



OVERSTRAND MUNICIPALITY
ERF 4570, 70 DISA CIRCLE, BETTY'S BAY: APPLICATION
FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS, SUBDIVISION AND REGISTRATION OF
RIGHT-OF-WAY SERVITUDES: PLAN ACTIVE ON BEHALF
OF J ENGELS

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that the following applications applicable to Erf 4570, Betty's Bay, have been received:

Removal of Restrictive Title Deed Conditions

Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.7.(a)(i), B.7.(a)(ii) & B.7.(b) as contained in Title Deed T36520/2013 of the property to allow for less restrictive building lines and coverage to accommodate the proposed development.

Subdivision

In terms of Section 16(2)(d) of the By-Law to create five (5) Single Residential 1 (SR1) zoned portions, as follows:

- Portion A (± 2005m²);
- Portion B (± 1645m²);
- Portion C (± 1115m²);
- Portion D (± 1115m²);
- and Portion E (± 1230m²).

Registration of Right of Way Servitudes

Registration of right of way servitudes in terms of Section 26(1)(h)(v) of the By-Law, as follows:

- 3,9m wide (± 103m²) over Portion E, a portion of Erf 4570, Betty's Bay in favour of Portions A, B, C and D.
- 3,9m wide (± 88m²) over Portion D, a portion of Erf 4570, Betty's Bay in favour of Portions A, B and C.
- 3,9m wide (± 265m²) over Portion C, a portion of Erf 4570, Betty's Bay in favour of Portions A and B.
- 3,9m wide (± 91m²) over Portion B, a portion of Erf 4570, Betty's Bay in favour of Portions A and E.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus and at the Betty's Bay Library, Clarence Drive, Betty's Bay.

Any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **25 August 2023**, quoting your name, address, contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Senior Town Planner, Mrs. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them to formalize their comment.

DGI O'Neill, Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Municipal Notice No. 115/2023

OVERSTRAND MUNISIPALITEIT
ERF 4570, DISASIRKEL 70, BETTYSBAAI: AANSOEK OM
OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDES, ONDERVERDELING EN
REGISTRASIE VAN REG-VAN-WEG SERWITUTE: PLAN
ACTIVE NAMENS J ENGELS

Kennis word hiermee gegee ingevolge Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat die volgende aansoek van toepassing op Erf 4570, Bettysbaai, ontvang is:

Opheffing van Beperkende Titelaktevoorwaardes

Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaardes B.7.(a)(i), B.7.(a)(ii) & B.7.(b) soos vervat in Titelakte T36520/2013 van die eiendom om voorsiening te maak vir minder beperkende boulyne en dekking om die voorgestelde ontwikkeling te akkommodeer.

Onderverdeling

Ingevolge Artikel 16(2)(d) van die Verordening om vyf (5) Enkel Residensieële 1 (SR1) gesoneerde gedeeltes, soos volg te skep:

- Gedeelte A (± 2005m²);
- Gedeelte B (± 1645m²);
- Gedeelte C (± 1115m²);
- Gedeelte D (± 1115m²);
- en Gedeelte E (± 1230m²).

Registrasie van Reg-Van-Weg Serwitute

Registrasie van reg-van-weg serwitute ingevolge Artikel 26(1)(h)(v) van die Verordening, soos volg:

- 3,9m breed (± 103m²) oor Gedeelte E, 'n gedeelte van Erf 4570, Bettysbaai ten gunste van Gedeeltes A, B, C en D.
- 3,9m breed (± 88m²) oor Gedeelte D, 'n gedeelte van Erf 4570, Bettysbaai ten gunste van Gedeeltes A, B en C.
- 3,9m breed (± 265m²) oor Gedeelte C, 'n gedeelte van Erf 4570, Bettysbaai ten gunste van Gedeeltes A en B.
- 3,9m breed (± 91m²) oor Gedeelte B, 'n gedeelte van Erf 4570, Bettysbaai ten gunste van Gedeeltes A en E.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus, en by die Bettysbaai Biblioteek, Clarencerylaan, Bettysbaai.

Enige kommentaar moet skriftelik ingedien word in ooreenstemming met die bepaling van Artikels 51 en 52 van genoemde Verordening by die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **25 Augustus 2023**, met u naam, adres, kontakbesonderhede, belang in die aansoek en redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H. Van der Stoep** by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

DGI O'Neill, Munisipale Bestuurder, Overstrand Munisipaliteit, Posbus 20, HERMANUS, 7200

Munisipale Kennisgewing Nr. 115/2023

UMASIPALA WASE-OVERSTRAND
ISIZA ESINGU-ERF 4570, 70 DISA CIRCLE, BETTY'S BAY:
ISICELO SOKUSHENXISWA KWEEMKO EZIYIMIQOBO
KWITAYITILE YOBUNINI, ULWAHLULAHLULO UBHALISO
LWEEENDLELA EZINQUMAYO UKUNKEZA IINKONZO:
NGABAKWAPLAN ACTIVE EGAMENI LIKA-J ENGELS

Kukhutshwe isaziso esimayela nemiba yamaSolotya lama-47 nelama48 nguMasipala wase-Overstrand ngoMthethwana osisiHlomelo soMthetho kaMasipala esingezicwanciso zokuSetyenzisw akoMhlaba kaMasipala ku2020 isaziso eso sithi kufunyenwe izicelo ezisebenza kwiSiza esingu-Erf 4570, Betty's Bay:

Ushenxiso Lweemeko Eziyimiqobo kwiTayitile Zobunini

Isicelo esimayela neSolotya le16(2)(f) loMthethwana ongokushenxiswa kweemeko eziyimiqobo kwitayitile zobunini ezizezi; B.7.(a)(i), B.7.(a)(ii) & B.7.(b) njengoko ziqulethwe kwiTayitile yoBunini(Title Deed) T36520/2013 eyindaw yokuhlala/isiza okanye umhlaba ovumela ukunyenxiswa kwemiqobo yemigca yesakhiwo ethathanequka lomhlaba ukulungiselela iziphakamiso zophuhliso.

Ulwahlulo

Ngokwemiba yeSolotya le16(2)(d) loMthethwana wokudala iindawo ezintlanu (5) Indawo Elungiselelwe ukuhlala usapho/umntu omnye (1 Single Residential 1) (SR1) iinxalenye ezenziwe iizowuni, ngolu hlobo lulandelayo:

- Inxalenye A (± 2005m²);
- Inxalenye B (± 1645m²);
- Inxalenye C (± 1115m²);
- Inxalenye D (± 1115m²);
- neNxalenye E (± 1230m²).

Ubhaliso oluVumela Ukucanda Indela Ukuhambisa Iinkonzo

Ubhaliso oluvumela indlela ezinqumlayo kuhambiso lweenkonzo ngokweSolotya lama26(1)(h)(v) loMthethwana, eziloluhlobo lulandelayo:

- 3,9m ububanzi (± 103m²) ukudlula ngaphaya kweNxalenye E, inxalenye yesiza u-Erf 4570, Betty's Bay ngokuvumela linxalenye A, B, C noD.
- 3,9m ububanzi (± 88m²) ukudlula ngaphaya kweNxalenye D, kwinxalenye yesiza esingu-Erf 4570, Betty's Bay ukuvumela linxalenye A, B noC.
- 3,9m ububanzi (± 265m²) ukudlula ngaphaya kweNxalenye C, ninxalenye yesiza esingu-Erf 4570, Betty's Bay ukuvumela iinxalenye ezingu-A noB.
- 3,9m ububanzi (± 91m²) ukudlula ngaphaya kweNxalenye B, inxalenye enguErf 4570, Betty's Bay ukuvumela iinxalenye A no E.

