



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

MINUTES

DATE:	28 AUGUST 2025
VENUE:	TOWN PLANNING BOARDROOM & MS TEAMS
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM & TEAMS ON 28 AUGUST 2025 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management

Mr S Müller, Chief Engineer : Infrastructure Services

Ms R Louw, Divisional Manager : Strategic Support
Services

OFFICIALS:

Mr R Kuchar, Divisional Manager : Town & Spatial
Planning

Mr H Olivier, Town Planner

Mr B Minnaar, Town Planner

Ms H van der Stoep, Senior Town Planner

Ms L Taylor, Administrator

APOLOGIES:

Ms S Swart, Senior Committee Officer

Mr H Blignaut, Principal Engineer



MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: **28 AUGUST 2025**

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR: DEV MANAGEMENT	
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
L TAYLOR	ADMINISTRATOR OVERSTRAND MUNICIPALITY	

1. OPENING

The Chairperson opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms S Swart
Mr H Blignaut

RESOLVED:

that the above applications for leave of absence **be approved.**

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 31 July 2025****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **31 July 2025, be approved.**

4. ITEMS FOR CONSIDERATION

4.1

ERVEN 379 AND 6137, 18 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, SUBDIVISION, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MG OTTO

379 & 6137 HWC (4691/2024)

B Minnaar

(028) 313 8900

Hermanus Administration

15 July 2025

EXECUTIVE SUMMARY

An application was received on 11 June 2024 from Messrs Inter-Active Town & Regional Planners on behalf of Overstrand Municipality and MG Otto in respect of Erven 379 and 6137, Westcliff, Hermanus in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ **subdivision** of Erf 379, Hermanus in terms of Section 16(2)(d) of the By-Law into two (2) portions, namely Portion A ($\pm 99\text{m}^2$) and a Remainder;
- ❖ **closure of public place** in terms of Section 16(2)(n) of the By-Law to accommodate the closure of the public road on subdivided Portion A ($\pm 99\text{m}^2$);
- ❖ **rezoning** in terms of Section 16(2)(a) of the By-Law of subdivided Portion A from Transport Zone 2: Road and Parking to Residential Zone I: Single Residential (SR1), and
- ❖ **consolidation** in terms of Section 16(2)(e) of the By-Law of subdivided Portion A ($\pm 99\text{m}^2$) with Erf 6137, Hermanus to create a single residential property of $\pm 1217\text{m}^2$ in extent.

RESOLVED:

1. that the objection **be noted**;
2. that the application in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **subdivision** of Erf 379, Hermanus into two (2) portions, namely a Remainder and a Portion A ($\pm 99\text{m}^2$), **be approved**, in terms of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **rezoning** of subdivided Portion A from Transport Zone 2: Road and Parking to Residential Zone I: Single Residential (SR1), **be approved**, in terms of Section 61 of the By-Law;

4. that the application in terms of Section 16(2)(e) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **consolidation** of subdivided Portion A ($\pm 99\text{m}^2$) with Erf 6137, Hermanus to create a single residential property of $\pm 1217\text{m}^2$ in extent, **be approved**, in terms of Section 61 of the By-Law;
5. that the application in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the **closure of public place** to accommodate the closure of a public place (subdivided Portion A ($\pm 99\text{m}^2$), **be approved**, in terms of Section 61 of the By-Law;
6. that the approvals in Points 2. to 5. above be subject to the following conditions:
 - (a) that this approval is only for the development as indicated on the plan numbers *Rev1* dated *14/05/2021*, as submitted with the application;
 - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and the Fire Departments be complied with at that stage;
 - (c) that all the conditions in the Services Report be complied with;
 - (d) that that written confirmation be obtained from the Directorate: Property Administration condoning the size discrepancy
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
7. that the amended title deed be submitted to the office for record purposes; and
8. that the applicant and the objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application has an in-principle approval from Council for the Alienation of a portion of Erf 379, Hermanus.
- ❖ The proposal has gone through two (2) public participation processes.
- ❖ The Engineering Department do not foresee any impact on the current or future services for the area in relation to the subject property.
- ❖ The application is designed in a way that will not negatively impact on views or traffic related matters.

