

**AGENDA of the
Portfolio Committee: Investment, Infrastructure & Tourism
3 April 2024
(Also the agenda for the Mayoral Committee Meeting: 10 April 2024)**

9.

APPLICATION TO PURCHASE: A PORTION OF REMAINDER ERF 1662 PRINGLE BAY (UNDEVELOPED ROAD), ADJACENT TO ERF 748 PRINGLE BAY, SITUATED AT 19 PETER ROAD, PRINGLE BAY – P AUGHTON

**A Le Roux
27 February 2024**

Manager: Property Administration

(028) 316 - 5606

1. Executive Summary

To consider the application received from Mr P Aughton (the owner of Erf 748 Pringle Bay) for the alienation of a portion of Remainder Erf 1662 Pringle Bay, an undeveloped portion of Boundary Road ($\pm 139\text{m}^2$ in extent), adjacent to Erf 748 Pringle Bay, situated at 19 Peter Road, Pringle Bay. See the locality plans attached hereto marked Annexure "A1" and "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

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Financial Management Act (Act 56 of 2003) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008) ("MATR")
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

An application was received from Mr P Aughton, hereafter referred to as "the Applicant", to purchase a portion of Remainder Erf 1662 Pringle Bay, an undeveloped portion of Boundary Road, ($\pm 139\text{m}^2$ in extent) adjacent to Erf 748 Pringle Bay (hereinafter referred to as "the Property").

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The Applicant is the owner of Erf 748 Pringle Bay and was informed by the Town Planning Department that part of his house appears to have been constructed beyond his property boundary lines.

As it appears that there are several encroachments of the boundary line that occurred when his property was developed, the Applicant submitted an application to purchase the Property to rectify the illegal encroachments on municipal property. There are no approved building plans for the house, garage, Lapa, and other structures as they are situated on the property now, kindly see comments from Mr Brady from Town Planning below.

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.” The Property can be classified as a non-viable immovable property due to the location, shape, and size thereof, and as it cannot be developed independently.

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***

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- (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 internal departments indicate that the Property is in fact needed for municipal services as a municipal water pipeline is situated underneath the Property. Although the subject portion of public road is not formalised, it will be needed in the future in its full width.
- (b) No valuation will be done as the alienation of the Property is not supported.
- (c) The request will be not to approve the alienation due to the reasons provided.

Conclusion

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the alienation of the Property to the Applicant not be approved.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Acting Senior Manager: Kleinmond Administration – Ms. B Plaatjies

“No objection.”

Assistant Chief: Fire and Rescue Department – Mr. E Solomons

“The Fire Department has no objection.”

Senior Town Planner – Ms. H van der Stoep

“The application is not supported. The road has not been made by the Municipality which it will have to do shortly due to even that needs access from Boundary Road. Until such time the road is not constructed, this application cannot be supported due to the uncertainty of the alignment.

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Towards the north of Boundary Road, there is a gravel road that provides access to two erven, however if one looks at the alignment, the present proposal cannot be accommodated should the alignment of the gravel road be followed. This will also not resolve the issue at hand since the owner's access road is presently transgressing on the neighbouring property. The owner must adhere to the approved building plan."

Senior Superintendent: Traffic & Law Enforcement Department – Mr. P de Gruchy

"There is no objection towards this application."

Manager: Engineering Services – Mr. R Andrews

"The application is not supported by the Engineering Services Department:

- a) Mother Erf 496 Pringle Bay was recently subdivided and developed.*
- b) A portion of Boundary Road was recently constructed as a gravel road.*
- c) The area under consideration contains a municipal water pipeline.*

The Applicant needs to consider, investigate, and clarify the impact on municipal services (including street access) on the surrounding properties and future development on Mother Erf 496 Pringle Bay."

Manager: Operational Services – Mr. D van Rhodie

"Operational Services Kleinmond have no objection to the application."

Manager: Building Control – Mr. L Coetzee

"Building Control has no objection to proposed purchase of a portion of Transport Zone 2: Road and Parking. The building plan application (after purchase and registration in Deeds Office) must comply with all applicable law including fire safety distances."

Environmental Services – Ms. T Zweig

"The EMS has no objection to the application."

