

PORTFOLIO COMMITTEE :

**INVESTMENT, INFRASTRUCTURE
& TOURISM**

Chairperson :

Cllr C Lerm

Committee Members :

**Cllr M Nomatiti, Ald R de Coning,
Cllrs M Sihlahla & V Bandeza**

INVESTMENT, INFRASTRUCTURE & TOURISM PORTFOLIO COMMITTEE

7 February 2024

I N D E X

ITEM
NO

PAGE
NUMBER

	OPENING AND WELCOME	
	APPLICATIONS FOR LEAVE OF ABSENCE	
	CONFIRMATION OF MINUTES	
	STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE CHAIRPERSON	
1.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 2788 HERMANUS (SITUATED AT 147 FIFTH STREET, HERMANUS) BY MEANS OF A COMPETITIVE PROCESS	1
2.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 6847 KLEINMOND (SITUATED AT 3 BERGROOS CRESCENT, UITBREIDING 6, KLEINMOND) BY MEANS OF A COMPETITIVE PROCESS	15
3.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 6834 KLEINMOND (33 ALUSIA CRESCENT, KLEINMOND,) 417M ² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS	24
4.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERVEN 3538 - 3541 (PORTIONS OF ERF 1) HAWSTON (SITUATED IN CHESTER ROAD, HAWSTON), EACH 549M ² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS	32
5.	A PORTION OF REMAINDER ERF 4771 KNOWN AS "DUTCHIES RESTAURANT": DEVIATION FROM PARAGRAPH 18 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO TEMPORARILY RENEW THE LEASE OF MUNICIPAL PROPERTY TO TASOCLOX (PTY) LTD	41
6.	TRANSFER OF ERF 1886 FRANSKRAALSTRAND (SITUATED IN FOUCHE STREET, FRANSKRAALSTRAND), TO STARCROW 111 CC	49
7.	PARTIAL RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT ALIENATION OF A PORTION OF THE REMAINDER ERF 1178 DE KELDERS (ROAD RESERVE), ADJACENT TO ERF 43 DE KELDERS SITUATED AT 1 DE VILLIERS STREET, DE KELDERS TO CFP JORDAAN	58

<u>ITEM NO</u>		<u>PAGE NUMBER</u>
8.	APPLICATION TO PURCHASE: A PORTION OF ERF 4721 KLEINMOND SITUATED IN THIRTEENTH AVENUE, KLEINMOND (ROAD RESERVE) – I KOEN	63
9.	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 243 HERMANUS, ADJACENT TO ERF 283 HERMANUS AND PORTION 338 (A PORTION OF PORTION 4) OF THE FARM NO 581 ONRUSTRIVIER, CALEDON REGIONAL DISTRICT, TO REDBUILD TRUST	71
10.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 3226 BETTY'S BAY (31 ALBERTYN DRIVE, BETTY'S BAY) 1,456M ² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS	80
11.	IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 751 HAWSTON (EBENEZER ROAD, HAWSTON) 310M ² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS	89
12.	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 323 ROOI ELS, (±357m ² IN EXTENT), ADJACENT TO ERF 101 ROOI ELS, SITUATED IN HOTEL CRESCENT, ROOI ELS, TO MS JA BAIGRIE	97
13.	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 241 HERMANUS (ROAD RESERVE), ADJACENT TO ERF 100 HERMANUS, SITUATED AT 54 ROCKLANDS DRIVE, HERMANUS TO MJ & K SMUTS	107
14.	A PORTION OF PORTION 18 OF FARM NO 644 STANFORD: DEVIATION FROM PARAGRAPH 18 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A DIRECT LEASE AGREEMENT WITH FOOD FOUR THOUGHT COMMUNITY PROJECTS NPC	119
15.	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 379 HERMANUS, ADJACENT TO ERF 6137 HERMANUS, SITUATED ON THE CORNER OF DE GOEDE STREET AND WESTCLIFF ROAD (ROAD RESERVE), HERMANUS, TO MS MAGDALENA OTTO	127
16.	TOWN & SPATIAL PLANNING REPORT WITH REGARD TO APPLICATIONS CONSIDERED IN TERMS OF DELEGATED AUTHORITY: AUGUST 2023 – DECEMBER 2023	140
17.	TOURISM MONTHLY REPORT: DECEMBER 2023	447