Iinkcukacha ezipheleleyo mayela nesi isphakamiso ziyafumaneka ukuze zihlolwe kwintsuku zaphakathi evekini Phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: IiCwangciso ngeDolophu kwa16 Paterson Street, Hermanus naseBetty's Bay Library, Clarence Drive, Betty's Bay.

Naziphi na izimvo ezibhaliweyo mazingeniswe kwaMasipala ngokwezibonelelo zeSolotya lama51 nelama52 loMthethwan kaMasipala ochazwe ngentla (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama**25 kuAgasti 2023**, uchaze igama lakho, idilesi, iinkcukacha ezipheleleyo, umdla wakho kwesi sicelo nezizathu zakho zokuhlomla. Imibuzo ngefowuni ingabuzwa ku**Mcwangcisi Omkhulu weDolophu, Unkskz. H van der Stoep** kwa028-313 8900. Umasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokwala. Nabani na ongakwazi ukufunda nokubhala angahambela iSebe Lezicwangciso zeDolophu apho igosa likamasipala liza kumnceda ahlomle ngokusemthethweni.

DGI O'Neill, Umlawuli kaMasipala, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Inothisi kaMasipala Nomb. 115/2023



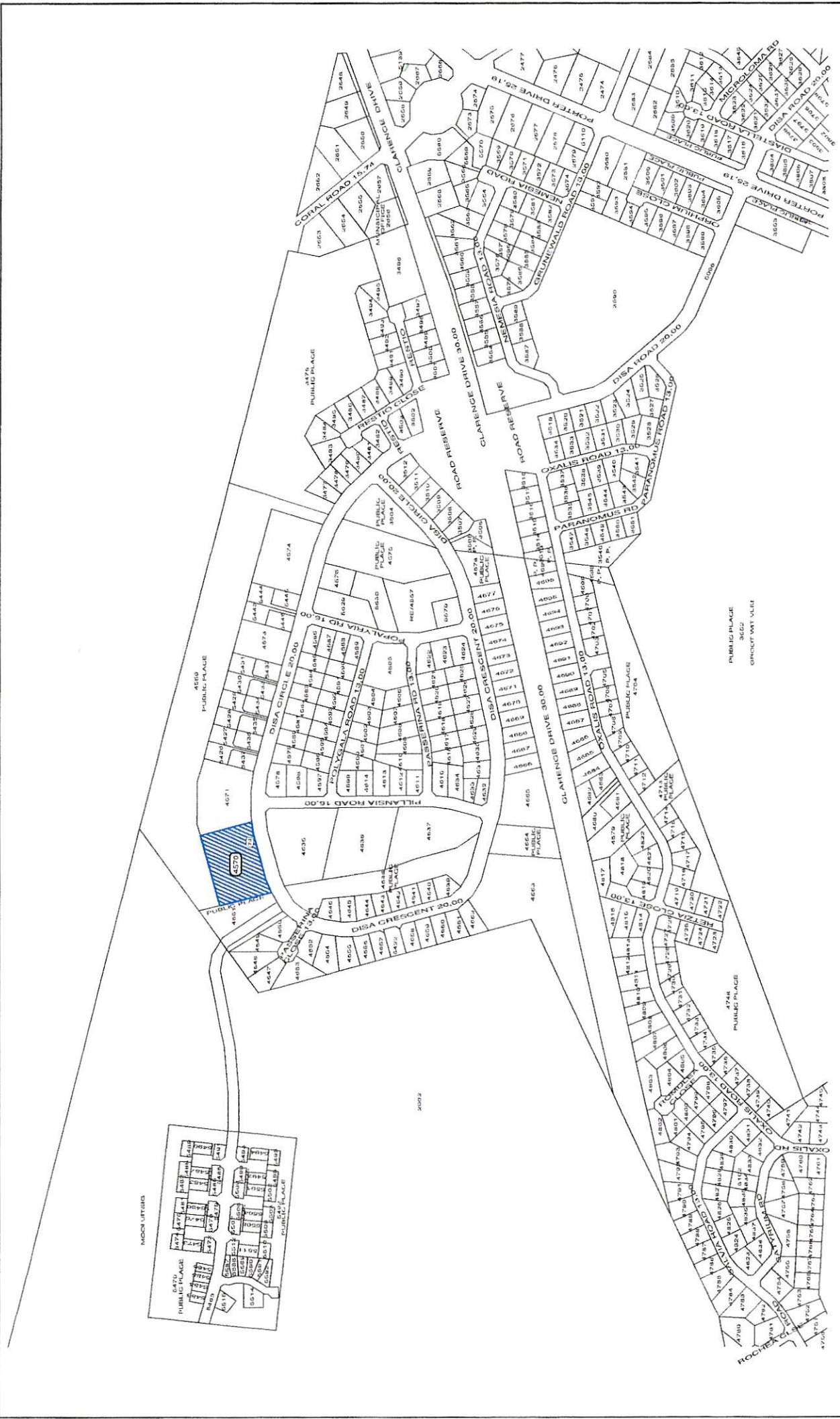
Scale: NTS
 Drawing No: Bdl04570.dwg
 Date: FEBRUARY 2023

Plan Description:
LOCALITY MAP

Property Description:
**ERF 4570
 BETTYS BAY**

All distances approximate
 and subject to survey.
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PLActive Stads- en Sireeksbeplanners
 Town & Regional Planners



MOON UTTERS

3002

PUBLIC PLACE
 3652
 GROOT MT VLER

PUBLIC PLACE
 4704

PUBLIC PLACE
 4746

**PROPOSED SUBDIVISION, REMOVAL OF RESTRICTIVE
TITLE DEED CONDITIONS & REGISTRATION OF
SERVITUDE RIGHT-OF-WAY**

ERF 4570 BETTYS BAY

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners was appointed by Mr J. Engels, the owner of erf 4570 Bettys Bay, to apply for the subdivision and removal of restrictive title deed conditions of the subject property.

Erf 4570 Bettys Bay is 7109m² in extent and is held by Title Deed no. T36520/2013.

The subject property is currently a large portion of vacant land in the township of Bettys Bay. The owner intends to subdivide erf 4570 Bettys Bay into five smaller (more manageable) portions to sell to prospective buyers in future. The property owner simultaneously intends to remove the more restrictive title deed conditions (coverage and building lines) than what the land use scheme regulations prescribe for Residential Zone 1: Single Residential (SR1) properties.



2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the **subdivision** of erf 4570 Bettys Bay:
 - To create five single residential properties;
 - To create a servitude right-of-way for the five newly created portions.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **removal of restrictive title deed conditions** of erf 4570 Bettys Bay.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 4570 Bettys Bay is situated at 70 Disa Circle. Refer to the locality plan attached.