Town Planner: Town Planning Department – Mr. B Minnaar

"The subject property (Erf 748 Pringle Bay) has an unauthorized encroachment:

- Encroachment of the double garage and lapa onto Boundary Road; and*
- Encroachment of the driveway (access) over the neighbouring property (Erf 749 Pringle Bay).*

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There was a building plan approval dated 22 July 1992. (Please see Annexure B).

In 1997, another building plan was submitted for the double garage (which indicates that the lapa & swimming pool are existing structure). Subsequently the plan was cancelled. (Please see Annexure C).

It is therefore evident that the above-mentioned structures (double garage, lapa and swimming pool) are illegal structure with no building plan approval, town planning approval or approval from the Property Administration Department.

With reference to the above, this triggered further investigation into the property. Building plans were then checked and confirmed that structures have been built over boundary line without the prior approval of Overstrand Municipality. Please note that building plans were submitted to Overstrand Municipality for the garage and lapa, however these plans were then cancelled.

In addition, the driveway and access to Erf 748 is gained from Erf 749, and no right of way servitude has been registered. Erf 748 therefore has an illegal access over Erf 749.”

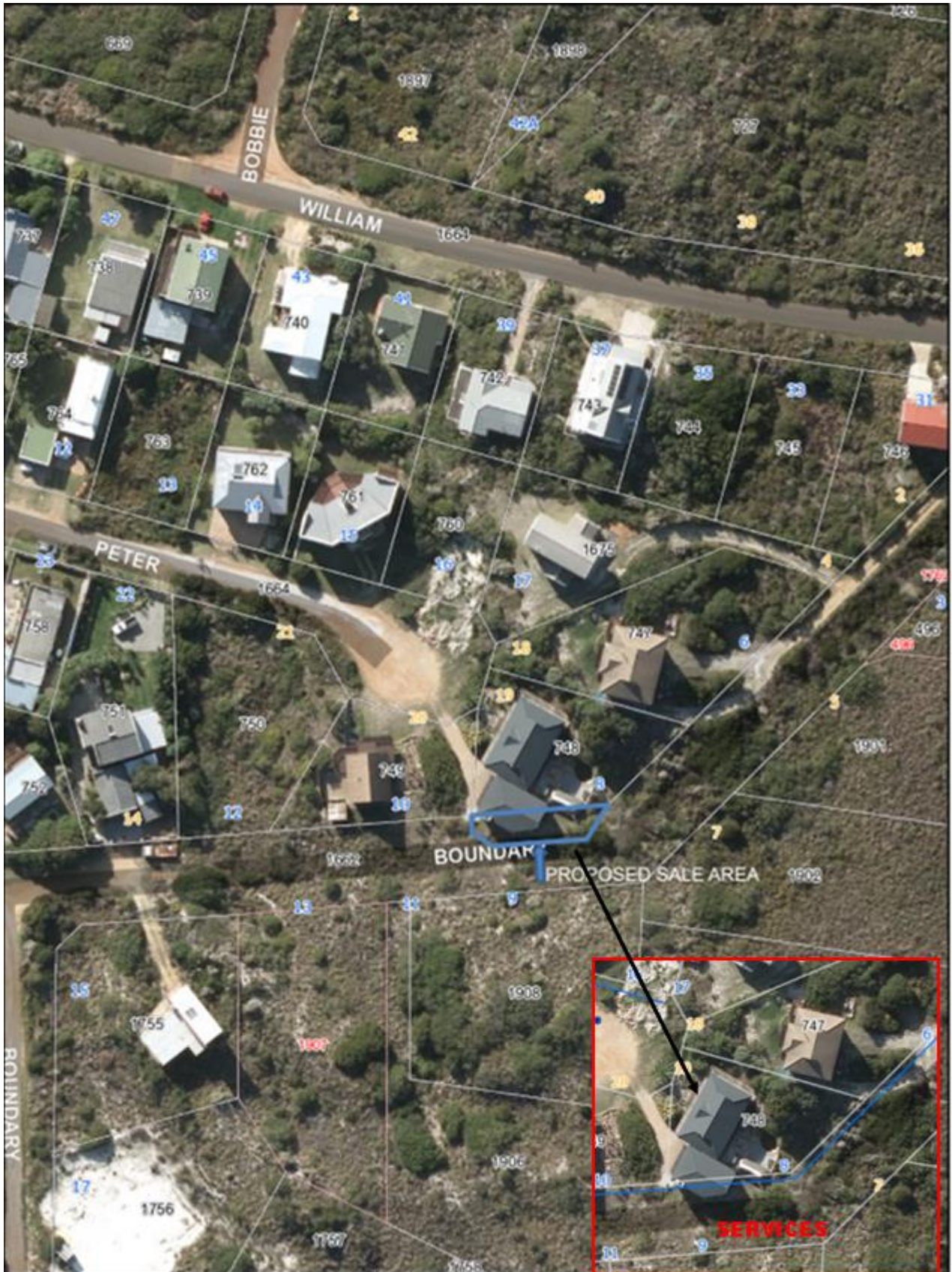
10. Annexures

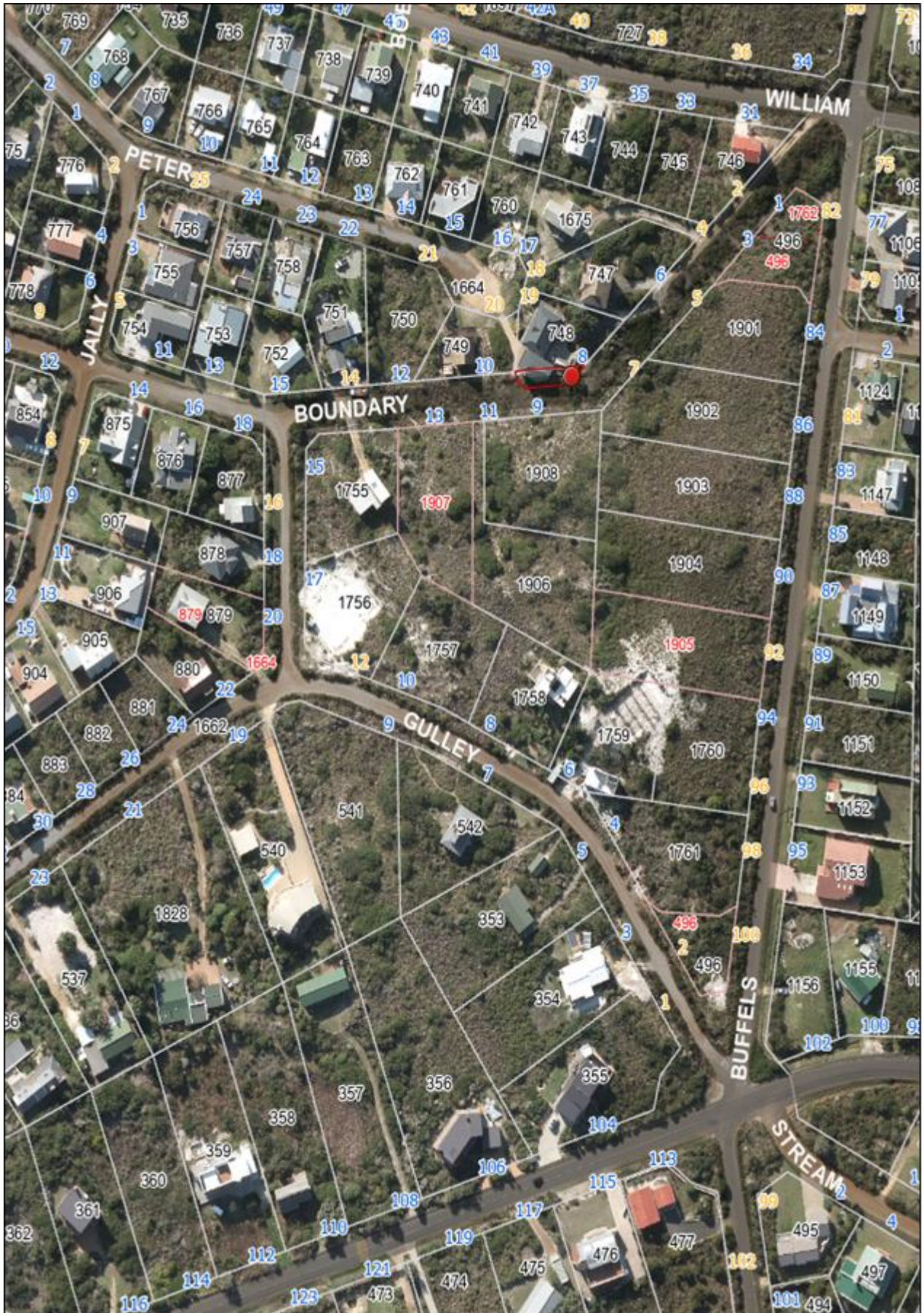
Annexure A1 & A2:	Locality Plans
Annexure B:	Approved building plan dated 22 July 1992
Annexure C:	Cancelled building plan of 1997