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

**1.
IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 2788 HERMANUS
(SITUATED AT 147 FIFTH STREET, HERMANUS) BY MEANS OF A COMPETITIVE
PROCESS**

**A Le Roux
7 December 2023**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain in principle approval for the alienation of Erf 2788 Hermanus, 496m² (FOUR HUNDRED AND NINETY-SIX SQUARE METRES) in extent, hereinafter referred to as “the Property”, by means of a competitive process at a market related price for residential purposes.

The locality maps of the Property are attached hereto as “Annexure A1” and “Annexure A2”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priority

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)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)
- Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)
- Overstrand Municipality Supply Chain Management Policy, as amended

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

An application was received to purchase the Property for residential purposes.

The neighbouring property owner of Erf 2783 Hermanus is currently encroaching on the Property with a garden and wooden fence for which there is no consent / agreement in place. The illegal encroachment was referred to the delegated authority to address who is attending to the matter. The said property owner has also been in contact with the Property Administration Department regarding the purchase of the Property. The encroachment on the Property can be seen on the photograph attached hereto as "Annexure B".

The Property is zoned Residential Zone I and there are services available in the vicinity of the Property. As there is a great need for vacant properties to be made available for residential purposes and as this Property is suitable, it is recommended that it be made available in the open market by means of a competitive bidding process at a market related price.

Evaluation

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

The following conditions of the said Policy will apply:

Paragraph 9(1)(a): "The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of section 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services."

The comments received from the relevant officials confirmed that the Property is not needed for the provision of the minimum level of basic municipal services. Please note the discussion under the comments from the Senior Manager: Operational Services.

Paragraph 9(1)(b): "The Municipality may transfer ownership or otherwise dispose of non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with section 14(2) of the MFMA."

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

HCB Valuers determined the market related value of the Property on 29 October 2023 at an amount of R3,750.00/m² (THREE THOUSAND SEVEN HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded), which amount to a total value of R1,860,000.00 (ONE MILLION EIGHT HUNDRED AND SIXTY THOUSAND RAND) (VAT excluded).

No community value will be received from the alienation of the Property. The Municipality will however receive rates, taxes, etc. once the Property is transferred to the successful bidder/purchaser.

Paragraph 9.1(c): *“The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”*

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

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

It is recommended that the Property be alienated by means of a competitive process which can include either a tender or auction.

Paragraph 28: *“All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.”*

The successful bidder/purchaser will be liable for the costs of the transaction, excluding the valuation of the Property. Cost for the successful bidder/purchaser will include, but is not limited to, the section 14 advertisement, transfer costs, connection of services, and any other costs pertaining to the transaction.

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,*

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

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.

Paragraph 31: “Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.”

A condition to this effect will not be included in the Deed of Sale. This is not a big development where the main purpose is to ensure that the property is developed.

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 Deed of Sale.

Paragraph 33: “The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation.”

A condition to this effect will not be included in the Deed of Sale as the Property is already registered, zoned and developable.

Paragraph 34: “A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality.”

A condition to this effect will be included in the Deed of Sale.

Paragraph 35: “Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser.”

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

A condition to this effect will be included in the Deed of Sale.

B: Advertisement / Notification:

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

Conclusion

It is recommended that the Property be alienated for residential purposes by means of a competitive process at a market related value.

Furthermore, it is recommended that the successful bidder/purchaser be liable for all the costs, excluding the costs for the valuation of the Property. Subsequently, the costs will entail the Section 14 advertisement, transfer costs, connection of services, and any other costs pertaining to the transaction.

