



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

A G E N D A

**DATE:
VENUE:
TIME:**

**29 AUGUST 2024
VIRTUAL
10:00**

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

22 August 2024

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session **virtually** on **Thursday, 29 August 2024 at 10:00** to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr H Blignaut (Member)
4. Ms R Louw (Member)
5. Mr R Kuchar (Authorised Official)
6. Mr S van der Merwe (Senior Town Planner)
7. Ms H van der Stoep (Senior Town Planner)
8. Mr P Roux (Town Planner)
9. Secretariat

MUNICIPAL PLANNING TRIBUNAL (MPT)

29 August 2024

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- 1. OPENING**

- 2. APPLICATIONS FOR LEAVE OF ABSENCE**

- 3. CONFIRMATION OF MINUTES**
 - 3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 August 2024**

- 4. ITEM FOR CONSIDERATION**
 - 4.1 ERF 6119, MARINE DRIVE, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: N LLOYD ON BEHALF OF THE TRUSTEES OF THE OLD HARBOUR MUSEUM**

 - 4.2 ERF 5851, 18 RAED-NA-GAEL, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE & DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS SMART SOLUTION ARCHITECTURE ON BEHALF OF GP LOUW**

Report attached

Report attached

4.1

ERF 6119, MARINE DRIVE, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: N LLOYD ON BEHALF OF THE TRUSTEES OF THE OLD HARBOUR MUSEUM

6119 HNC (4517/2023)

H van der Stoep
18 June 2024

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application was received on 7 November 2023 from Nicolette Lloyd on behalf of The Trustees of the Old Harbour Museum on Erf 6119, Hermanus for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow tourist facilities (museum purposes to accommodate a restaurant).

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The application property is situated in the Old Harbour, Hermanus and zoned Open Space Zone 2: Public Open Space (OS2). The property measures 6412m² in extent and is developed with existing buildings utilised for museum purposes.

The applicant proposes to convert the existing buildings to accommodate a tourist facility for museum purposes and for the addition of a restaurant (wooden deck area).

4. SUMMARY OF APPLICANT'S MOTIVATION

The main grounds of motivation for the application are as follows:

- ❖ The subject property is zoned Open Space Zone 2: Public Open Space (OS2) and the surrounding properties are zoned for Business Zone 1: General Business Bulk Zone 1 and Transport Zone 2: Road and Parking.
- ❖ There is an existing building on the subject property, currently being used for museum purposes.
- ❖ Land uses that surround the subject property are primarily restaurants and businesses. Other land uses that are also found in the area are parking and roads.
- ❖ The Board of Trustees of The Old harbour Museum, Erf 6119, wish to lease the subject property for a new restaurant and liquor license.
- ❖ The proposed restaurant will be conducted within an existing building with minimal impact on historic fabric. The proposed scope of work includes minor internal alterations and lightweight external hardwood decking.
- ❖ The proposed alterations are internal and will not affect the total coverage of the site.

- ❖ The initiative will be greatly beneficial to the Old Harbour Museum by attracting tourists and locals alike to the Old Harbour and showcasing this important historic site.
- ❖ Access to the site will be gained from the Cliff Path and various other steps leading from the Promenade. No additional access to the site will be required.
- ❖ The site is already serviced. Additional services are not required.
- ❖ The Title Deed T10445/1983 Item B (a) stipulates that the erection of a building/s to be used exclusively for Museum purposes. The proposed restaurant is relevant to the original purpose of the subject building and is integral with regard to the maintenance and upkeep of the building and Old Harbour Museum.
- ❖ The primary zoning of the property (Open Space Zone 2) will be retained; the application is for the consent use to accommodate the new restaurant and is in line with the OMSDF.
- ❖ The proposed application falls within the existing land use planning strategies for the Hermanus area and is in line with the OGMS.
- ❖ The property has a Provincial Heritage approved grading 2 (suggested grading is 1). The Old Harbour is preserved as maritime museum. It includes the old boat winch, table for cleaning fish etc. The subject building forms part of the Fisherman's sheds along the pathway to the harbour that have been rebuilt circa 1986 (on the existing foundations) and incorporated into the museum.
- ❖ As the proposed restaurant will be conducted within the existing building with minimal impact on the historic fabric it is evident that the proposed consent use will not have a negative impact on the heritage value of the subject property or the greater Hermanus area.
- ❖ The proposed development does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).
- ❖ **Planning Principles:**
 - **Spatial Justice:**
Spatial Justice is not applicable to this application.
 - **Spatial Sustainability:**
The proposed consent will not have a negative impact on the current character and land values of the surrounding erven. The proposed restaurant will bring together important resources to give locals and visitors to Hermanus a unique experience within the authentic environs of the Old Harbour and will contribute positively to the Old Harbour Museum and Hermanus in general.
 - **Efficiency:**
The proposed consent use will ensure optimal use of services.
 - **Spatial Resilience:**
Spatial Resilience is not applicable to this application.
 - **Good Administration:**
The proposed restaurant follows the procedures as set out by the Municipality.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices via e-mail	Yes	16 February 2024	22 March 2024
Internal Departments	Yes	16 February 2024	22 March 2024
Ward Councillor	Yes	16 February 2024	22 March 2024
Total comments	NONE		
Total letters of support	NONE		
Was public participation undertaken in accordance with section 46- 50 of the By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	16/02/2023	No objection. The building plan application must comply with all applicable law including SANS 10400 Form 2.
Overstrand Environmental Management Services	27/03/2023	No objection.
Fire Department	29/02/2023	The fire department has no objection subject to compliance with the provisions of SANS 10400-A, 10400-T and the By Law relating to fire safety.
DEA&DP: Environmental	15/03/2023	No objection.
Property Administration	21/02/2023	See Annexure D.
Services Report	15/03/2023	See Annexure E.
Waste Management	11/04/2023	See Annexure F.
DEA&DP: Coastal Management	16/04/2023	See Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

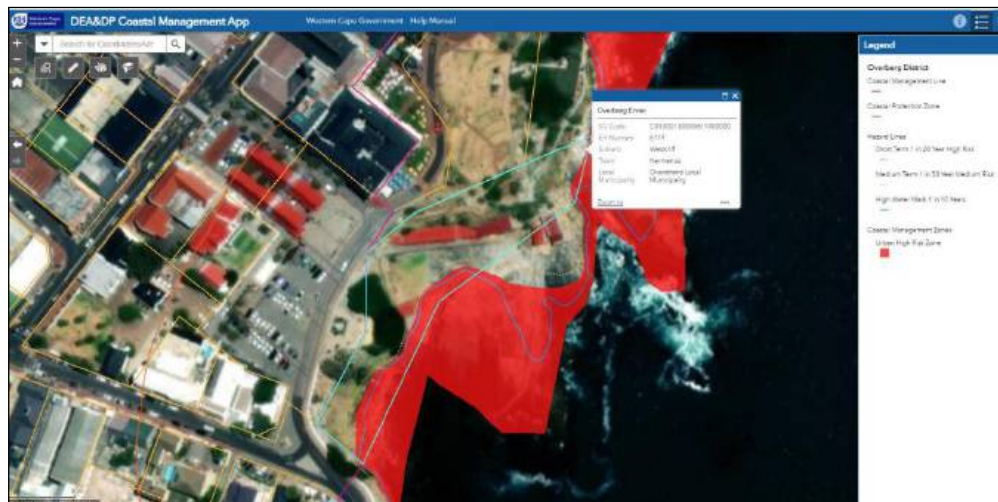
During the public participation process, one (1) letter of non-support was received by the Western Cape Department of Environmental Affairs and Development Planning: Sub-Directorate Coastal Management, refer to Annexure G.

The applicant was provided the opportunity to respond to the letter of non-support, refer to Annexure H.

The letter of non-support, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

COMMENT 1 - Within CML & near Urban Risk Zone

In terms of coastal risk modelling commissioned by the SD: CM, the subject property in its entirety is located seaward of the Overberg coastal management line ("CML"). The delineation of the CML is based on the methodology that was informed by various factors including Section 25(B) of the NEM: ICMA, taking into consideration ownership and zonation of vacant land. The SD: CM confirms that Erf 6119 in its entirety is located seaward of the Overberg District's CML and in close proximity to the Urban Risk Zone which is very concerning given the increase in storm events in the area in the last few months (see Figure 1 below).



APPLICANT'S RESPONSE

The subject site buildings have no record of storm surge damage for ±94 years. (They were already on record in 1930). This demonstrates the protected location of the Old Harbour and Fick's Pool.