RECOMMENDATION TO THE COUNCIL:

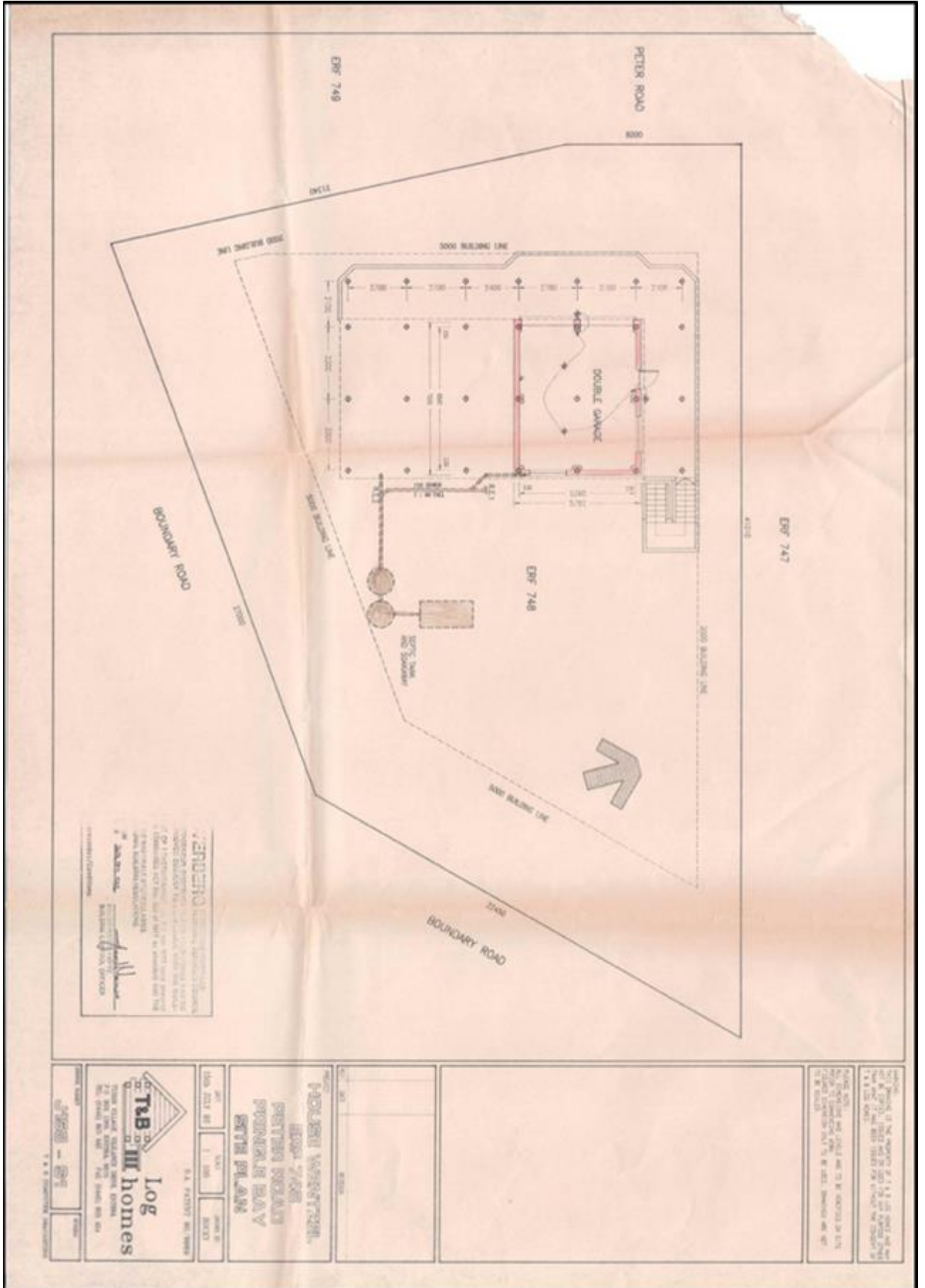
that the direct alienation of a portion of Remainder Erf 1662 Pringle Bay (±139m² in extent), adjacent to Erf 748 Pringle Bay, to the owner of Erf 748 Pringle Bay, P Aughton, **not be approved** as the property must be reserved for road construction and for the water pipeline situated beneath the property.