7. Financial Implications

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

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets - Mr J Vorster

“The full extent of Erf 2788 Hermanus is currently reflected as Municipal Use - Services in the fixed asset register for PPE: Land at a carrying value of R50’000 as at 30 June 2023. Once the proposed alienation of the ±496m² has been concluded, it will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of a portion of an asset.

There is no objection against the alienation.”

Manager: Engineering Services - Mr R Andrews

*“The GIS system indicates that the Property is zoned as Single Residential 1:
a) Only the existing, standard municipal services connections will be available.*

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

- b) *It seems as if no formal access is available for the Property. An access servitude will be required over the public open space or neighbouring erven.*
- c) *No new accesses may be created without the approval of the Senior Operational Manager Hermanus.*
- d) *The purchaser will be responsible for all link and bulk services required to service Erf 2788 Voëlklip.*
- e) *The purchaser will be responsible for all investigation levies and connection fees.”*

Property Administration Department: The registration of a servitude will not be required for this alienation, as the adjacent portion of Erf 4771 Hermanus, known as Fourth Street, can be extended by the successful bidder to gain access to the Property.

Manager: Environmental Services: Hermanus - Ms P Aplon

“The Environmental Management Section has no objection against the Erf 2788 being made available through a tender/competitive process for sale/alienation as the erf does not fall within the EMOZ. It should be noted that an access road will be required to access Erf 2788 which falls within the Protected Area Buffer EMOZ refer to the EMOZ schedules thereof.

A site visit was conducted at Erf 2788 Voëlklip by Ms P Aplon. Unfortunately, there were limited access to the Property. The river does not run across Erf 2788 Voëlklip. Based on the elevation profile, there is a 4 (FOUR) metre height difference between the boundary of Erf 2788 Voëlklip and the outer boundary of Erf 2789 Voëlklip. There is a channel and embankment starting from Erf 2789 Voëlklip, the channel appears to cut across a small section of Erf 2788 Voëlklip.

It is proposed that a buffer area be created where no development should take place.

The elevation profile and proposed buffer area can be seen on the locality maps attached hereto as “Annexure C”.

Senior Manager: Operational Services: Hermanus - Mr T Max

“I am in agreement with the conditions stipulated by Engineering Services, Mr R Andrews.”

The following must however be mentioned. With the development of Erf 4801 Hermanus, an application was received by the Senior Manager: Operational Services for a wayleave for the stormwater pipe that needs to cross municipal road reserve and then discharge into the open field (Erf 2788) as indicated on

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

the extract attached marked “Annexure D”. The request was circulated internally, and the following comment was given in response:

“The application can unfortunately not be supported by the Property Administration Department. Having the stormwater discharge over Erf 2788 will have the effect that a viable property, which can be sold, will in effect have no value for the municipality (it will be “sterilized”). An application was received for the purchase of the property, and it is envisaged that the property will be sold by means of a competitive process.”

Senior Town Planner - Mr P Roux

“Erf 2788 is zoned as Residential Zone 1: Single Residential in terms of the zoning maps. It is however noted that a portion of the mountain stream runs through the Property and therefore limits the development potential of the Property to a relatively small area.

It would be prudent to obtain comments from the Environmental Department.

Should the Property be sold or leased then only a portion of the Property will be usable as the mountain stream’s edge runs through the Property.

Whether the Property is leased or sold, it may only be used for gardening purposes. This is to lessen the impact on the mountain stream. Further the opinion is held that the portion which forms part of the mountain stream should be excluded from the lease/sale.

Please note that in terms of the aerial photo the garden fence also extends onto Erf 2789.”

The below comment from the Environmental Department gives clarity regarding the stream and other issues raised by the Town Planner in his comments.

Senior Manager: Building Control - Mr L Coetzee

“Building Control has no objection to the sale of the property. Any building plan application for a proposed structure/building must comply with all applicable law in order to be approved.”