The property is currently a vacant, undeveloped portion of land at the foot of the mountain. The subject property gently slopes from the northern to the southern boundary. Erf 4570 Bettys Bay enjoys spectacular views over the Kogelberg Mountain Range, Grootvlei and the Atlantic Ocean.

3.2 ZONING

Erf 4570 Bettys Bay has the following land use rights:

| ERF NUMBER | ZONING |
|---------------------|--|
| Erf 4570 Bettys Bay | Residential Zone 1: Single Residential (SR1) |

Surrounding properties are zoned for single residential, public road and public open space purposes.

3.3 LAND USE

The subject property is currently a vacant portion of land.

Land uses that surround the subject property are single and double storey dwellings, vacant land and public open spaces.

3.4 THE POTENTIAL OF THE PROPERTY

Erf 4570 Bettys Bay is currently an exceptionally large portion of land zoned for single residential purposes in the middle of an existing residential area. The zoning (SR1) and land use (single residential) of the subject property will remain unchanged. The location of the subject property within an existing established single residential area allows the property to be developed for low impact land uses only, in future. The proposed subdivision and removal of restrictive title deed conditions will not hinder any future land use applications on either of the portions after subdivision.

When evaluating the proposed subdivision against surrounding erf sizes, minimum erf sizes, minimum street frontage widths, the proposed layout, the low impact on the conservation worthy vegetation, etc. it is evident that the subject property has the potential to be subdivided into five (5) portions with similar erf sizes than the smaller erven in the immediate vicinity. All the proposed portions will be at least 1115m² and larger in extent. It is therefore submitted that the proposed erf sizes for the newly created portions after subdivision are compatible with the erf sizes in the immediate vicinity.

Rectangular erf shapes are proposed with this application. Two of the portions (Portions A and B) are larger portions due to site constraints (wetland on the site). Regardless of the site constraints, the subdivision plan indicates ample developable areas for all five the portions after subdivision – this further emphasizes the potential of the site for subdivision. Stricter title deed building lines and coverage than the municipal land use regulations stipulate apply to the subject property and it is proposed to remove these conditions.

It is therefore submitted that the proposed erf sizes and erf shapes for the five proposed newly created portions after subdivision and removal of restrictive title deed conditions are compatible with the character of the area and therefore has the potential to be subdivided.

3.5 PROPOSAL

The following are proposed in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the **subdivision** of erf 4570 Bettys Bay to:
 1. Create five (5) SR1 zoned portions as follows:
 - Portion A: $\pm 2005\text{m}^2$
 - Portion B: $\pm 1645\text{m}^2$
 - Portion C: $\pm 1115\text{m}^2$
 - Portion D: $\pm 1115\text{m}^2$
 - Portion E: $\pm 1230\text{m}^2$.
 2. Register a servitude right-of-way to give access to the five newly created portions:
 - Servitude right-of-way of 3,9m wide ($\pm 103\text{m}^2$) over Portion E, a portion of erf 4570 Bettys Bay, in favour of Portions A, B, C and D;
 - Servitude right-of-way of 3,9m wide ($\pm 88\text{m}^2$) over Portion D, a portion of erf 4570 Bettys Bay, in favour of Portions A, B and C;
 - Servitude right-of-way of 3,9m wide ($\pm 265\text{m}^2$) over Portion C, a portion of erf 4570 Bettys Bay, in favour of Portions A and B;
 - Servitude right-of-way of 3,9m wide ($\pm 91\text{m}^2$) over Portion B, a portion of erf 4570 Bettys Bay, in favour of Portion A;
 - Portion E will also obtain access from this servitude.
- The **removal of the restrictive title deed conditions** in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on

Municipal Land Use Planning, 2020, to remove the following conditions stipulated on pages 2-3 of title deed no. T36520/2013:

- par. B.7.(a)(i) and (ii) that stipulates a 8m street building line and a 5m common boundary building line;
- par. B.7.(b) that restricts the coverage to 25%.

The above conditions are removed to allow the development of the respective portions after subdivision in line with the land use scheme regulations' parameters.

The potential of the subject property is discussed in detail in *Section 3.4 Potential of the property*.

When the proposed subdivisional layout of erf 4570 Bettys Bay was considered, cognisance was taken of the following criteria:

- Botanical Assessment of erf 4570 Bettys Bay compiled by Nick Helme Botanical Surveys dated 22 March 2023;
- Environmental comment / report that considered both the listed activities in terms of the National Environmental Management Act (NEMA), Act 106 of 1998, and the Botanical Assessment for the proposed development compiled by Michelle Naylor from Lornay Environmental Consulting dated 15 May 2023;
- Title deed development conditions;
- Physical characteristics of the subject property;
- Surrounding and minimum erf sizes;
- Accessibility to the subject properties;
- Impact on the character of the area;
- Erf shapes;
- Applicable spatial planning policies and densification guidelines.

Erf 4570 Bettys Bay is currently an exceptionally large vacant portion of land. The owner intends to subdivide erf 4570 Bettys Bay into five (5) smaller (more manageable) portions to sell to prospective buyers in future. It is proposed to subdivide erf 4570 Bettys Bay as follows:



| | |
|------------------------------|--|
| TOTAL AREA | 7109m ² |
| AREAS FOR SUBDIVISION | Portion A: ±2005m ² Portion B: ±1645m ² Portion C: ±1115m ² Portion D: ±1115m ² Portion E: ±1230m ² |
| OWNER | J. Engels |
| TITLE DEED | T6001/1993 |

Refer to the subdivision plan attached.

The Overstrand Municipality's densification policy establishes the principle of incremental densification in an established residential area if it does not have a detrimental impact on its character. It is important to enhance and protect the character of the existing low-density residential area, while still sensitively densifying where appropriate. This ensures that a wide range of erf sizes and types of development is available, not only within this precinct, but also within the entire greater Overstrand area.

Due to the position of the subject property at the foot of the mountain and the waterbodies on the subject property, there was a definite need to conduct applicable studies to determine the sensitivity of the site and subsequently its potential to be subdivided. A Botanical Assessment was compiled by Nick Helme Botanical Surveys dated 22 March 2023. The aforementioned study favours the no-go alternative for the subject property. The following description of habitats is split up into the two main habitats on site as indicated on the image below:





Image no. 1: Satellite image of site showing the extent of the two main habitats on site. The satellite image is from January 2019, just after the area to the north of the site was burnt. The entire site is deemed to be of high botanical sensitivity.

The outcome of the study was discussed with the environmental consultant, Michelle Naylor at Lornay Environmental Consulting. She provided us with a report in terms of NEMA and as well as her interpretation and recommendation of how the site can still be subdivided considering the outcome of the botanical assessment. Refer to the report from Lornay Environmental Consulting dated 15 May 2023 attached. She confirmed that the botanical assessment concluded that no subdivision of the property should be supported due to the high botanical sensitivity, however, from a practical perspective a subdivision should be considered for the following reasons:

- The site is located within the urban edge and residential development already occurs around the site, therefore aspects such as habitat fragmentation are already present.
- The proposed erven are relatively large and therefore with correct planning, conditions of approval can stipulate ways to maximise the open space, which can then be rehabilitated and kept in a natural state, post construction.
- The houses can be placed in such a way to allow for more clustering and larger open areas remaining.
- No additional vegetation clearance should be permitted other than to accommodate the footprint.
- Construction activities must be confined to development footprint and batching and cement mixing must be done in areas approved for disturbance.

