

**AGENDA of the  
Portfolio Committee : Development and Planning  
1 October 2024  
(Also the agenda for the Mayoral Committee Meeting : 16 October 2024)**

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**5.  
PARTIAL ADMENDMENT OF RESOLUTION DATED 28 OCTOBER 2021 FOR THE  
TRANSFER OF A PORTION OF ERF 2423 BETTY'S BAY ADJACENT TO ERF  
2674 BETTY'S BAY SITUATED AT 199 PORTER DRIVE, BETTY'S BAY**

**A Le Roux  
2 September 2024**

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

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**1. Executive Summary**

To obtain approval for the partial amendment of Council Resolution dated 28 October 2021 for the transfer of a portion of Erf 2423 Betty's Bay (municipal owned) adjacent to Erf 2674 Betty's Bay (previously owned by African Pro Cure CC). The amendment will entail the substitution of the name of the previous owner, Africa Pro Cure CC, of Erf 2674 Betty's Bay with the new owner of the said erf, MD Joao. See the locality plan attached hereto marked as "Annexure A".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Planning and Development  
Property Management

**3. Compliance with Strategic Priority/ies**

Provision of democratic, accountable and ethical governance  
The encouragement of structured community participation in the matters of the municipality  
Promotion of tourism, economic and social development

**4. Delegated Authority**

None

**5. Legal Requirements**

- Local Government: Municipal Financial Management Act (Act 56 of 2003) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

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**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

Council at a Council Meeting held on 28 October 2021 resolved as follows:

- “1. *that the transfer of a portion of Erf 2423 Betty’s Bay (adjacent to Erf 2674 Betty’s Bay) situated at 199 Porter Drive, Betty’s Bay, ±60m<sup>2</sup> in extent, to the owner of the adjoining Erf 2674 Betty’s Bay, Africa Pro Cure CC, at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) for parking purposes **be approved**;*
2. *that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as the subject portion of Erf 2423 Betty’s Bay is classified as a non-viable property;*
3. *that it be noted that a condition for the transfer will be that the said portion of Erf 2423 Betty’s Bay must be consolidated with the adjoining property of Africa Pro Cure CC, being Erf 2674 Betty’s Bay;*
4. *that a condition be registered against the title deed of the to be consolidated property that no structures, excluding a boundary fence or wall, may be erected thereon;*
5. *that the transfer of a portion of Erf 2423 Betty’s Bay be subject to a suspensive condition that the applicant/purchaser obtains approval for the closure of the portion of public road, subdivision, consolidation and rezoning and all related town planning approvals applicable;*
6. *that all the costs pertaining to the transaction, e.g. application cost, valuation cost, closure of portion of public road, subdivision, consolidation, rezoning, transfer and related costs, advertisements, etc. be paid by the applicant/purchaser, Africa Pro Cure CC; and*
7. *that it be noted that the municipal property envisaged to be transferred is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council’s Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).”*

The above-mentioned approval for the transfer of a portion of Erf 2423 Betty’s Bay (hereinafter referred to as “the Property”) was given after the Section 14 Advertisement and conclusion of a Deed of Sale which was subject to a suspensive condition that the Applicant/Purchaser obtains approval for all related town planning approvals applicable.

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The relevant suspensive conditions were met, and the town planning approvals were obtained.

Africa Pro Cure CC, however sold Erf 2674 Betty's Bay, without informing the Property Management Division, before the transfer of the Property could be finalised in the Deeds Office. This means that the Municipality cannot proceed with the transfer of the Property to Africa Pro Cure CC but will have to enter into an agreement with the new owner of Erf 2674 Betty's Bay, being, MD Joao. It is therefore requested that Condition 1 of Council's Resolution dated 28 October 2021 be amended to reflect the purchaser's name as Michael Derek Joao.

### **Evaluation**

Save for the approval by Council of the transaction, all other conditions of the Administration of Immovable Property Policy (2025) were met.