Assistant Chief: Fire Safety & Health and Safety - Mr E Solomons

“The Fire Department has no objection to the sale of the Property.”

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

Senior Superintendent: Traffic Operational - Mr P de Gruchy

"I have no objection towards this application and have no objection towards the means of a tender process for the sale of this property.

The only concern is that the roadway will be needed to be extended for an entrance towards such property."

Furthermore, to the above comments a site visit was conducted by the Property Administration Department's (previous) Chief Administrator: Contracts, Tenders and Projects and the following feedback was provided in respect to the encroachment on the Property:

Previous Chief Administrator: Contracts, Tenders and Projects - Mr R Marinus

"I can confirm that the adjacent owners of Erf 2783 Hermanus are encroaching on Erven 2788, 2789 and a small portion of Erf 2786 Hermanus with an enclosed garden that has a wooden boundary around the garden. I could see no other structures within the encroachment area.

The encroachment area is kept neat with the grass kept short and large plants like aloe bushes and Proteas grown in the encroachment area. The boundary is made wood and green netting around it as can be seen on the attached Photos 3 and 4.

The adjacent owners should be aware of where their own property ends as it is quite clear on Photo 1 that they stopped building with bricks at the boundary of their property and then started enclosing the encroachment area with wooden fencing. Photo 1 is taken from the Eight Street side. Similarly on the other side from Fifth Street, they only built with brick up to a point and then built a piece of boundary using only wood. See photo on the drive as it is too large to attach. Photos 3 and 4 shows how the wooden fencing looks. I could not walk any further around due to the vegetation being too thick to go around further as well as the slope going down as explained below. I put a mark on the attached map of how far I could go around.

I must also add that, while it is difficult to see from the photographs, a portion of Erven 2786, 2789 and 2787 Hermanus are situated much lower than their adjacent plots, it is like there is a slope that goes down and they are also full of trees, plants and other vegetation. This would not make these Erven impossible to develop but the slope must be taken into consideration. Both Eight Street and Fifth Street would need to be extended for the owner to gain access to these Erven. The attached photo 5 shows what Erven 2786 and 2787 Hermanus looks like from Eight Street, unfortunately the photos cannot show how deep the slope is due to it being fully grown with vegetation.

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

Should Council provide approval for the Property to be alienated, the encroachment will be disclosed in the competitive bidding process to the bidders the encroachment will further be addressed before the transfer of the Property.

10. Annexures

Annexures A1 & A2:	Locality Plan
Annexure B:	Property Administration: Site Visit Inspection Photographs
Annexure C:	Environmental Management Section: Elevation Profile and Proposed Buffer Area
Annexure D:	Extract from development plan – Erf 4801 Hermanus

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 2788 Hermanus (496m² in extent), for residential purposes by means of a competitive process at a market related purchase price, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, the section 14 advertisements, etc., but excluding the valuation costs, be paid by the successful bidder/purchaser;
3. that the encroachment be disclosed in the competitive process as well as addressed before the transfer of the Property;
4. that a condition be included in the Title Deed of the Property that it may only be used for residential purposes and that development should not take place in the proposed buffer area; and
5. that it is confirmed that Council has taken cognisance of the fact that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy (2015) and section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	15 MARCH 2024
TARGET DATE TO INFORM APPLICANT :	29 MARCH 2024
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Investment, Infrastructure & Tourism
7 February 2024
(Also the Agenda for the Mayoral Committee Meeting : 13 February 2024)**

**1.
IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 2788 HERMANUS
(SITUATED AT 147 FIFTH STREET, HERMANUS) BY MEANS OF A COMPETITIVE
PROCESS**