- Paving must be limited.
- Only indigenous gardens permitted.
- Stormwater runoff from roof tops must be managed.

In response to the above and to cluster development, the environmental consultant also recommended that:

- Development on Portion A should then also be confined to the north end of the site. This allows for a development area of approximately 320m² with the remainder of the erf, which is demarcated as wetland, to remain a open space;
- Development on Portion B must be confined to the northern extend of the site, outside the demarcated wetland area;
- Development on Portion C must ensure that measures as indicated above are implemented during both construction and operational phases;
- Development on Portion D should avoid the south western corner of the erf in order to stay outside the wetland area;
- Development on Portion E must be confined to the eastern extent only (approximately 340m² developable area);
- All remainder areas must be marked as no go, with natural indigenous vegetation only.

Her report outlines several valuable mitigation measures to contain and limit any negative impact on the natural environment. The wetland edge / demarcation was overlayed on the subdivision plan to accommodate the wetland area while still ensuring that portions with a viable development area are created.

Considering the site constraints, the subdivision lines were determined to create five portions that allow for ample developable areas on each of the respective portions after subdivision. Only the land use scheme building lines are indicated on the subdivision plan since it is proposed to remove the more restrictive title deed building lines. Even with all the site constraints, feasible residential portions can be created without having a detrimental impact on the environment.

There are no title deed conditions that prohibit the subdivision of the subject property. It is however proposed to remove restrictive title deed building line and coverage conditions as stipulated in title deed no. T36520/2013, pages 2-3, paragraph B.

7.(a)(i) & (ii) and 7.(b). The stricter title deed buildings lines are indicated on the subdivision plan. The removal of the restrictive title deed conditions is addressed in Section 3.14.

The subdivision lines were determined to create erven of at least 1 115m² in extent to meet the minimum / average erf size requirement.

It is proposed that minimum common boundary building lines of 2m (from the proposed subdivision lines / new erf boundaries) and street building lines of 4m will apply to all the newly created portions.

It was attempted to keep the subdivision lines as simple and practical as possible to avoid creating asymmetrical erf shapes that would have an impact on the future development of the subject properties as well as the character of the area. Although Bettys Bay is characterised by various shaped erven, the proposal is to create grid shaped erven after subdivision and the aforementioned is compatible with the area.

The proposed subdivision adheres to all other land use restrictions in the Overstrand Land Use Scheme Regulations (2020). The impact of the proposed subdivision and removal of restrictive title deed conditions is considered a low impact land use application. The zoning of the respective portions after subdivision will remain unchanged (SR1).

The coverage for the respective portions after subdivision will be 0% since the proposed portions will be vacant (no development footprint for the respective portions is currently proposed). Since the newly created portions will be transferred to prospective buyers in future, any future development of the new portions of erf 4570 Bettys Bay, will be done in accordance with the land use restrictions applicable to the relevant zoning.

Refer to Section 3.15 of this report for further motivation in terms of the relevant spatial planning policies.

The proposed subdivision and removal of restrictive title deed conditions will not have a negative impact on the surrounding erven as the zoning of the subject properties will remain Residential Zone I: Single Residential (SR1), the proposed portion sizes are compatible with similar surrounding property sizes and no deviations from the

applicable zoning parameters are proposed.

The proposed subdivision and removal of restrictive title deed conditions of erf 4570 Bettys Bay is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.6 ECONOMIC IMPACT

The proposed subdivision and removal of restrictive title deed conditions will have a positive impact on the economy of the area. By allowing the subdivision and removal of restrictive title deed conditions of the subject property, it creates four additional residential portions from which the municipality can attain bulk service levies as well as monthly rates and taxes. Furthermore, the five portions after subdivision will be vacant portions of land and this implies that the future construction of a dwelling with outbuilding on each of the respective properties will create temporary employment opportunities. The new portions will be occupied by new families who will invest and spend in the immediate local business area.

The proposed subdivision and removal of restrictive title deed conditions will allow for the provision of increased residential accommodation in a well-located area. It will allow the prospective property owners to develop the portions in line with the land use scheme regulations and not be restricted by both the title deed conditions and no-go areas identified for the respective portions.

3.7 SOCIAL IMPACT

The proposal will have a positive social impact as the proposed subdivision will facilitate additional ownership of property. The impact that new families to the area will have, will be beneficial and no negative impacts are anticipated.

The impact on the social wellbeing and social coherence of the adjacent community will be minimal given the extent of the proposed portions after subdivision as well as

the fact that the zoning and land use of the newly created portions will be in line with the zoning and land uses associated with the immediate area.

It is submitted that the proposed subdivision and removal of restrictive title deed conditions are compatible with the character of the area and does not impact negatively on the rights of anyone else.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The subject property is situated in an existing low-density residential area. The application does not propose to change the zoning or land use of the subject property and therefore the proposed subdivision and removal of restrictive title deed conditions are compatible with the surrounding land uses.

As mentioned in Sections 3.4 and 3.5 of this report the surrounding erf sizes, the street frontage widths of existing erven of similar sizes, the proposed layout and shapes of the new residential portions that are compatible with the layout and erf shapes of the existing residential area, etc. proof that the subdivision is compatible with the existing context and character of the area. Properties of $\pm 800-7000\text{m}^2$ in extent exist in the immediate vicinity of erf 4570 Bettys Bay. The extent of the newly created portions still promotes and is compatible with the existing low-density residential area.

According to the development rules of the Overstrand Municipal Land Use Scheme Regulations (2020) the subdivision will allow for the development rules for erven $>400\text{m}^2$ to apply to the four newly created portions (which specifies 50% coverage; 4m street building line; 2m common boundary building line; maximum height of 8m). The proposed subdivision will therefore maintain the existing development parameters applicable to the subject properties. Therefore, where more restrictive title deed conditions exist, the more restrictive title deed development parameters will be removed to allow the new portions to be developed in line with the land use scheme regulations.



3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

The subject property is a vacant portion of land with services available to at least the existing portion as it currently stands. It is therefore anticipated that one of the portions will retain the existing sewer and water services connections available. With a similar land use application, the Overstrand Municipality's Senior Operational Manager: Kleinmond confirmed that there is sufficient capacity to service sewerage tanks for additional portions created (subdivisions) in the Bettys Bay area. New services for the additional portions created will be provided in line with the Overstrand Municipality's regulations for installing services infrastructure.

Since four new erven are created, bulk services contribution levies will be payable to Overstrand Municipality for the four newly created portions.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed subdivision and removal of restrictive title deed conditions will have no impact on the general safety and wellbeing of the surrounding community. It is anticipated that five families will potentially occupy the five respective erven after the proposed subdivision of erf 4570 Bettys Bay versus a vacant portion of land currently open to illegal dumping of garden refuse, and potentially vagrants and unwanted elements in the area.

Furthermore, the construction of the new dwellings on the respective portions will conform to the relevant land use, building and construction guidelines of the municipality. The latter will ensure the safe construction of the dwellings and guarantee the safety and minimal noise pollution during construction to the immediate community.