### **Conclusion**

It is recommended that:

Condition 1 of Council Resolution dated 28 October 2021 be amended to stipulate as follows:

1. that the transfer of a portion of Erf 2423 Betty's Bay (adjacent to Erf 2674 Betty's Bay) situated at 199 Porter Drive, Betty's Bay,  $\pm 60\text{m}^2$  in extent, to the owner of the adjoining Erf 2674 Betty's Bay, Michael Derek Joao, at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) for parking purposes **be approved**.

Should Council provide approval for the partial amendment to Condition 1 of the Council Resolution dated 28 October 2021 the current Deed of Sale entered into between the Municipality and Africa Pro Cure CC be cancelled, and an agreement (on the same terms and conditions) be entered into with the new owner of Erf 2674 Betty's Bay, Michael Derek Joao.

## **7. Financial Implications**

The Municipality stands to gain an income of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) for the sale of the Property.

## **8. Staff Implications**

None

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**9. Comments from other Departments, Divisions and Administrations**

The comments from other Departments were obtained when the initial in principle and transfer approval for the transaction was obtained on 27 May 2020 and 28 October 2021 respectively.

**10. Annexures**

Annexure A: Locality map

**RECOMMENDATION TO THE COUNCIL:**

1. that Condition 1 as contained in Council Resolution dated 28 October 2021 be amended to read as follows:  
  
that the transfer of a portion of Erf 2423 Betty's Bay (adjacent to Erf 2674 Betty's Bay) situated at 199 Porter Drive, Betty's Bay,  $\pm 60\text{m}^2$  in extent, to the owner of the adjoining Erf 2674 Betty's Bay, Michael Derek Joao, at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) for parking purposes **be approved**;
2. that the current Deed of Sale Agreement between the Municipality and Africa Pro Cure CC be cancelled, and an agreement (on the same terms and conditions) be entered into with the new owner of Erf 2674 Betty's Bay, MD Joao, **be approved**; and
3. that save for the amendment in 1 above, the remainder of the conditions imposed in the Council Resolution dated 28 October 2021 remain.

<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>29 NOVEMBER 2024</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>7 NOVEMBER 2024</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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BETTY'S BAY SITUATED AT 199 PORTER DRIVE, BETTY'S BAY**

**A Le Roux  
2 September 2024**

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

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**THIS MATTER SERVED BEFORE THE PLANNING & DEVELOPMENT PORTFOLIO  
COMMITTEE ON 1 OCTOBER 2024, WHICH COMMITTEE RECOMMENDED AS  
FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that Condition 1 as contained in Council Resolution dated 28 October 2021 be amended to read as follows:  
  
that the transfer of a portion of Erf 2423 Betty's Bay (adjacent to Erf 2674 Betty's Bay) situated at 199 Porter Drive, Betty's Bay,  $\pm 60\text{m}^2$  in extent, to the owner of the adjoining Erf 2674 Betty's Bay, Michael Derek Joao, at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded) for parking purposes **be approved**;
2. that the current Deed of Sale Agreement between the Municipality and Africa Pro Cure CC be cancelled, and an agreement (on the same terms and conditions) be entered into with the new owner of Erf 2674 Betty's Bay, MD Joao, **be approved**; and
3. that save for the amendment in 1 above, the remainder of the conditions imposed in the Council Resolution dated 28 October 2021 remain.

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**6.**

**A PORTION OF ERF 1969 PEARLY BEACH (SITUATED ON THE CORNER OF DASI AND CHURCH STREET, ELUXOLWENI, PEARLY BEACH: PEARLY BEACH HEALTH & WELFARE ORGANISATION (FOR DOLFYNTJIES ECD)**

This item is distributed under separate cover.

In terms of Section 20(1) of the Local Government: Municipal Systems Act, No 32 of 2000, read with Rule 17 of the Overstrand Municipality's By-law on Rules of Order for Internal Arrangements, this item must be considered "in committee".