

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

4.

**APPLICATION TO ENCROACH: TWO PORTIONS OF ERF 5117 BETTY'S BAY
(PUBLIC OPEN SPACE) ADJACENT TO ERF 5561 BETTY'S BAY - MS RS SUTTON**

**A Le Roux
10 July 2026**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To consider the application received from Ms RS Sutton, the owner of Erf 5561 Betty's Bay, to retain the existing encroachments on two portions of Erf 5117 Betty's Bay (portion of public open space) adjacent to Erf 5561 Betty's Bay, situated at no 4A Youldon Road, Betty's Bay for the following purposes:

- (a) Portion A ($\pm 60\text{m}^2$ in extent) for an existing garden enclosed with a stone retaining boundary wall, and
- (b) Portion B for a wooden walkway ($\pm 43,5\text{m}$ in length).

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

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

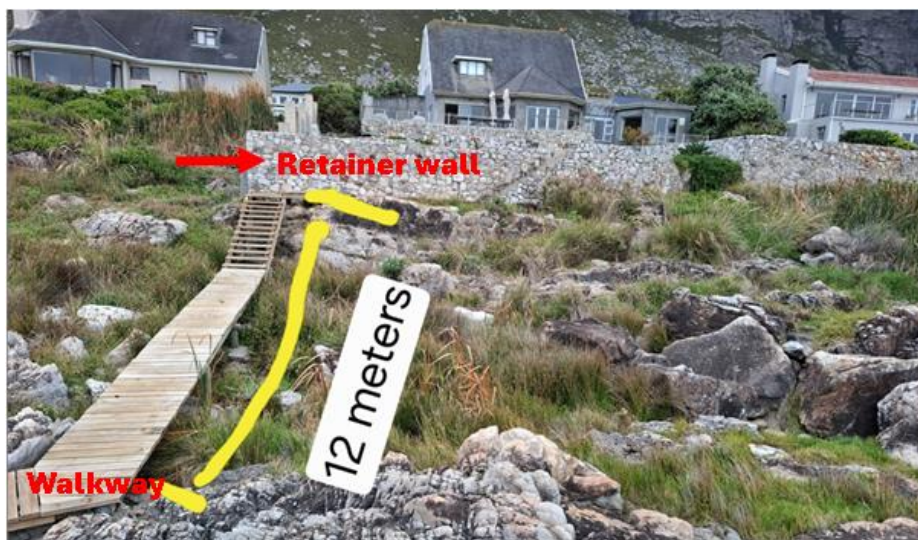
6. Background/Discussion/Evaluation/Conclusion

Background/ Discussion

Ms RS Sutton, the owner of Erf 5561 Betty's Bay (hereinafter referred to as "the Applicant"), applied to retain encroachments on municipal property, being two portions of Erf 5117 Betty's Bay (hereinafter jointly referred to as the "the Property") adjacent to Erf 5561 Betty's Bay for the following purposes:

1. the existing ($\pm 60\text{m}^2$ in extent) garden enclosed with a retaining boundary wall (hereinafter referred to as "Portion A"), and
2. the existing wooden walkway ($\pm 43,5\text{m}$ in length) which was illegally erected on the Property (hereinafter referred to as "Property B").

The existing encroachments can be seen in the photo below:



Further photos of the encroachments are attached hereto and marked "Annexure B".

Erf 5561 Betty's Bay, as situated at 4A Youldon Road, Betty's Bay, has been in the Applicant's family since 1979, and the Applicant purchased the Property from her mother and became the registered owner in 1999. The stone retaining boundary wall has a stairway built just outside the wall leading from the wall down to Property B providing access to the wooden walkway. Initially, the Applicant was served with a non-compliance notice from the Town and Spatial Planning Division informing her that she was unlawfully encroaching on municipal property. She was instructed to remove all structures placed on municipal land.

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

The Applicant subsequently submitted a formal application and explained, that her daughter was born with a rare congenital disorder; Crouzonodermoskeletal-Syndrome, which among other complications, rendered her wheelchair bound from the age of eleven years old. The Applicant submitted as motivation that the family loves swimming in the Gulley (deep rock pool) in front of their house, however as her daughter has grown older and heavier, it has become impossible to include her into their frequent visits to the swimming area, as it is too dangerous and difficult to carry her over the rocks. Despite the situation, a few months ago, her husband and two sons decided to combine all their strength and carry her down to the rock pool, which they had managed to do, but with difficulty and significant risk. It was the first time in many years that the family had been able to go together as the whole family to the rock pool area in front of the house. The family had so much fun and describe it as a memorable and moving experience, which inspired the Applicant's husband to construct the wooden walkway, to allow them to transport their daughter in her wheelchair safely and easily over the rocks to the rock pool in front of their house. The Applicant states that they did not know that installing the walkway would be illegal until they received a non-compliance notice from a municipal official.

The Applicant claims that they were not aware that the boundary wall encroaches on municipal property, since they appointed a land surveyor who marked out the boundary line before building the boundary wall. The survey was done around 1999 shortly after the Applicant purchased Erf 5561 Betty's Bay.

The Building Control Division confirmed that an approved building plan is on record for the natural stone retaining boundary wall for Erf 2889 Betty's Bay (now Erf 5561 Betty's Bay) dated 5 July 2001, attached hereto and marked "Annexure C". The approval however is for the retaining wall on the border of the Applicant's property and not to encroach onto municipal property.

The Building Control Division served the Applicant with a notice to obtain written approval for unauthorised building work, referring to the erection of a portion of the boundary wall on Property A, see notice hereto attached and marked "Annexure F." See new building plans that were submitted attached hereto and marked Annexure D.

The Town and Spatial Planning Division informed the Property Management Division that they came across advertisements on the internet where the Applicant is advertising her property for rental as a guesthouse, self-catering unit and holiday accommodation. The wooden walkway is used for the convenience of her guests to get access to the swim area which the Applicant refers to as the gulley in her advertisements. According to the information on the Airbnb website the Applicant has been hosting, thus renting out her property for the past 11 (ELEVEN) years. Internet advertisements are attached hereto and marked "Annexure G".

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

Evaluation

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

The following conditions of the said Policy will apply to 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 in the amount of R3,340.00 (THREE THOUSAND THREE HUNDRED AND FORTY RAND) (VAT included) (for the 2025/2026 financial year).

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 Applicant will be liable for the payment of all costs relating to the application and so far, already paid the amount of R3,639.22 (THREE THOUSAND SIX HUNDRED AND THIRTY-NINE RAND AND TWENTY-TWO CENTS) (Vat included) for the advertisement published in The Village News 12 December 2025.

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

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

Paragraph 64.3: *permit encroachments onto commonage, public open spaces or conservation areas provided inter alia that:*

- (a) *written application 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 directorates/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 Executive Mayor;***
 - (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) *no such encroachment shall be partially or wholly enclosed or fenced by any means whatsoever, permanently or otherwise, for the exclusive use of the adjacent property owner; and***
- (e) *an annual encroachment fee, determined by Council, be levied on successful applicants municipal account for the right obtained to encroach.***

This paragraph is applicable to Portion B, the walkway.

- (a)** The formal written application was received, and the application fee was paid by the Applicant.
- (b)** The Property Management Division attended to the following:
 - i. Comments from the internal departments were requested and are discussed below under point 9 of this report.
 - ii. The advertisement for the encroachments on the Property was published in The Village News of 12 December 2025 for a 30 (THIRTY) day objection/comment period, and the Applicant paid the advertisement cost. An objection was received which will be discussed in more detail below.

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

- iii. The objection was sent to the Applicant for her comment which will also be discussed in more detail below.

Should the encroachment be approved the conditions as per (c), (d) and (e) above will be included in the encroachment agreement.

Paragraph 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:*

- (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."***

This paragraph is applicable to Portion A, the enclosure by means of the stone retaining boundary wall for gardening purposes.

- (a) The formal written application was received, and the application fee was paid by the Applicant.
- (b) The Property Management Division attended to the following:
 - i. Comments from the internal departments were requested and are discussed below under point 9 of this report.
 - ii. The advertisement for the encroachments on the Property was published in The Village News of 12 December 2025 for a 30

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

(THIRTY) day objection/comment period, and the Applicant paid the advertisement cost. An objection was received which will be discussed in more detail below.

- iii. The objection was sent to the Applicant for her comment which will also be discussed in more detail below.

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

B. Advertisement/Notification

An advertisement for the enclosure for gardening purposes and a wooden walkway for disable friendly access over the rocks on a portion of Erf 5117 Betty's Bay, was published in The Village News of 12 December 2025 for a 30 (THIRTY) day objection/comment period. The following objection was received:

Mr CW Calitz

An objection was received from Mr CW Calitz, on behalf of the Calitz Betty's Bay Trust, owner of Erf 5138 Betty's Bay, situated at nr. 7 Youldon Road, Betty's Bay, hereinafter referred to as the "Objector", before the closing time of the advertisement. See the detailed 2 (TWO) page objection attached hereto marked "Annexure H".

Ground 1

"We do not accept and strongly object to the approval of this application. Approval of this application will place the local authorities at risk by setting a precedent for similar illegal actions, situations and constructions in the future."

The Applicant's response (As pertaining to the above comments)

The "precedent" objection is misplaced, as applicable legislation expressly permits applications of this nature and the present application is grounded solely in established black-letter law, requiring only the application of existing legal principles to the specific facts; such determinations do not create binding precedent, and applications of this nature have been routinely granted for decades without controversy. Administrative decisions are in any event distinguishable on their facts, and the decision-maker is not bound by prior approvals but is required only to apply the law to the matter at hand. Strictly, the doctrine of precedent applies to judicial decisions within a court hierarchy and is not directly relevant to municipal administrative functions, while existing case law has already confirmed the

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

Overstrand Municipality's authority to grant the application, rendering its approval lawful and permissible."