Since the proposed subdivision is not associated with a noxious trade with polluting air emissions the impact on the health of the community will be kept to a minimum.



3.11 IMPACT ON HERITAGE

Although the site is larger than 5 000m² the character of the subject property will remain unchanged.

Erf 4570 Bettys Bay is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). The subject property does not fall within the Heritage Overlay Zone demarcated in the Overstrand Municipal Growth Management Strategy (2010). It is also not demarcated as part of a Heritage Protective Overlay Zone (2020) for the area.

The subject property is currently a vacant portion of land. The impact on the visual landscape of the area will be kept to a minimum since the future dwellings to be constructed on Portions A, B, C, D and E (portions of erf 4570 Bettys Bay), will be developed in line with the development parameters for SR1 zoned properties as stipulated in the Overstrand Municipal Land Use Scheme Regulations, 2020.

No known heritage resources exist on the site or its environs.

From the above it is evident that the proposed application does not encompass any heritage significance and therefore the impact on the heritage value of the area will be kept to a minimum.

A copy of the application will be circulated to Heritage Western Cape for comments / approval.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed subdivision (land use application) to create four additional single residential erven does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

The Overstrand's Urban Conservation Environmental Management Zone (EMOZ, 2020) earmarks the subject property as a Category D EMOZ:



Private property of priority conservation-worthy ecological corridors from mountain to coast and / or access priority conservation-worthy areas in accordance with the Overstrand Environmental Management Framework.

Due to the position of the subject property at the foot of the mountain and the waterbodies on the subject property, there was a definite need to conduct applicable studies to determine the sensitivity of the site and subsequently its potential to be subdivided. A Botanical Assessment was compiled by Nick Helme Botanical Surveys dated 22 March 2023. According to the SA Vegetation Map the original natural vegetation in the study area is all Hangklip Sand Fynbos (Mucina & Rutherford 2018). The groundtruthing by the botanist confirmed the latter, although the site could also be described as having elements of the adjacent Kogelberg Sandstone Fynbos.

The site has not been burnt for at least twenty years, as the fire of December 2019 was stopped just north of the site. This means that the vegetation on site is now senescent (some species dying of old age; diversity dropping), as this type of Fynbos is meant to burn once every 8-12 years for optimal ecological functioning

The aforementioned study favours the no go alternative for the subject property. The following description of habitats is split up into the two main habitats on site as indicated on the image below:





Image no. 2: Satellite image of site showing the extent of the two main habitats on site. The satellite image is from January 2019, just after the area to the north of the site was burnt. The entire site is deemed to be of high botanical sensitivity.

About 0,3ha (42%) of the site is deemed to be a wetland in terms of the vegetation and soils present, as shown in the image above. The botanical sensitivity of the wetland part of the site is high on a local and regional scale.

At least three plant Species of Conservation Concern (SoCC) were recorded on site in this habitat, all being quite well scattered. None can be successfully transplanted, as they are shrubs, with very sensitive root systems. No other undetected SoCC are likely in the relatively small study area. The botanical sensitivity of the well-drained part of the site is high on a local and regional scale.

The outcome of the study was discussed with the environmental consultant, Michelle Naylor at Lornay Environmental Consulting. A supporting report was provided in terms of NEMA as well as the interpretation and recommendation of how the site can still be subdivided considering the outcome of the botanical assessment and the Category D EMOZ demarcation. Refer to the report from Lornay Environmental Consulting dated 15 May 2023 attached. It was confirmed that the botanical assessment concluded that no subdivision of the property should be supported due to the high botanical sensitivity, however, from a practical perspective the subdivision should be considered for the following reasons:

- The site is located within the urban edge and residential development already

occurs around the site, therefore aspects such as habitat fragmentation are already present.

- The proposed erven are relatively large and therefore with correct planning, conditions of approval can stipulate ways to maximise the open space, which can then be rehabilitated and kept in a natural state, post construction.
- The houses can be placed in such a way to allow for more clustering and larger open areas remaining.
- No additional vegetation clearance should be permitted other than to accommodate the footprint.
- Construction activities must be confined to a development footprint and batching and cement mixing must be done in areas approved for disturbance.
- Paving must be limited.
- Only indigenous gardens permitted.
- Stormwater runoff from roof tops must be managed.

In response to the above and to cluster development, the environmental consultant also recommended that:

- Development on Portion A should then also be confined to the north end of the site. This allows for a development area of approximately 320m² with the remainder of the erf, which is demarcated as wetland, to remain as open space;
- Development on Portion B must be confined to the northern extent of the site, outside the demarcated wetland area;
- Development on Portion C must ensure that the measures as indicated above are implemented during both the construction and operational phases;
- Development on Portion D should avoid the south western corner of the erf in order to stay outside the wetland area;
- Development on Portion E must be confined to the eastern extent only (approximately 340m² developable area);
- All remainder areas must be marked as no go, with natural indigenous vegetation only.

The report outlines several valuable mitigation measures to contain and limit any negative impact on the natural environment. The wetland edge / demarcation was overlaid on the subdivision plan to accommodate the wetland area while still ensuring that five portions with a viable development area are created.



Considering the site constraints, the subdivision lines were determined to create five portions that allow for ample developable areas on each of the respective portions after subdivision. Even with all the site constraints, feasible residential portions can be created without having a detrimental impact on the environment.

It should also be noted that the subject property falls outside the demarcated protected areas and Critical Biodiversity Terrestrial and Aquatic Areas (CBA terrestrial and CBA aquatic) as indicated in the Spatial Development Framework Plan: Spatial Proposals Bettys Bay (2020).

As confirmed by Lornay Environmental Consulting the proposed subdivision itself does not require Environmental Authorisation in terms of the National Environmental Management Act (Act 106 of 1998). However, any future development, where the clearance of vegetation exceeds 300m², or where development will take place within 32m of a watercourse, some form of Environmental Authorisation will be required from the Department of Environmental Affairs and Development Planning (DE&DP). In addition to this, development within wetlands and / watercourses will require a Risk Matrix and General Authorisation in terms of the National Water Act (Act 36 of 1998).

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

Erf 4570 Bettys Bay currently takes access from Disa Circle. It is proposed to register a new servitude right-of-way over Portions B, C, D and E, portions of erf 4570 Bettys Bay, to give access to Portions A, B, C, D and E. The servitude right-of-way will be 3,9m wide and will connect to Disa Circle. The servitude right-of-way is described as follows:

- Servitude right-of-way of 3,9m wide ($\pm 103\text{m}^2$) over Portion E, a portion of erf 4570 Bettys Bay, in favour of Portions A, B, C and D;
- Servitude right-of-way of 3,9m wide ($\pm 88\text{m}^2$) over Portion D, a portion of erf 4570 Bettys Bay, in favour of Portions A, B and C;
- Servitude right-of-way of 3,9m wide ($\pm 265\text{m}^2$) over Portion C, a portion of erf 4570 Bettys Bay, in favour of Portions A and B;



- Servitude right-of-way of 3,9m wide ($\pm 91\text{m}^2$) over Portion B, a portion of erf 4570 Bettys Bay, in favour of Portion A;
- Portion E will also obtain access from this servitude.

