

**AGENDA of the
Portfolio Committee: Planning & Development
18 August 2026
(Also the agenda for the Mayoral Committee Meeting: 25 August 2026)**

2.

**APPLICATION TO ENCROACH: A PORTION OF REMAINDER FARM NR 581
SITUATED IN ONRUSTRIVIER (PORTION OF UNBUILD ROAD) ADJACENT TO
ERF 2389 ONRUSTRIVIER (3 MC FARLANE STREET, ONRUSTRIVIER)- MS AJ
GWYNNE-EVANS**

**A Le Roux
16 April 2026**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To obtain approval to enter into an encroachment agreement with Ms AJ Gwynne-Evans, the owner of Erf 2389 Onrustrivier to retain an encroachment on a portion of Remainder Farm Nr 581 situated in Onrustrivier ($\pm 50\text{m}^2$ in extent) (portion of unbuild road) adjacent to Erf 2389 Onrustrivier, situated at no 3 Mc Farlane Street, Onrustrivier for the purpose of an existing garden enclosed with a clear view fence and gate. See the locality maps attached hereto marked "Annexures A1 & A2".

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

Executive Mayor

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, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background/ Discussion

Mr AJ Stassen, the owner of Erf 2389 Onrustvriër at the time, applied in 2008 for an encroachment agreement on a portion of Remainder Farm Nr 581 situated in Onrustvriër (hereinafter referred to as “the Property”), for security purposes. After due process was followed the encroachment was approved and an agreement was entered into with Mr Stassen from 1 July 2008 and expired on 30 June 2013.

Mr Stassen has then sold Erf 2389 Onrustvriër to Rouxa Trust and an agreement was subsequently entered into with them for the encroachment which commenced on 1 November 2012 and expired 31 October 2017 which was for the extension of the southern boundary wall, for security purposes. The Property Management Division contacted Rouxa Trust on several occasions with regards to the renewal of the encroachment agreement, without success, and informed Rouxa Trust to remove the encroachment on the Property. Rouxa Trust then submitted an application to lease the Property on a temporary basis, whereafter a short-term lease application was approved by the delegated authority on 11 September 2023.

Prior drafting the short-term lease agreement Rouxa Trust informed the Property Management Division that they have decided to sell the property situated on erf 2389 Onrustvriër. Ms AJ Gwynne-Evans (hereinafter referred to as the “Applicant”) purchased Erf 2389 Onrustvriër on 8 January 2025 from Rouxa Trust with the encroachment already on the Property which includes a garden, clear view fence and a gate.

The Applicant contacted the Property Management Division enquiring about options available to legalise the encroachment on the Property, after being informed of the encroachment on the Property, as well as the approved short term lease application in process, by the previous owner, Rouxa Trust. The Applicant felt that the monthly fee for the short-term lease agreement would be too expensive according to the property valuation done 1 September 2024. The Applicant decided to proceed with the option for the enclosed encroachment for a period of 5 (FIVE) years which would be more cost effective than the approved short-term lease for a period of 3 (THREE) years. The Applicant submitted an encroachment application to retain the garden and clear view fence with a gate to increase the extent of her garden and for security purposes, as the Property is adjacent to the caravan park and since she is a new resident in the area.

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Evaluation

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

The following conditions of the said Policy will apply for the encroachment as follow:

Paragraph 4: “No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidation, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.” Should the encroachment be approved, Applicant A will have to complete the formal application form and make payment of the application fee.

The Applicant completed and submitted the formal application form, and the application fee was paid by the previous owner, Rouxa Trust in the amount of R3,000.00 (THREE THOUSAND RAND) (VAT included).

Paragraph 63: “All costs pertaining to an encroachment shall be borne by the encroacher, 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. Where necessary, a deposit to cover the costs may be required.”

The public participation process was followed, and no comments / objections were received for the enclosed encroachment for gardening purposes on the Property.