TOWN PLANNER'S RESPONSE

The property is zoned Open Space 2: Public Open Space (OS2) which permits the proposed land use as a consent use right. The applicant has therefore applied for the relevant planning permission.

It is noted that the subject property is located within the Overberg Coastal Management Line (CML) and is in close proximity to the Urban Risk Zone as per the figure provided by Sub-Directorate: Coastal Management. Note that the proposal is to accommodate a wooden deck for the proposed restaurant. The subject property is located in close proximity to the Urban Risk Zone; however, the location of the proposed wooden deck is relatively distant from the Urban High-Risk Zone. Furthermore, the rock formations surrounding the site provide sufficient cover / protection with regards to the storm surges. Therefore, the impact of the proposed wooden deck is minimal when compared to if it were located within the Urban Risk Zone.

✚ COMMENT 2 – Overberg District experienced increased storms & floods

According to the title deed (T10445/1983) item B(a) the erection of building/s is to be used exclusively for museum purposes. The applicant states that the proposed restaurant is relevant to the original purpose of the subject building and is integral with regard to the maintenance and upkeep of the building and Old Harbour Museum. The SD: CM disagrees with this statement as the proposed additions (wooden decks) to the exterior of the building in order to make the restaurant functional, does not align with the original purpose of the subject building. Furthermore, the SD: CM is very concerned with these proposed wooden decks around the building as the Overberg District has experienced the most infrastructural damage since the September 2023 storm event, which the applicant failed to note. The applicant must be advised that the location of the property could still render the property at risk to coastal processes, this has been observed by the increase in frequency and magnitude of storm and flood events along the coast and estuaries as a result of climate change. It is therefore advised that caution be applied in considering any additions to the existing building. The September 2023 coastal storm surged destroyed the wooden decking of the Fick's Pool restaurant which is further south from the subject property (see Figure 2 below), and it should be noted that the Fick's Pool restaurant is situated in a somewhat sheltered bay as opposed to Erf 6119 which is much more exposed to coastal processes.



APPLICANT'S RESPONSE

No such storm surge damage was similarly suffered on the subject site or to the adjacent timber deck of Perlemoen restaurant (Building 5 on above plan). The subject site buildings have no record of storm surge damage for +- 94 years (They were already on record in 1930). This demonstrates the protected location of the Old Harbour and Fick's Pool.

TOWN PLANNER'S RESPONSE

The motivation submitted with this land use planning application detailed that the title deed (T10445/1983) item B(a) restricts the property use to museum purposes. The applicant indicates that the proposed restaurant will be a relevant addition to the Old Harbour Museum as a tourist facility. With that said, a previous land use application was approved by council on 21 May 2019, to accommodate a tourist facility similar to the current land use proposal. The previously approved tourist facility is to accommodate a restaurant facility that is now named 'Perlemoen'. It is evident that the current proposal and the previous land use planning approval is similar in nature and seeks to provide a similar outcome (supporting the museum functionality, maintenance and tourist attraction to ensure awareness of the Old Harbour Museum). It is therefore considered that the proposed land use is desirable from a town planning perspective.

The town planner does take note that in recent months, the Western Cape has been subject to severe weather trends causing the destruction of infrastructure (building / structures). It is further noted that Fick's Pool was subject to a storm surge that destroyed the wooden decks. The Sub-Directorate: Coastal Management (SD: CM) draws a comparison between the damage suffered by Fick's Pool during a storm surge and the possible damage that the proposed development will face. SD: CM draws this comparison however not taking into consideration the positioning of each site in terms of their own Coastal Management Zones. Additionally, the proposal is located near an existing restaurant with wooden decks (Perlemoen Restaurant) that was unscathed by the storm surges in the same period.

In response, the applicant drew a comparison between Fick's Pool and the proposal by indicating the position of the sites in relation to the various risk zones. When looking at the comparison it is clear that all structures of Fick's Pool Restaurant is located within the low, medium and high-risk zones. Specific reference is drawn to the location of Fick's Pool wooden deck which is / was located in the high-risk zone in its entirety. Furthermore, the proposed development, in its entirety, is located outside of the low, medium and high-risk zone. Therefore, the two sites cannot be compared. Refer to the figure below.



Coastal Management Comment:

In terms of the Departmental Circular, DEA&DP 0004/2021, regarding 'The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and implementation of Coastal Management Lines in terms of the NEM: ICMA', a precautionary approach must be adopted with respect to land use decisions with risk areas. The Circular also suggests development parameters to be considered for general risk areas. This includes maintaining coastal quality; reducing public liability; reducing risk to human life; preventing intensification of development in general risk areas but allow the exercising of existing rights; prevention of encroachment that will impact the integrity of the shoreline ecology; and enables safe evacuation in an emergency. It must be noted that the application was not considered in terms of the NEM: ICMA and also has not made any reference to the impact of recent storm events and as such the SD: CM cannot condone an application that may place public safety at risk to coastal processes. Based on the all the above mentioned items and the limited information provided, the SD: CM does not support the consent use as requested. Furthermore, it is advised that the application be considered in the context of the NEM: ICMA and that the concerns listed above be addressed.

APPLICANT'S RESPONSE

The subject site is considerably higher than Fick's Pool (see attached Topographical Survey, November 2019):

- Subject Site deck: 8.713m Above Sea Level (Rock below 7m ASL)
- Fick's Pool deck: 5.5m Above Sea Level (Rock below 3.89 ASL)

- Perlemoen deck: 6.335m Above Sea Level (Rock below 4.1 ASL, touching highwater mark)

The difference of 3.213m higher than your comparison of Fick's Pool is therefore material.

The initiative will create jobs and will be greatly beneficial to the Old Harbour Museum by attracting tourists and locals alike to the Old Harbour and showcasing this important historic site. It will generate much needed cash flow for the exhibition upgrade and the maintenance of museum infrastructure.

The topography markup is attached as Annexure I.

TOWN PLANNER'S RESPONSE

Reviewing the relevant documentation such as the topography mark-up (conducted by Geomatics Africa) submitted by the applicant regarding the height indication of each restaurant (Fick's Pool, Perlemoen and the Proposal) it is clear that the proposal location of the wooden deck is approximately 3.213m higher than the location of Fick's Pool wooden deck. Therefore, the comparison regarding the impact cannot be drawn between the two sites.

In addition to the above-mentioned non-support by the SD:CM, on 19 April 2024 the applicant contacted the SD: CM to query the comment that was submitted in order to resolve the issues listed. Unfortunately, the applicant stated that the SD: CM will not be amending their report / comment. With that said, no further reasoning behind the SD: CM comment was provided (refer to Annexure K).

With the above-mentioned stated, it is resolved that the proposal is in line with the character of the area and in Overstrand Municipality Environmental Department's development parameters/mitigation and is also considered desirable from a town planning perspective.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to point 7 of this report.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Refer to point 7 of this report.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application. The objectives relating to:

Spatial Justice

The proposal will not further perpetuate historic spatial imbalances.

Spatial sustainability

The application is considered spatially sustainable as the existing property will be more optimally utilised and will not negatively impact the conservation worthy area of the existing structure. The proposal will attract much needed tourists and locals to the area which will bring additional attraction to the Old Harbour Museum.

Efficiency

The proposed development intends to make optimal use of existing infrastructure, thereby optimising existing resources.

Spatial Resilience

The development of the property will be in synchrony with the relevant spatial planning policies that adhere to the principle of spatial sustainability in terms of the Spatial Development Framework.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and a public participation process had been followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The subject property is located in the Central Business District (CBD) of Hermanus, specifically the Old Harbour. In terms of the Overstrand Municipality Spatial Development Framework (OMSDF), the proposal is located in an area called Urban Development as well as being situated within the Heritage Protection Overlay Zone (HPOZ).

The Urban Development area permits development within the urban edge. Therefore, the development of a restaurant on the proposed location is in with the development trend.

The proposal is situated within the HPOZ, and any land use planning application should be submitted to the Overstrand Heritage and Aesthetics Committee for their comment. It must be noted that the only change to the existing building is minor internal changes with a wooden deck surrounding the existing structure. The proposal will therefore be forwarded to the Overstrand Heritage and Aesthetics Committee for their comment at building plan stage.

It must be noted that the proposal is not located within the low, medium or high-risk areas as indicated in the Environmental Management Overlay Zone (EMOZ). Therefore, the development of the wooden decks is in line with the EMOZ.

Noting the above-mentioned, the application is consistent with the SDF.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

No additional services will be required. The proposed development is supported by the Engineering Services Department, subject to conditions (attached as Annexure E).