The reason for the new servitude right-of-way on the eastern and northern erf boundary is to keep the impact on the biodiverse sensitive areas (wetland and vegetation) on the south western portion of the subject property to a minimum.

The impact on the traffic of Bettys Bay and the immediate area will be kept to a minimum since the proposal is in line with the status quo of the area and a mere four additional single residential properties are created.

The development of the respective portions after subdivision will have to comply with the relevant scheme regulations' parking requirements – i.e. at least two parking bays / garages must be provided for on site for each new portion created.

3.14 TITLE DEED

Title Deed No. T36520/2013 has restrictive title deed conditions that need to be removed to accommodate the subdivision and future development of the subject property. Refer to a copy of the conveyancer's certificate compiled by Mr H.L. van Zyl of Van Zyl Kruger Attorneys attached. There is no bond registered against erf 4570 Bettys Bay.

It is proposed to remove the following restrictive title deed conditions registered by the Administrator (now the Overstrand Municipality) to accommodate the future development of Portions A, B, C, D and E, portions of erf 4570 Bettys Bay:

Title deed no. T36520/2013, pages 2-3, paragraph B. 7.(a)(i) & (ii) and 7.(b):

SUBJECT further to the following conditions contained in Deed of Transfer No. T33675/1977 imposed by the Administrator of the Cape of Good Hope Province in terms of Ordinance No. 33 of 1934 by approval of Bettys Bay Town Extension no. 6, namely:-



7. *Except with the prior consent of the Administrator –*

(a) no building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8m to the street line which forms a boundary of this erf, nor within 5m of any other boundary common to any adjoining erf, provided that with the consent of the local authority:-

- i. an outbuilding not exceeding 3m in height measured from the floor to the wall-plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 12m measured from the rear boundary of the site; provided that in the case of a corner erf, the distance of 12m shall be measured from the point furthest from the streets abutting the erf.*
- ii. An outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary.*

(b) not more than 25% of the area of this erf shall be built upon.

Section 39(5) of the Land Use Planning Act (LUPA), 2014, stipulates that a Municipality should have regard to the following factors when considering the “removal, suspension or amendment of a restrictive condition”:

- ***The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement***

The removal of the restrictive conditions intends to increase the use rights of the property to allow the prospective new property owners of Portions A, B, C, D and E, portions of erf 4570 Bettys Bay, to develop the new portions in line with the land use restrictions stipulated in the Overstrand Land Use Scheme Regulations (2020) for SR1 zoned properties. The value of the rights is vested in the owner of the property. The properties in whose favour the conditions are registered (Bettys Bay extension no. 6) do not enjoy any financial or other value. The removal of these conditions will consequently have no impact on the favoured properties. Property owners not seeking that the title deed building line restrictions should be in line with the land use scheme regulations’ restrictions will favour the restrictive title deed conditions since the conditions impede the development of a residential property in

line with the zoning scheme. The street and common boundary building line conditions are more restrictive than the zoning scheme regulations' building lines. In addition, the stricter title deed building lines will shrink the already limited development area (considering the botanical assessment) for the respective portions. The coverage specified in the title deed is also more restrictive than the land use scheme's coverage stipulated for SR1 zoned properties.

- ***The personal benefits which accrue to the holder of rights in terms of the restrictive conditions***

The conditions were imposed by the Administrator for the benefit of the surrounding property owners of Bettys Bay extension no. 6. The only personal benefit to the holder is that the property is more restricted in terms of developing any structures on the subject property. The holder (Overstrand Municipality) has new and relevant scheme regulations to guide development for SR1 zoned erven in Bettys Bay.

- ***The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if they are removed***

The removal of the restrictive title deed conditions will bring about personal benefits to the new landowners since it will allow them to develop the new portions in line with the land use scheme's development parameters.

The 8m street building line and 5m common boundary building line as stipulated in the title deed have a negative impact on the developable area of the land. To remove the title deed's street and common boundary building line restrictions and 25% coverage restriction will allow the future property owners to adhere to the less restrictive common erf boundary (2m) and street (4m) building lines as well as a maximum coverage of 50% as stipulated in the zoning scheme regulations, instead of being bound by the more restrictive title deed building lines and coverage for any future development of the respective portions after subdivision.

- ***The social benefit of the restrictive conditions remaining in place in its existing form***

The social benefit if the title deed conditions were to remain unchanged and enforced on the five newly created portions would be that the character of Disa Cirlce will

remain unchanged. If the conditions remain unchanged, the owners must adhere to the stricter title deed's street and common boundary building lines as well as the limited 25% coverage. The impact on the neighbouring properties with regards to privacy, noise, impact on the street scape, etc. will be marginally lower since the title deed's coverage and common boundary and street building lines are more restrictive than the scheme regulations' building lines. To keep the 8m title deed street building line, the 5m common boundary building line and the 25% coverage will have no benefit to the property owner since it takes away developable land and restricts the development of the portions.

- ***The social benefit of the removal or amendment of the restrictive conditions***

The removal of the restrictive title deed conditions will allow the scheme regulations' building lines and coverage to set the rules for future development of the respective portions after subdivision. The social benefit will therefore only be to the prospective owners of Portions A, B, C, D and E, portions of erf 4570 Bettys Bay, since it will allow them to construct structures in line with the zoning scheme regulations' building lines only.

- ***Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of those rights***

The removal of the restrictive conditions will not remove all rights enjoyed by the beneficiary, but only some rights and will instead expand the value of these rights to accommodate the future structures on the respective erven within the scheme regulations' building lines and maximum coverage. The latter is more desirable for the zoning and extent of the subject property / new portions without having a detrimental impact on the rights of anyone else or the character of the area.

3.15 FORWARD PLANNING AND LAND USE DOCUMENTS

3.15.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2020)

The Overstrand Spatial Development Framework (2020) earmarks the area where erf 4750 Bettys is situated, for urban development purposes. The subject property falls within the demarcated urban edge but falls outside the demarcated protected areas

and Critical Biodiversity Terrestrial and Aquatic Areas (CBA terrestrial and CBA aquatic) - refer to the Spatial Development Framework Plan (2020) below. There is an ecological corridor that runs over the property to the west (erf 4651 Bettys Bay). The application is to an improved erf within the urban edge and with the necessary mitigation measures stipulated in this report, the impact on the biophysical environment will be kept to a minimum.