Property Management's Comment (As pertaining to the above comments)

Property Management noted the objector's concern regarding the creation of a precedent appears to stem from the Applicant's previous erection of the wooden walkway without prior municipal approval. However, the purpose of the current application is to is to legalize the existing encroachments through the prescribed statutory process. The application should therefore be considered on its own merits and in accordance with the applicable legislative and policy framework. Approval of the application would not establish a binding precedent, as each application must be assessed independently based on its own facts and merits.

Ground 2

"The enclosure for gardening purposes: It is understood that the seafront boundary "wall" somehow "slipped through" on an earlier building plan. This is a terrace/retaining wall – not an enclosure or boundary wall. The terrace encroaches 60m² onto public property. The "wall" is nothing other than a cover for a filled-in garden terrace. The "garden enclosure" is also being developed as a swimming pool and elevated deck. The terrace should have triggered an environmental impact assessment (e.g. NEMA – earthworks and infill of ±5 cubic meters or increasing footprint by ±50m². Mr. Sutton has been developing within the predetermined setback line, 100m from the highwater mark, with apparent impunity. Work has been an unfinished eyesore of uncladded concrete bricks over the past 15 (FIFTEEN) years. What stops Mr Sutton from enclosing the pool next? See underneath picture of the terrace or retaining wall."



The Applicant's response (As pertaining to the above comments)

By the Trust's own admission, it, at the very least, tacitly accepted the existence of the wall for 15 years and raised no objection until the present application was advertised; such prolonged acquiescence renders the

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

belated objection unconvincing, and its motive must be viewed with scepticism. The minor encroachment onto municipal land occurred in good faith, a fact accepted by all parties and neighbouring owners save for Mr Calitz, who has adduced no evidence to support his insinuation of an ulterior motive or deliberate plan to construct the wall for purposes of establishing a “filled-in garden terrace, elevated deck, or swimming pool”. The objective facts are irreconcilable with Mr Calitz’s objection: the wall has existed for more than 15 years; there is and has been no “filled-in garden terrace”, “elevated deck”, or “terrace” on the encroached area; and the recently constructed swimming pool is not located within the area of encroachment and is irrelevant to the application. A natural stone front retaining wall exists at grass level, consistent with neighbouring properties save for minor natural variations, as confirmed by the attached Topographical Survey marked. The complaint that the wall is an “unfinished eyesore of un-cladded concrete bricks” is premature, as cladding is intended and may be imposed as a condition of approval, and no complaint was raised in this regard for 15 years. The wall was constructed out of necessity for privacy, security and to prevent subsidence, in accordance with the established legal duty of lateral support owed between neighbouring owners; by Mr Calitz’s own admission it functions as a retaining wall, being a rigid vertical structure that holds back soil and stabilises slopes, which is particularly necessary in coastal areas.”

Property Management’s Comment (As pertaining to the above comments)

The Property Management Division notes the objector’s concern regarding the purpose, legality and appearance of the existing wall. The Applicant disputes these allegations and maintains that the encroachments occur in good faith and was not intended to facilitate further unauthorized development.

The application is limited to the existing encroachments onto municipal property and does not authorise any additional structures or future development. This said, the fact remains that the Applicant built the wall outside of her property boundary, which is the basis of this application.

Comments from the relevant municipal departments, including Building Control Division and Environmental Management Division, have been requested and will be taken into consideration in the assessment of the application. Any conditions or requirements arising from their comments will form part for the consideration of the application.

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

Ground 3

“The wooden walkway for disable-friendly access: This was developed before approval was obtained, and without due consideration or consultation with surrounding neighbours or stakeholders impacted by it. The quality of work and safety measures do not meet the relevant requirements of SANS standards in terms of design and safety, and in particular SANS requirements for persons with disabilities. Walkways of this nature should be designed taking into account slope requirements and edge protection, and the necessity must be based on impact studies, risk assessment and local authority policy. We place on record that we see this as an illegal constructed and unsafe construction. It should be removed, including the shoddy concrete cast directly onto the scenic natural rock formation.”



The Applicant's response (As pertaining to the above comments)

“The walkway was built to enable our now adult disabled daughter to have access to the sea. It is unfortunate that Mr Calitz, who is not disabled, is unmoved by this consideration and wishes to deny her access to something which he is physically able to enjoy. The application was submitted for the purpose of regularising the construction. None of the neighbours save for Mr Calitz have objected to the walkway. The walkway is safe, intended for a very limited purpose, and the Overstrand Municipality is welcome to inspect the walkway. It almost makes no visual impact, is largely obscured from view by vegetation, will naturally blend in as the natural material discolours and by its very nature is impermanent as it is made of wood. I am unable to respond to the allegations that the walkway does not comply with SANS regulations as Mr Calitz, a town planner by profession, has not identified a single non-compliance with any regulation. The walkway reduces the risk of harm coming to our disabled daughter or anyone else who may use it to access the rock pool. Mr Calitz is the sole objector to the walkway, which enables sea access for a disabled person, as well as other disabled persons, the elderly, infirm and any member of the public, with no comparable accessible route in the vicinity; the walkway thus provides a manifest public benefit, particularly to

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

disadvantaged and marginalised members of society. The walkway is not unsafe, as an inspection will confirm, and poses no material risk to the local authority given that the area is seldom used and not readily accessible to the general public. Its provision accords with the United Nations Principles for Older Persons and domestic instruments including the Older Persons Act and Department of Social Development policy, which promote independence, participation, dignity and equitable access to services for older persons, who would benefit from safe and convenient sea access. The same considerations apply, mutatis mutandis, to disabled persons and children with reference to the Children's Act and the White Paper on the Rights of Persons with Disabilities (2015), which seeks full inclusion and equality for persons with disabilities; disabled persons are not well-catered for in accessing natural areas, and there are no nearby walkways that accommodate prams, wheelchairs or other assistive devices used for mobility."

Property Management's Comment (As pertaining to the above comments)

The Property Management Division noted the concerns raised regarding the legality, safety and compliance of the wooden walkway, including adherence to SANS standards and the absences of prior approval and consultation. The Applicant states that the walkway was constructed to provide access for the Applicant's disabled daughter, and the application has been submitted for legalization and maintains that it is safe and of limited visual impact.

The application was circulated to all relevant internal municipal departments to determine compliance with applicable legislation, standards and policy, and will be assessed accordingly.

Ground 4

"Surrounding owners have refrained from such construction up to now in order to maintain the unspoilt nature of the sensitive coastal zone. This "donated public facility" provides no benefit to the broader public, but only serves the applicant, and approval also places the authorities at risk. It is doubtful whether this development would have progressed this far had due process been followed. How much of the development within the predetermined setback is in accordance with pre-approved building plans? The apparent soft touch approach is incomprehensible. What has Overstrand Municipality proactively done timeously to prevent further development until approvals are in place? This now places undue pressure and expectation on neighbours and officials to accept improvements as is. Approval of this application will pave the way for neighbours to develop the same degree within this coastal zone and set a precedent to only seek development approvals afterwards, as built. The

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

same set of restrictions on development must apply to all. We object to the application being approved, as well as the apparent unrestricted development on the property of the Applicant, being located within the predetermined development setback line."



The Applicant's response (As pertaining to the above comments)

The objection is not capable of meaningful response as it consists largely of emotive argument, rhetorical comment, irrelevant conjecture and hyperbole, and does not constitute valid or reasonable grounds to oppose the application; the reliance on the application creating a "precedent" is misguided and premised on a misunderstanding of the doctrine. There is no basis for the conjecture that every application before a local authority creates "undue pressure" or "expectations", nor is there any evidence that the present application has opened the "floodgates" to wanton development in the area. Stripped of its verbiage and irrelevancies, the sole objection amounts to an aggrieved neighbour's dissatisfaction that the application is made after the fact and to an unsubstantiated assertion that approval would constitute a binding precedent resulting in unwanted development of a similar kind, yet not a single example is cited of any unrestricted development having occurred elsewhere in the municipal area, and the objection can accordingly be dismissed as irrelevant hyperbole."

Property Management's Comment (As pertaining to the above comments)

The objection raises issues relating to alleged non-compliance within the coastal setback area, precedent concerns, and municipal enforcement. These are noted.

The application must be assessed on its own merits in accordance with the applicable Town and Spatial Planning, Environmental Management, and Building Control requirements. The issue of precedent is considered only insofar as consistent policy application is required, each application is nonetheless evaluated individually. The application is circulated to the

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

relevant internal municipal departments to confirm compliance with all statutory and regulatory requirements, before a decision is made.

Conclusion from the Applicant

"I undertake to comply with any restrictions or conditions the Mayor may see fit to impose should he or any delegated authority grant the application. The wall has been in situ for more than 15 years without complaint or objection, and this aspect of the application merely seeks to regularise a situation that was unobjectionable until Mr Calitz lodged the sole objection following advertisement. The walkway is located in an area that is not well frequented and its presence is uncontentious, as evidenced by its acceptance by all surrounding residents except Mr Calitz; we have attached social worker's report ("Annexure J") which sets out the compelling reasons why the walkway is necessary. It is notable that the sole objector fails to address the material consideration of accessibility for a disabled person to a rock pool, confining his objection to perceived inconvenience and his view of a "soft touch" by the Overstrand Municipality and "illegal development". Given that there is only one objector, it is respectfully submitted that limited weight should be attached to the objection, particularly as the grounds raised are generalised, not significant, and not shared by other residents and neighbours, whose lack of objection indicates at least tacit support for the application. The innocent encroachment is of an insignificant, unused portion of land measuring approximately 60m², and is of low impact in context. Five letters of support for the walkway from neighbours has been obtained, together with an aerial view demonstrating the low impact and visibility of both the wall and walkway. In conclusion, it is requested that the sole objection be dismissed or outweighed by the considerations set out in this response read with the motivation in the application, and that the application be approved."