10.7 Outcomes of investigations/applications i.t.o other legislation

The application does not trigger the provisions of NEMA or Section 38 of the National Heritage Resources Act.

The Western Cape Department Environmental Affairs and Development Planning: Sub-Directorate: Coastal Management indicates that the subject property falls within the CML and the urban low, medium and high-risk zones. Taking note of the before mentioned, the proposal to accommodate a restaurant with wooden decks only falls within the CML and not the urban low, medium and high-risk zones. Additionally, the rock formations that surround the proposal positioning provide protection with regards to the possible storm surges that resulted in the destruction of Fick's Pool wooden deck damage.

Therefore, the proposal to accommodate the restaurant and the wooden decks at its proposed positioning is considered desirable from a town planning perspective taking into account the coastal risks.

The municipal Environmental Management & Conservation Division noted that there is no environmental impact triggered by the proposed application and thus does not object to the application. See Annexure J.

10.8 Existing and proposed zoning comparisons and considerations

The property is zoned Open Space 2: Public Open Space (OS2) permits the proposed land use as a consent use right for which the applicant has applied.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application property is zoned as Open Space 2: Public Open Space (OS2). The current utilisation of the property is for tourist facility Perlemoen restaurant. The proposed application is to accommodate another restaurant on the property by utilising and renovating existing buildings with the addition of wooden decks.

The property is in the name of the Old Harbour Museum-Hermanus who seeks to develop a restaurant on the subject property. The proposal to accommodate a restaurant (tourist facility) on the subject property is in line with the applicable zoning and is a consent use right. The applicant has therefore applied for a consent use right in order to accommodate the proposed restaurant on the subject property.

The applicant states that the proposed restaurant will provide / attract much needed tourists and locals to the area and encourage / create awareness to the Old Harbour Museum. Therefore, similar to the Perlemoen restaurant, the proposed new restaurant will not only create a connection with the Old Harbour Museum, but it will also contribute to the economic base of the CBD.

The subject property has a condition in its title deed that restricts the utilisation of the subject property for museum purposes. Noting that the Trustees of the Old Harbour Hermanus permit the utilisation of the property in connection with the Museum it is therefore considered that the utilisation remains for museum purposes as stated previously. Therefore, the proposal is in line with the conditions stipulated in the Title Deed No. T.10445/1983.

Noting that the only addition made to the existing buildings is the wooden deck ($\pm 96\text{m}^2$) and minor internal changes. The impact of the proposed restaurant with wooden deck will maintain the character of the surrounding developments in the area when compared to the Perlemoen Restaurant and Bientang's Cave Restaurant and Winery. The proposal is therefore in line with the surrounding land uses as well as the character of the surrounding area.

The concerns and negative comments from DEA&DP: Coastal Management has been addressed extensively under Point 7. The concerns raised is noted, however the comparison with damage to Fick's Pool during storm events, is not applicable in this case. The design of a seawall at the Old Harbour has a major impact on the effect of storm surges and storm events in comparison to Fick's Pool. It does not have a seawall designed to protect a harbour. The application site is not subject to the various risk levels as to oppose to Fick's pool. The restaurant is substantially higher above ASL than Fick's Pool.

The risk zones were part of a process between the Coastal Management and the Municipality to restrict inappropriate developments on the coastal zone. The Municipality went further to expand on the process, all which was accepted by Coastal Management. The aforementioned was to ensure that Municipalities has relevant information available in evaluating developments along the coast and it is unclear why this data and information used by the Municipality to evaluate the application is not applicable in this case.

The application is considered desirable from a town planning perspective.

13. RECOMMENDATION

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6119, Hermanus for consent use to allow tourist facilities (museum purposes to accommodate a restaurant), **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions;

- (a) that the proposed development of a restaurant be limited to the proposal indicated on the plan numbers 823/100, 823/101 and 823/102 dated 26 September 2023, as submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (c) that the drawings for the statutory approval be submitted to the Local Heritage and Aesthetics Committee;
 - (d) that all the conditions imposed by the Engineering Services Report (attached as Annexure E), be complied with;
 - (e) that the disposal of solid waste be conducted as per Waste Management Department comment (attached as Annexure F);
 - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ No objections were received from the public.
- ❖ It is in line with policy documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.
- ❖ Similar activities were developed within the immediate surrounding area that are unscathed by the recent storm surges.
- ❖ The motivation from the applicant in terms of surveyed levels from Geomatics was not disputed by Coastal Management nor did they submit any contrary data or why the risk zones may be incorrectly calculated. The latter specifically drafted to protect people, property and natural environment from inappropriate developments.
- ❖ The concerns of EADP (Coastal Management) have been addressed extensively. The applicant and DEA& DP: Directorate: Development Management: Environmental have clearly indicated that Fick's Pool weather damage cannot be correlated to the Old Harbour proposed application.
- ❖ The Land Surveyor submitted a surveyed diagram indicating the height above sea level which is not similar to Fick's Pool.
- ❖ DEA& DP: Directorate: Development Management: Environmental indicated that the proposed activity does not trigger any listed activities.
- ❖ The deck does not fall in any of the risk zones applicable to the site.

15. ANNEXURES

- Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Comment: Property Administration
Annexure E: Services Report
Annexure F: Comment: Waste Management
Annexure G: Comment: DEA&DP: Sub-Directorate: Coastal Management
Annexure H: Applicant's response to comment from CM
Annexure I: Comment: DEA& DP: Directorate: Development Management: Environmental
Annexure J: Comment: Municipal Environmental Management & Conservation Division
Annexure K: Communication between the applicant and DEA& DP: Directorate: Development Management: Environmental

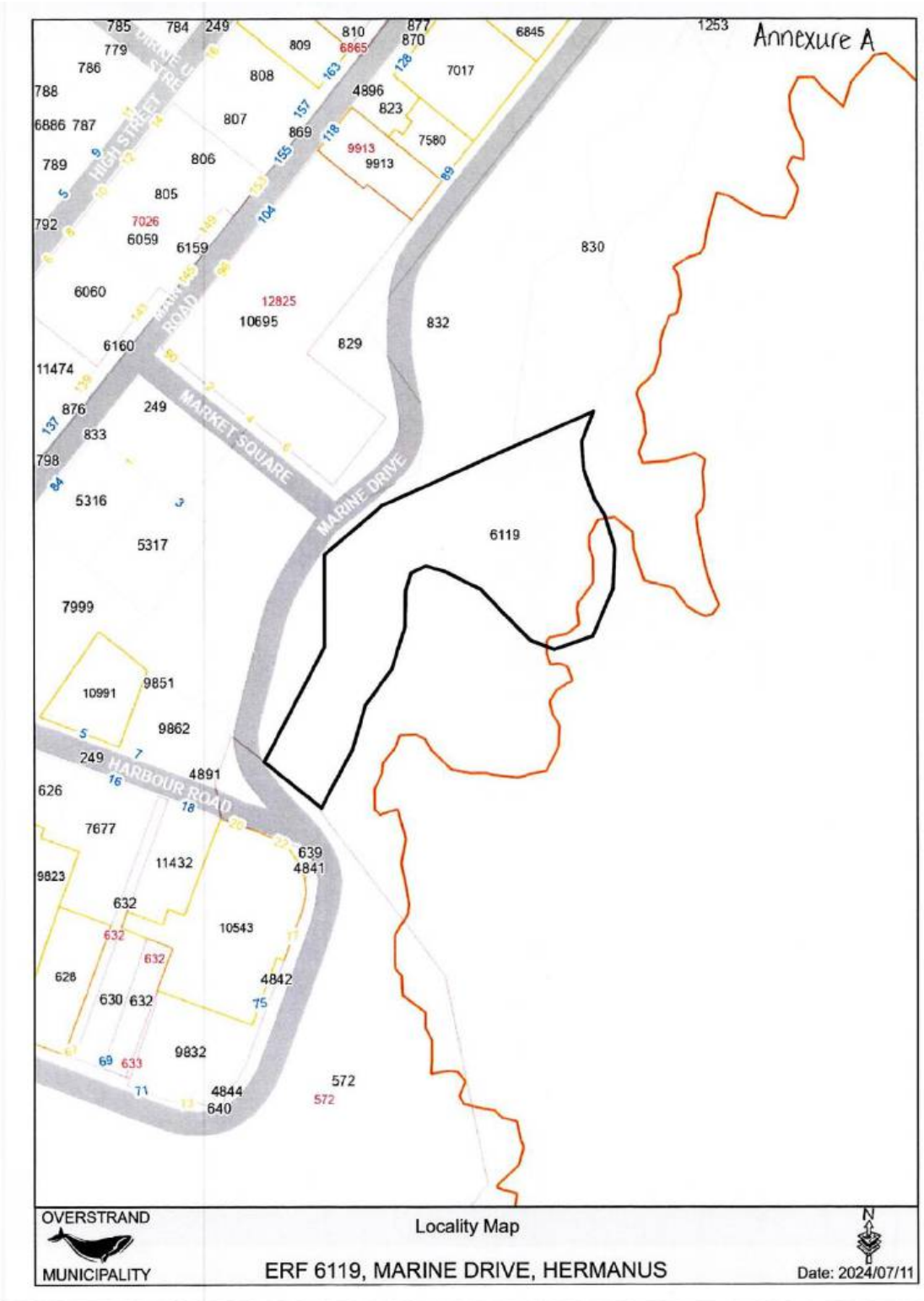
SIGNATURES**REGISTERED PLANNER**

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____



NICOLETTE LLOYD ma (rca)
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20 September 2023