**A Le Roux
7 December 2023**

Manager: Property Administration

(028) 316 5623

**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 FEBRUARY 2024, WHICH COMMITTEE
RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 2788 Hermanus (496m² in extent), for residential purposes by means of a competitive process at a market related purchase price, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, the section 14 advertisements, etc., but excluding the valuation costs, be paid by the successful bidder/purchaser;
3. that the encroachment be disclosed in the competitive process as well as addressed before the transfer of the Property;
4. that a condition be included in the Title Deed of the Property that it may only be used for residential purposes and that development should not take place in the proposed buffer area; and
5. that it is confirmed that Council has taken cognisance of the fact that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy (2015) and section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

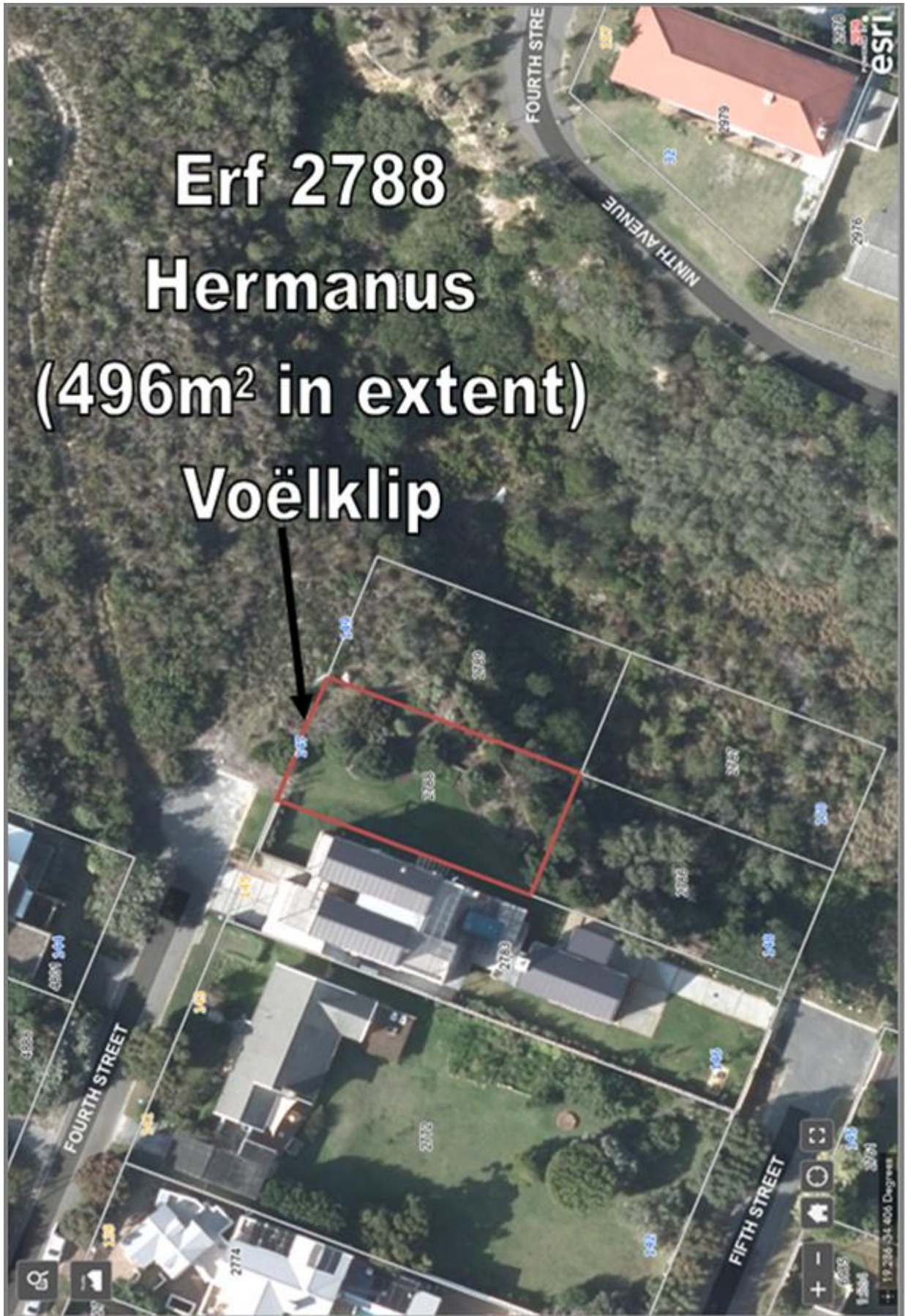
15 MARCH 2024

TARGET DATE TO INFORM APPLICANT :