Property Management's Comment (As pertaining to the above comments)

The Property Management notes the Applicant's undertaking to comply with any conditions imposed by the Municipality. However, the existence of only one formal objection, the historical presence of the structures, supporting letters from neighbouring property owners, and the motivation relating to accessibility do not on their own, justify the formalisation of an encroachment on municipal property. The application must be assessed on its own merits in accordance with the applicable legislation, municipal policies as well as comments received from the internal departments.

The historical existence of the structures, as well as the absence of previous complaints does not constitute municipal approval or establish a lawful right to occupy municipal land. Similarly, the number of objections received is not determinative if the outcome, as the Municipality is required

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

to consider the broader public interest, environmental protection and responsible management of municipal assets.

Further, motivation relating to accessibility and supporting social report is acknowledged, however such considerations must be weighed alongside compliance with planning frameworks, safety standards and municipal legislation.

Property Management notes that Town and Spatial Planning Division supports only the retention of the existing retaining wall, subject to the removal of the unauthorised steps and the boardwalk within 60 (SIXTY) days of approval, the submission and approval of building plans, and determination of the exact extent of the encroachment by a registered land surveyor for the purpose of calculating the applicable encroachment fee.

Property Management further notes that the Environmental Management and Conservation Division does not support the application, as the encroachment is located on municipal land zoned Nature Reserve within the Environmental Management Overlay Zone (EMOZ), including the Coastal Protection Zone and Protected Area Buffer. The department is of the view that formalising the unauthorised boardwalk would undermine the objectives of the Environmental Management Overlay Zone (EMOZ), weaken enforcement of environmental legislation, and create an undesirable precedent for future unlawful encroachments on municipal conservation land.

Considering the Applicant's representations together with internal departmental comments, the Property Management Division supports only the retention of the existing retaining wall, subject to the conditions imposed by Town and Spatial Planning. The unauthorised steps and boardwalk should not be retained, and no further structures should be erected on municipal property.

Viewing all the photos, sketches, plans etc. received during the comment period it seems as if the encroachment of the garden on Portion A might be bigger than initially thought and that the wall on municipal property is not in a straight line. This was discussed with the Senior Town Planner for the area to which she confirmed that the encroachment of the wall for gardening purposes can be supported (excluding the stairs which must be demolished) subject thereto that the Municipality appoints a surveyor to determine the encroachment and the exact square metreage of the encroachment area according to which the monthly encroachment fee will be determined.

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

Conclusion

Taking into consideration the comments received from the internal departments and the above discussion the following is recommended:

1. That the enclosed encroachment by means of a garden and stone retaining boundary wall on Portion A (final size to be determined) 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, subject to the following specific conditions:
 - (a) That the Applicant demolishes the stairs built on the outside of the wall, and
 - (b) That the Municipality appoints a surveyor, at the cost of the Applicant, to determine the accurate size of the encroachment area according to which the monthly encroachment fee can be determined and levied.
2. That the encroachment on Portion B by means of a wooden walkway not be approved.

7. Financial Implications

The following tariff for the 2026/2027 financial year is applicable to encroachments by means of an enclosure for exclusive use, such as the wall on Portion A:

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 stands to gain a monthly income of R2.96/m² (TWO RAND AND NINETY-SIX CENTS PER SQUARE METRE) (VAT excluded) per month. The exact size of the encroachment will be determined by a land surveyor. However, on an estimated size of 60m², the estimated monthly fee will be R177.60 (ONE HUNDRED AND SEVENTY-SEVEN RAND AND SIXTY CENTS) (VAT excluded).

8. Staff Implications

None

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

9. Comments from other Departments, Divisions and Administrations

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."

Senior Town Planner: Town & Spatial Planning: Ms H van der Stoep

"The encroachment is supported only for the wall. The steps and the boardwalk must be removed within 60 days of approval. Building plans be submitted to ensure that the wall complies with the National Building Regulations. No structures may be placed within the encroachment area."

Senior Superintendent: Metering and Distribution: Mr R Buckle

"This is an Eskom supply area; therefore, we cannot give any comment on the proposal."

Principal Technologist: Development Control: Mr R Andrew

"Noted."

Principal Technologist Civil: Mr D Van Rhodie

"There will be no impact on Civil Engineering Services with regards the encroachments."

Senior Building Control Officer: Building Control: Mr G Coetzee

"No objection from the Building Control Division. Plans to be submitted for approval to this office. These plans must also be scrutinized by the local Heritage committee, because it falls within a Heritage Protection Overlay Zone."

Senior Field Ranger: Environmental Management & Conservation: Mr T Europa, assisted by the Manager: Environmental Management & Conservation: Ms P Aplon

"The Environmental Management department does not support the application to formalize the encroachment on municipal land that has been unlawfully occupied through the construction of a boardwalk without the required authorisation."

The objection is based on the following:

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

The encroachment is situated on municipal property zoned as Nature Reserve and falls within the Environmental Management Overlay Zone (EMOZ), specifically the Coastal Protection Zone and Protected Area Buffer.

- *The stated purpose of the Coastal Protection Zone is to protect and manage the integrity of coastal ecosystems, ecosystem services, biodiversity, and natural coastal processes within and adjacent to coastal reserves.*
- *The stated purpose of the Protected Area Buffer is to protect the integrity of National, Provincial, and Municipal Nature Reserves from negative external pressures and impacts, reduce pressure on core conservation areas, and preserve their ecological and eco-tourism value through appropriate land-use regulation.*

The boardwalk was constructed without municipal approval and is therefore deemed as an unauthorised development as well as an encroachment onto municipal conservation land zoned Nature Reserve. Approval to formalise this encroachment on the affected area would legitimise an unlawful action after the fact and would undermine the Municipality's ability to enforce environmental and land-use regulations consistently.

The EMOZ Regulations 2020, specifically state in section 4.5.1.1 Council or the delegated management authority may close any access point of route that has or will have an adverse impact on the environment or that is deemed to be an unlawful or unauthorized access point or route; This section in the EMOZ reflects the Municipality's intention to discourage and address unauthorised access infrastructure within environmentally sensitive areas, rather than to facilitate its permanent retention through formalization.

By formalising this encroachment onto municipal conservation worthy land after an unauthorised access route had already been constructed without permission, the Municipality would set an undesirable precedent that may encourage similar future encroachments and attempts to legitimise unlawful occupation or use of municipal land. Approval of this encroachment application would undermine the Municipality's ability to protect environmentally sensitive coastal and conservation areas and be contradictory to the objectives of the EMOZ.

The Environmental Department has the responsibility to protect and manage public conservation worthy land for the benefit of current and future generations. The proposed application to formalize this development on the encroached portion of municipal property is inconsistent with this responsibility.

Based on the above reasons, the Environmental Management Department cannot support this application. It is recommended that the unauthorised encroachment be addressed through appropriate compliance and rehabilitation measures, including the removal of the unlawful structure where required."

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

Divisional Manager: Expenditure, Fleet & Asset Management: Mr H Vorster

“As there is no intention to dispose of the asset, but rather the potential to generate a small revenue, there is no objection.”

10. Annexures

Annexures A1 & A2:	Locality Maps
Annexures B:	Photos of the encroachments
Annexures C:	Building Plan approved on 25 October 2001 which includes the stone retaining boundary wall on Erf 2889 Betty's Bay
Annexures D:	Building Plan approved on 3 October 2025
Annexures E:	Beacon Certificate dated June 2024
Annexures F:	Building Control Notice regarding unauthorised building work
Annexures G:	Internet Adverts of the Applicant's Guesthouse/holiday accommodation, self-catering business
Annexures H:	Objection from Mr Coenraad Werner Calitz
Annexures I	Comments from Applicant
Annexures J	Social Worker's Report regarding Roxanne Sutton

RECOMMENDATION:

1. that the objection from Mr Coenraad Werner Calitz, be partially dismissed, with regards to the enclosed garden encroachment only;
2. that the enclosed encroachment by means of a garden and stone retaining boundary wall on municipal property, being a portion of Erf 5117 Betty's Bay, adjacent to Erf 5561 Betty's Bay, to Ms RS Sutton, 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**, subject thereto that:
 - a) the staircase built on the outside of the wall be demolished; and
 - b) the Municipality appoints a surveyor, at the cost of Mrs RS Sutton, to determine the exact size of the encroachment area according to which the total monthly encroachment fee will be determined;
3. that the prescribed tariff mentioned in 1 above escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council; and

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

4. that the encroachment by means of a wooden walkway on municipal property, being a portion of Erf 5117 Betty's Bay (43.5m in length), adjacent to Erf 5561 Betty's Bay, by Ms RS Sutton, **not be approved**.

