



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

**MINUTES**

<b>DATE:</b>	<b>24 FEBRUARY 2022</b>
<b>VENUE:</b>	<b>ELECTRICAL CONFERENCE ROOM, ONRUS</b>
<b>TIME:</b>	<b>10:00</b>

# **OVERSTRAND**

## **MUNICIPAL PLANNING TRIBUNAL**

### **MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD AT THE ELECTRICAL CONFERENCE ROOM, ONRUS ON 24 FEBRUARY 2022 AT 10:00**

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#### **PRESENT:**

##### **MEMBERS:**

Ms H Janser, Directorate Development  
Management  
Mr S Müller, Director : Infrastructure & Planning  
Mr H Blignaut, Deputy Director : Engineering  
Services  
Ms R Louw, Senior Manager : Strategic Services  
Mr R Kuchar, Senior Manager : Town & Spatial  
Planning

##### **OFFICIALS:**

Mr S van der Merwe, Senior Town Planner  
Mr H Olivier, Town Planner  
Mr P Roux, Town Planner  
Ms S Swart, Council Support Services

##### **APOLOGIES:**

Mr S Madikane, Director : LED  
Ms H van der Stoep, Senior Town Planner









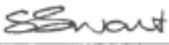
## MUNICIPAL PLANNING TRIBUNAL

## ATTENDANCE REGISTER

Date: **24 FEBRUARY 2022**

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	
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	Apology
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	Apology
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	

**1. OPENING**

The Chairperson, Ms H Janser, opened the meeting and welcomed those present.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

Mr S Madikane  
Ms H van der Stoep

**RESOLVED:**

that the above-mentioned applications for leave of absence, **be granted.**

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 15 December 2021****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **15 December 2021, be approved.**

**3.2 Minutes of a Municipal Planning Tribunal Meeting held on 3 February 2022****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **3 February 2022, be approved.**

**4. ITEMS FOR CONSIDERATION****4.1**

**ERF 5559, 243 FIFTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF THE KIEPERSOL BELEGGINGSTRUST**

**EXECUTIVE SUMMARY**

An application was received on 20 January 2021 from Messrs Interactive Town and Regional Planning on behalf of the Kiepersol Beleggingstrust for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-law) applicable to Erf 5559, Voëlklip, Hermanus for the relaxation of the height restriction from 8m to 8,7m to accommodate an existing roof ridge.

**RESOLVED:**

that the item **be referred back**.

**RESPONSIBLE OFFICIAL :**

**P ROUX**

**4.2****ERF 6304, 28 NINTH STREET, KLEINMOND: APPLICATION FOR CONSENT USE:  
MESSRS FVS TOWN AND REGIONAL PLANNERS ON BEHALF OF  
L SINGLETON****EXECUTIVE SUMMARY**

An application was received on 14 July 2021 from Messrs FVS Town and Regional Planners on behalf of L Singleton on Erf 6304, Kleinmond 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 operate a place of instruction from the existing house on the property.

**RESOLVED:**

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6304, Kleinmond for a consent use in order to operate a place of instruction from the existing house on the property, **be approved** in terms of the provisions of Section 61, subject to the following conditions:
  - (a) that the place of instruction be limited to a maximum of forty (40) children;
  - (b) that the place of instruction be limited to the existing house as per Plan Number 040305b dated 12 August 2004;
  - (c) that the following operating hours be applicable as indicated in the motivation - Monday to Friday from 08:00 to 12:30;
  - (d) that the owner or manager does not need to reside on the property;
  - (e) that the drop-and-go facility be on the eastern side of the street, direct in front of the place of instruction and signage be erected to inform parents of the facility;
  - (f) that the access gates to the property remain open for the duration of dropping off and collecting of children;
  - (g) that no parking of vehicles in front of residents' driveways be allowed and employees park on site;
  - (h) that the rights to operate a place of instruction is not transferable;
  - (i) that no activities be held after hours or over weekends;

- (j) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
  - (k) that any additional structure or alteration to the existing dwelling must conform to the residential character of the area concerned;
  - (l) that building plans be submitted to the Municipality showing all building changes, partitioning and correct names of rooms (*not bedroom, lounge, etc.*) to the satisfaction of the Fire Department and Building Control Department;
  - (m) that a fire protection plan be submitted to the Building Control Department;
  - (n) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (o) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
  - (p) that all the conditions in the Services Report be complied with.
2. 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 is in line with forward planning documents.
- ❖ The place of instruction provides a much-needed community facility.
- ❖ Objectors acknowledge the need but have a few concerns, which can be mitigated.
- ❖ The proposed increase in children from 40 to 50 will exacerbate the traffic and noise problems with a negative impact on neighbours.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP**

## 4.3

**ERF 2666, 201 PORTER DRIVE, BETTY'S BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT AND DEPARTURE: MESSRS HIGHWAVE CONSULTANTS ON BEHALF OF ASK SECURITY CC****EXECUTIVE SUMMARY**

An application was received on 28 October 2019 from Messrs Highwave Consultants on behalf of Ask Security CC on Erf 2666, Betty's Bay for the following:

- **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the By-Law for the removal and amendment of restrictive title deed Condition C., Condition D.A.(a), Condition A.(c) and Condition E.(b) as contained in Title Deed T56156/2011 and Pivot Deed T12265/1954 to permit the proposed application.