- ❖ Should a traffic circle be proposed at the difficult intersection of De Goede Street and Westcliff Drive, there is sufficient space to do so.
- ❖ The objection mostly relates to the public interest and benefit.
- ❖ The road reserve is wide enough to maintain sufficient space for a sidewalk and road widening and the proposal will not have a negative impact on the surrounding area.

RESPONSIBLE OFFICIAL :

BC MINNAAR

4.2**ERF 298, 67 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF AJ AND E ROOS****298 HSB (4728/2024)****B Minnaar****(028) 313 8900****Hermanus Administration****31 July 2025**

EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) was received on 30 July 2024 from Messrs PlanActive Town & Regional Planners on behalf of AJ and E Roos applicable to Erf 298, Westcliff, Hermanus, for the following:

- ❖ **consent use** in terms of Section 16(2)(o) of the By-Law to accommodate a five-bedroom guesthouse on the property.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 298, Westcliff, Hermanus for **consent use** to accommodate a five-bedroom guesthouse, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the decisions in paragraph 2. above, be subject to the following conditions:
 - (a) that this approval is limited to a guest house only;
 - (b) that the approval be limited to the building/structures as per Site Plan: *House Roos Alteration to Existing Council Approval Drawing* as submitted with the application;
 - (c) that a maximum of five (5) bedrooms be let to guests/tourists, applicable to the main dwelling;
 - (d) that the general development parameters for guest houses under Single Residential 1 zoning (with reference to Section 16.10.8 of the Overstrand Municipal Land Use Scheme, 2020), be applicable to the subject property;

- (e) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (f) that all the conditions imposed by Waste Management and the Engineering Department be complied with;
 - (g) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (h) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.
4. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decision.

REASONS FOR THE RESOLUTION

- ❖ The objections have adequately been resolved.
- ❖ The alterations to the building of the subject property were done as per the latest approved plans which were approved on 26 March 2024. Thereafter, the planning application was submitted, which followed a public participation process to accommodate a five-bedroom guest house.
- ❖ The parking provision complies with the relevant parking requirements as per the Overstrand Land Use Scheme.
- ❖ The provision of access on Westcliff Road and Cliff Road reduces the possible impact of congestion on Westcliff Road.
- ❖ The proposal is in line with the SDF and the residential character of the Westcliff neighbourhood.
- ❖ The Westcliff area is known for having guesthouse accommodation.
- ❖ The ground floor of the building is to cater for a manager or the property owner, and the first floor of the building is to cater for the guests.
- ❖ The established use and management of the property do not have a negative effect on the character of the area.
- ❖ The accommodation establishment will be beneficial for optimisation of the erf.
- ❖ The proposal will promote the tourism industry and is thus in line with the forward planning of the municipality.
- ❖ The proposal is not regarded as being undesirable from a town planning point of view.

RESPONSIBLE OFFICIAL :

B MINNAAR

4.3

ERF 1878, 60 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR RELAXATION OF TITLE DEED CONDITIONS: J DOUGLAS ON BEHALF OF E KAISER

1878 KPRB (4886/2024)

**H van der Stoep
17 July 2025**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 9 December 2024 from J Douglas on behalf of E Kaiser in respect of Erf 1878, Pringle Bay in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the **relaxation** of Clause B.6.(2)(a) of Title Deed No. T41294/2024 to relax the northern lateral building line from 5m to 2m and the southern lateral building line from 5m to 2,1m and 2,5m respectively, to accommodate the proposed new dwelling house.

The restrictive title deed condition B.6.(2)(a) read as follows:

“B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T46818/1981 imposed by the Administrator when approving the establishment of Pringle Bay Township Extension No 3 in terms of Ordinance 33 of 1934 which reads as follows:

6.(2) *Except with prior consent of the Administrator -*

(a) No building or structure or any portion thereof except boundary walls and fences, shall be erected nearer than 8 metres to the street line which forms a boundary of this erf, nor within 5 metres of any other boundary common to any adjoining erf, provided that with the consent of the local authority:”

RESOLVED:

1. that the objection **be noted**;
2. that the application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 in respect of Erf 1878, Pringle Bay for the **relaxation** of Clause B.6.(2)(a) of Title Deed No. T41294/2024 to relax the northern lateral building line from 5m to 2m and the southern lateral building line from 5m to 2,1m and 2,5m respectively, to accommodate the proposed new dwelling house, **be approved**, in terms of the provisions of Section 61 of the By-law subject to the following conditions:

- (a) that the relaxation is only applicable to Plan numbers PP01/24 (1-5) dated January 2024, submitted with the application;
 - (b) **that, before the building process commences, a Maintenance Management Plan be submitted and approved by the Environmental Directorate, including but not limited to addressing the following:**
 - ❖ the excessive disturbance of topsoil to be rehabilitated with endemic indigenous vegetation only and exposed sand dunes stabilised;
 - property to be kept clear of alien vegetation; no vibracrete walls, no hard/solid fencing or other structures that hinder the movement of small fauna within the ecological corridor;
 - (c) that no construction activities and or clearing of the erf for construction commences before the Maintenance Management Plan and building plans have been approved;
 - (d) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (f) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with, and
 - (g) that all the conditions in the Services Report be complied with.
6. that the comments received from the following departments be noted:
- BOCMA;
 - Western Cape Government: EADP (Environmental); and
 - Cape Nature;
7. 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.

REASONS FOR THE RESOLUTION:

- ❖ The location of the built structure accommodates the environmental sensitivity of the area known as The Ridge.
- ❖ The structure is built on stilts to ensure movement of animals and biophysical processes and to minimise the physical footprint on the erf.
- ❖ Compliance with the 5m setback from the Open Space area is retained.
- ❖ The ecological buffer is protected by the proposed location of the building.

- ❖ The location complies with the Draft Environmental Management Framework, 2023-2028, compiled by Mr D Heard, a more recent study that considers climate change and ecological processes to the benefit of The Ridge.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.4

ERF 2662, 207 PORTER DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: EMENDO PROJECT MANAGERS & PLANNING ON BEHALF OF WHALING STATION BETTYS BAY (PTY) LTD**2662 KBB (4857/2024)****H van der Stoep****(028) 313 8900****Hermanus Administration****1 July 2025**

EXECUTIVE SUMMARY

An application was received on 4 November 2024 from Emendo Project Management & Planners on behalf of Whaling Station Bettys Bay Pty Ltd in respect of Erf 2662, Betty's Bay in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a consent use to operate a bottle store on the property.

RESOLVED:

1. that the comment/objections **be noted**;
2. 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 2662, Betty's Bay for a consent use to operate a bottle store on the property, **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions:
 - (a) that the bottle store be limited to Shop 4 within the existing building;
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building and Fire Departments be complied with at that stage;
 - (c) that only one un-illuminated sign, which complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (d) that commercial rates and service tariffs as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (e) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (f) that approval for a liquor licence be obtained from the Western Cape Liquor Authority;

- (g) that the parking bays be demarcated as per the approved Site Development Plan;
 - (h) that the bottle store operating hours be limited as per the Overstrand By-Law Liquor Trading Hours from Monday to Saturday. Sundays are restricted to 08h00 - 13h00;
 - (i) that no delivery vehicles for the Bottle Store (*"Thirsty's"*) may utilise Clarence Drive as a loading area;
 - (j) that adequate provision be made to manage the behaviour of patrons (both inside and outside the buildings) and protection of surrounding properties;
 - (k) that the site must have a dedicated waste storage area as per part of the National Building Regulations (SANS 10400), and all refuse must then be removed from the property to a registered dump site;
 - (l) that there be compliance with all relevant Health and Fire Regulations;
 - (m) that all the conditions in the Services Report be complied with;
 - (n) that conditions 2(a), (b), (c), (d) and (f) of the applicant's letter dated 27 February 2025 be complied with;
 - (o) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (p) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.
3. that the applicant and persons who commented 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.

REASONS FOR THE RESOLUTION:

- ❖ The proposed bottle store will be located within an existing business node.
- ❖ The bottle store will be located in an existing building.
- ❖ The building has an approved building plan and complies with the development parameters as per the Overstrand Municipality Land Use Scheme.
- ❖ The refuse area was approved by the Municipality.
- ❖ The proposed bottle store is located adjacent to Clarence Drive, which in itself is a noise polluter.
- ❖ On-site parking provided is in compliance with the Overstrand Land Use Scheme.

