021</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>9 JUNE 2021</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**6.  
TRANSFER OF MUNICIPAL OWNED ERVEN 3661 AND 3662 BETTY'S BAY  
(SITUATED IN MYRICA ROAD, BETTY'S BAY) TO JC KANNEMEYER IN  
EXCHANGE FOR ERF 4013 BETTY'S BAY (SITUATED IN DISA CIRCLE, BETTY'S  
BAY)**

**7/2/3/2**

**R Kuchar**

**Senior Manager: Town & Spatial Planning**

**23 April 2021**

**(028) 313 - 8087**

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

**RECOMMENDATION TO THE COUNCIL:**

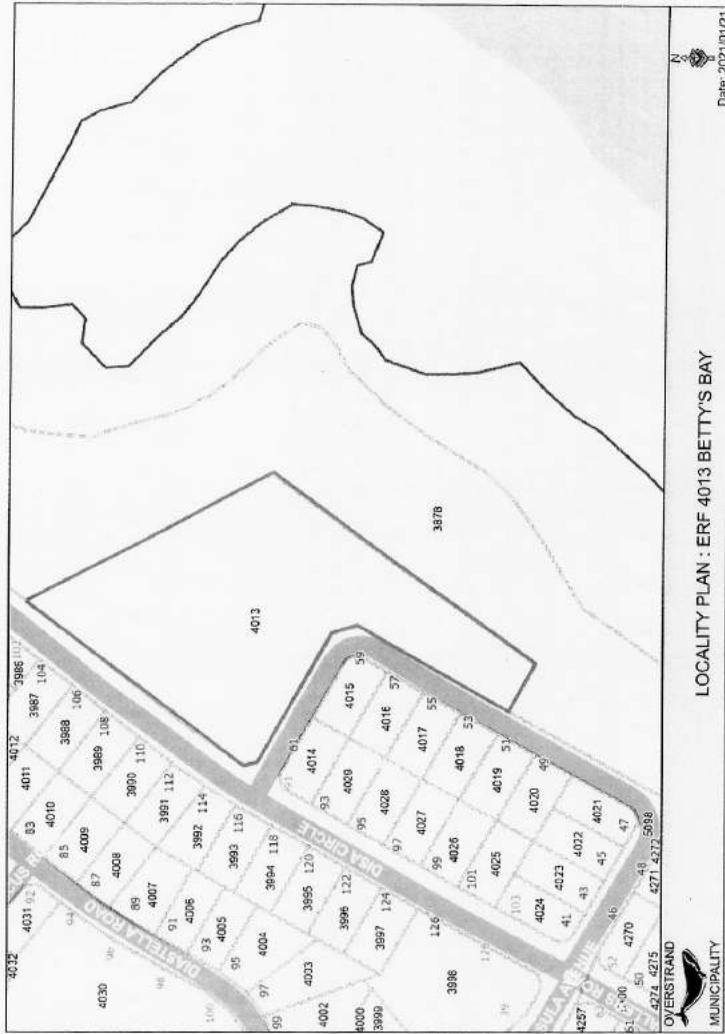
1. that the transfer of Erven 3661 and 3662, Betty's Bay (respectively 840m<sup>2</sup> and 1044m<sup>2</sup> in extent), situated in Myrica Road, Betty's Bay, to Mr James Charles Kannemeyer in exchange for the transfer of Erf 4013 Betty's Bay (17772m<sup>2</sup> in extent), situated in Disa Circle, Betty's Bay from Mr James Charles Kannemeyer to Overstrand Municipality, **be approved**;
2. that the estimated costs related to the transaction in the amount of R78 292.50 (SEVENTY EIGHT THOUSAND TWO HUNDRED AND NINETY TWO RAND FIFTY CENTS) be borne by the Municipality;
3. that it be noted that the requested deviation and direct alienation are only considered as the proposal is to exchange properties of similar value in order not to affect the cash flow of the Municipality in budgeting for the purchase price for Erf 4013 Betty's Bay, which amount is higher than the combined value for Erven 3661 and 3662 Betty's Bay;
4. that Erven 3661 and 3662 Betty's Bay may only be used for Single Residential purposes as defined by the relevant legislation, which condition must be registered against the title deed of these two properties;
5. that Council be informed should the comments of National and Provincial Treasury not be in support of the transaction; and
6. that it be noted that the municipal properties herewith envisaged to be transferred 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).

