



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

MINUTES

DATE:	29 JANUARY 2026
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM ON 29 JANUARY AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Chief Engineer : Infrastructure Services
Mr H Blignaut, Principal Engineer
Ms R Louw, Divisional Manager : Strategic Support
Services

OFFICIALS:

Ms H van der Stoep, Principal Town Planner
Mr H Olivier, Principal Town Planner
Ms C Fisher, Chief Clerk : Committee Services

APOLOGIES:

Mr R Kuchar, Divisional Manager : Town & Spatial
Planning
SW Van der Merwe : Principal Town Planner

MUNICIPALITY



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**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 29 January 2026

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	Leave
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
SW VAN DER MERWE	PRINCIPAL TOWN PLANNER OVERSTRAND MUNICIPALITY	Leave
H VAN DER STOEP	PRINCIPAL TOWN PLANNER OVERSTRAND MUNICIPALITY	
C FISHER	ADMINISTRATIVE SUPPORT OVERSTRAND MUNICIPALITY	

1. OPENING

The Chairperson opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr SW Van der Merwe

Mr R Kuchar

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 27 November 2025****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **27 November 2025, be approved**.

4. ITEMS FOR CONSIDERATION

4.1

ERF 3626, 9 VAN BLOMMENSTEIN STREET, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF REEFF PROPS (PTY) LTD

3626 HON (5011/2025)

H Olivier

(028) 313 8900

Hermanus Administration

14 November 2025

EXECUTIVE SUMMARY

An application was received on 8 August 2025 from WRAP Project Office on behalf of REEFF Props (Pty) Ltd on Erf 3626, Onrustrivier in terms of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the following:

- ❖ **Rezoning** of the property in terms of Section 16(2)(a) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) to accommodate a mixed-use development consisting of a business component on the ground floor and two (2) residential flats on the first floor.
- ❖ **Departure in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 to relax the following building lines to accommodate the proposed structure:**
 - northern lateral building line from 3m to 1,23m to accommodate the proposed encroachments on ground floor level, and to relax the same building line from 3m to 1m to accommodate the proposed encroachments on first floor level, and to allow a door and windows closer than 1,5m from the boundary, and
 - southern lateral building line from 3m to 2,6m to accommodate the proposed encroachments on first floor level.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16(2)(a) of terms the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 for the **rezoning** of Erf 3626, Onrustrivier from Residential Zone 1: Single Residential (SR1) to Business Zone 3: Local Business (B3) to accommodate a mixed-use development consisting of a business component on the ground floor and two (2) residential flats on the first floor, **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 Municipality Amendment By-Law on Land Use Planning, 2020 on Erf 3626, Onrustrivier for a **departure** to relax the following building lines to accommodate the proposed structure:
- northern lateral building line from 3m to 1,23m to accommodate the proposed encroachments on ground floor level, and to relax the same building line from 3m to 1m to accommodate the proposed encroachments on first floor level, and to allow a door and windows closer than 1,5m from the boundary, and
 - southern lateral building line from 3m to 2,6m to accommodate the proposed encroachments on first floor level;
- be approved**, in terms of the provisions of Section 61 of the By-Law.
4. that the approvals in 2 and 3 above be subject to the following conditions:
- (a) that the approval only relates to the proposal as indicated on undated Plans number 5.1 and 5.2, and undated drawing no. 10, submitted with this application;
 - (b) that commercial rates and taxes, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (c) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control, Fire and Waste Management Departments be complied with at that stage;
 - (d) that all conditions in the Services Report be complied with;
 - (e) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
 - (f) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.
5. That the following comments be noted:
- ❖ Telkom, and
 - ❖ Western Cape Government: Infrastructure (Road Planning);
6. 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 decisions.

REASONS FOR THE RESOLUTIONPOINT 2

- ❖ All relevant municipal departments and external departments/institutions support the application.
- ❖ Concerns/objections raised about the possibility of a bottle store being operated on the erf is not relevant, as a bottle store can only be considered if a consent use application was submitted for such rights. The application does not include an application for a bottle store.
- ❖ The application aligns with the general principles of SPLUMA and LUPA, in that the proposed development promotes spatially sustainable by providing a mixed-use development that creates economic opportunities and addresses housing needs, whilst also contributing to the containment of urban sprawl.
- ❖ The Overstrand Municipality Spatial Development Framework, 2020 identifies this area for commercial purposes and the property is located in the Onrustvrievier Business Node. The proposal is therefore in line with this policy plan.
- ❖ In terms of the Overstrand Municipality Growth Management Strategy, 2010, a guideline document, this area is identified for Local Economic Opportunity and densification zone for more than 30 residential units per ha. The commercial development with flats is in line with this guideline document.
- ❖ The Rezoning application will not have a negative impact on surrounding property owners or the character of the area.