- ❖ The objections raised have been considered and to some extent addressed through the applicants' proposed conditions of approval and those conditions imposed by the Municipality.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.5

ERF 3970, 13 HIBISCUS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF SC MARCOVECCHIO

3970 KBB (4743/2024)

H van der Stoep

(028) 313 8900

Hermanus Administration

1 July 2025

EXECUTIVE SUMMARY

An application was received on 7 August 2024 from Plan Active Town & Regional Planners on behalf of SC Marcovecchio on Erf 3970, Betty's Bay for the following:

- ❖ **Removal of Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed condition B.7 as contained in Title Deed T24576/2024 applicable to Erf 3970, Betty's Bay to accommodate the unlawful change of use of the approved covered veranda / balcony to a bedroom and lounge and to accommodate an existing water tank that encroaches the 3m title deed lateral building line (all structures As Built and positioned on the 2,085m eastern lateral building line).

The restrictive title deed conditions read as follows:

"B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T45069/1980 and imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTY'S BAY TOWNSHIP EXTENSION NO 3 which conditions read:

7. No building or structure or any portion thereof except boundary walls and fences shall, except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3 metres of the rear or 3 metres of the lateral boundary, common to any adjoining erf, provided that with the consent of the local authority:-...
 - (i) An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;

(ii) *An outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such a boundary;*

- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unlawful change of use of the covered veranda / balcony (positioned on the 2,085m eastern lateral building line) to bedroom and lounge on first floor level and for the water tank positioned on the 2m eastern lateral building line.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3097 Betty's Bay for the removal of restrictive title deed condition B.7 as contained in Title Deed T24576/2024 applicable to Erf 3970, Betty's Bay to accommodate the unlawful change of use of the approved covered veranda / balcony to a bedroom and lounge and to accommodate an existing water tank that encroaches the 3m title deed lateral building line (all structures As Built and positioned on the 2,085m eastern lateral building line), **be approved**, in terms of the provisions of Section 61 of the By-Law;
 - (a) that this approval is only for the development as indicated on plan numbers BB3970/2023 (1-2) dated 3 September 2023, as submitted with the application;
 - (b) that this approval is only for the removal of restrictions and not an approval in terms of any other legislation;
 - (c) that building plans be submitted to the Building Department reflecting the area for approval, and that all conditions of the Building and Fire Departments be complied with at that stage;
 - (d) that the amended title deed be submitted for record purposes to the Municipality;
 - (e) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (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 Land Use Scheme be complied with.

3. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 3970, Betty's Bay for the unlawful change of use of the covered veranda / balcony (positioned on the 2,085m eastern lateral building line) to bedroom and lounge on first floor level and for the water tank positioned on the 2m eastern lateral building line, **be imposed**, and that an administrative penalty fee of **R6009,39** be payable within sixty (60) days of this decision; and
4. 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.

REASONS FOR THE RESOLUTION:

- ❖ The title deed condition building line restrictions are more lenient in terms of the lateral building lines regarding structures on the boundaries.
- ❖ The difference between the building lines prescribed in the title deed conditions and the land use scheme are approximately 1m in total and would therefore have very little impact on the overall allowable development of the erf.
- ❖ The discrepancies between the title deed restrictions and the land use scheme are, therefore, evened out by the removal of the conditions that deal with the building lines, to enable developments of residential erven to be more uniform in terms of development parameters. All the other conditions remain in place.
- ❖ The balcony was approved on the 1,5m lateral building line with neighbour's consent, but was actually built on 2,085m which is compliant with the Land Use Scheme.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.6

**ERF 6862, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF
STREET NAME AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON
BEHALF OF OVERSTRAND MUNICIPALITY [INFILL HOUSING DEVELOPMENT]**

6862 KU6 (4875/2024)

**H van der Stoep
11 August 2025**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 27 November 2024 from Urban Dynamics Cape (Pty) Ltd on behalf of Overstrand Municipality to enable the **infill housing development** on Erf 6862, Kleinmond in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 as follows:

- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law to rezone Erf 6862, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), and subsequent **Subdivision** thereof in terms of Section 16(2)(d) of the By-Law for the establishment of the infill development to create the following:
 - 16 Single Residential Zone erven;
 - 1 Transportation Zone 2: Road and parking (TR B) erf, public road purposes and
 - 1 Open Space Zone 2 erf, for public open space purposes (Play Park).
- ❖ **Allocation of Street Name and Numbers** in terms of Section 96 of the By-Law to allocate a street name (*Butterfly Crescent*) and numbers.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(a) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6862, Kleinmond to rezone the said property from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), and subsequent **subdivision** thereof in terms of Section 16(2)(d) of the By-Law for the establishment of the infill housing development to create the following:
 - ❖ 16 Single Residential Zone erven,
 - ❖ 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
 - ❖ 1 Open Space Zone 2 erf, for public open space purposes (play park);

be approved, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) that approval is for the development as indicated on Plan numbers 1 & 3 dated 20 and 21 November 2024;
 - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (d) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (e) that all conditions in the Services Report be complied with; and
 - (f) that all conditions in the Traffic Impact Assessment dated July 2024 be complied with.
3. that the application in terms of Section 96 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the allocation of a street name (*Butterfly Crescent*) and numbers to the new street in the development, **be approved** in terms of the provisions of Section 61 of the By-Law; and
 4. that the applicant and objectors 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.

REASONS FOR THE RESOLUTION

- ❖ The application erf has been identified as a housing project during the Investigation into available developable land in Kleinmond and Overhills upgrade, as adopted by Council in 2021.
- ❖ The project has been identified in the IDP document.
- ❖ Funding was secured for the development.
- ❖ The proposal constitutes infill development of a portion of derelict land.
- ❖ The proposal is a FLISP housing project aimed at the GAP market from low to middle income earners.
- ❖ The objections have been noted and where possible mitigated through conditions of approval.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.7

**ERF 6936, NEMESIA AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR SUBDIVISION, REZONING AND THE ALLOCATION OF
STREET NAMES AND NUMBERS: URBAN DYNAMICS CAPE (PTY) LTD ON
BEHALF OF OVERSTRAND MUNICIPALITY**

6936 KU6 (4876/2024)

**H van der Stoep
12 August 2025**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 27 November 2024 from Urban Dynamics Cape (Pty) Ltd on behalf of Overstrand Municipality to enable the **infill housing development** on Erf 6936, Kleinmond in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 as follows:

- ❖ **Subdivision** in terms of Section 16(2)(d) of the By-Law to subdivide Erf 6936, Kleinmond into 2 portions namely Portion A ($\pm 0,68$ ha) and a Remainder ($\pm 0,14$ ha).
- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law to rezone Portion A, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), for the establishment of:
 - ✚ 21 Single Residential Zone erven,
 - ✚ 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
 - ✚ 1 Open Space Zone 2 erf, for public open space.
- ❖ **Allocation of Street Names and Numbers** in terms of Section 96 of the By-Law to allocate street names (*Ixia Street and Beetle Street*) and numbers.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(d) of the By-Law to subdivide Erf 6936, Kleinmond into two (2) portions namely Portion A ($\pm 0,68$ ha) and a Remainder ($\pm 0,14$ ha), **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(a) of the By-Law to rezone Portion A, Kleinmond from Open Space 2: Public Open Space (OS2) to Subdivisional Area (SA), for the establishment of the infill housing development to create the following:

- ❖ 21 Single Residential Zone erven,
- ❖ 1 Transportation Zone 2: Road and parking (TR B) erf, for public road purposes and
- ❖ 1 Open Space Zone 2 erf, for public open space purposes.

be approved, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

4. that the approvals in points 2 - 3 above be subject to the following conditions:
 - (a) that approval is for the development as indicated on Plan numbers 2 - 4 dated November 2024 and 2025;
 - (b) that a 5m street building line along R44 be applicable;
 - (c) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (e) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (f) that all conditions in the Services Report be complied with;
 - (g) that all conditions imposed by the Western Cape Government: Infrastructure (Road Planning) be complied with; and
 - (h) that all conditions in the Traffic Impact Assessment dated July 2024 be complied with.
5. that the application in terms of Section 96 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the allocation of street names (*Ixia Street and Beetle Street*) and numbers to the new streets in the development, **be approved** in terms of the provisions of Section 61 of the By-Law; and
6. that the applicant and objectors 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.

