

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
8 November 2023
(Also the agenda for the Mayoral Committee Meeting : 15 November 2023)**

18.

RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT ALIENATION OF A PORTION OF ERF 226 PRINGLE BAY (PORTION OF RESIDENTIAL ERF) ADJACENT TO ERF 227 PRINGLE BAY SITUATED AT 4 BELL ROAD NORTH, PRINGLE BAY, TO POPPY ICE TRADING 15 (PTY) LTD

**A Le Roux
10 October 2023**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain approval for the rescission of the in-principle decision by Council dated 21 February 2022 in respect of the direct alienation of a portion of Erf 226 Pringle Bay, adjacent to Erf 227 Pringle Bay, situated at 4 Bell Road North, Pringle Bay ($\pm 95\text{m}^2$ in extent) to Poppy Ice Trading 15 (Pty) Ltd, for retaining a surfaced driveway, fence and portion of an electrical gate purposes. See the locality plan attached hereto marked "Annexure A".

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)

6. Background/Discussion/Evaluation/Conclusion

Background

Subsequent to an application received from Poppy Ice Trading 15 (Pty) Ltd, hereinafter referred to as "the Applicant", the owner of the adjoining property,

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being Erf 227 Pringle Bay, to purchase a portion of residential erf being a portion of Erf 226 Pringle Bay ($\pm 95\text{m}^2$ in extent), situated in Bell Road North, Pringle Bay, for the purpose of retaining the surfaced driveway, fence and a portion of the electrical gate Council, on 21 February 2022, resolved as follows:

- “1. *that the direct alienation of a portion of Erf 226 Pringle Bay (adjacent to Erf 227 Pringle Bay) situated at Bell Road North, Pringle Bay, $\pm 95\text{m}^2$ in extent, to the owner of the adjoining Erf 227 Pringle Bay, Poppy Ice Trading 15 (Pty) Ltd, at an amount of R850.00/m² (EIGHT HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) be **approved in principle**;*
2. *that it be noted that the direct alienation is possible as the said portion of Erf 226 Pringle Bay can be classified as a non-viable property;*
3. *that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicant;*
4. *that it be noted that a condition for the alienation will be that the said portion of Erf 226 Pringle Bay must be consolidated with the adjoining property of Poppy Ice Trading 15 (Pty) Ltd, being Erf 227 Pringle Bay;*
5. *that no structures of any kind (excluding a boundary wall or fence and gate) may be erected on the said portion of Erf 226 Pringle Bay, which condition must be registered against the title deed of the consolidated property;*
6. *that the alienation of said portion of Erf 226 Pringle Bay be subject to a suspensive condition that the Applicant obtains approval for the removal of restrictive conditions (if any), subdivision, rezoning and consolidation;*
7. *that all the costs pertaining to the transaction, e.g. application costs, valuation costs, rezoning, removal of restrictive conditions (if any), subdivision and consolidation, transfer and related costs, advertisements, etc. be paid by the Applicant, Poppy Ice Trading 15 (Pty) Ltd; and*
8. *that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council’s Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).”*

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Discussion

The formal non-refundable application fee in the amount of R3,000.00 (THREE THOUSAND RAND) (VAT included) was paid by the Applicant on 28 October 2021.

After the in-principle approval was obtained for the direct alienation of the Property, Boland Valuers determined the market related value on 30 November 2021 for the Property at an amount of R850.00/m² (EIGHT HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded). The Applicant paid the valuation costs in the amount of R1,380.00 (ONE THOUSAND THREE HUNDRED AND EIGHTY RAND) (VAT included) on 10 December 2021.

None of the above costs will be refunded to the Applicant as the application fee is non-refundable and the other cost was a direct expense paid to a third party for a service rendered (valuation).

After the Deed of Sale and Addendum was signed by the Applicant's appointed representative, the Applicant indicated on 28 August 2023 that it is no longer interested in proceeding with this application as the pursuit to consolidate the Property with Erf 227 Pringle Bay will be expensive, time consuming and not in its best interest. The Applicant further committed itself to moving the boundary fence of Erf 227 Pringle Bay (currently encroaching onto the Property) back to the boundary of its own property. The rest of the encroachment will also be reinstated.

Evaluation

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

The following conditions of the said Policy will apply:

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 Applicant was liable for the costs of the application and valuation in terms of the Municipal Finance Management Act and Administration of Immovable Property Policy and payment was received for the above mentioned in full. As explained above these costs will not be refunded and the Applicant is aware of same.