RESPONSIBLE OFFICIAL:	M BEKKER
TARGET DATE FOR IMPLEMENTATION:	24 APRIL 2024
TARGET DATE TO INFORM APPLICANT:	24 APRIL 2024
TARGET DATE TO INFORM OBJECTOR:	N/A





ANNEXURE B



ENGINE
 REGISTERED PROFESSIONAL ENGINEER
 REGISTERED PROFESSIONAL SURVEYOR
 REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT
 REGISTERED PROFESSIONAL PLANNING CONSULTANT
 REGISTERED PROFESSIONAL ARCHITECT
 REGISTERED PROFESSIONAL CIVIL ENGINEER
 REGISTERED PROFESSIONAL ELECTRICAL ENGINEER
 REGISTERED PROFESSIONAL MECHANICAL ENGINEER
 REGISTERED PROFESSIONAL CHEMICAL ENGINEER
 REGISTERED PROFESSIONAL AERONAUTICAL ENGINEER
 REGISTERED PROFESSIONAL METALLURGICAL ENGINEER
 REGISTERED PROFESSIONAL AGRICULTURAL ENGINEER
 REGISTERED PROFESSIONAL MINING ENGINEER
 REGISTERED PROFESSIONAL INDUSTRIAL ENGINEER
 REGISTERED PROFESSIONAL ENVIRONMENTAL ENGINEER
 REGISTERED PROFESSIONAL SAFETY ENGINEER
 REGISTERED PROFESSIONAL MARINE ENGINEER
 REGISTERED PROFESSIONAL AEROSPACE ENGINEER
 REGISTERED PROFESSIONAL BIOMEDICAL ENGINEER
 REGISTERED PROFESSIONAL POLYMER ENGINEER
 REGISTERED PROFESSIONAL FOOD ENGINEER
 REGISTERED PROFESSIONAL FIBRE ENGINEER
 REGISTERED PROFESSIONAL TEXTILE ENGINEER
 REGISTERED PROFESSIONAL PAPER ENGINEER
 REGISTERED PROFESSIONAL RUBBER ENGINEER
 REGISTERED PROFESSIONAL PLASTIC ENGINEER
 REGISTERED PROFESSIONAL GLASS ENGINEER
 REGISTERED PROFESSIONAL CERAMIC ENGINEER
 REGISTERED PROFESSIONAL METAL ENGINEER
 REGISTERED PROFESSIONAL WOOD ENGINEER
 REGISTERED PROFESSIONAL LEATHER ENGINEER
 REGISTERED PROFESSIONAL FUR ENGINEER
 REGISTERED PROFESSIONAL JEWELLERY ENGINEER
 REGISTERED PROFESSIONAL OPTICAL ENGINEER
 REGISTERED PROFESSIONAL AUDIO ENGINEER
 REGISTERED PROFESSIONAL VIDEO ENGINEER
 REGISTERED PROFESSIONAL TELEVISION ENGINEER
 REGISTERED PROFESSIONAL RADIO ENGINEER
 REGISTERED PROFESSIONAL TELEPHONE ENGINEER
 REGISTERED PROFESSIONAL TELEGRAPH ENGINEER
 REGISTERED PROFESSIONAL TELETYPE ENGINEER
 REGISTERED PROFESSIONAL TELEVISION ENGINEER
 REGISTERED PROFESSIONAL TELEPHONE ENGINEER
 REGISTERED PROFESSIONAL TELEGRAPH ENGINEER
 REGISTERED PROFESSIONAL TELETYPE ENGINEER

<p>Log homes THE CLIVE GARDEN APARTMENTS 200 PETER ROAD, ST. PETERS, SA 5169</p>		<p>DATE: 10/10/2011 TIME: 10:00 AM DRAWN BY: [Name] CHECKED BY: [Name]</p>	<p>PROJECT: [Name] CLIENT: [Name] ADDRESS: [Address]</p>	<p>SCALE: 1:100 SHEET: 1 OF 1</p>
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