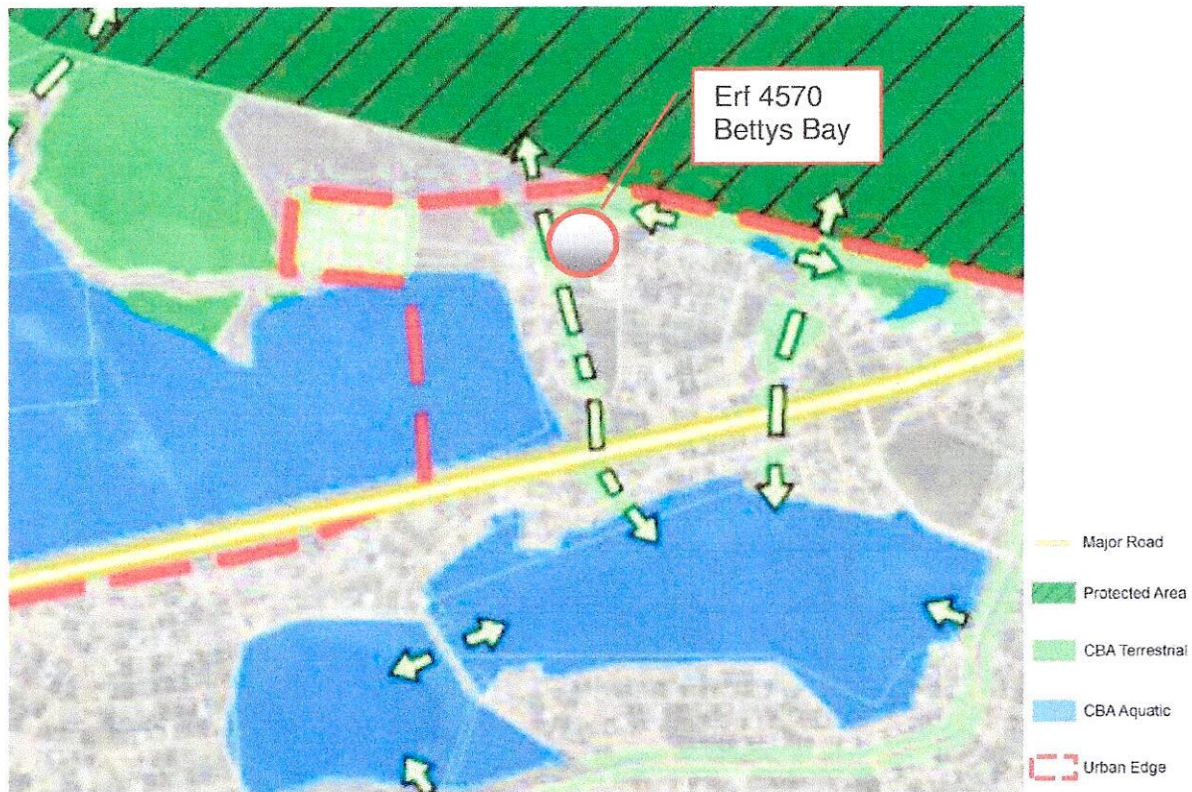


Image 3: Overstrand Spatial Development Framework: Spatial Proposal Bettys Bay (2020)

The zoning and use of the subject property will remain unchanged (Residential Zone 1: Single Residential). As a result, the impact of the proposed subdivision and removal of the restrictive title deed conditions on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

3.15.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (2010)

The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that erf 4570 Bettys Bay forms part of Planning Unit no. 3 (refer to the image below).



This planning unit stipulates that the status quo of the area (i.e. single residential) must be maintained.

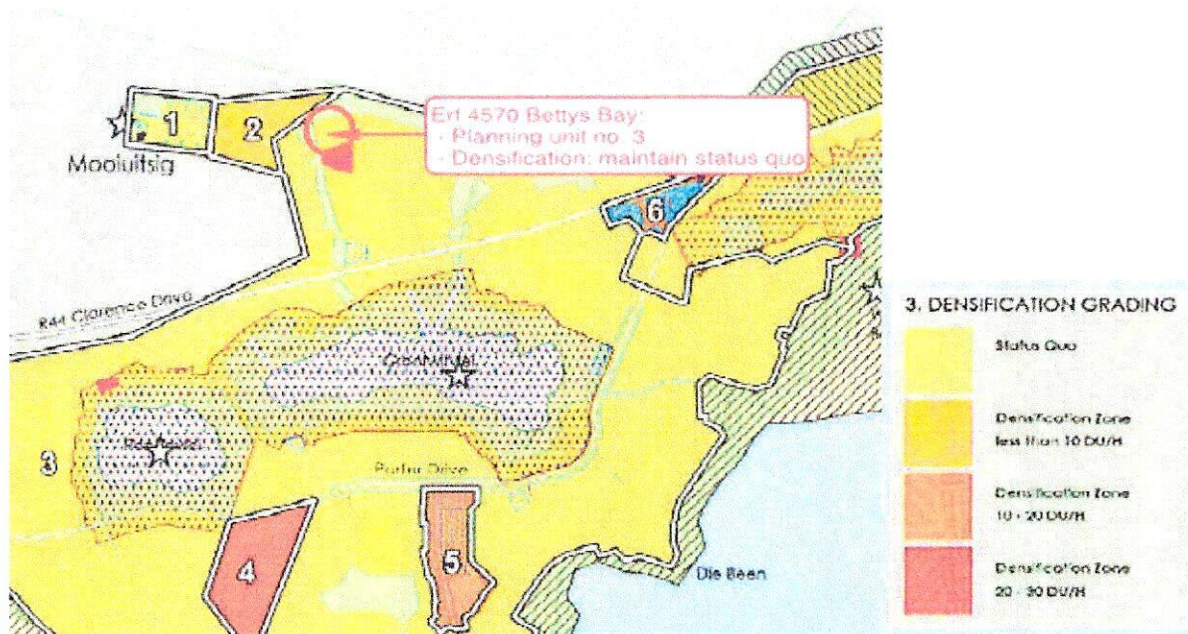


Image 4: Overstrand Municipal Growth Management Strategy: Proposals Plan Bettys Bay West (2010)

The Overstrand Municipality's densification policy establishes the principle of incremental densification in an established residential area if it does not have a detrimental impact on its character. It is important to enhance and protect the character of the existing low-density residential areas such as Bettys Bay, while still sensitively densifying where appropriate. This ensures that a wide range of erf sizes and types of development are available, not only within Bettys Bay, but also within the entire Greater Hermanus area.

With this application incremental development is proposed. The proposed erf sizes are not smaller than the smallest erf in the immediate vicinity (which is $\pm 800\text{m}^2$) or the average erf sizes for the area. In addition, the proposed erf sizes of between 1115m^2 and 2005m^2 are compatible with the surrounding erf sizes. The subject property also allows itself to be developed for single residential purposes since the merit for subdividing the subject property has been considered and approved in this area in the past. In addition, Erf 4570 Bettys Bay is considered an exceptionally large property in an existing residential area of Bettys Bay, and this must be taken into consideration when considering the merit of the application. The proposal will

therefore impact on the density of the area while still retaining the status quo of a low-density residential area.

The layout of the proposed single residential erven is practical in respect to access, developable areas, connecting to bulk services and the installation of services.

The proposal will promote land development in a location that is sustainable. The proposed subdivision and removal of restrictive title deed conditions are to an improved erf within an established residential area and therefore will not impact on urban sprawl or upon a sensitive environment.

From the above it is evident that the proposed development **adheres and complies** with the relevant municipal spatial planning policies.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: This principle addresses the need to address the past imbalances regarding opportunity. This application is for an erf as per the establishment of the existing Bettys Bay Township and this principle does therefore not apply to this application.

Spatial sustainability: The proposed subdivision is to create four new single residential erven. As contemplated in Section 3.15 the proposed land use application is in line with the spatial planning policies for the area.