REASONS FOR THE RESOLUTION:

- ❖ The application erf has been identified as a housing project during the Investigation into available developable land in Kleinmond and Overhills upgrade as adopted by Council in 2021.
- ❖ The project has been identified in the IDP document.
- ❖ Funding was secured for the development.
- ❖ The proposal constitutes infill development of a portion of vacant land.
- ❖ The proposal addresses the housing need.
- ❖ The proposal constitutes the optimal use of land and infrastructure.
- ❖ The proposal is a FLISP housing project aimed at the GAP market from low to middle income earners.
- ❖ The objections have been noted and where possible mitigated through conditions of approval.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.8

PORTION 94 OF THE FARM HEMEL EN AARDE NO. 587, DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, AMENDMENT OF AN APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD

RCAL 94/587 (4456/2024)

H Olivier

(028) 313 8900

Hermanus Administration

30 July 2025

EXECUTIVE SUMMARY

An application was received on 16 August 2023 from WRAP Project Office on behalf of Haygrove Heaven (Pty) Ltd on Portion 94 of Farm 587, Hemel-en-Aarde Valley is in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to relax the eastern 30m building line to 12,04m to accommodate the proposed expansion of the existing pack shed; and to relax the same building line to 6,44m to accommodate the existing covered pergola.
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to relax the northern 30m building line to 9m, the Western 30m building line to 9m, the southern 30m building line to 5m and the eastern 30m building line to 3m to accommodate the existing intensive horticulture tunnels.
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to relax the northern 30m building line to 11m, 12m and 20m respectively, the western 30m building line to 10m, 12m, 13,5m, 14m, 14,5m and 15,5m respectively, the southern 30m building line to 7,3m, 8m, 23,7m and 23,8m respectively, the south-eastern 30m building line to 19m and 24,5m respectively and the eastern 30m building line to 3m, 3,3m and 5,5m respectively to accommodate proposed new intensive horticulture tunnels.
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to exceed the maximum allowable floor space from 6,1707ha to 22,2431ha to accommodate proposed new intensive horticulture tunnels and other extension.
- ❖ **Amendment of the existing approved site development plan** in terms of Section 16(2)(l) of the By-Law to accommodate the proposed expansion of the tunnels, the existing enclosed berry fields on the property and the larger agricultural industry footprint.

- ❖ **Amendment of conditions of approval** in terms of Section 16(2)(h) of the By-Law for the amendment of condition 1(c) in approval letter dated 13 July 2012 to accommodate the expansion of the footprint of the existing agricultural industry, and condition 3. (a) in approval letter dated 9 February 2016 to accommodate the proposed expansion of the tunnels on the property.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised construction of intensive horticulture tunnels on the property and covered pergola.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(h) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend condition 1.(c) of the approval in the letter dated 13 July 2012 to allow for the expansion of the agricultural industry, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

“1. (c) that the approval only has reference to the agricultural industry of 1635m²”.
3. that the application in terms of Section 16(2)(h) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend conditions of approval in the letter dated 9 February 2016 to allow for the expansion of the horticulture tunnels from 5,8727ha to 21,9557ha, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

“3. (a) that the placement of the intensive horticulture tunnels be aligned with and limited to the tunnels indicated on the Site Development Plan submitted with the application, and an application will have to be made for any possible future tunnels”.
4. that the application in terms of Section 16(2)(l) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley for the Amendment of the approved Site Development Plan to accommodate the proposed expansion of the horticulture tunnels and some existing berry fields covered with horticulture tunnels on the property, and a proposed larger agricultural industry footprint, **be approved**, in terms of the provisions of Section 61 of the By-Law.

5. that the applications in terms of Section 16(2)(b) in terms of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley for the following departures:
- eastern building line from 30m to 12,04 to accommodate the proposed expansion of the existing pack shed, and to relax the same building line to 6,44m to accommodate the existing covered pergola;
 - northern building line from 30m to 9m, the western 30m building line to 9m, the southern building line to 5m and the eastern 30m building line to 3m to accommodate the existing intensive horticulture tunnels;
 - northern building line from 30m to 11m, 12m and 20m respectively, the western 30m building line to 10m, 12m, 13,5m, 14m, 14,5m and 15,5m respectively, the southern 30m building line to 7,3m, 8m, 23,7m and 23,8m respectively, the south-eastern 30m building line to 19m and 24,5m respectively and the eastern 30m building line to 3m, 3,3m and 5,5m respectively, to accommodate proposed new intensive horticulture tunnels; and
 - departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 22,2431ha to accommodate additional intensive horticulture tunnels and the expansion of the agricultural industry;

be approved in terms of the provisions of Section 61 of the By-Law.