29 MARCH 2024

TARGET DATE TO INFORM OBJECTOR :

N/A





ANNEXURE B

Photo 1



Photo 3



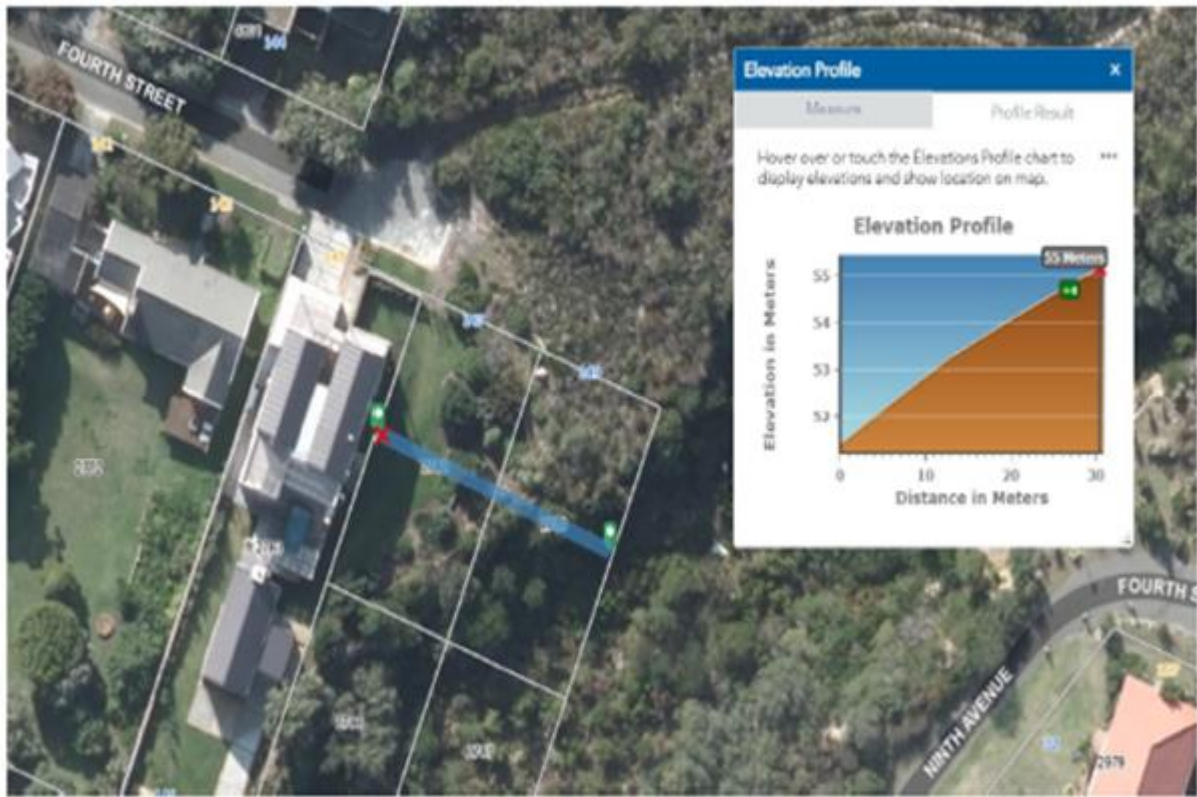
Photo 4



Photo 5



Elevation Profile



Proposed Buffer Area



ANNEXURE D