CONSENT USE APPLICATION

SITE DATA

Erf	6119 Northcliff
Address	Marine Drive, Hermanus
Owner	Hermanus Old Harbour Museum
Zoning	Open Space Zone 2: Public Open Space (OS2)

MOTIVATION REPORT

1. BACKGROUND

- The Board of Trustees of the Old Harbour Museum, wish to apply for consent use.
- The consent use application is for Tourist Facilities, for Museum purposes, in respect of a restaurant and liquor license.
- Erf 6119 Hermanus is 6412m² in extent and is held by Title Deed number T10445/1983.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 12, Section 12.1.1 (b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2016, for consent use to accommodate Tourist Facilities, for Museum purposes, on Erf 6119.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated in the Old Harbour, Hermanus. Please refer to the enclosed locality plan. Erf 6119 Hermanus is 6412m² in extent and is situated in a Public Open Space.

3.2 ZONING

- Erf 6119 Hermanus is zoned Open Space Zone 2: Public Open Space (OS2) and is utilized as such. The surrounding properties are zoned for Business Zone 1: General Business Bulk Zone 1 and Transport Zone 2: Road and Parking.

*Motivation Report***3.3 LAND USE**

- There is an existing building on the subject property, currently being used for museum purposes.
- Land uses that surround the subject erf are primarily restaurants and businesses. Other land uses that are also found in the area are parking and roads.

3.4 PROPOSAL

Application is made in terms of:

- Chapter 12, Section 12.1.1 (b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2016, for consent use to accommodate Tourist Facilities, for Museum purposes, on Erf 6119.

The Board of Trustees of The Erf 6119, Old Harbour Museum, wish to lease the subject property for a new restaurant and liquor license.

The proposed restaurant will be conducted within an existing building with minimal impact on historic fabric. The proposed scope of work includes minor internal alterations and lightweight external hardwood decking.

As the proposed alterations are internal, the total coverage is not affected.

The initiative will be very beneficial to the Old Harbour Museum by attracting tourists and locals alike to the Old Harbour and showcasing this important historic site.

"(The Hermanus Old Harbour) is an iconic landmark contributing to the scenic setting of Hermanus. (It is) one of the most widely recognised and recorded historic settings in the country."

"(It is) A fine and rare surviving example of historical fishing industry technology (the complex as a system including winches, boat ramps, fish gutting tables, 'bokkom' drying racks etc.)"

Source: Public Participation document June 2009: HERMANUS, Overstrand Heritage

It will generate much needed cashflow for the exhibition upgrade and the maintenance of museum infrastructure.

It will give insight and exposure of tourists and locals to the historic foundations of cultural and commercial Hermanus.

3.5 ACCESS

Erf 6119 Hermanus gains access from the Cliff Path and various steps leading from the Promenade. No additional access to the site will be required.

*Motivation Report***3.6 SERVICES**

All services on the subject property already exist. Additional services are not required and therefore will not have a negative impact on existing services that are provided by the Overstrand Municipality.

3.7 TITLE DEED

The Title Deed T10445/1983 Item B (a) stipulates that the erection of a building/s to be used exclusively for Museum purposes. The proposed restaurant is relevant to the original purpose of the subject building and is integral with regard to the maintenance and upkeep of the building and Old Harbour Museum.

3.8 FORWARD PLANNING**Overstrand Municipal Wide Spatial Development Framework**

The primary Open Space Zone 2: Public Open Space (OS2) use of the property will be retained. The application is for consent use to accommodate a new restaurant.

Overstrand Growth Management Strategy

The zoning of the subject property will remain unchanged (Open Space Zone 2: Public Open Space (OS2) and therefore the proposed application falls within the existing land use planning strategies for the Hermanus area.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**3.9.1 HERITAGE VALUE**

In terms of the Overstrand Heritage Survey Report (2009) the property's current status under the National Heritage Resources Act is:

Provincial Heritage site with approved grading: 2 (Suggested Grading :1)

The Old Harbour is preserved as a maritime museum. It includes the old boat winch, tables for cleaning fish etc. The subject building forms part of the Fishermen's sheds along the pathway to the harbour that have been rebuilt circa 1986 (on the existing foundations) and incorporated into the museum.

As the proposed restaurant will be conducted within the existing building with minimal impact on the historic fabric it is evident that the proposed consent use will not have a negative impact on the heritage value of the subject property or the greater Hermanus area

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consent use does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998)

*Motivation Report***3.10 PLANNING PRINCIPALS**

The planning principals of Spatial Justice, Spatial Sustainability, Efficiency, Spatial Resilience and Good administration of this application can be described as follows:

Spatial Justice: Spatial Justice is not applicable to this application.

Spatial Sustainability: The proposed consent will not have a negative impact on the current character and land values of the surrounding erven. The proposed restaurant will bring together important resources to give locals and visitors to Hermanus a unique

experience within the authentic environs of the Old Harbour and will contribute positively to the Old Harbour Museum and Hermanus in general

Efficiency: The proposed consent use will ensure optimal use of services.

Spatial Resilience: Spatial Resilience is not applicable to this application.

Good administration: The proposed restaurant follows the procedures as set out by the Municipality.

3.11 CONCLUSION

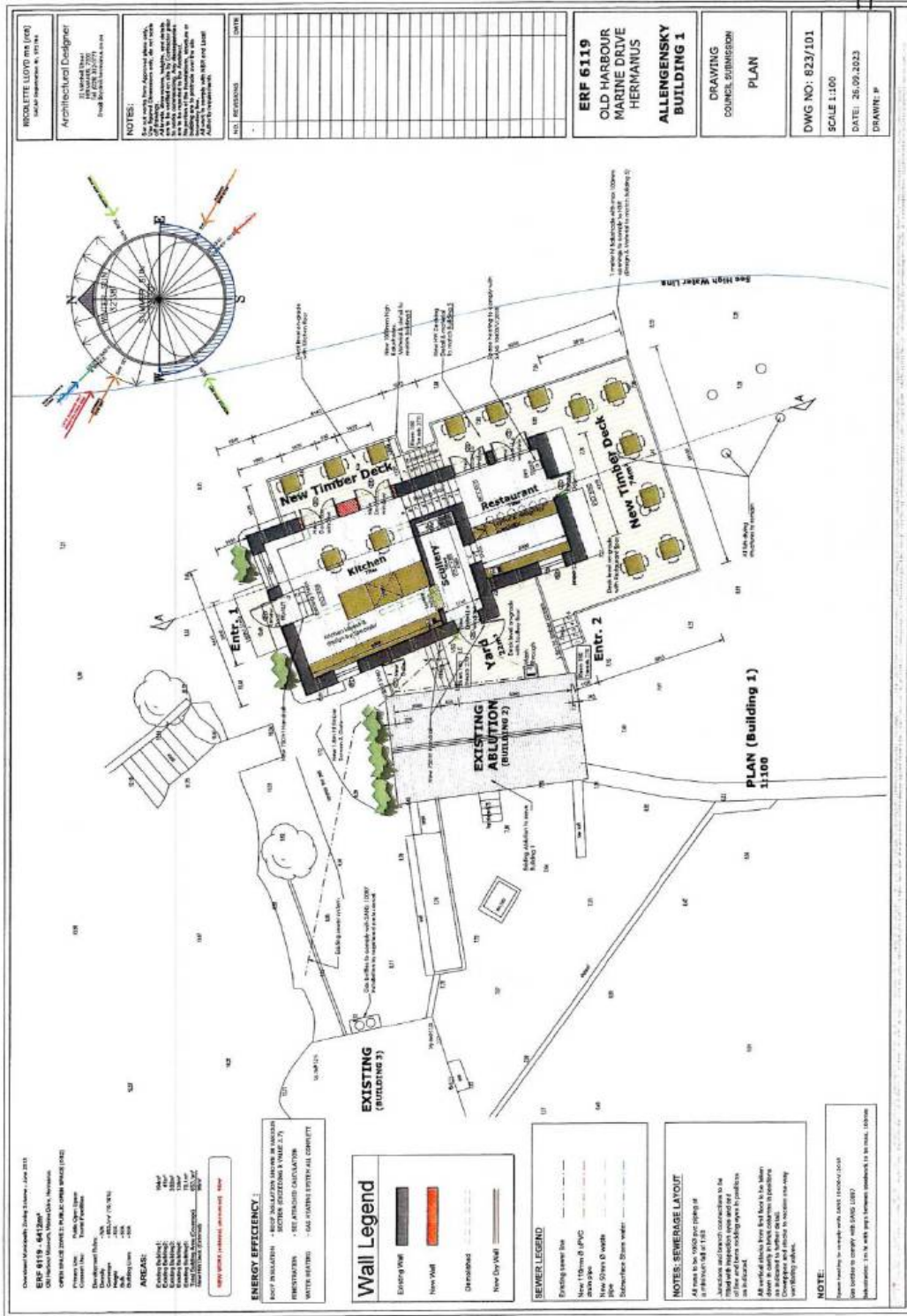
It would be appreciated if the Overstrand Municipality would consider the application favourably for the consent use applicable to Erf 6119, Hermanus.