RESPONSIBLE OFFICIAL:

V OCTOBER

TARGET DATE FOR IMPLEMENTATION:

16 SEPTEMBER 2026

TARGET DATE TO INFORM APPLICANT:

09 SEPTEMBER 2026

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

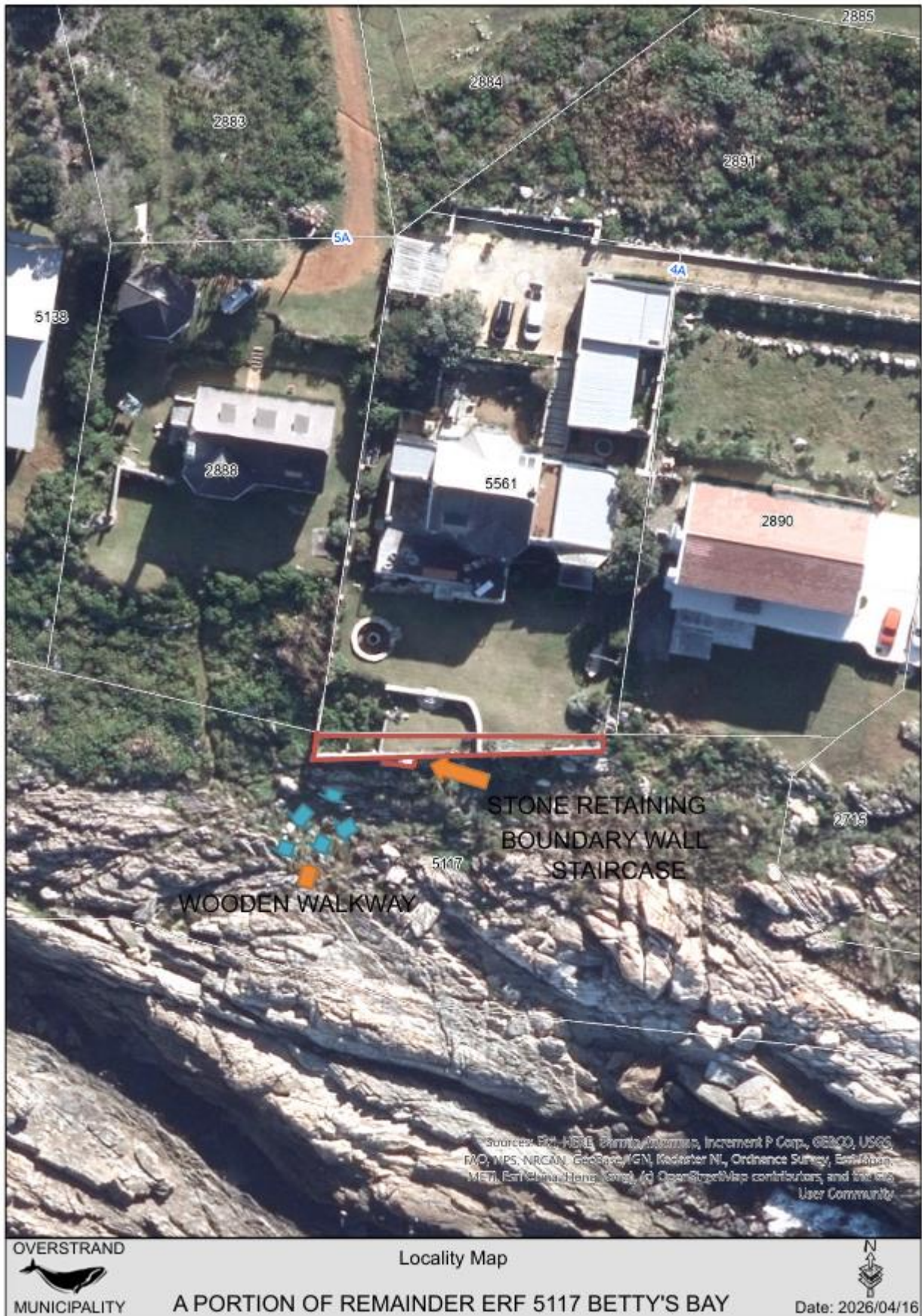
4. APPLICATION TO ENCROACH: TWO PORTIONS OF ERF 5117 BETTY'S BAY (PUBLIC OPEN SPACE) ADJACENT TO ERF 5561 BETTY'S BAY - MS RS SUTTON

A Le Roux **Divisional Manager: Property Management** **(028) 316 - 5623**
10 July 2026

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:	16 SEPTEMBER 2026
TARGET DATE TO INFORM APPLICANT:	09 SEPTEMBER 2026

ANNEXURE A1

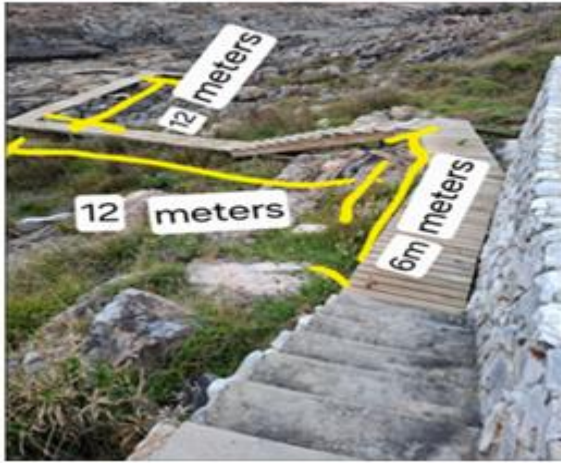


ANNEXURE A2



ANNEXURE B

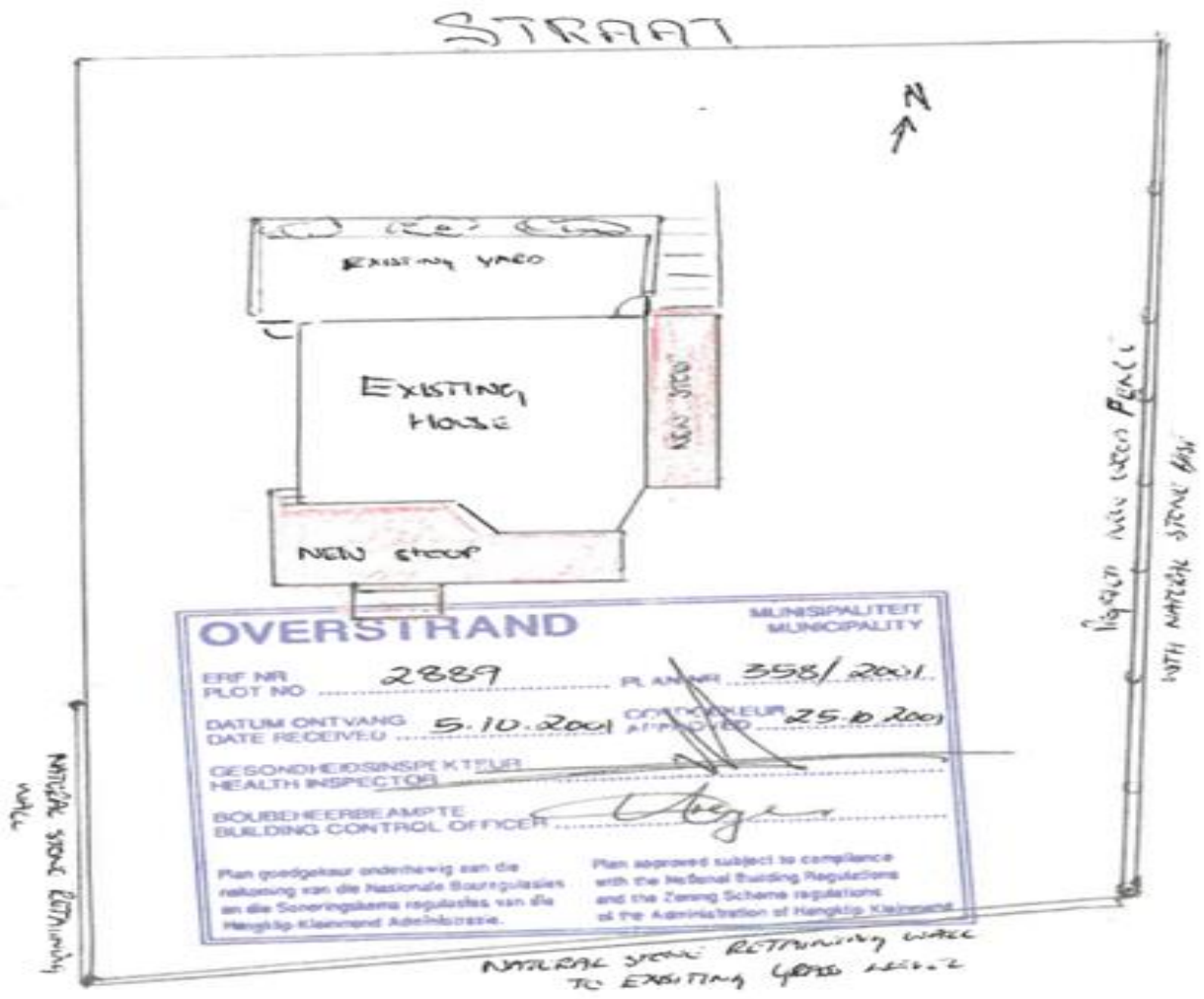
BOUNDARY WALL, STAIRCASE AND WOODEN WALKWAY