The layout of the proposed single residential erven is practical with respect to access, developable areas, connecting to bulk services and the installation of services. The visual impact will be kept to a minimum since the portions will be developed in line with the relevant land use scheme regulations and the remaining development parameters of the title deed. Since the status quo of the area will be

maintained, it is submitted that the proposed future dwellings with outbuildings / garages on Portions A, B, C, D and E, portions of erf 4570 Bettys Bay, will be compatible with the character of the area and will not impact negatively on the existing rights of anyone else.

The botanical assessment concluded that no subdivision of the property should be supported due to the high botanical sensitivity, however, from a practical perspective the environmental consultant motivated why the subdivision should be considered (with reference to the previous sections of the report). In addition, the proposed subdivision itself does not require Environmental Authorisation in terms of the National Environmental Management Act (Act 106 of 1998).

As a result, the proposed subdivision and removal of restrictive title deed conditions will have no adverse impact on the spatial sustainability of the area.

Efficiency: The subject property is easily accessible and conveniently located close to major routes and the larger towns of Kleinmond, Hermanus and Gordons Bay. The subdivision of erf 4570 Bettys Bay will have a low impact on the character and ambiance of the existing residential area as motivated in this report. It proves to be efficient to allow the subdivision and removal of restrictive title deed conditions since the impact will be kept to a minimum, while four new portions are created for families to obtain and develop. As motivated in the above sections of the report the proposal is compatible with surrounding properties in the immediate area.

The proposed subdivision and removal of restrictive title deed conditions prove to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relate to more responsible resource and infrastructure use and sustainable development. Moreover, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and

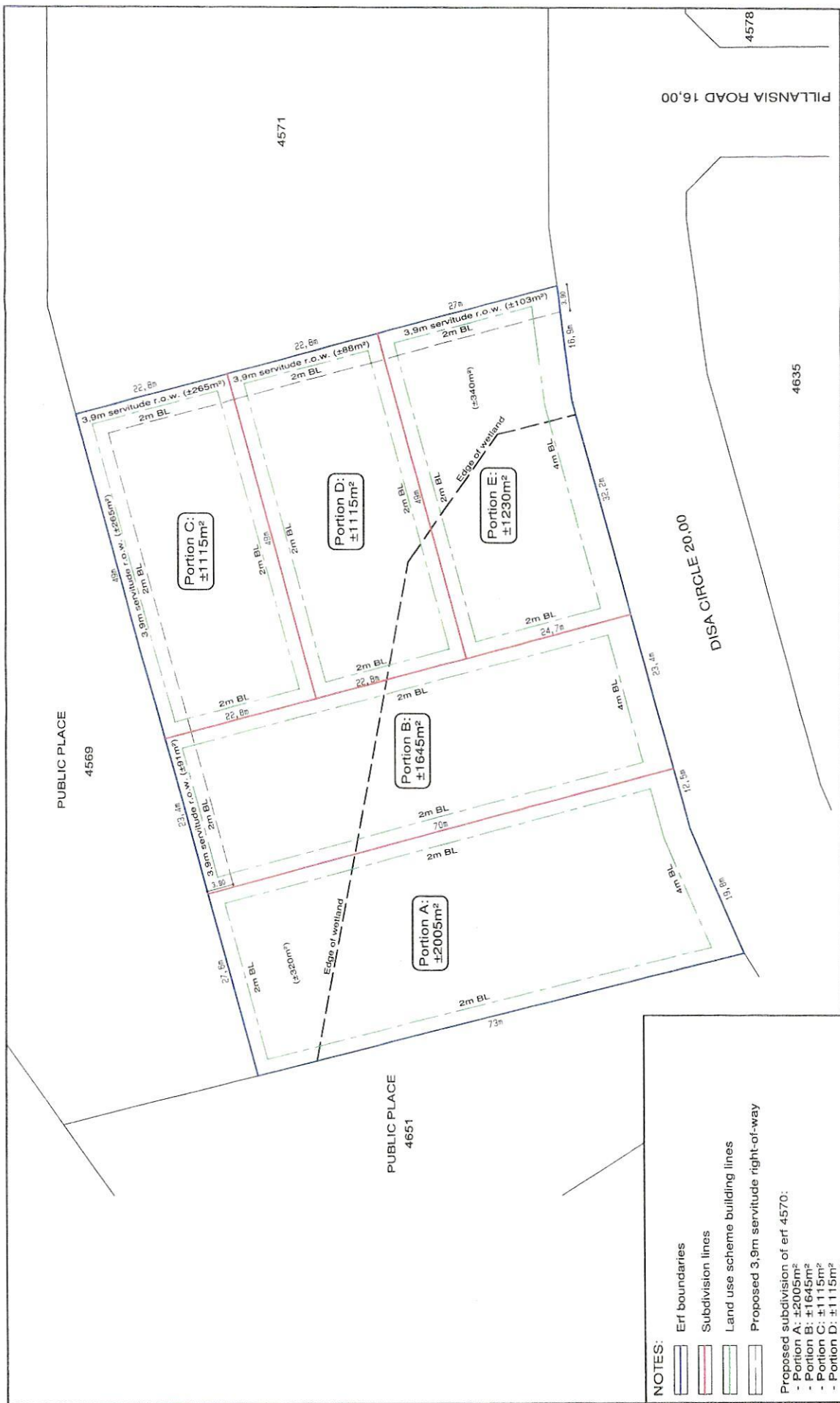
national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

When this application is evaluated it is important to take note of the following:

- The proposed application will not have a negative impact on the existing land use rights of the subject property or those of surrounding properties;
- The proposal is compatible with the existing character and erf sizes of the immediate area;
- The zoning of Residential Zone I: Single Residential and land use (single residential) is compatible with the surrounding zonings of the area. The zoning and land use will remain unchanged;
- The proposed subdivision and removal of restrictive title deed conditions comply with the spatial planning policies for the area;
- The proposed land use application does not trigger any listed activities in terms of NEMA (Act 107 of 1998);
- The impact on the conservation areas on the site will be kept to a minimum. The conservation worthy areas were taken into consideration with the proposed subdivision layout and the largest extent of the vegetation on the new portions as well as the whole wetland area will remain intact;
- There are no conditions in the title deed that prohibit the subdivision of the subject property; it is however proposed to remove stricter land use conditions (building lines and coverage) than the land use scheme's development parameters for future development of the newly created portions;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

With regards to the above mentioned it would be appreciated if the application for the subdivision and removal of restrictive title deed conditions of erf 4570 Bettys Bay be approved.



| | | |
|--|---|--|
| | Scale: 1:500 | Plan Description: SUBDIVISION PLAN |
| | Drawing Nr: Betty45702.dwg Date: FEBRUARY 2023 | |
| All distances approximate and subject to survey. | | Property Description: ERF 4570 BETTYS BAY |
| PL'n Active Stads-en Streeksbeplanners Town & Regional Planners | | COPY RIGHT RESERVED |

NOTES:

- Erf boundaries
- Subdivision lines
- Land use scheme building lines
- Proposed 3.9m servitude right-of-way

Proposed subdivision of erf 4570:

- Portion A: ±2005m²
- Portion B: ±1645m²
- Portion C: ±1115m²
- Portion D: ±1115m²
- Portion E: ±1230m²

Subdivision to create 3.9m wide servitude right-of-way over Portions B, C, D and E.