The restrictive title deed conditions read as follows:

*Condition C. (page 2): ENTITLED to the benefit of the conditions referred to in the Servitude Endorsement dated 24 June 1940 in Certificate of Consolidated Title No. T3720/1937:*

*"By Deed of Transfer No 6068/40 dated 24/6/40 certain conditions relating to (b) prohibition of Petrol Station on land (d) wood and iron buildings, (e) slaughter poles, cattle kraals and manufacture of bricks, tiles, etc. have been imposed on the property thereto conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the Deed of Transfer"*

*Condition D. (page 3):*

*'A.(a): That only one building for use as shops, business premises (which shall not include a licenced hotel, off sales liquor licence bottle store, garage or cinema) a dwelling house, residential building, place of worship and/or a building combining two or more uses, together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.*

*"A.(c) That no building or structure or any portion thereof, excepts boundary walls and fences shall be erected nearer than 3,15 metres to the back and side boundaries of this erf excluding the portions of the side boundaries for a distance of 9,45 metres from the building line to the street."*

*"Condition E.(b)"*

*No wood and iron buildings or any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes"*



- **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2015 from 8,5m to 15m for the purpose of erecting a transmission apparatus.
- **Consent Use** in terms of Section 16(2)(c) of the Overstrand Municipal By-Law on Municipal Planning, 2015 for the erection of a transmission apparatus.

**RESOLVED:**

1. that the application in terms of Section 16.(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 2666, Betty's Bay for a departure to exceed the applicable 8m height restriction to accommodate a proposed 15m high transmission apparatus, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 2666, Betty's Bay for a consent use in order to erect a 15m transmission apparatus, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16.(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 2666, Betty's Bay for the removal of restrictive title deed Condition D.A.(a) and Conditions C and E(b) as contained in Title Deed T56156/2011 in order to erect a 15m transmission tower, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16.(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 2666, Betty's Bay for the removal of restrictive title deed Condition D.A.(c) as contained in Title Deed T56156/2011 and pivot deed T12265/1954, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
  - (b) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
5. 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, 2015 with regard to the above conditions of not approval.

**REASONS FOR THE RESOLUTION:****POINTS 1 – 3**

- The motivation is vague and did not address the Betty's Bay area per se.
- Existing towers were not indicated and their specifications.
- No visual impact was considered in terms of the existing built environment.
- Needs as indicated in the motivation report were not verified or quantified.
- Alternatives were investigated in the business node itself and none outside this perimeter.
- It is unclear how the proposed development coincides with the Spatial Planning Documents of the Overstrand since it was not addressed or discussed in the application.
- The removal of Conditions D.(A)(a), C and E(b) has not addressed the specific land uses and materials restricted by the condition. The applicant did not apply for any of the restricted land uses and thus the impact of the removal of the uses cannot be determined.

**POINT 4**

- The building lines relates to Porter Drive as a main road of Betty's Bay.
- This has lapsed with the building of the R44, Clarence Drive, and thus no longer applicable or practical.
- Little of the erf remains to be developed should the building lines remain in place.
- The Land Use Scheme building lines are sufficient in dealing with development on the erf.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP**

## 4.4

**ERF 428, 13 CENTRAL ROAD, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: HIGHWAVE CONSULTANTS ON BEHALF OF C DOWNS / MESSRS ATC (PTY) LTD****EXECUTIVE SUMMARY**

An application has been received on 28 January 2020 (amended 9 June 2021) from Highway Consultants on behalf of C Downs / Messrs ATC (Pty) Ltd on Erf 428, Pringle Bay for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16.(2)(f) of the Overstrand Municipal By-Law on Municipal Planning, 2015 for the removal of restrictive title deed conditions E.1.(a) and D.(b) as contained in Title Deed T20557/2015 in order to erect a 25m transmission tower.

*The restrictive title deed conditions read as follows:*

*E. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T7129/1951, namely:*

*1. As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by Administrator under the provisions of Section 18(3) of Ordinance No. 33 of 1934:*

*(a) That only one building together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.*

*D. As being in favour of the registered owner of any erf in the Township:*

*(b) No wood and iron buildings or any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes”*

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Planning, 2015 in order to erect a 25m transmission tower on the above property.
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2015 to exceed the applicable 6m height restriction to accommodate a proposed 25m high transmission tower.

**RESOLVED:**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 428, Pringle Bay for the removal of restrictive title deed conditions E.1.(a) and D.(b) as contained in Title Deed T20557/2015 in order to erect a 25m transmission tower, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 428, Pringle Bay for a consent use in order to erect a 25m transmission tower on the above property, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 428, Pringle Bay for a departure to exceed the applicable 8.5m height restriction to accommodate a proposed 25m high transmission tower, **not 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 By-Law on Land Use Planning, 2015 with regard to the above decision.

**REASONS FOR THE RESOLUTION:**

- ❖ The motivation is vague and does not address the Pringle Bay area per se.
- ❖ Existing towers and their specifications were not indicated.
- ❖ Visual impact was considered in terms of the existing built environment and was rated high to moderate.
- ❖ Needs as indicated in the motivation report were not verified or quantified.
- ❖ Alternatives were not investigated.
- ❖ It is unclear how the proposed development coincides with the Spatial Planning Documents of the Overstrand since it was not addressed or discussed in the application.
- ❖ The removal and or amendment of the restrictive conditions relate to the consent use, which is not recommended for approval, thus there is no need to amend or remove the conditions.
- ❖ The impacts of the physical aspects of the tower such as the dishes and aviation lights have not been addressed.
- ❖ The application does not adhere to the requirements of Section 16.10.23 of the Overstrand Land Use Scheme.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP****The meeting adjourned at 11:40**