POINT 3

- ❖ The proposed departures to relax building lines are required as 3m lateral building lines became applicable due to the residential zoning of the adjacent erven. This limits the development potential significantly.
- ❖ This area is in the business corridor, and the properties to the north and south will in all likelihood be rezoned in future and utilised for business purposes.
- ❖ The owners of the residential erven to the north and south did not object to this application.
- ❖ The encroachments are supported by all municipal departments.
- ❖ The departure application will not have a negative impact on surrounding property owners or the character of the area.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.2

PORTION 229 OF THE FARM AFDAKSRIVIER NO 575, BENGUELA COVE, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR AMENDMENT OF THE EXISTING APPROVED SITE DEVELOPMENT PLAN, AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL AND EXTENSION OF THE PERIOD OF VALIDITY OF AN APPROVAL: WRAP PROJECT OFFICE ON BEHALF OF BENGUELA COVE INVESTMENTS (PTY) LTD

HBENG 229/575 (4595/2024)**H Olivier****(028) 313 8900****Hermanus Administration****24 November 2025**

EXECUTIVE SUMMARY

An application was received on 26 February 2024 from WRAP Project Office on behalf of Benguela Cove Investments (Pty) Ltd on Portion 229 of the Farm Afdaksrivier No 575, Benguela Cove, Division Caledon in terms of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 for the following:

- ❖ **Amendment of the existing approved site development plan** in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 to accommodate the proposed new buildings/structures such as a wedding venue and picnic pods, as well as the expansion of the existing winery for storage purposes.
- ❖ **Amendment of conditions in respect of an existing approval** in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 to allow for the new wedding venue building to be used as a place of entertainment.
- ❖ **Extension of the period of validity of an approval** in terms of Section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 to extend the validity period for the Departure approval for an additional 5 years to operate a market and utilize portions of the buildings for places of entertainment.

RESOLVED:

that the item **be referred back** in order for the Applicant to provide projected sewage flows from the proposed development against existing network and treatment capacities, including at the Hawston WWTW.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.3

ERF 1494, LYNX ROAD, VERMONT, ERF 1496, LYNX ROAD, VERMONT AND ERF 2572, SIFFIE CRESCENT, VERMONT, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR PHASING OF THE SUBDIVISION PLAN, SUBDIVISION, EXEMPTION OF SUBDIVISION / CONSOLIDATION, REZONING, CONSOLIDATION, DEPARTURE, ALLOCATION OF STREET NAMES AND NUMBERS AND THE ESTABLISHMENT OF A HOMEOWNER'S ASSOCIATION: WRAP PROJECT OFFICE ON BEHALF OF M CARSTENS, FRIKSTIENS (PTY) LTD AND P & PG STEERE

1494, 1496 & 2572 HVM (4882/2024)

H Olivier

(028) 313 8900

Hermanus Administration

27 November 2025

EXECUTIVE SUMMARY

An application has been received on 4 December 2024 from WRAP Project Office on behalf of M Carstens, Frikstiens (Pty) Ltd and P & PG Steere on Erven 1494, 1496 and 2572, Vermont respectively in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ **Phasing of the Subdivision Plan** in terms of Section 16(2)(k) of the By-Law to develop Erven 1494, 1496 and 2572, Vermont into two (2) phases.

Phase 1

Subdivision in terms of Section 16(2)(d) of the By-Law for the subdivision of **Erf 1494, Vermont** into two (2) portions namely Portion A ($\pm 10\,049\text{m}^2$) and the Remainder ($\pm 1865\text{m}^2$).

Exemption of Subdivision / Consolidation in terms of Section 26(1)(h)(v) of the By-Law to register a service and a right-of-way servitude over the **proposed Portion A (a Portion of Erf 1494, Vermont)** in favour of the Remainder for the provision of access and services during Phase 1 of the project.

Phase 2

Subdivision in terms of Section 16(2)(d) of the By-Law for subdivisions as follows:

- **Erf 2572, Vermont** into two (2) portions namely the Remainder ($\pm 8678\text{m}^2$) and Portion B ($\pm 511\text{m}^2$).
- **Erf 1496, Vermont** into two (2) portions namely the Remainder ($\pm 9489\text{m}^2$) and Portion C ($\pm 511\text{m}^2$).