6. that the approvals in 2-5 above be subject to the following conditions in terms of Section 61 of the By-Law:
- (a) that all development be in line with the new Site Development Plan for the property;
 - (b) that detailed building plans be submitted to the Building Control Division for approval for all existing structures to be legalised or proposed structures for approval;
 - (c) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;
 - (d) that all the conditions in the Services Report be complied with; and
 - (e) that the mitigation measures as stipulated in the Visual Impact Assessment be complied with, and that the Visual Impact Practitioner provide confirmation in writing that latter has been implemented.

7. that the following comments be noted:
- DEADP: Environmental;
 - Western Cape Government: Agriculture;
 - Department of Infrastructure: Road Planning;
 - Telkom;.
 - BOCMA; and
 - Cape Nature;
8. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law Land Use Planning, 2020 on Portion 94 of Farm 587 Hemel-en-Aarde Valley, to accommodate the illegally constructed horticulture tunnels and a covered pergola on the property, was considered and that an administrative penalty of **R265 684-00, be imposed** which penalty must be paid within ninety (90) days from the final date of the decision of the application; and
9. that the applicant and objectors 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.

REASONS FOR THE RESOLUTION:

POINTS 2 - 5

- ❖ The proposed horticulture tunnels and extension of the agricultural industry form part of the fabric of agricultural areas, and the objections regarding visual impact and impact on the character of the area are not agreed with, as the Visual Impact Assessment found the significance of the impact to be moderate to low (with mitigation measures), and all relevant state and municipal departments including EA&DP: Planning Directorate, EA&DP: Environmental Branch, Cape Nature and the Municipal Environmental Branch supports the application.
- ❖ The existing mitigation measures and proposed measures including covering of the polytunnels with netting to reduce glare, planting of more wind break trees to function as a visual block and no fitting of lighting at the new horticulture tunnels, will help limit the impact on the surrounding area and property owners.
- ❖ The application is supported by DEADP: Environmental Branch, Cape Nature and the Overstrand Municipal Environmental Division, and it is not foreseen that it will have a negative impact on the natural environment.
- ❖ The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- ❖ The expansion of the agricultural industry would help improve the productivity of the farm pack store.
- ❖ The concerns regarding additional water use and increase in traffic do not prove the application to be undesirable, as the relevant municipal and state departments

who specialise in these fields, being BOCMA and the municipal Engineering Division, support the application and consider the foreseen impact to be acceptable.

- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain side. Although this region is a tourist area, the main use is still agricultural and application to improve agricultural productivity should, therefore, receive priority.
- ❖ The comments that the development is not compatible with surrounding properties and would lead to a loss of right of enjoyment of surrounding property owners, is not supported, as the proposed activity fits in with the main function of the valley, being agricultural.
- ❖ The horticulture tunnels will increase food security.
- ❖ The application went through a very good public participation process and sufficient information was provided to consider the application.
- ❖ The building line relaxations are supported due to the fact that it complies with the Fire Management Plan, as the tunnels are not situated close to farmsteads or accommodation units and are relatively low structures over the covered berry fields and will visually be blocked from the directly adjacent neighbours by wind break trees.

POINT 8

- ❖ The existing property owner constructed horticulture tunnels in conflict with a previous condition of approval and over building lines, and a covered pergola over building lines. The applicant acknowledged that the property owner was responsible for the illegal structures and an administrative penalty fee was therefore imposed.
- ❖ A 5% administrative penalty is considered appropriate, given that the applicant has acknowledged the transgression and submitted an application for rectification. In addition, the black shade netting, which provides no agricultural benefit and reduces production by approximately 15%, was installed solely in response to specific municipal conditions aimed at mitigating visual impact. The netting also constitutes an ongoing maintenance and financial burden, which the applicant will continue to bear indefinitely as a mitigating measure. Taken together, these factors justify the imposition of a limited penalty.

RESPONSIBLE OFFICIAL :

H OLIVIER

The meeting adjourned at 11:44