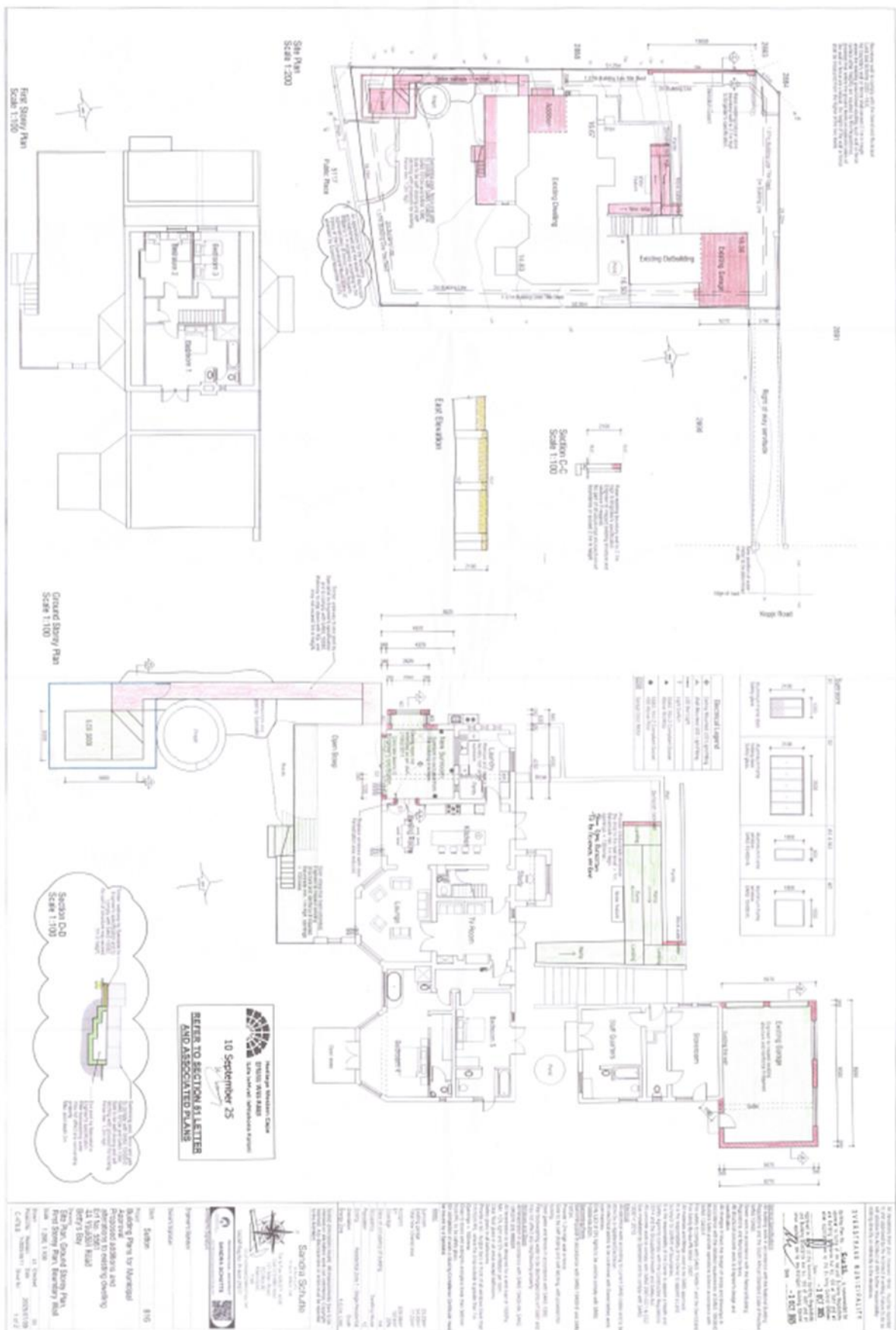


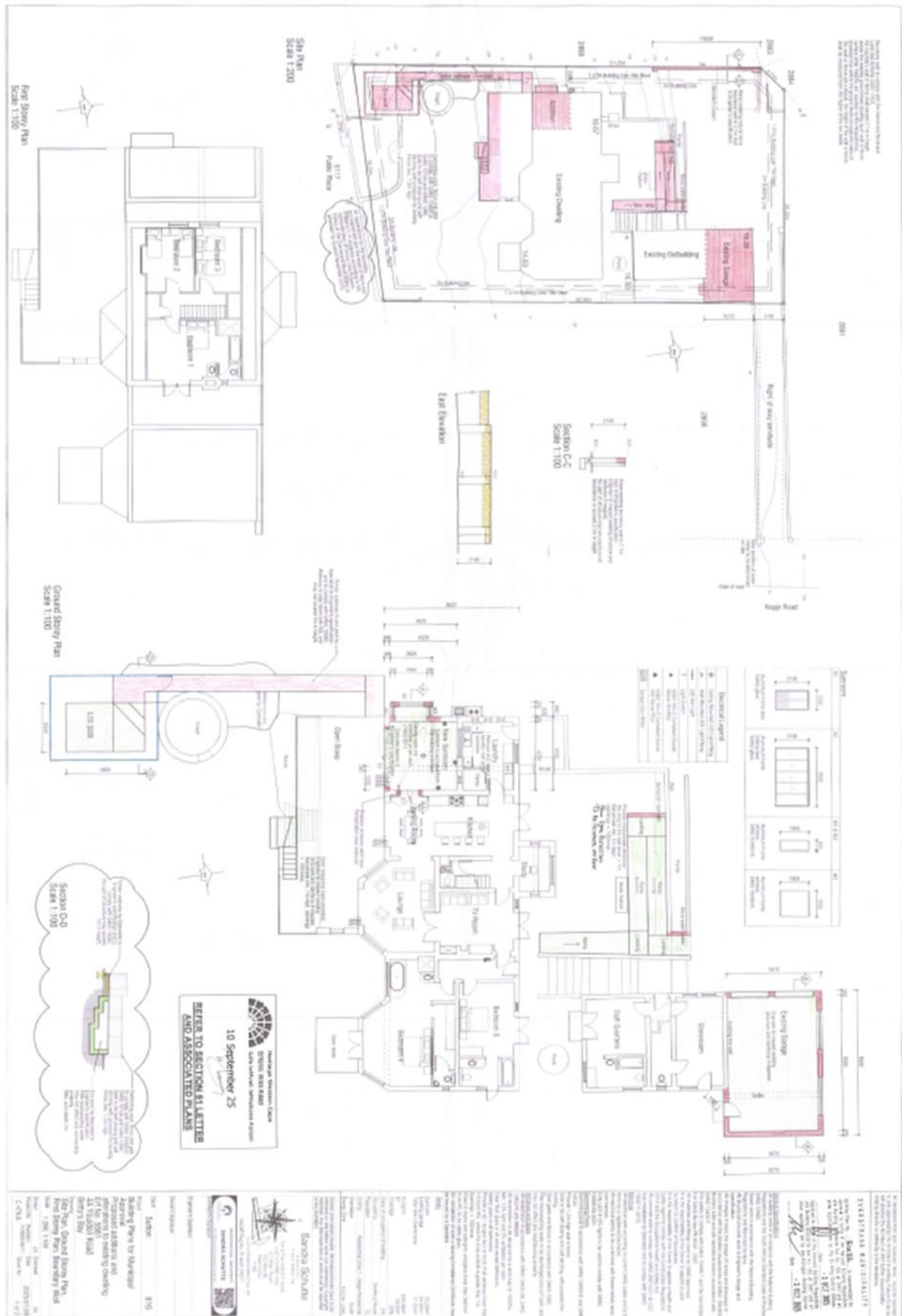
SWIMMING POOL RECENTLY BUILT ON THE APPLICANT'S PROPERTY



ANNEXURE C









INFRASTRUCTURE AND PLANNING

Enquiries: Sherwin Rossouw
 Tel: 028 271 8434
 E-mail: srossouw@overstrand.gov.za
 Reference: 15/1/3



PERSON/REGISTERED OWNER OF PROPERTY	RS SUTTON		
ADDRESS	169 MILNER ROAD CLAREMONT, 7708		
ID NO/REG NR	6711160163 081	DATE	7.10.25

NOTICE TO OBTAIN WRITTEN APPROVAL FOR THE UNAUTHORISED BUILDING WORK

Following the erection of boundary walls at Erf No 5561 at 4A Youldon Road, Bettys Bay

The work being the erection of boundary walls in the area of Overstrand Municipality (being the local authority in question) which is in contravention of Section 4(1) read with Section 4(4) of the National Building Regulations and Building Standards Act No 103 of 1977 (the Act), as no prior written approval for the erection of such building has been obtained from the said local authority.

In terms of Section 4(1) of the Act, no person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this said Act.

In terms of Section 4(4) of the Act, any person erecting any building in contravention of the provisions of Section 4(1) shall be guilty of an offence.

Acting under delegated powers, I hereby order you in terms of Regulation A25 (10) of the National Building Regulations promulgated under Section 17(1) of the said Act, to obtain written approval for the said unauthorised building work, **by submitting and having building plans approved within 60 days** from the date the recipient signed for this notice (see below).

FAILURE TO COMPLY WITH THIS NOTICE CONSTITUTES A CRIMINAL OFFENCE IN TERMS OF REGULATION A25(11) OF THE NATIONAL BUILDING REGULATIONS. Overstrand Municipality may, without further notice, institute legal proceedings against you.

The submission of building plans in compliance with this notice does not place any obligation on the Overstrand Municipality to approve such building plans for the building work set out above. Should written approval not be granted, you will be required to either **rectify** or **demolish** the abovementioned unauthorised building work.

SIGNED: (Delegated Official)				ADDRESS (Where served)	Per Email.
SERVED:	DATE:	7.10.25		TIME:	
SERVER:	NAME:	Sherwin Rossouw		SIGN:	
RECIPIENT:	NAME:	R.S. Sutton		SIGN:	

ANNEXURE G



NATANYA LUXURY SELF CATERING HOLIDAY RETREAT

4.6 ★★★★★ 9 Google reviews

Guest house in Betty's Bay

[Website](#) [Directions](#) [Save](#) [Share](#)

[Call](#)

Address: 5561 Kopje Road, Betty's Bay, 7141

Phone: 063 382 7969



NATANYA Self-Catering Accommodation in Betty's Bay

[homepage](#) [see & go](#) [rates](#) [gallery](#) [map & directions](#)



Natanya Holiday Accommodation
 private villa with swimming pool, views and access to water, open, sunny, sunlit, smaller bedrooms upstairs, each with two 3/4 bath beds, complete the sleeping quarters. A guest ice downstairs serves these two rooms.

Additional information

- Natanya is serviced by a cleaner twice a week
- Towels and 100% cotton bed linen, pillow and duvets (with extra blankets in case needed) are all provided
- The house is protected by a security alarm system with linked armed response
- There is ample parking on the premises
- Cell phone reception enables you to stay in touch.