Rezoning in terms of Section 16(2)(a) of the By-Law for rezoning as follows:

- **proposed Portion B (a portion of Erf 2572, Vermont)** from Residential Zone 1: Single Residential (SR1) to Transport Zone 2: Roads and Parking (TR2B).
- **proposed Portion C (a portion of Erf 1496, Vermont)** from Residential Zone 1: Single Residential (SR1) to Transport Zone 2: Roads and Parking (TR2B).

Rezoning and Subdivision in terms of Section 16(2)(a) and Section 16(2)(d) of the By-Law for the rezoning of **proposed Portion A (a portion of Erf 1494, Vermont)** from Residential Zone 1: Single Residential (SR1) to Subdivisional Area (SA), and the subdivision to create the following:

- Portions 1 – 8:
Residential Zone 1: Single Residential (SR1) erven,
- Portions 9 – 16:
General Residential Zone 1: Town Housing (GR1) erven,
- Portion 17:
Open Space Zone 2: Public Open Space (OS2) erf; and
- Portions 18 - 19:
Transport Zone 2: Road and Parking (TR2B) erven.

Consolidation in terms of Section 16(2)(e) of the By-Law to consolidate Portion B (a portion of Erf 2572, Vermont) and Portion C (a portion of Erf 1496, Vermont) with Portion 19 (a portion of Portion A of Erf 1494, Vermont) to create a new road portion (Cork Oak Street) of ±1555m² in extent.

Departure in terms of Section 16(2)(b) of the By-Law to relax the following building lines to accommodate the proposed new dwelling units:

- Portion 9:
3m rear building line to 1m.
- Portion 10:
3m rear building line to 1m.
- Portion 12:
3m rear building line to 1m.
- Portion 13:
3m lateral building line to 1m.

Allocation of Street Name and Numbers in terms of Section 96 of the By-Law to allocate street names (*Lilium and Cork Oak Streets*) and numbers.

Establishment of a Homeowner's Association in terms of Section 31 of the By-Law to establish a homeowner's association (*not applicable to the Remainder of Erf 1494 Vermont*).

RESOLVED:

1. that the objections **be noted**;
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Phase 1

2. that the application in terms of Section 16(2)(d) of the By-Law for the subdivision of Erf 1494, Vermont into two (2) portions, namely portion A (approximately 10 049m²) and a Remainder (approximately 1865m²), **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(1)(h)(v) of the By-Law for Exemption of Subdivision to register a service and right-of-way servitude over the proposed Portion A (a portion of Erf 1494, Vermont) in favour of the Remainder for the provision of access and services during Phase 1 of the project, **be approved** in terms of the provisions of Section 61 of the By-Law;

Phase 2

4. that the application in terms of Section 16(2)(d) of the By-Law for Subdivision as follows:
 - ❖ Erf 2572 Vermont into 2 portions namely the Remainder (approximately 8678m²) and Portion B (approximately 511m²), and
 - ❖ Erf 1496, Vermont into two portions namely the Remainder (approximately 9498m² and Portion C (approximately 511m²),

be approved in terms of the provisions of Section 61 of the By-Law;
5. that the application in terms of section 16(2)(a) of the By-Law for the rezoning for the following:
 - ❖ Proposed Portion B (A portion of Erf 2572, Vermont) from Residential Zone 1 : Single Residential (SR1) to Transport Zone 2: Roads and Parking (TR2B), and
 - ❖ Proposed Portion C (a Portion of Erf 1496, Vermont from Residential Zone 1: Single Residential (SR1) to Transport Zone 2: Roads and Parking (TR2B);

be approved in terms of the provisions of Section 61 of the By-Law;
6. that the application in terms of Section 16(2)(a) and Section 16(2)(d) for Rezoning and Subdivision of proposed Portion A (a Portion of Erf 1491, Vermont from Residential Zone 1: Single Residential (SR 1) to Subdivisional Area (SA), and the subdivision to create:
 - ❖ Portions 1 – 8:
Residential Zone 1: Single Residential (SR 1) even;

- ❖ Portions 9-16:
General Residential Zone 1: Town Housing (GR 1) erven;
- ❖ Portion 17:
Open Space Zone 2: Public Open Space (OS2) erf, and
- ❖ Portions 18-19:
Transport Zone 2 (Road and Parking (TR2B)) erven;