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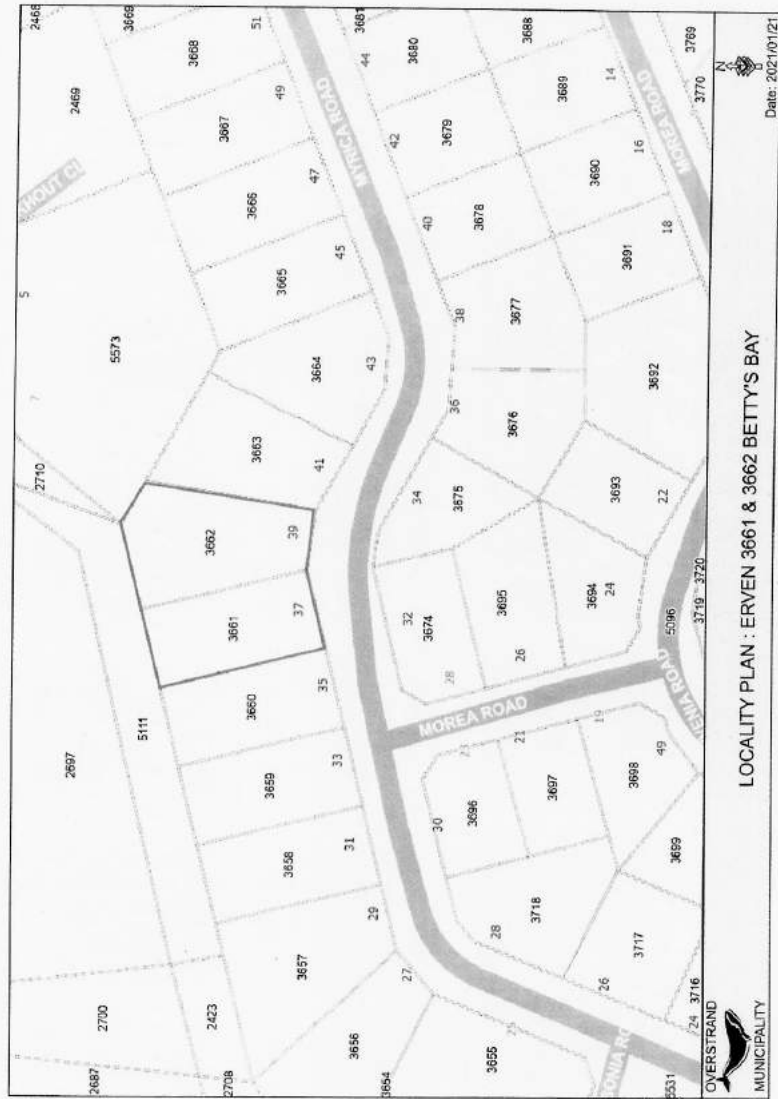
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<b>RESPONSIBLE OFFICIAL:</b>	<b>R KUCHAR</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>9 JUNE 2021</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>9 JUNE 2021</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

ANNEXURE "A1"



ANNEXURE "A2"



**BBRA / BBV**

Betty's Bay Ratepayers' Association  
Bettiesbaai Belastingbetalersvereniging

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To whom it may concern.

Erwen 3661 & 3662 are municipal pieces of vacant land in Myrica, just where Morea/Myrica meet. Not especially interesting ... the one plot is +-865m2 & the other +-1080m2.

In light of the history of 4013/Mr Kannemeyer, I have correspondence dating back to 2014, to date both Province/Local Authority has turned all his applications/appeals down so if this exchange can work, it'd be a huge win for OM as they then secure the entire frontage from 3986 Disa around to 3018 Crassua Crescent which is the extent of 4013, thus reverting back to bring municipal land as it was deemed to be before this sale inadvertently transpired. Since Mr Kannemeyer seems to be the instigator of this exchange, he then knows that there are no views, ie. sea, from these plots ..... these 2 plots back onto public open space which extends to Anglers on the north side and the Verwoerd properties(Milkwood Close) on the east side.

In my opinion, we, the BBRPA can with comfort support this exchange. It'll put an end to bitter squabbling and huge time wasting exercises.



Thanking you in anticipation.  
Regards,

Karon. (PROPERTY PORTFOLIO REPRESENTATIVE).

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Chairman: Bill Steyn  
082 808 1564

Secretary/Treasurer: Adrian de Kock  
082 840 4619

BBRA, P.O. Box 48, Betty's Bay 7141

BBV, Posbus 48, Bettysbaai, 7141

Office of the Director:  
Infrastructure & Planning



Kantoor van die Direkteur:  
Infrastruktuur & Beplanning

ENVIRONMENTAL MANAGEMENT SECTION

To whom it may concern,

**Re: Erf 4013 Betty's Bay Conservation Value**

**1. General:**

The social, environmental, health and economic values of natural or green spaces in the urban area are well recognised. In principle, the more green spaces an area has, the greater the contribution of ecosystem services including oxygen generation, carbon dioxide absorption, climate regulation and the conservation of biodiversity. Green spaces provide substantial intellectual, social, emotional and physical health benefits and are known to contribute to the general well-being of the public. Betty's Bay is within the Transitional Zone of the UNESCO declared Kogelberg Biosphere Reserve. The UNESCO Man and the Biosphere (MAB) aims to enhance the relationship between people and their environments.