The previous successful consent use application (October 2018) for an Abalone Tastery has proven itself to be viable commercially and has been very successful in drawing locals and tourists and showcasing the cultural and physical history of Hermanus and the Western Cape.

Another restaurant venue sited in existing buildings will further enhance this previous initiative and unlock essential funding for the further development of museum activities.

NICOLETTE LLOYD

End



RODOLPHE LLOYD MBE (USA)
SCAP Registration No. 52374

Architectural Designer
33 LAMOND STREET
WELLINGTON 6110
Phone: 04 373 1771
Email: rodolphe.lloyd@scap.co.nz

NOTES:
1. This drawing is a design concept only. It is not a contract document. It is not to be used for construction or for any other purpose without the written consent of the Architectural Designer. It is to be used for the purpose of obtaining a resource consent or for any other purpose only with the written consent of the Architectural Designer.

NO. REV. DATE

ERF 6119
OLD HARBOUR MARINE DRIVE HERMANUS ALLEGENSKY BUILDING 1

DRAWING
COUNCIL SUBMISSION
ELEVATIONS & SECTION A

DWG NO: 823/102
SCALE AS INDICATED
DATE: 26.09.2023
DRAWN: P

NORTH ELEVATION
1:100

SOUTH ELEVATION
1:100

EAST ELEVATION
1:100

WEST ELEVATION (Section through Deck between Buildings)
1:100

SECTION A
1:150

NOTE:
1. Refer to the attached drawings for details of the building. The drawings are to be used for the purpose of obtaining a resource consent or for any other purpose only with the written consent of the Architectural Designer.

GLAZING:
1. Refer to the attached drawings for details of the glazing. The drawings are to be used for the purpose of obtaining a resource consent or for any other purpose only with the written consent of the Architectural Designer.

Annexure D

File reference:	Erf 6119 HNC 4517/2023
Date:	16 February 2024
AJF	



INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Mrs. H van der Stoep (Senior Town Planner)

TO:


<u>Area Manager</u>	<u>Building Control Department</u>	District Health	<u>Electrical Department</u>	<u>Environmental Officer</u>
<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee	<u>Operational Services</u>	<u>Property Administration</u>
Tourism	Traffic Department	<u>Ward Councillor</u>	<u>Waste Management</u>	

Applicant	NICOLETTE LLOYD ON BEHALF OF TRUSTEES OF THE OLD HARBOUR MUSEUM
Property Details	ERF 6119, MARINE DRIVE, HERMANUS
Application Description	APPLICATION FOR CONSENT USE

ATTACHMENTS:

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Map	
3. Motivational Report	
4. Building Plans	

YOUR DEPARTMENT'S COMMENTS:

Council at a meeting held on 28 June 2023 resolved as follows:	
<i>"that the deviation from condition B(a) as contained in Title Deed number T10445/1983 2014 to accommodate tourist facilities in the form of restaurants, be approved, subject thereto that the required land use planning approvals are obtained."</i>	
There is thus no objection.	
Signature:	 Date: 21 February 2024

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

COMMENTS REQUIRED BY: 22 MARCH 2024

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: ERF 6119, HERMANUS (4517/2023)**

Stormwater (SW)	:	Refer to conditions
Electricity	:	Refer to conditions
Water	:	Refer to conditions
Sewer	:	Refer to conditions
Roads and traffic	:	Refer to conditions

Conditions:

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

1.1 Developments containing Sectional Title Units/ Commercial Buildings
(non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2023/2024) is as follows:

Freehold erven:

Water	R 27 598.16 x 0.416=	R 11 480.83
Sewerage	R 18 608.30 x 0.416=	R 7 741.05
Roads	R 8 344.32 x 2.933333=	R 24 476.67
Solid Waste	R 1 668.44 x 16.03=	R 26 745.09
TOTAL (inclusive of VAT)	=	R 70 443.64

Note:

- 1.3 The above figures are estimates**
1.4 The above figures do not include investigation and connection fees

2. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
3. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
5. that any commercial food preparation facilities (e.g. restaurant/guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
6. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
7. that any additional and / or extended vehicle entrances will be for the owner's account;
8. that no reservation of on-street parking be allowed;
9. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
10. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE

Annexure F 1/2



File reference:	Erf 6119 HNC 4517/2023
Date:	16 February 2024
AJF	

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Mrs. H van der Stoep (Senior Town Planner)

TO:


<u>Area Manager</u>	<u>Building Control Department</u>	District Health	<u>Electrical Department</u>	<u>Environmental Officer</u>
<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee	<u>Operational Services</u>	<u>Property Administration</u>
Tourism	Traffic Department	<u>Ward Councillor</u>	<u>Waste Management</u>	

Applicant	NICOLETTE LLOYD ON BEHALF OF TRUSTEES OF THE OLD HARBOUR MUSEUM
Property Details	ERF 6119, MARINE DRIVE, HERMANUS
Application Description	APPLICATION FOR CONSENT USE

ATTACHMENTS:

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Map	
3. Motivational Report	
4. Building Plans	

YOUR DEPARTMENT'S COMMENTS:

No objection to the application from Solid Waste Planning. Please see attach email correspondence on how the Solid Waste will be managed on the site.	
Signature:	
Date:	11 April 2023

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below**. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

COMMENTS REQUIRED BY: 22 MARCH 2024

TP N. Theak
(H. Olivier)

Loretta Gillion

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

11 APR 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

From: Craig Mitchell
Sent: Tuesday, 09 April 2024 13:48
To: Brendell Adams; Loretta Gillion; 'Nicolette Lloyd'; Davy Louw
Cc: Rennie Hendricks
Subject: RE: WASTE MANAGEMENT COMMENT - Erf 6119 Hermanus (4517/2023)
Attachments: Overstrand Waste Tariff 2023_24.pdf

Hi All

I met with Brendell this morning on site and we looked at the current waste storage area that is in use for the consolidated waste from the area and he explained to me how his 6 staff members service the individual tenants daily and then take their waste to the central collection point which is then serviced Monday to Saturday by our municipal waste collection vehicle.

Based on the site visit and explanation from Brendell, I am happy with the two wheelie bins been stored in the yard area at the new restaurant as proposed and emptied by his site staff on a daily basis. The bins will also then be washed out as and when required at the central storage area.

Note that if the bins are not emptied at the end of the day, please ensure that the bins are securely stored by the restaurant staff to prevent people and animals from scratching in the bins and spilling waste which could then potentially pollute the surrounding area, thanks.

@Loretta Gillion Based on the above I am happy with the plan as submitted and there are no further requirements from my side.

@Brendell Adams As requested please find attached a copy of the billing rates for the different waste collection options, please review and consolidate your requirements and then compare your requirements to your current billing.

Once you have updated your / corrected your requirements to match the service currently been provided please contact Davy Louw to arrange to have the billing corrected going forward. Note Davy is only back in the office from the 15th April.