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

7. that the application in terms of Section 16(2)(e) of the By-Law to Consolidate Portion B, a Portion of Erf 2572, Vermont and Portion C, a Portion of Erf 1494, Vermont with Portion 19, a Portion of Portion A of Erf 1494, Vermont to create a new road portion (Cork Oak Street) of 1555m² in extent, **be approved** in terms of the provisions of Section 61 of the By-Law;
8. that the application in terms of Section 16(2)(d) of the By-Law for departure to relax the following building lines to accommodate the proposed new dwelling units:
 - ❖ Portion 9:
3m rear building line to 1m;
 - ❖ Portion 10:
3m rear building line to 1m;
 - ❖ Portion 12:
3m rear building line to 1m, and
 - ❖ Portion 13:
3m lateral building line to 1m;

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

9. that the approvals in points 2 - 8 above be subject to the following conditions in terms of Section 61 of the By-Law:
 - (a) that approval is for the development and phasing as indicated on Plan numbers 2.130(002) Plan 4, 24.139 (002) Plan 6, 24.130 (003) Plan 8.1, 24.130(003) Plan 8.2, 24.130(001) Plan 9, 24.130 (003) Plan 10 and 24.130 (002) Plan 11 dated 24/04/2025, submitted with this application;
 - (b) that a minimum of 2 (two) parking bays be provided on each erf, to municipal standards and satisfaction;
 - (c) that the 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 the Architectural Design Guidelines in line with Land Scheme parameters, incorporating the building line departures be submitted for Phase 2 of the development to address the style of the houses (Cape Vernacular) that will be constructed, to the satisfaction of the Building Control department;
 - (f) that building plans be submitted for all new buildings to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
 - (g) that all conditions in the Services Report be complied with;
 - (h) that a Homeowners Association be established for Phase 2 of the development with compulsory membership for all property owners within the development;
 - (i) that the Constitution of the Homeowners Association for Phase 2 be submitted for approval to the Municipality (which reserves the right to impose conditions in this regard), and that the following aspects inter alia be addressed in this document:
 - the approval of building plans by an “estate architect” prior to submission thereof to the Municipality, and
 - that the Constitution clarifies at what stage the responsibility would be transferred from the developer to the Homeowners Association to deal with approval of plans.
10. 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 names (*Lilium and Cork Oak Streets*) and numbers, **be approved** in terms of the provisions of Section 61 of the By-Law;
11. that the application in terms of Section 16(2)(k) of the By-Law for the Phasing of the subdivision (as indicated above), to accommodate a development of Erven 1494, 1496 and 2572, Vermont in two phases, **be approved**, in terms of the provisions of Section 61;
12. that the following comments be noted:
- ❖ Western Cape Government: DEADP (Environmental);
 - ❖ Heritage Western Cape, and
 - ❖ Telkom; and

13. 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 decisions.

REASONS FOR THE RESOLUTION

- ❖ The objections received regarding impact on road infrastructure and traffic were addressed by the applicant and the municipal engineering branch, who supports the application.
- ❖ The street names are in keeping with the surrounding street names.
- ❖ All relevant state and municipal departments support the application.
- ❖ The application will not have a negative effect on the surrounding area, and the development is in line with the surrounding developments typologies.
- ❖ The Municipal SDF, 2020 earmarks the area for Urban Development.
- ❖ The Overstrand Municipality Growth Management Strategy, 2010 earmarks this area as status quo, and the area is developed with similar developments with single residential erven and group housing pockets, all linked with public roads and public open spaces.
- ❖ The application is in line with the general principles of SPLUMA and LUPA, as it promotes sustainability by contributing to the reduction of urban sprawl, and efficiency through the optimal use of existing infrastructure, while also enabling the Municipality to benefit from additional rates and taxes.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.4

ERF 146, NO. 2 AND ERF 631, NO. 2A MARK STREET, GANSBAAI: APPLICATION FOR REZONING, CONSOLIDATION, CONSENT USE, DEPARTURE, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF J & MM STEENKAMP

146 & 631 GGB (4891/2024)

SW van der Merwe

(028) 313 8900

Hermanus Administration

06 January 2026

EXECUTIVE SUMMARY

An application has been received on 13 December 2024 from Messrs PlanActive Town and Regional Planners on behalf of J & MM Steenkamp in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- **Rezoning** in terms of Section 16(2)(a) of the By-Law of Erf 146 and Erf 631, Gansbaai from Business Zone 2: General Business and Residential Zone 1: Single Residential to Business Zone 1: General Business.
- **Consolidation** in terms of Section 16(2)(e) of the By-Law of Erf 146 and Erf 631, Gansbaai to create a consolidated property of 1918m².
- **Consent use** in terms of Section 16(2)(o) of the By-Law, to accommodate a dwelling unit, two ground floor flats, and a place of entertainment (five gambling machines).
- **Departure** in terms of Section 16(2)(b) of the By-Law to encroach the northern rear building line from 3m to 0m to accommodate the existing flats, covered patio, bathroom and recreation area.
- **Amendment of conditions** in respect of existing 2007 and 2023 approvals in terms of Section 16(2)(h) of the By-Law.
- **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law.