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Conclusion

It is recommended that the in-principle decision by Council dated 21 February 2022 in respect to the direct alienation of a portion of Erf 226 Pringle Bay ($\pm 95\text{m}^2$ in extent) to Poppy Ice Trading 15 (Pty) Ltd, to retain a surfaced driveway, fence and portion of an electrical gate purposes be rescinded.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Locality Plan

Annexure B: Council Meeting Minutes (Resolution) dated 21 February 2022

RECOMMENDATION THE COUNCIL:

1. that the rescission of the entire Council resolution dated 21 February 2022 in respect of the in-principle approval for the direct sale of a portion of Erf 226 Pringle Bay, ($\pm 95\text{m}^2$ in extent), to Poppy Ice Trading 15 (Pty) Ltd, **be approved** on the reasons contained in the report; and
2. that Poppy Ice Trading 15 (Pty) Ltd remove all encroachments on a portion of Erf 226 Pringle Bay and reinstate the property to the satisfaction of the Municipality within a period of 6 (SIX) months from date of this Council decision.

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

15 DECEMBER 2023

TARGET DATE TO INFORM APPLICANT :

29 DECEMBER 2023

TARGET DATE TO INFORM OBJECTOR :

N/A

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
8 November 2023
(Also the Agenda for the Mayoral Committee Meeting : 15 November 2023)**

18.

RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT ALIENATION OF A PORTION OF ERF 226 PRINGLE BAY (PORTION OF RESIDENTIAL ERF) ADJACENT TO ERF 227 PRINGLE BAY SITUATED AT 4 BELL ROAD NORTH, PRINGLE BAY, TO POPPY ICE TRADING 15 (PTY) LTD

**A Le Roux
10 October 2023**

Manager: Property Administration

(028) 316 5623

THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE PORTFOLIO COMMITTEE ON 8 NOVEMBER 2023, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION THE COUNCIL:

1. that the rescission of the entire Council resolution dated 21 February 2022 in respect of the in-principle approval for the direct sale of a portion of Erf 226 Pringle Bay, ($\pm 95\text{m}^2$ in extent), to Poppy Ice Trading 15 (Pty) Ltd, **be approved** on the reasons contained in the report; and
2. that Poppy Ice Trading 15 (Pty) Ltd remove all encroachments on a portion of Erf 226 Pringle Bay and reinstate the property to the satisfaction of the Municipality within a period of 6 (SIX) months from date of this Council decision.