@Davy Louw Davy the Trusties of the Old Harbour Hermanus pay for collect from a central collection point located behind the fisherman's cottage but the collections are for different accounts and bin numbers and appear to be mostly for a once a week collection and not the 6 day per week as is the current case.

Brendell is going to set up a spreadsheet on his side of what they are currently been billed for and what the actual requirements should be, once he has completed his exercise, he will then make contact with you to correct / updated the waste charges on the different municipal accounts.

I am happy to be part of the conversation if required, once completed please let Rennie have the new collection requirements, so that can inform his waste collection team.

@Rennie Hendricks Hi Rennie please keep an eye out for an update regarding the servicing of the bins at the designated bin area behind the Fisherman's cottage .

Regards

Craig Mitchell
Manager Solid Waste: Planning
Overstrand Municipality
M: 083 321 5591 | T: 028 313 5045
E: cmitchell@overstrand.gov.za

FILE NO. Erf 6119 ✓
Hermanus
SCAN NO.
HNC 6119
COLLABORATOR NO.
2028822



**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Mercia Liddle

Biodiversity and Coastal Management

Mercia.Liddle@westerncape.gov.za | Tel: 021 483 4627

CMU Reference: 17/1/8(CMU 018/2024)

The Office of the Director: Infrastructure & Planning
Town and Spatial Planning
Overstrand Municipality
P.O. Box 20
HERMANUS
7200

Attention: Mr A J Fourie

Tel: 028 313 5088

Email: gfourie@overstrand.gov.za

RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE APPLICATION FOR CONSENT USE ON ERF 6119, MARINE DRIVE, HERMANUS, OVERSTRAND MUNICIPAL AREA.

Good day

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 16 February 2024, refers.

1. CONTEXT

- 1.1. The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) ("NEM: ICMA") is a Specific Environmental Management Act under the umbrella of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). The NEM: ICMA sets out to manage the nation's coastal resources, promote social equity and best economic use of coastal resources whilst protecting the natural environment. In terms of Section 38 of the NEM: ICMA, the Department of Environmental Affairs and Development Planning ('the Department') is the provincial lead agency for coastal management in the Western Cape as well as the competent authority for the administration of the "Management of public launch sites in the coastal zone (GN No. 497, 27 June 2014) "Public Launch Site Regulations".
- 1.2. The Department, in pursuant of fulfilling its mandate, is implementing the Provincial Coastal Management Programme ("PCMP"). The PCMP is a five (5) year strategic document, and its purpose is to provide all departments and organisations with an integrated, coordinated and uniform approach to coastal management in the Province. The Department is in the process of finalising the next generation PCMP that includes

priority objectives for the next 5 years. This PCMP was recently subjected to stakeholder engagement and may be viewed at [Western Cape draft PCMP 2022-2027](#).

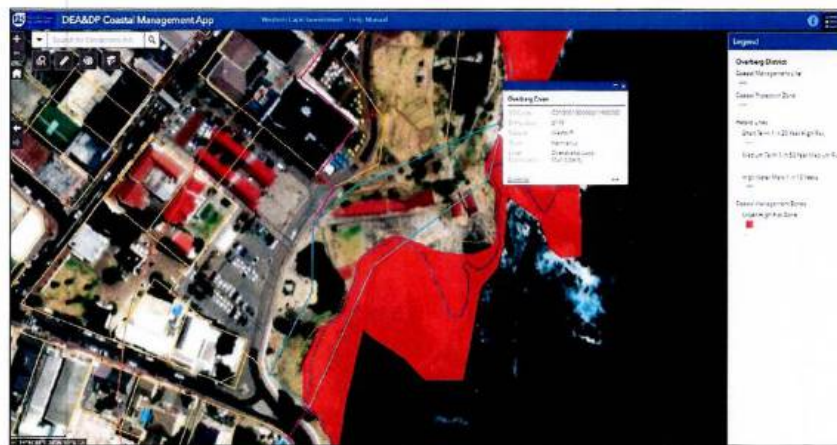
- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is predominantly implemented through the Estuary Management Framework and Implementation Strategy ("EMFIS") project. The Department is implementing estuary management in accordance with the NEM: ICMA and the National Estuarine Management Protocol ("NEMP"). Relevant guidelines, Estuarine Management Plans, Mouth Management Plans need to be considered when any listed activities are triggered in the Estuarine Functional Zone. The Department is in the process of approving a series of Estuarine Management Plans. Both draft and approved plans may be viewed at [DEA&DP: Coastal Management](#).
- 1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC PCMP. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 ("PCASP") and commissioned coastal access audits per municipal district to assist municipalities with identifying existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available on the Departmental website at [DEA&DP: Coastal Management](#).

1. COMMENT

- 2.1 The sub-directorate: Coastal Management ("SD: CM") has reviewed the information as specified above and have the following commentary:
 - 2.1.1. The consent use application is made in terms of Chapter 12, section 12.1.1(b) of the Overstrand Municipality's Bylaw on Municipal Land Use Planning, 2016. The Board of Trustees of Erf 6119 Old Harbour Museum wishes to lease Erf 6119 for a new restaurant and liquor license. The proposed restaurant will be conducted within an existing building and said to have minimal impact on the historic fabric of the subject property. All services on the subject property already exist and no additional services are required therefore no negative impacts are anticipated on existing services. The SD: CM further notices from the design proposals that a new wooden deck is proposed seaward of the subject property.
 - 2.1.2. According to the Western Cape Biodiversity Spatial Plan (2017), the SD: CM confirms that there are no critical biodiversity or ecological support areas on Erf 6119.
 - 2.1.3. Be advised that Erf 6119 is located within the Coastal Protection Zone ("CPZ") as defined in Section 16 of the NEM: ICMA and the purpose of the CPZ is to avoid increasing the effect or severity of natural hazards in the coastal zone and to protect people and properties from risks arising from dynamic coastal processes, including the risk of sea level risks. Due to the subject property's location within the CPZ, Section 63 of the NEM: ICMA must be considered where an authorisation is required in terms of Chapter 5 of the NEMA.

Furthermore, Section 62 of the NEM: ICMA obliges all organs of state that regulates the planning of land to apply that legislation in a manner that gives effect to the purpose of the CPZ. As such, Section 63 should be considered by local authorities for land use decision making.

- 2.1.4. In terms of coastal risk modelling commissioned by the SD: CM, the subject property in its entirety is located seaward of the Overberg coastal management line ("CML"). The delineation of the CML is based on the methodology that was informed by various factors including Section 25(B) of the NEM: ICMA, taking into consideration ownership and zonation of vacant land. The SD: CM confirms that Erf 6119 in its entirety is located seaward of the Overberg District's CML and in close proximity to the Urban Risk Zone which is very concerning given the increase in storm events in the area in the last few months (see Figure 1 below).



(Figure 1 depicting the subject property in relation to the CML, CPZ and Urban Risk Zone)

- 2.1.5. According to the title deed (T10445/1983) item B(a) the erection of building/s is to be used exclusively for museum purposes. The applicant states that the proposed restaurant is relevant to the original purpose of the subject building and is integral with regard to the maintenance and upkeep of the building and Old Harbour Museum. The SD: CM disagrees with this statement as the proposed additions (wooden decks) to the exterior of the building in order to make the restaurant functional, does not align with the original purpose of the subject building. Furthermore, the SD: CM is very concerned with these proposed wooden decks around the building as the Overberg District has experienced the most infrastructural damage since the September 2023 storm event, which the applicant failed to note. The applicant must be advised that the location of the property could still render the property at risk to coastal processes, this has been observed by the increase in frequency and magnitude of storm and flood events along the coast and

estuaries as a result of climate change. It is therefore advised that caution be applied in considering any additions to the existing building.

- 2.1.6. The September 2023 coastal storm surged destroyed the wooden decking of the Ficks Pool restaurant which is further south from the subject property (see Figure 2 below) and it should be noted that the Ficks Pool restaurant is situated in a somewhat sheltered bay as opposed to Erf 6119 which is much more exposed to coastal processes.



(Figure 2 depicting the damage of the September 2024 storm event with the wooden decks, furniture and balustrade completely destroyed)

- 2.1.7. In terms of the Departmental Circular, [DEA&DP_0004/2021](#), regarding 'The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and implementation of Coastal Management Lines in terms of the NEM: ICMA', a precautionary approach must be adopted with respect to land use decisions with risk areas. The Circular also suggests development parameters to be considered for general risk areas. This includes maintaining coastal quality; reducing public liability; reducing risk to human life; preventing intensification of development in general risk areas but allow the exercising of existing rights; prevention of encroachment that will impact the integrity of the shoreline ecology; and enables safe evacuation in an emergency.
- 2.1.8. It must be noted that the application was not considered in terms of the NEM: ICMA and also has not made any reference to the impact of recent storm events and as such the

SD: CM cannot condone an application that may place public safety at risk to coastal processes.