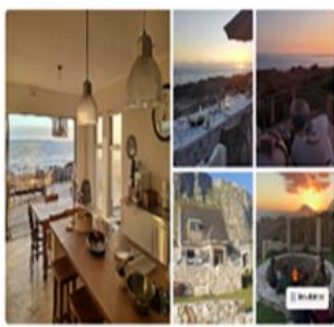
Facilities

- Range of 10 with 1 double ensuite bedrooms
- Sea and mountain living decks
- Modern fully equipped kitchen
- Washing machine with iron and iron
- TV room with DVD/VCR/CD player

Make a booking enquiry
 Contact Herbie on 063 382 7969 or 063 382 7969



Natanya barefoot luxury at ocean's edge



Exclusively in Betty's Bay, South Africa
 Tropical Island - Beach House

Add dates for prices

Room	Start	End	Total
4/5	10/10	10/10	
4/5	10/10	10/10	

[Book now](#)

Wanderlog
<https://wanderlog.com/place/details/natanya-luxury-...>

natanya luxury self catering holiday retreat

Nestled in the charming coastal village of Betty's Bay, Natanya Luxury Self Catering Holiday Retreat offers a delightful escape surrounded by stunning natural ... [Read more](#)

Travelstart **South African**
<https://www.travelstart.co.za/destinations/english/>

Bettys Bay English Accommodation

Natanya Luxury Self-catering Holiday Retreat | Bettys Bay Accommodation ... With 31 listings in Bettys Bay, our handy Bettys Bay map search and great low ... [Read more](#)

Getaway Magazine
<https://www.getaway.co.za/destinations/guide-bettys-...>

A guide to Betty's Bay

29 Sept 2014 — Accommodation in Betty's Bay: 1. Natanya. Not just any self-catering house left behind by the owners, it's beautifully decorated and a touch ... [Read more](#)

sayd.ca
<https://beachandcity.sayd.ca/Bettys-Bay/>

Bettys Bay Accommodation - Beach and City

Browse accommodation in Bettys Bay. Compare properties, read reviews, and book your stay ... Natanya Luxury Self-catering Holiday Retreat2 0: Bettys Bay, Western ... [Read more](#)



Vanessa October

Subject: FW: OBJECTION - Encroachments on a portion of Erf 5117 Bettysbaai adjacent to Erf 5561 Bettysbaai - RS Sutton
Attachments: SKM_C450i25121116210.pdf

From: Coenraad Werner Calitz <cwcalitz@hotmail.com>
Sent: Thursday, 08 January 2026 12:37
To: Vanessa October <voctober@overstrand.gov.za>
Cc: Anja le Roux <anjaleroux@overstrand.gov.za>; Riaan Kuchar <rkuchar@overstrand.gov.za>; Mayor <mayor@overstrand.gov.za>; Steyn Calitz <steyncalitz@gmail.com>; nicalitz@hotmail.com; Madelein Erasmus <merasmus@overstrand.gov.za>
Subject: OBJECTION - Encroachments on a portion of Erf 5117 Bettysbaai adjacent to Erf 5561 Bettysbaai - RS Sutton
 Good day Ms October

I refer the attached advertisement dated 12 December 2025.

We do not accept and object strongly to the approval of this application. Approval of this will place the local authorities at risk by setting a precedent for similar illegal actions, situations and constructions in the future

1. The "enclosure for gardening purposes" ['omheining' or fencing off]

It is understood that the seafront boundary "wall" somehow "slipped through" on an earlier building plan. THIS IS A TERRACE/RETAINING WALL - not an enclosure or boundary wall! This terrace encroaches 60sqm onto public property. The "wall" is nothing other than a cover for a filled-in garden terrace. The "garden enclosure" is also being developed as a swimming pool and elevated deck. This terrace should have triggered an environmental impact assessment [e.g. NEMA - earthworks and infill of 5+ cubic metres or increasing footprint by 50+sqm]. Mr Sutton has been developing within the predetermined setback line, 100m from the highwater mark, with apparent impunity. Work has remained an unfinished eyesore of uncladded concrete bricks over the past 15 years. What stops Mr Sutton from enclosing the pool next?



2. The "wooden walkway for disabled-friendly access"-

This was developed before approval was obtained, and without due consideration or consultation with surrounding neighbours [stakeholders] impacted by it. The quality of the work and safety measures do not

ANNEXURE H2/2

meet the relevant SANS standards in terms of design and safety, and in particular SANS requirements for persons with Disabilities. Walkways of this nature should be designed taking in account slope requirements and edge protection, and the necessity must be based on impact studies, risk assessment and local authority policy. We place on record that we see this as an illegally constructed and unsafe construction. It should be removed, including the shoddy concrete cast directly onto the scenic natural rock formation.



Surrounding owners have refrained from such construction up to now in order to maintain the unspoilt nature of the sensitive coastal zone. This "donated public facility" provides no benefit to the broader public, but only serves the applicant, and approval also places the authorities at risk.



It is doubtful whether this development would have progressed this far had due process been followed. How much of the development within predetermined setback is in accordance with preapproved building plans? The apparent soft touch approach is incomprehensible. What has Overstrand proactively done timeously to prevent further development until approvals are in place? This now places undue pressure and expectation on neighbours and officials to accept improvements as is.

Approval of the application will pave the way for neighbours to develop to the same degree within this coastal zone, and set a precedent to only seek development approval afterwards, as built. We do not want that! The same set of restrictions on development has to apply to all! We object to the application being approved, as well as the apparent unrestricted development on the property of the applicant [Erf 5561], being located within the predetermined development setback line.

Kind regards

Coenraad Werner Calitz

Trustees on behalf of Calitz Betty's Bay Trust - owners of Erf 5138, Youldon Road, Betties Bay
Tel 072 202 4575 / 26 Ascot Rd MILNERTON

To: Senior Administrative Officer: Property Management, Planning and Development Directorate/
 Administratiewe Beampte: Eiendoms Bestuur, Direktooraat van Beplanning en Ontwikkeling/
 Overstrand Municipality / Munisipaliteit Corner of / Hoek van Molteno & Viljoen Street/Straat, Onrustrivier
 E: voctoer@overstrand.gov.za

EXECUTIVE SUMMARY

Five neighbours in close or immediate vicinity of the walkway support the application for its approval. A single complaint was lodged against the walkway by a neighbour, who is not located adjacent to the walkway, and who raised no cogent grounds of objection. The same complainant is the sole objector to a standard construction wall, which has been in place for approximately 15 years. The wall, essentially a retaining and boundary wall, was erected in good faith relying on a professional land survey, and is built on an insignificant and completely unused sliver of land *totalling* an area equivalent to approximately 4 standard parking bays. The walkway will primarily enable a wheelchair dependant person access to the sea and is freely available and accessible by the general public who may choose to use it. Without the walkway she will not be able to access the sea.

APPLICANT'S REPLY TO THE SOLE OBJECTION LODGED IN RESPONSE TO THE ADVERTISEMENT PLACED IN THE VILLAGE NEWS DATED 12 DECEMBER 2025.

This response is limited to addressing and replying to the objection/comments received from The Calitz Betty's Bay Trust against the proposed encroachment on a portion of Erf 5117 Bettysbaai and the walkway built for the purpose of facilitating access to a rock pool, specifically by way of a wheelchair, by a permanently physically disabled person suffering from Crouzonodermoskeletal Syndrome and Chiari malformation with myelopathy

2

(spinal cord damage) causing diplegia (paralyzed or severely weak legs).

INTRODUCTORY OBSERVATIONS/COMMENT

It is noteworthy that the single complainant did not pertinently raise or address any of the usual or common grounds that are taken into consideration in applications of this type.

The objection does not specify any adverse or significant impact on public space and has not raised any objection that the granting of the application will result in any obstruction of pedestrian movement, views¹, or access to public areas.

This is unsurprising as there manifestly is no significant impact and far from obstructing pedestrians or limiting access, the opposite holds true: pedestrian movement and access is facilitated, rendered easier and safer.

There are no issues arising from height restrictions, building line requirements, and architectural continuity is apparent when regard is had to adjoining/nearby structures and

¹ Other than a subjective comment of being 'unsightly' which is easily rectified to the extent the wall or walkway is indeed "unsightly".

3

local "style".

As regards municipal services, no issues were raised as there are none as there are no underground cables, pipes, or other services that are affected.

Neighbouring properties are not impacted as there is no obstruction of sunlight, views, or any detraction or diminution of the property rights of adjacent owners.

As regards the encroachment itself, the encroachment is, to an extent, permanent, but as a matter of fact is of a temporary nature as the land will be leased from the municipality and the lease may be revoked at any time. The encroachment serves both a public and a private interest as the retaining wall provides a degree of privacy and safety for all the adjacent properties, provides lateral support and will mitigate or avoid totally any subsidence.

The application is in keeping with Land Use Zoning and appears to be aligned with the Overstrand Land Use Scheme and is in keeping with the surrounding residential character of the area, which can be regarded as a remote area with no thoroughfares, pathways, roads etc, and has limited public use/access due to its remoteness and the fact that it is relatively inaccessible.

4

The extent of encroachment is minor and does not involve a substantial area.

The cost and feasibility of the removal, involving as it would demolition, is entirely disproportionate given the low impact on the environment, the negligible impact (if any) on other property owners and any removal of the retaining wall is almost certain to leave the area in a more unsightly state than it currently arguably is.²

While the complainant (somewhat sarcastically, it must be said) implies that the encroachment was deliberate, the objective facts and evidence indisputably show that the encroachment was unintentional, innocent and was done in good faith relying, as we did, on markings determined by a local professional land surveyor who pegged out the boundary lines. We only became aware of the *bone fide* error on 23 January 2025.

The complainant was aware of the building of both the wall and walkway and did not offer any protest or objection until our application was lodged. We emphasise that the complainant is a town planner and accordingly was well-versed, and knowledgeable of,

² While the complainant regards the wall as unsightly this is not the case. The front is of natural stone, it is a standard wall construction of an uncontentious size, proportion and design and conforms to walls commonly found in residential areas throughout the country.