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

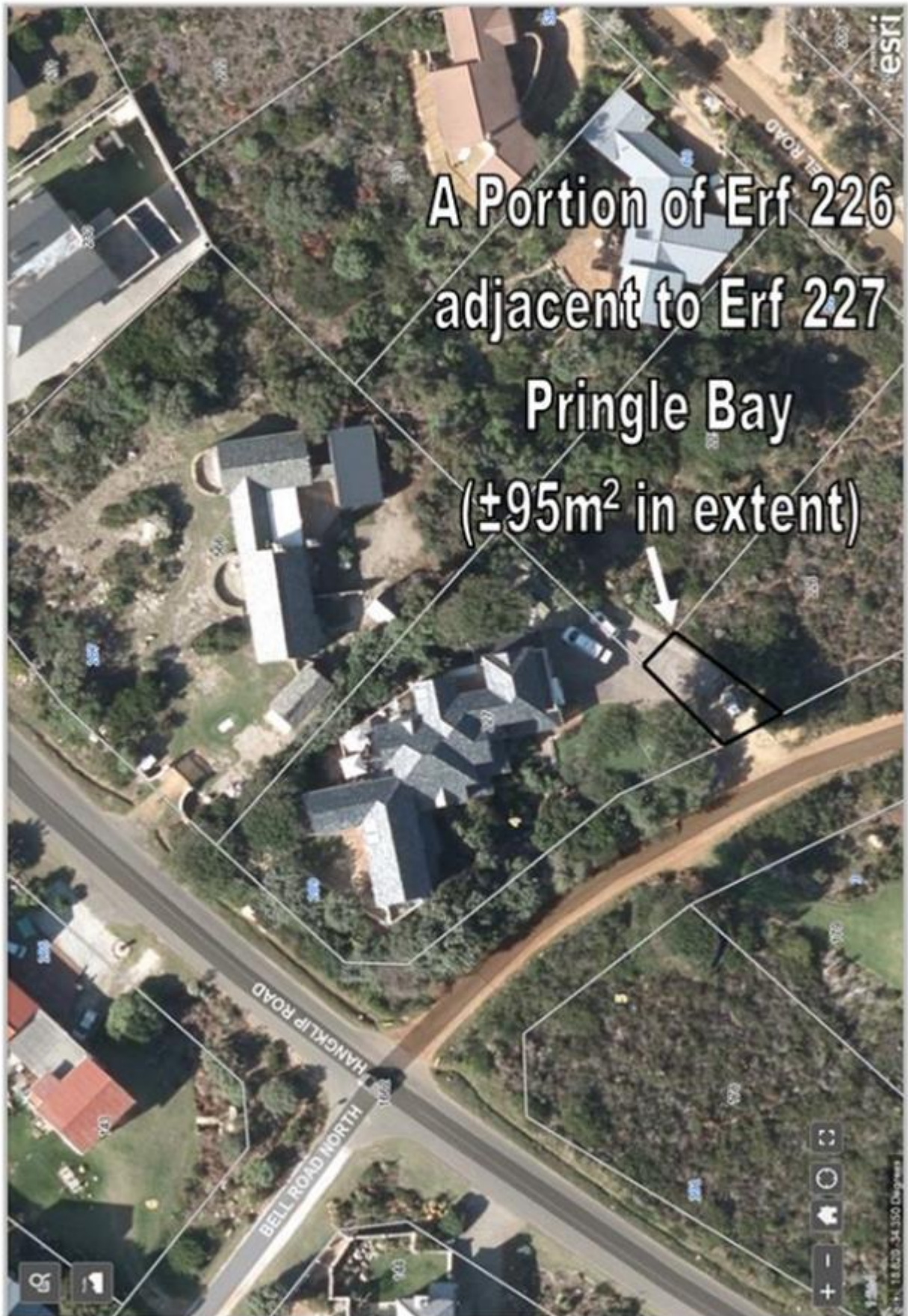
15 DECEMBER 2023

TARGET DATE TO INFORM APPLICANT :

29 DECEMBER 2023

TARGET DATE TO INFORM OBJECTOR :

N/A



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MINUTES : ORDINARY COUNCIL MEETING**21 FEBRUARY 2022**

5. CONSIDERATION OF RECOMMENDATIONS MADE BY THE EXECUTIVE MAYOR TO COUNCIL, IN TERMS OF SECTION 160(2) OF THE CONSTITUTION, 1996, AND SECTION 59(1)(a) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 2000 (ACT 32 OF 2000)

5.1

IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 226 PRINGLE BAY (PORTION OF RESIDENTENTIAL ERF) ADJACENT TO ERF 227 PRINGLE BAY SITUATED IN BELL ROAD NORTH, PRINGLE BAY, TO POPPY ICE TRADING 15 (PTY) LTD

(ITEM 2 PAGE 437 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 21 FEBRUARY 2022)

RESOLVED (SUPPORTED BY 24 COUNCILLORS):

1. that the direct alienation of a portion of Erf 226 Pringle Bay (adjacent to Erf 227 Pringle Bay) situated at Bell Road North, Pringle Bay, $\pm 95\text{m}^2$ in extent, to the owner of the adjoining Erf 227 Pringle Bay, Poppy Ice Trading 15 (Pty) Ltd, at an amount of R850.00/m² (EIGHT HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) be **approved in principle**;
2. that it be noted that the direct alienation is possible as the said portion of Erf 226 Pringle Bay can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicant;
4. that it be noted that a condition for the alienation will be that the said portion of Erf 226 Pringle Bay must be consolidated with the adjoining property of Poppy Ice Trading 15 (Pty) Ltd, being Erf 227 Pringle Bay;
5. that no structures of any kind (excluding a boundary wall or fence and gate) may be erected on the said portion of Erf 226 Pringle Bay, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of said portion of Erf 226 Pringle Bay be subject to a suspensive condition that the Applicant obtains approval for the removal of restrictive conditions (if any), subdivision, rezoning and consolidation;

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MINUTES : ORDINARY COUNCIL MEETING**21 FEBRUARY 2022**

7. that all the costs pertaining to the transaction, e.g. application costs, valuation costs, rezoning, removal of restrictive conditions (if any), subdivision and consolidation, transfer and related costs, advertisements, etc. be paid by the Applicant, Poppy Ice Trading 15 (Pty) Ltd; and
8. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

26 MARCH 2022

TARGET DATE TO INFORM APPLICANT:

12 MARCH 2022

TARGET DATE TO INFORM OBJECTOR:

N/A