- 2.2. Based on the all the abovementioned items and the limited information provided, the SD: CM does not support the consent use as requested. Furthermore, it is advised that the application be considered in the context of the NEM: ICMA and that the concerns listed above be addressed.
3. The applicant must be reminded of their general duty of care and the remediation of environmental damage, in terms of Section 28(1) of NEMA, which, specifically states that: *"...Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment..."* together with Section 58 of the NEM: ICMA which refers to one's duty to avoid causing adverse effects on the coastal environment.
4. The SD: CM reserves the right to revise or withdraw its comments and request further information from you based on any information that may be received.

Yours faithfully

**leptieshaam
Bekko**

Digitally signed by
leptieshaam Bekko
Date: 2024.04.16 12:07:32
+02'00'

leptieshaam Bekko
CONTROL ENVIRONMENTAL OFFICER
SUB-DIRECTORATE: COASTAL MANAGEMENT
DATE: 16 April 2024

Annexure H 1/6

Loretta Gillion

From: Hanneen van der Stoep
Sent: Monday, 06 May 2024 10:42
To: Loretta Gillion
Subject: FW: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus
Attachments: 01 Old Harbour h6119 Topo Marked Up.pdf; 02 Fick's Pool Topo.pdf; 03 Comparison of High Risk Zones Old Harbour vs Fick's Pool.pdf; 04 Height Comparison between Fick's Pool & Old Harbour .pdf



From: Nicolette Lloyd <lloydn@hermanus.co.za>
Sent: Friday, May 3, 2024 11:11 AM
To: Hanneen van der Stoep <hvdstoep@overstrand.gov.za>
Cc: 'Brendell Adams' <finance@old-harbour-museum.co.za>; joubertfick@gmail.com
Subject: FW: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

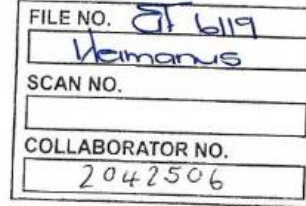
Dear Hanneen

Further to our meeting yesterday, herewith our comment to Coastal Management including attached supporting documents.

Kind Regards

NICOLETTE LLOYD
 32 Mitchell Street, Hermanus, 7200
 Phone: +27 (0) 28 312 3771
lloydn@hermanus.co.za

TP- n. Aheat (H. Olivier)



From: Nicolette Lloyd [mailto:lloydn@hermanus.co.za]
Sent: Monday, April 22, 2024 12:59 PM
To: 'Mercia J Liddle' <Mercia.Liddle@westerncape.gov.za>
Cc: 'Brendell Adams' <finance@old-harbour-museum.co.za>
Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Thank you Mercia

Dear Ms Bekko

Thank you for your clearly articulated concerns regarding the safety of the proposed decks.

We attach for your information additional topographical data being Locality Map and Site Plan Drawing 823/100 showing the surveyor's Highwater Mark and our marked-up drone photograph of Old Harbour.

Your comment of 10 April 2024 on the application for Consent Use on Erf 6119, Old Harbour Hermanus, refers:-

Your point 2.1.6 raises the comparison with Fick's Pool damage suffered during the coastal storm of September 2023.

- No such storm surge damage was similarly suffered on the subject site or to the adjacent timber deck of Perlemoen restaurant (Building 5 on above plan)

- 6 MAY 2024

- The subject site buildings have no record of storm surge damage for +- 94 years (They were already on record in 1930) This demonstrates the protected location of the Old Harbour and Fick's Pool.
- The subject site is considerably higher than Fick's Pool (see attached Topographical Survey, November 2019):-
 - Subject Site deck - 8.713m Above Sea Level (Rock below 7m ASL)
 - Fick's Pool deck - 5.5m Above Sea Level (Rock below 3.89 ASL)
 - Perlemoen deck - 6.335m Above Sea Level (Rock below 4.1 ASL, touching highwater mark)
 - The difference of 3.213m higher than your comparison of Fick's Pool is therefore material.
 - The initiative will create jobs and will be very beneficial to the Old Harbour Museum by attracting tourists and locals alike to the Old Harbour and showcasing this important historic site. It will generate much needed cashflow for the exhibition upgrade and the maintenance of museum infrastructure.

We look forward to our MS Teams meeting tomorrow at 1pm.

Kind Regards

NICOLETTE LLOYD
 32 Mitchell Street, Hermanus, 7200
 Phone: +27 (0) 28 312 3771
lloyd@hermanus.co.za

From: Mercia J Liddle [<mailto:Mercia.Liddle@westerncape.gov.za>]
Sent: Monday, April 22, 2024 7:10 AM
To: Nicolette Lloyd <lloyd@hermanus.co.za>
Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Morning Ms Lloyd,

Unfortunately we do not use Zoom – MS Teams is a similar platform and you don't need to install anything you can just join via your web browser. You can email us whatever documents you wanted to upload and I can display them from my side during our discussion.

Kind Regards
 Mercia

From: Nicolette Lloyd <lloyd@hermanus.co.za>
Sent: Friday, 19 April, 2024 12:43 PM
To: Mercia J Liddle <Mercia.Liddle@westerncape.gov.za>
Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Hi Mercia

We will email you our heads of argument on Monday ahead of our meeting Tuesday.

Would it be possible for you to rather send us a zoom link as we are not familiar with uploading documents on MS Teams?

Kind Regards

NICOLETTE LLOYD
 32 Mitchell Street, Hermanus, 7200
 Phone: +27 (0) 28 312 3771
lloyd@hermanus.co.za