5

his right to object. His failure to do so and his permitting the building of both the wall and the walkway accordingly can be construed as tacit consent.

The question of loss or a diminution in property value does not arise in this case and the question of compensation is irrelevant and does not arise. There is no impact at all on the use of any other property owner of their own land.

The belated objection, therefore, appears to be premised more on the objector's disgruntlement and opportunism rather than any genuine injury, harm or adverse impact.

We also point out that there appears to be no resolution by the Trust authorising Mr Calitz to submit an objection on behalf of the Trust. If there is, in fact, no resolution or authorisation then it follows that there is, in fact and in law, no objection to the application.

We would also add that we attempted to discuss the issues with Mr Calitz in the spirit of good neighbourliness, and in the hope that we could allay his concerns, correct some of his incorrect assumptions and incorrect "facts", reach an accord and resolve the matter amicably. Unfortunately, this quite reasonable approach on our part bore no fruit and Mr Calitz rejected all our overtures and was not open to any discussion or

6

resolution/accommodation.

SERIATIM RESPONSE TO THE GROUNDS RAISED IN THE SOLE OBJECTION

COMPLAINT

Approval of this will place the local authorities at risk by setting a precedent for similar illegal actions, situations and constructions in the future.

1. Precedent is a legal concept that defines the limits of municipal legislative and executive competencies. The legislature saw fit to pass legislation and subordinate legislation which permit the granting of applications of this nature. The "precedent" argument is, therefore, with respect, a straw man argument.
2. The application is solidly grounded and based on extant legal principles and the grant or refusal of the application cannot - and will not - constitute a precedent as it is grounded in established black-letter law. It is simply a process of applying the extant law to the specific facts and applying well-known and established legal principles to determine the outcome of the application. The legal principles and reasoning behind the decision-maker's decision are all that will be binding.

7

3. It is almost certain that thousands of applications of this nature have been granted over decades and - to this extent in a general sense - the "precedent" is long and well-established and uncontentious. Moreover, to the extent that a specific and single approval can constitute a "precedent" in the loose and general sense of the word, it is a well-established that a "precedent" will not necessarily be "followed" where the facts are different i.e. "distinguishable". It is extremely unlikely that the facts specific to the present application will not be distinguishable in respect of any other future applications of this nature.
4. There is, therefore, no "risk" of the Overstrand Municipality setting a binding precedent if the application is approved. The decision-maker is not bound by any prior decisions and is only required to apply his or her mind to the law and the facts.
5. In the strictest sense "precedent" is a doctrine that finds a very limited application of deference to judicial decisions according to a strict court hierarchy and is an entirely irrelevant consideration, save in that precedent (case law) has established and determined the scope of the Overstrand Municipality's authority and its administrative duties and powers. The granting of the application is manifestly permissible and is established law (precedent).

COMPLAINT

"The "enclosure for gardening purposes" ['omheining' or fencing off]:

It is understood that the seafront boundary "wall" somehow "slipped through" on an earlier building plan. THIS IS A TERRACE/RETAINING WALL - not an enclosure or boundary wall! This terrace encroaches 60sqm onto public property. The "wall" is nothing other than a cover for a filled-in garden terrace. The "garden enclosure" is also being developed as a swimming pool and elevated deck. This terrace should have triggered an environmental impact assessment [e.g. NEMA - earthworks and infill of 5+ cubic metres or increasing footprint by 50+sqm]. Mr Sutton has been developing within the predetermined setback line, 100m from the highwater mark, with apparent impunity. Work has remained an unfinished eyesore of uncladded concrete bricks over the past 15 years. What stops Mr Sutton from enclosing the pool next?"

6. By the Trust's own admission it - at the very least - tacitly accepted the existence of the wall for 15 years and did not object to it until our application was advertised.
7. The "objection" thus rings somewhat hollow given the acquiescence by the Trust for a decade and a half as regards the wall. The motive behind the objection so late in the day must, in the circumstances, be regarded with some scepticism.
8. The error in encroaching on a sliver of municipal land was made in good faith

9

and this appears to be accepted by all parties, including every other neighbour, except Mr Calitz. He adduced no facts to support his apparent insinuation and suggestion that there was any ulterior motive or deliberate plan to build the wall with the ulterior purposes of establishing a "filled-in garden terrace...elevated deck...or swimming pool".

9. The irrefutable facts are irreconcilable with Mr Calitz's comments/objection. Firstly, the wall was built more than 15 years ago. There was - and is - no "filled-in garden terrace".
10. There is a natural stone front retaining wall in place which is at the existing grass level - the same level as all the neighbouring properties other than to the extent of natural geographical differences in land height.
11. The attached Topographical Survey attached hereto marked "A" is proof that the contours and actual ground levels are consistent, apart from minor and insignificant variations that are minor and arise naturally in such circumstances.
12. As to the objection that the retaining wall is, according to Mr Calitz, an *"unfinished eyesore of un-cladded concrete bricks"*, we are awaiting approval

10

of the application before we can clad the remainder of the wall. The decision-maker is entitled to impose this as a condition, and we are happy for such a condition to be imposed. Once the wall is clad it will no longer be open for Mr Calitz to complain that it is an "eye-sore" as he puts it - an "eye-sore" in respect of which he made no complaint to us or anyone else for a period of 15 years.

13. The rhetorical reference by Mr Calitz to the swimming pool is irrelevant, and has nothing to do with the pending application.
14. There was - and is - no "elevated deck". The swimming pool which was only very recently built is not located in the area of encroachment.
15. Mr Calitz incorrectly states that there is a "terrace" on the encroached area.
16. The wall was built as a necessity for privacy, security and to prevent subsidence. It is well-established that an owner may build a wall around property and that there is a strict legal duty, dating as far back as Roman Law, imposed on a property owner to the effect that the owner owes their neighbours a reciprocal duty to provide lateral support of land. As Mr Calitz himself accepts, the wall serves a partial purpose of effectively being a retaining wall and it thus

11

prevents subsidence from taking place. By definition a retaining wall is nothing but a rigid, vertical, or near-vertical wall that holds back soil, rocks, or water on one side, preventing erosion and landslides and which stabilizes slopes, a particular necessity close to the sea.

COMPLAINT

The "wooden walkway for disabled-friendly access"-

This was developed before approval was obtained, and without due consideration or consultation with surrounding neighbours [stakeholders] impacted by it.

17. The walkway was built to enable our now adult disabled daughter to have access to the sea. It is unfortunate that Mr Calitz, who is not disabled, is unmoved by this consideration and wishes to deny her access to something which he is physically able to enjoy. The application was submitted for the purpose of regularising the construction. None of the neighbours save for Mr Calitz have objected to the walkway.
18. The walkway is safe, intended for a very limited purpose, and the Overstrand Municipality is welcome to inspect the walkway. It makes almost no visual

12

impact, is largely obscured from view by vegetation, will naturally blend in as the natural material discolours and by its very nature is impermanent as it is made of wood.

19. I am unable to respond to the allegations that the walkway does not comply with SANS regulations as Mr Calitz, a town planner by profession, has not identified a single non-compliance with any regulation. The walkway reduces the risk of harm coming to our disabled daughter or anyone else who may use it to access the rock pool.

COMPLAINT

"The quality of the work and safety measures do not meet the relevant SANS standards in terms of design and safety, and in particular SANS requirements for persons with Disabilities. Walkways of this nature should be designed taking in account slope requirements and edge protection, and the necessity must be based on impact studies, risk assessment and local authority policy. We place on record that we see this as an illegally constructed and unsafe construction. It should be removed, including the shoddy concrete cast directly onto the scenic natural rock formation.

Surrounding owners have refrained from such construction up to now in order to maintain the unspoilt nature of the sensitive coastal zone. This "donated public facility" provides no benefit to the broader public, but only serves the applicant, and approval also places the authorities at risk."

20. I re-iterate that Mr Calitz is a lone voice as he is the sole objector. The walkway

13

not only serves to enable a disabled person access to the sea (access to which she grew accustomed as we could carry her until she became too heavy), but other disabled persons and any other person - unlikely as it is - are at liberty to use the walkway. There is no access to the sea nearby for the disabled, elderly or infirm. There is, thus, manifestly a benefit not only to the public at large, but in particular to those disadvantaged and marginalised members of our society for which Mr Calitz appears to be indifferent to as an able-bodied person.

21. The walkway is not unsafe and an inspection will readily confirm this to be the case. There is no risk to speak of to the local authority as the area is almost never used by the general public and is not easily or obviously accessible.
22. The United Nations principles for older persons specifically encourage steps that facilitate the independence, participation, self-fulfilment and dignity of older persons, as does local legislation including the Older Persons Act and South African policy as set out by the Department of Social Development is also directed at ensuring quality services to older persons which are accessible, affordable, comprehensive and equitable, and seeks to create an enabling environment to older persons in the community. Older persons, to the extent that any older person may find themselves in that specific area, undoubtedly can

14

benefit from a walkway as it grants them easy and safe access to the sea. This would include visitors etc.

23. The same considerations apply, *mutatis mutandis*, when regard is had to disabled persons and children and regard is had to the Children's Act and the South African White Paper on the Rights of Persons with Disabilities (WPRPD) (2015) which is a policy framework designed to accelerate transformation towards full inclusion, equality, and rights for persons with disabilities living in the community.
24. It is unarguably so that disabled persons in particular are not well-catered for when it comes to making places of natural beauty readily accessible to them. There are no walkways nearby that facilitate the use of prams, wheelchairs and other assistive devices used by the disabled or partially disabled for mobility.