Paragraph 64: “The Municipality may, subject to such conditions as it may deem fit –

64.4 permit the enclosure or exclusive use of portions of the commonage, public open spaces, public thoroughfares or any municipal owned immovable property for gardening purposes, provided inter alia that:

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- (a) written applications accompanied with proof of payment of the application fee shall be submitted to the Municipality;**
- (b) the delegated authority, through the Property Administration Department, shall:**
 - (i) obtain the comments of the relevant municipal directorate/departments;**
 - (ii) cause the said application to be advertised in terms of paragraph 10.1 of this policy;**
 - (iii) where objections against the said application are received, submit it to the applicant for his/her comment;**
 - (iv) submit the application and all relevant documents to the Executive Mayor for approval;**
 - (v) notify the applicant of the Executive Mayor's decision and where applicable furnish him/her with a copy of any conditions imposed by the Council or its nominee; and**
 - (vi) issue a permit (to the successful applicant to give effect to the approval of the application;**
- (c) the planting of trees, shrubs and alien lawn or the erection of seating, statuary or other similar objects, are not permitted.**
- (d) a monthly encroachment fee, determined by council, be levied on successful applicants municipal account for the right obtained to encroach."**

The formal written application was received, and the application fee was paid by the previous owner, Rouxa Trust.

The internal comments were requested from the relevant municipal departments and no objections to the encroachment were received. The advertisement for the encroachment on the Property was published in The Village News of 19 September 2025 for a 30 (THIRTY) day objection/comment period, and the Applicant paid the advertisement cost. No objections were received.

The conditions as per (c) and (d) above will be included in the encroachment agreement.

The purpose of this report is to request that the Executive Mayor approves the enclosed encroachment on the Property.

The approved tariffs for 2026/2027 for the enclosure or exclusive use of portions of the Commonage, Public Open Spaces etc. is R2.96/m² (TWO RAND AND NINETY-SIX CENTS PER SQUARE METRE) (VAT

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excluded) per month which will amount to a total monthly fee of R148.00 (ONE HUNDRED AND FORTY-EIGHT RAND) (VAT excluded) per month, should the application be approved

B. Advertisement/Notification

An advertisement for the enclosed encroachment on the Property, was published in The Village News of 19 September 2025 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

Conclusion

Taking the above into consideration, it is recommended that the enclosed encroachment for the garden, clear view fence and gate on the Property **be approved** for a period of 5 (FIVE) years at payment of the monthly tariff S34C3 as approved by Council, which amount will escalate annually on 1 July.

7. Financial Implications

The following tariff is applicable to this type of encroachment:

Code	Description	VAT excl	VAT incl
S34C3	Enclosure or exclusive use of portions of Commonage, Public Open Spaces, Road Reserves or Public Thoroughfares for gardening purposes where a lease is not applicable (per m ² per month)	2.96	3.40

The municipality will receive a monthly income for the enclosed encroachment of ±50m² (APPROXIMATELY FIFTY SQUARE METRE) in extent, calculated at the tariff of R2.78/m² (TWO RAND AND SEVENTY-EIGHT CENTS PER SQUARE METRE) (VAT excluded) per month, which amounts to R148.00 (ONE HUNDRED AND FORTY-EIGHT RAND) (VAT excluded).

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

The application was circulated to the internal departments for comments and the following were received:

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Previous Assistant Chief: Fire, Rescue & Disaster Management: Mr E Solomon

"The Fire Department has no objections subject to compliance with the provisions of SANS 10400-A:2016, 10400-T:2020 and the By Law relating to fire safety."

Town Planner: Town & Spatial Planning: Mr H Olivier

"There is an existing sewer in this road portion, and it is also not clear if this portion is required for vehicles to manoeuvre as the road at this stage is a dead-end road. The Engineering department will have to comment thereon. I have no objection for an encroachment agreement for a period of 5 years."

Senior Superintendent: Traffic Operations: Mr P de Gruchy

"Traffic Department has no objections towards this application."

Principal Technologist: Development Control: Mr R Andrew

"We have no objection to the encroachment. No boundary walls or structures may be erected."

Comments from the Property Management Division: The Property is currently enclosed with a clear view type fence, which is removable if needed. A condition will be included in the agreement that the fence may not be replaced by a wall nor may any structures be erected within the enclosed area.

Principal Technologist Civil: Mr T Marx

"The Department: Operational Services, Hermanus do not have any objection with regards to this application."

Senior Building Control Officer: Building Control: Mr G Coetzee

"No objection from Building Control. If it is only a wire fence, no plan is required."

Environmental Officer: Ms P Aplon

"The SG diagram indicates Krige Street all the way through to Bond Street. The Engineers should indicate if this road will still be developed. The encroachment agreement is supported."

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Electrical Services: Mr J Klem

“This is an Eskom Supply area; therefore, we cannot give any comment on the proposal.”