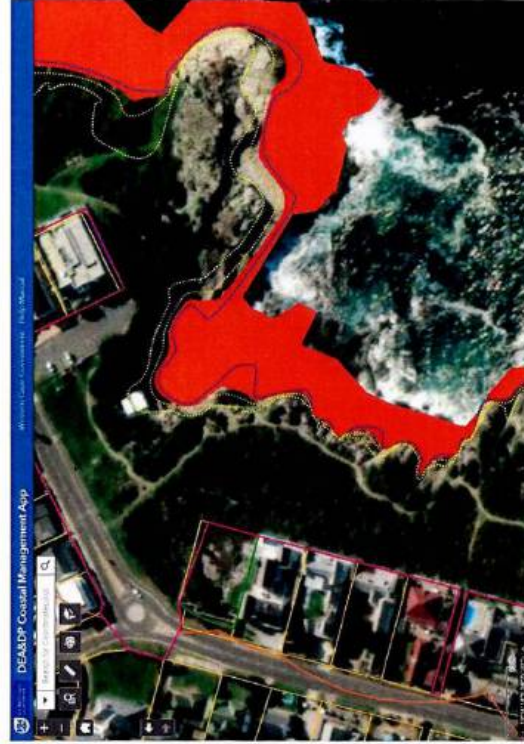
Comparison between High Risk Zones

Old Harbour, Hermanus

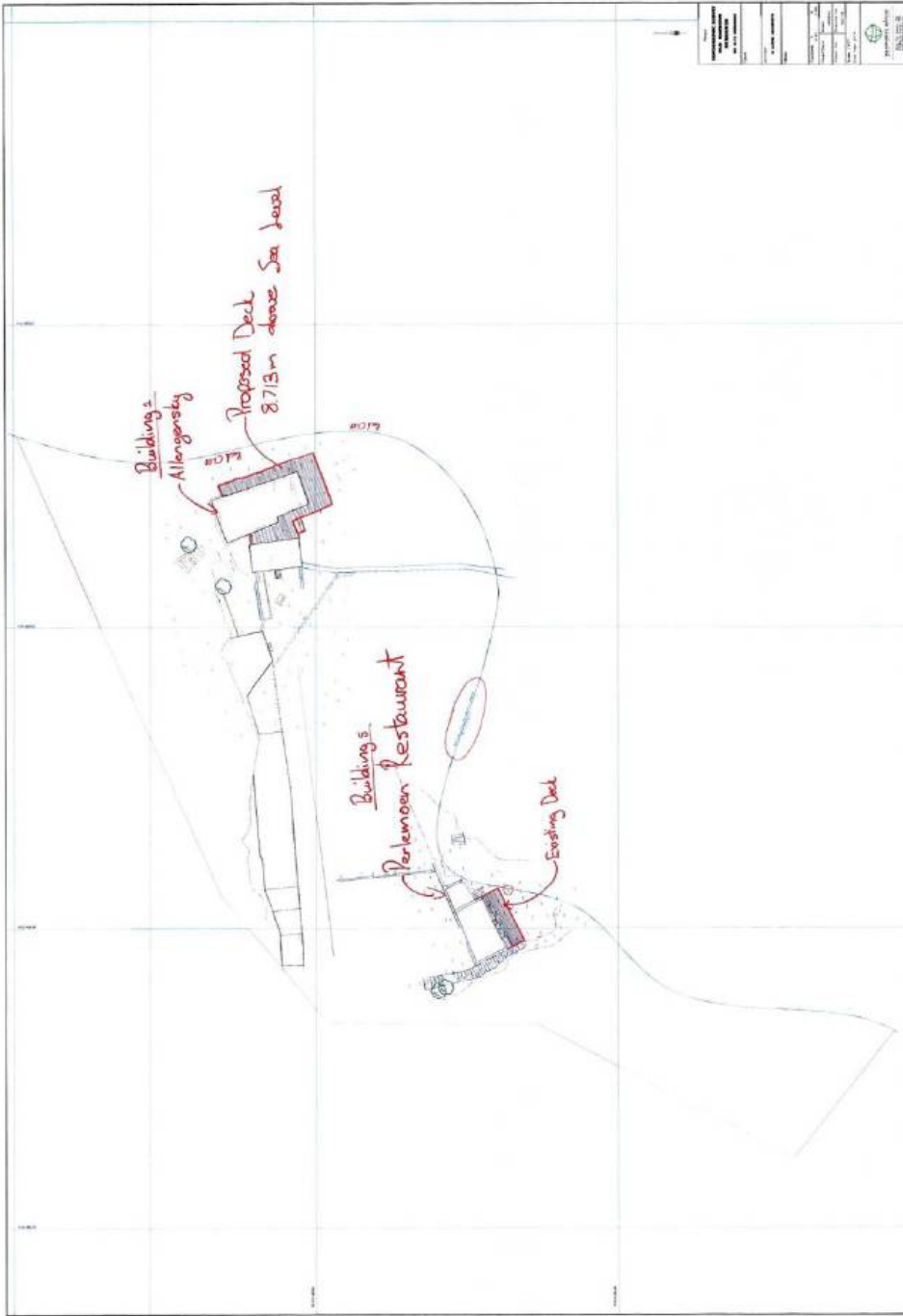


Subject site outside of zone

Fick's Pool, Hermanus



Comparison site within zone



Height Comparison between Fick's Pool & Old Harbour

Fick's Pool, Hermanus



Rock 3.89m above Sea Level, Deck 5.5m Above Sea Level

Old Harbour, Hermanus



Lowest point of Rock 7m above sea level, Proposed Deck 8.713m Above Sea Level

Annexure I 1/2



Western Cape
Government

Department of Environmental Affairs and Development Planning

Taryn Mouries | Melanese Schippers

Directorate: Development Management, Region 1

Taryn.Mouries@westerncape.gov.za | Tel: 021 483 3679

REFERENCE: 16/3/3/6/6/E2/15/1072/24
DATE OF ISSUE: 15 March 2024

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: S Muller

Dear Sir/ Madam

FILE NO. EF 6119
Hermanus
SCAN NO.
COLLABORATOR NO.
2015692

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
15 MAR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

*T.P. n. / heat
(J. Olivier)*

Tel: (028) 313 8900

E-mail: alida@overstrand.gov.za

APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE APPLICATION FOR A CONSENT USE ON ERF NO. 6119, HERMANUS.

- The documentation received by this Directorate on 16 February 2024, refers.
- The letter serves as an acknowledgement of receipt of the abovementioned documentation and to determine the applicability of the EIA Regulations, 2014 (as amended), with respect to the proposed development.
- Based on the information provided, this Directorate notes the following:
 - The proposal entails utilising an existing building at The Old Harbour Museum for a proposed restaurant that would be beneficial for the tourism activities on the site;
 - The proposed development will include a deck; and
 - The site is zoned Public Open Space and is situated in the Old Harbour, Hermanus.
- Your attention is therefore drawn to the listed activities in terms of the EIA Regulations, 2014 (as amended). Please be advised that the proposed development does not constitute any listed activities in terms of the EIA Regulations, 2014 (as amended).
- This determination is based on the fact that the proposed development will be located within a harbour.
- Environmental Authorisation is therefore not required from the competent authority (in this case this Directorate) prior to undertaking of the said development.
- However, should any revision of the proposed development constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 as defined in Listing Notices 1, 2 and 3 an application must be submitted, and environmental authorisation obtained before such activity(ies) may commence.
- The applicant must comply with any other statutory requirements that may be applicable to the development.
- The applicant is reminded of his/her general duty of care and the remediation of environmental damage. Section 28(1) of NEMA specifically states that –"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm

15 MAR 2024

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Department of Environmental Affairs and Development Planning

to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."

10. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

Digitally signed by
Melanese
Schippers
Date: 2024.03.15
08:35:39 +02'00'

pp HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: {1} Ms. Penelope Apton (Overstrand Municipality)
{2} Ms. Nicolette Lloyd (Architectural Designer)

Email: papton@overstrand.gov.za
Email: lvodn@hermanus.co.za

TPA-EMS-240327-04

Town Planning Application on 27-03-2024

Generated on Unit by Penelope Apion on 28-03-2024



Basic Information

Captured Reference	27-03-2024 14:52	Call Time	27-03-2024 14:52	Captured By	
District	TPA-EMS-240327-04	Office		Status	EMS
Municipality	Overberg				Open

Description

Erf 6119 Hermanus: consent-use

Geographical Information



Old Harbour Museum, Marine Drive, Hermanus, South Africa (-34.4202; 19.2439)

Application Details

File Reference	Erf 6119 HNC NICOLETTE LLOYD ON BEHALF OF TRUSTEES OF THE OLD HARBOUR MUSEUM
Applicant	ERF 6119, MARINE DRIVE, HERMANUS

Application Comments

The site falls outside the low, medium and high-risk zones. The only proposed additions are raised timber decks. The EMOZ does make provision for this type of development (commercial/tourism/cultural/heritage buildings).
This office has no objection to this application.

Application Types

Consent-use

Closing Comments

.....
.....
Name and Surname
Date

.....
Signature

Annexure 1/1

Brady Minnaar

From: Nicolette Lloyd <lloydn@hermanus.co.za>
Sent: Wednesday, 19 June 2024 11:04
To: Brady Minnaar
Cc: Hanneen van der Stoep; 'Brendell Adams'
Subject: FW: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus
Attachments: 01 Old Harbour h6119 Topo Marked Up.pdf; 02 Fick's Pool Topo.pdf; 03 Comparison of High Risk Zones Old Harbour vs Fick's Pool.pdf; 04 Height Comparison between Fick's Pool & Old Harbour .pdf

Dear Brady

Further to your call yesterday, herewith the documents shared with Hanneen for ease of reference.

Coastal Management informed us during our Teams Meeting of 23rd April 2024 that notwithstanding our comment/motivation, they will not be amending their report and that Overstrand Town Planning can rule against their report if they wish as this legislation has not yet been Gazetted.

We look forward to your feedback.

Kind Regards

NICOLETTE LLOYD
 32 Mitchell Street, Hermanus, 7200
 Phone: +27 (0) 28 312 3771
lloydn@hermanus.co.za

From: Nicolette Lloyd [mailto:lloydn@hermanus.co.za]
Sent: Friday, May 3, 2024 11:11 AM
To: 'Hanneen van der Stoep' <hvdstoep@overstrand.gov.za>
Cc: 'Brendell Adams' <finance@old-harbour-museum.co.za>; 'joubertfick@gmail.com' <joubertfick@gmail.com>
Subject: FW: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Dear Hanneen

Further to our meeting yesterday, herewith our comment to Coastal Management including attached supporting documents.

Kind Regards

NICOLETTE LLOYD
 32 Mitchell Street, Hermanus, 7200
 Phone: +27 (0) 28 312 3771
lloydn@hermanus.co.za

From: Nicolette Lloyd [mailto:lloydn@hermanus.co.za]
Sent: Monday, April 22, 2024 12:59 PM
To: 'Mercia J Liddle' <Mercia.Liddle@westerncape.gov.za>
Cc: 'Brendell Adams' <finance@old-harbour-museum.co.za>
Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Thank you Mercia