COMPLAINT

It is doubtful whether this development would have progressed this far had due process been followed. How much of the development within predetermined setback is in accordance with preapproved building plans? The apparent soft touch approach is incomprehensible. What has Overstrand proactively done timeously to prevent further development until approvals are in place? This now places undue pressure and expectation on neighbours and officials to accept improvements as is.

Approval of the application will pave the way for neighbours to develop to the same degree within this coastal zone, and set a precedent to only seek development approval

15

afterwards, as built. We do not want that! The same set of restrictions on development has to apply to all! We object to the application being approved, as well as the apparent unrestricted development on the property of the applicant [Erf 5561], being located within the predetermined development setback line.

25. We are unable to meaningfully respond to, or address the above as it is an emotive "argument", is largely rhetorical comment, irrelevant conjecture and - to an extent - both borders on the hysterical and constitutes hyperbole. These comments do not constitute valid or reasonable grounds to object to the application. We have already pointed out that the reliance on the granting of the application constituting a "precedent" is misguided and is premised on a complete misunderstanding of "precedent".
26. It is inconceivable that every application that serves before a local authority would create "undue pressure" or create "expectations". There is simply no basis for such conjecture. There is no evidence that the lodgement of our application has somehow opened the "floodgates" on wanton development in the area.
27. Shorn of its verbiage, irrelevancies and hysteria, the sole objection lodged - in its essence - comes down to an aggrieved neighbour being upset because the application is made after the fact and the approval of the application would

16

somehow (it is not explained why or how) constitute a binding precedent that would result in unwanted development of a similar kind. Not a single example is cited of anyone in the entire municipal area suddenly resorting to what Mr Calitz describes as 'unrestricted development'. It can thus be dismissed as irrelevant hyperbole.

CONCLUSION

28. I undertake to comply with all restrictions or conditions which the Mayor may see fit to impose should he or any delegated authority grant the application.
29. The wall has been *in situ* for more than 15 years without complaint or objection and this part of the application will simply regularise what has been an unobjectionable situation until Mr Calitz lodged the only objection in response to the advertisement.
30. The walkway is situated in an area that is not well frequented and it accordingly is uncontentious - as is evidenced by its acceptance by everyone in the surrounding area except for Mr Calitz. We also refer to the attached report marked "B" compiled by a registered social worker, the content of which is self-

explanatory and provides the compelling reasons why the walkway is necessary.

31. It is noteworthy that the sole objector does not address the important consideration of accessibility by a disabled person to a rock pool in his objection and he confines his grounds of objection to his perceived "inconvenience" and outrage at what he perceives to be a 'soft touch' by the Overstrand Municipality and improper and 'illegal development'.
32. As there is a single objector, we respectfully submit that not much weight should be attached to the objection, particularly as the grounds of objection raised a) are of a generalised nature b) do not constitute significant grounds of objection and c) are not shared by other residents and neighbours. In the absence of any other objections, it can be accepted that all the other residents and neighbours either implicitly support the application or, at the very least, see no reason why the local authority should not grant the application.
33. A final observation is that the entirely innocent encroachment is of an insignificant and totally unused land area of approximately 60 square metres. To put this in perspective, this is an area that approximates the area of 4 parking bays. When regard is had to the area and the context, this is an insignificant

18

encroachment on an unused and isolated piece of land.

34. We attach hereto marked "C" five "letters" in support of the walkway signed by the neighbours and marked "D" an aerial view which indicates the low impact and visibility of both the wall and walkway.
35. In conclusion, we request that the sole objection be dismissed or be outweighed by the other considerations raised by us in this response read with the motivation set out in the application, and that the application be approved.

28 February 2026

Neighbour Support: Walkway to the Gully (Erf 5561, Betty's Bay)

Please read both options below and indicate your choice in the table (A or B).

Option A – Safety & Universal Access

Supports retention as a reasonable and practical intervention that improves public safety and promotes universal access, particularly for elderly persons and persons with disabilities.

Option B – Safety, Universal Access & Environmental Sensitivity

Supports retention as improving public safety and universal access while providing a defined access route that helps manage foot traffic and limit impact on the environmentally sensitive coastal area.

Name & Surname	Address / Erf	Option (A/B)	Signature	Date
Lorna van Besouw	2888	B		24.02.2026

Neighbour Support: Walkway to the Gully (Erf 5561, Betty's Bay)

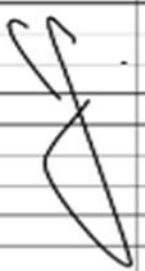
Please read both options below and indicate your choice in the table (A or B).

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Name & Surname	Address / Erf	Option (A/B)	Signature	Date
Ella Cronje	5561 Kopje Rd	A		23/02/26

Neighbour Support: Walkway to the Gully (Erf 5561, Betty's Bay)

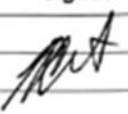
Please read both options below and indicate your choice in the table (A or B).

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Supports retention as improving public safety and universal access while providing a defined access route that helps manage foot traffic and limit impact on the environmentally sensitive coastal area.

Name & Surname	Address / Erf	Option (A/B)	Signature	Date
H. DE WET	2880	NO OBJECTION TO WALKWAY		23/2/26

Neighbour Support: Walkway to the Gully (Erf 5561, Betty's Bay)

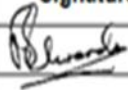
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Name & Surname	Address / Erf	Option (A/B)	Signature	Date
Brian Edwards	Erf 2888 Bettys Bay	Option A		23 Feb 2026

Neighbour Support: Walkway to the Gully (Erf 5561, Betty's Bay)

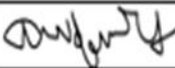
Please read both options below and indicate your choice in the table (A or B).

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Supports retention as improving public safety and universal access while providing a defined access route that helps manage foot traffic and limit impact on the environmentally sensitive coastal area.

Name & Surname	Address / Erf	Option (A/B)	Signature	Date
AW de Wet	2890	A		23/1/2026

Social Work Report Re: Accessibility Support Recommendation – Wooden Walkway

Clients Name: Roxanne Sutton

Date of Birth: 31 January 2001

Report Date: 18 February 2026

Social Worker: Rosemarie Wichmann

Organization/Agency: Private Practice, Practice number : 089 000 007 0661

1. Reason for Report

This report has been prepared to document the functional needs of the client, who presents with a physical disability that significantly limits mobility, and to support the family's request to allow the wooden accessibility walkway to remain in place to enable safe wheelchair access across the extremely rocky terrain to the rockpool ("Gully") near the client's holiday home.

Client Background

Roxanne Sutton is an adult living with a diagnosed physical disability called Crouzonodermoskeletal Syndrome and Chiari malformation with myelopathy causing diplegia that results in substantially reduced independent mobility. The client is wheelchair-dependent for community access and requires adapted pathways and surfaces to safely navigate outdoor terrain.

The client resides with her family who are actively involved in daily care and mobility assistance. The family has demonstrated ongoing commitment to improving the client's quality of life, social participation, and environmental access.

3. Functional Assessment Summary

Based on observation, collateral information from caregivers, and prior records:

- The client is **wheelchair-dependent** for mobility.
- The client is **unable to traverse uneven, soft, or unstable surfaces** such as sand or rocks.
- Transfers and propulsion are significantly hindered in non-firm and/or uneven terrain.
- Without structural support (firm pathway), sandy or rocky terrain access is not possible in a safe or dignified manner.
- Attempted access over rocks presents **high risk of tipping, injury, and physical strain** to both client and caregivers.

The current environmental barrier (rocky terrain) effectively excludes the client from accessing the sea front rockpool area.

4. Psychosocial Considerations

Access to the rockpool holds meaningful psychosocial value for the client and family. Reported benefits include:

- Emotional wellbeing and stress reduction
- Increased family participation and inclusion
- Sensory and recreational engagement
- Improved quality of life through outdoor exposure
- Enhanced social participation

Environmental exclusion has contributed to reduced participation in family outings and community recreation.

5. Proposed Accessibility Intervention

The family has constructed a **stable wooden walkway** extending from the accessible entry point (holiday home) to a firm area near the sea front rockpool. The intended purpose is to:

- Provide a **firm, continuous, and level surface** for wheelchair use
- Reduce caregiver lifting and pushing strain
- Improve safety and reduce fall risk
- Enable consistent and dignified access to the rockpool area

Recommended general specifications (subject to local building and accessibility guidelines):

- Slip-resistant surface
- Adequate width for wheelchair passage and turning where feasible
- Structurally secured and weather-resistant materials
- Where reasonably possible, gradient compliant with accessibility standards where slope is present

6. Risk and Safety Impact

Without the walkway:

- Access is effectively prevented
- High injury risk exists
- Increased caregiver physical strain is present

With the walkway:

- Risk is significantly reduced
- Access becomes predictable and controlled
- Client safety and caregiver ergonomics are improved

7. Professional Recommendation

Based on the functional limitations identified and the environmental barriers observed, the construction of a wooden accessibility walkway is **reasonable, necessary, and directly related to the client's mobility needs**. This modification would materially improve access, safety, and psychosocial wellbeing.

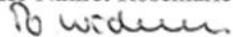
The intervention aligns with principles of accessibility, inclusion, and least-restrictive environmental adaptation.

8. Conclusion

This report supports the family's formal service request regarding safety and accessibility of an accessible wooden walkway to facilitate wheelchair access for their daughter to the rockpool. The proposed modification represents an appropriate and proportionate response to the client's disability-related mobility barriers and is expected to produce meaningful quality-of-life benefits and a reduction in isolation.

The White Paper on the Rights of Persons with Disabilities in SA is important to mention in this regard as it reaffirms the human rights of persons with disabilities, moving SA closer to a fully inclusive society where the persons with disabilities enjoy the same rights as their fellow citizens, and where all citizens and institutions share equal responsibility for building such a society.

Social Worker Name: Rosemarie Wichmann

Signature: 

Qualifications: Social Worker

Date: 18 February 2026