10. Annexures

Annexures A1 & A2:	Locality plans
Annexure B:	Pictures of the enclosed encroachment

RECOMMENDATION:

1. that the enclosed encroachment by means of a garden, clear view fence and gate on municipal property, being a portion of Remainder Farm Nr 581 situated in Onrustrivier ($\pm 50\text{m}^2$ in extent), by the adjoining owner of Erf 2389 Onrustrivier, Ms AJ Gwynne-Evans, at an amount of R2.96/m² (TWO RAND AND NINETY-SIX CENTS PER SQUARE METRE) (VAT excluded) per month, for a period of 5 (FIVE) years, in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the encroachment fee mentioned in 1 above escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2027; and
3. that a condition be included in the encroachment agreement that the clear view fence may not be replaced by a wall nor may any structures be erected within the enclosed area.

RESPONSIBLE OFFICIAL:

V OCTOBER

TARGET DATE FOR IMPLEMENTATION:

16 SEPTEMBER 2026

TARGET DATE TO INFORM APPLICANT:

09 SEPTEMBER 2026

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GWYNNE-EVANS**

**A Le Roux
16 April 2026**

**Divisional Manager: Property Management
(028) 316 - 5623**

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
18 AUGUST 2026, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

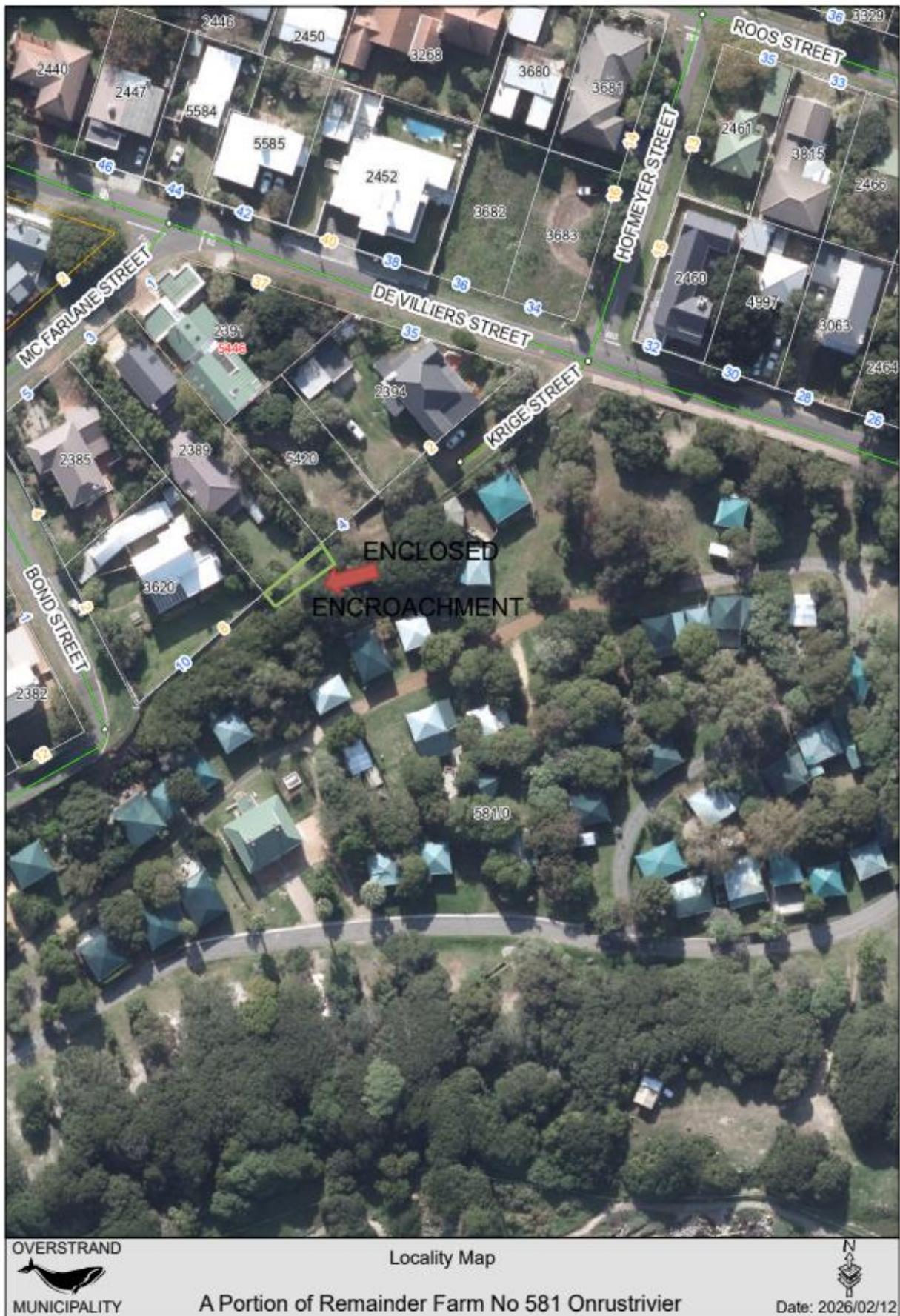
V OCTOBER

TARGET DATE FOR IMPLEMENTATION:

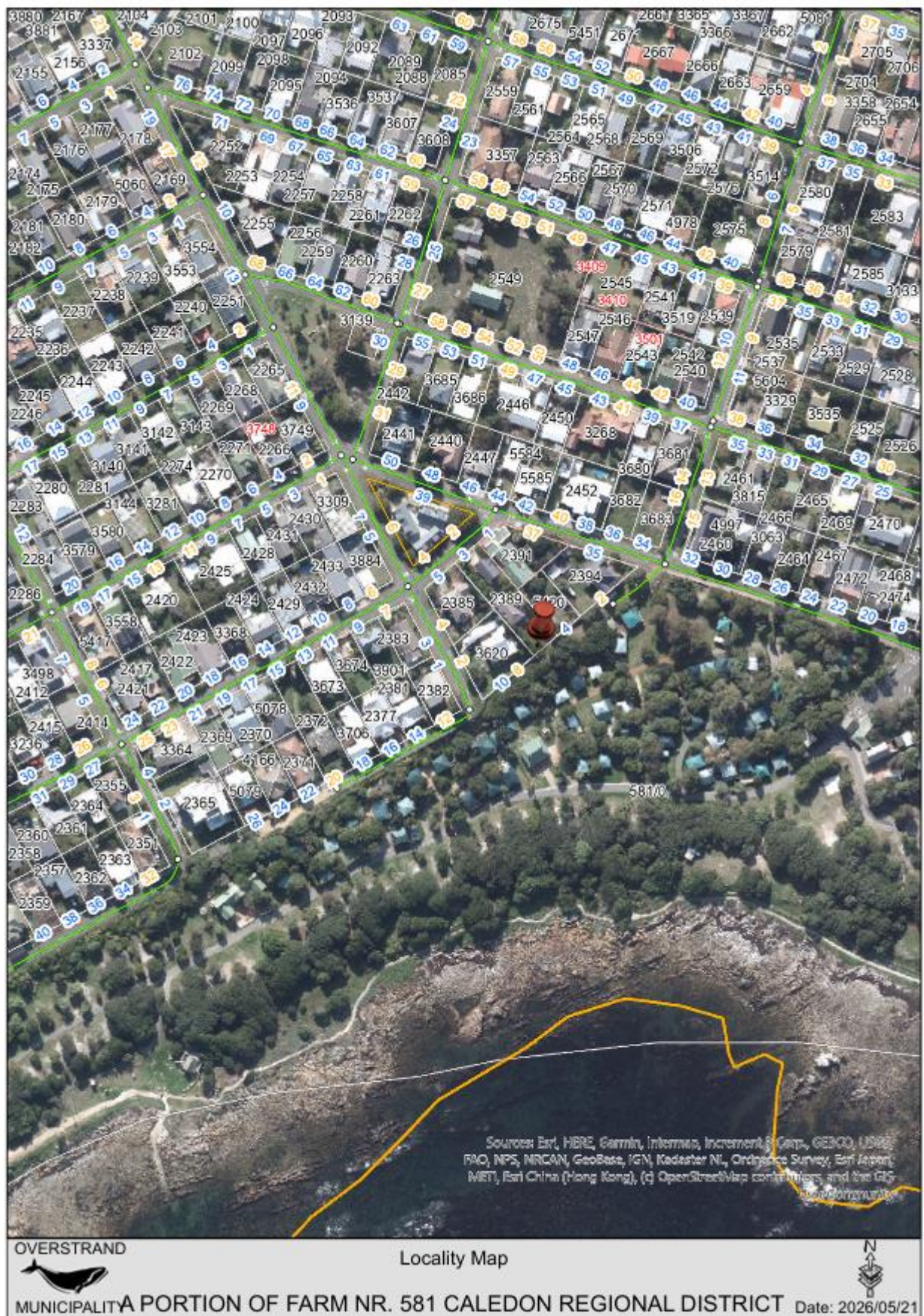
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ANNEXURE A2



ANNEXURE B