Erf 4013, Betty's Bay is not developed and as such residents consider it to be a part of the natural open space of the village that should be conserved, protected and maintained for future generations.

**2. Endangered Vegetation:**

The Vegetation on Erf 4013 is 1.77 hectares of dense Hangklip Sand Fynbos. This vegetation type is listed in the 2016 National Environmental Management: Biodiversity Act (NEMBA) as Endangered, Criterion A1: Irreversible loss of natural habitat. Less than 45% of the natural Hangklip Sand Fynbos ecosystems remain, of which only the 20% of this ecosystem is formally protected. Hangklip Sand Fynbos is known to support at least 32 Red List Data plant species of which 5 species are endemic to only this vegetation type. Hangklip Sand Fynbos contains species from both Kogelberg Sandstone Fynbos and Overberg Dune Strandveld vegetation types. Protea, Erica and Restio species are commonly found in the area. The property is quite infected with Alien Invasive Rooikrans and requires rehabilitation. The local Botanical Society and Hacking Groups would likely provide management assistance in the form of alien vegetation removal if the property were zoned as Open Space 1 or 2.

**3. Ecological Corridor:**

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HANGKLIP/KLEINMOND ADMINISTRATION

Telephone: 028 271 8420

E-mail: [tzweir@overstrand.gov.za](mailto:tzweir@overstrand.gov.za)

33<sup>rd</sup> Avenue  
Kleinmond  
7195

Should the property be transferred to the OSM it can be included as a component of the Ecological Process Corridor as Identified in Environmental Management Overlay Zone Regulations (2020) Urban Conservation EMOZ: Plan 5.2. A- Betty's Bay West.

The purpose of an Ecological Process Corridor is to facilitate habitat connectivity in areas that are geographically fragmented. In this case fragmentation between natural areas in the Betty's Bay is caused by urbanisation, the exclusion of Erf 4013 further segments the corridor.

As Erf 4013 is undeveloped it naturally contributes to the Ecological Process Corridor that runs from the Betty's Bay Marine Protected Area and Stony Point African Penguin Colony through the Coastal Protection Zone (Erf 3878, Overstrand Municipality) toward Public Open Spaces (Erf 4030) to Open Space 1: Nature Reserves Erf 4207 and Erf 2370. The Rondevlei Wetland on Erf 2370 and Grootwitvlei are classified Critical Biodiversity Areas. The corridor extends across the R44 and up to the UNESCO declared Kogelberg Biosphere Reserve.

This Ecological Process Corridor allows for the free movement of many species of birds, amphibians and mammals. Many fynbos plant species rely on mammal and birds as a means of seed dispersal so the corridor supports this ecological function and contributes to floral biodiversity and genetic variability in the region.

Endangered and protected species such as the Dwarf Cape Chameleon and the Critically Endangered Microfrog are known to occur within the area. 80% of the Microfrog's habitat has been lost to urbanisation.

Due to the proximity of the Stony Point Penguin Colony, it is likely that the Endangered African Penguin utilises the property for shelter and nesting.

#### 4. Erven 3661 & 3662

The above highlights the ecological and social benefits of Erf 4013 and as the proposal is to trade Erf 4013 with Erven 3661 and 3662, the traits of these erven should be mentioned.

Erven 3661 and 3662 contain Hangklip Sand Fynbos, the topography is sloped and does not offer as much in terms of erf 4013 species diversity and ecological corridor value. The property does contain Milkwood Trees. Milkwood are protected under NEMBA and should the property be developed and the trees require removal or pruning a permit is obtainable from the Department of Forestry and Fisheries (DEFF). The trees occur on the back portion of the property, development of the property could occur without the complete removal of the trees.

In closing, the transfer of Erf 4013 Betty's Bay to the Overstrand Municipality would contribute to the community as well as the Overstrand's commitment to sustainable environmental development and judicious management of its natural resources and is supported by the Environmental Management Services Department.

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#### HANGKLIP/KLEINMOND ADMINISTRATION

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E-mail: [tzwelip@overstrand.gov.za](mailto:tzwelip@overstrand.gov.za)

Sincerely,

*J-Z*

**Tamzyn Zweig**  
Environmental Officer  
Environmental Management Section  
Directorate: Infrastructure & Planning  
Overstrand Municipality  
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