RESOLVED:

1. that the objections **be noted**;
2. that the application for **rezoning** in terms of Section 16(2)(a) of the By-Law of Erven 146 and Erf 631, Gansbaai from Business Zone 2: General Business and Residential Zone 1: Single Residential to Business Zone 1: General Business, **be approved** in terms of the provisions of Section 61 of the By-law;
3. that the application for **consolidation** in terms of Section 16(2)(e) of the By-Law of Erf 146 and Erf 631, Gansbaai to create one erf of 1918m², **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the application for **consent use** (place of entertainment) in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a place of entertainment (five gambling machines), two ground floor flats and a dwelling unit on the consolidated property, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the application for **departure** in terms of Section 16(2)(b) of the By-law to encroach the rear building line from 3m to 0m to accommodate the existing flats, covered patio bathroom and recreation area, **be approved** in terms of the provisions of Section 61 of the By-Law;
6. that the application for the **removal** of conditions 1(a), (b), (c) and (g) of the existing approval dated 28 February 2007 and the **removal** of conditions 5(a), (b) (d) and (e) of the existing approval dated 28 September 2023, **be approved** in terms of provisions of Section 61 of the By-Law;
7. that **an administrative penalty** in terms of Section 90(4) of the By-Law be imposed in respect of the unauthorised land use, and that **no exemption** from the payment of an administrative penalty be granted;
8. that the decisions in paragraphs 2. to 7. above be subject to the following conditions:
 - (a) that this approval is only for a restaurant, five (5) gambling machines, a dwelling unit and two (2) ground floor flats, as indicated on the Site Development Plan as submitted with the application;
 - (b) that the consolidation of Erven 146 and 631, Gansbaai be effected within six months from the effective date of the decision;
 - (c) that building plans be submitted to the Building Department to accommodate the existing development on the property within 6 months from the registration of the consolidation and that all conditions of the Building and Fire Departments be complied with at that stage;
 - (d) that the consent use for a place of entertainment be limited to five (5) gambling machines only and that live music may not be permitted;
 - (e) that the operation of gambling machines be subject to a valid business license and gambling license;
 - (f) that an administrative penalty of **R10 441,61** be payable within sixty (60) days of the decision;

- (g) that all the conditions in the Engineering Services Report and from District Health be complied with;
 - (h) that, should the consolidated property be redeveloped in future, such redevelopment be subject to the submission and approval of a detailed Site Development Plan prior to the submission of building plans;
 - (i) that parking provision be clearly marked out on-site as indicated on the approved SDP;
 - (j) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (k) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
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 conditions of approval.

REASONS FOR RESOLUTION

- ❖ The proposal is consistent with the SDF and Overstrand Municipal Growth Management Strategy.
- ❖ The proposal is consistent with the Planning Principles in terms of LUPA and SPLUMA.
- ❖ The application property is situated within the Gansbaai CBD in an area with a mixed character.
- ❖ The proposal comprises mixed commercial and residential land use, contributing to a vibrant CBD.
- ❖ The proposal is not considered to have a significant impact upon vested rights, sufficient to warrant refusal of planning permission.
- ❖ The proposal will resolve historic non-compliance with the land use scheme, pertaining to on-site parking provision.

RESPONSIBLE OFFICIAL :**SW VAN DER MERWE**

4.5

ERF 3095, 93 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURES AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLATINUM TOWN & REGIONAL PLANNERS CC ON BEHALF OF SONIC COMPUTERS AND WI-FI CC

3095 KBB (4644/2024)

H van der Stoep

(028) 313 8900

Hermanus Administration

17 November 2025

EXECUTIVE SUMMARY

An application was received on 24 April 2024 from Platinum Town & Regional Planners CC on behalf of Sonic Computers and Wi-Fi CC on Erf 3095, Betty's Bay in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** 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 conditions B.(2), B.(4), B.(6), C.(i)5.(b), C.(i)5.(d), and C.(ii)(n) as contained in Title Deed T11954/2019 of the property.

The restrictive title deed conditions read as follows:

B. SUBJECT TO and/or ENTITLED TO the benefit of the conditions referred to in the following Servitude Endorsements as contained in Certificate of Consolidation Title No T3720/1937, which endorsements are dated and reads as follows:

(2) *Dated 22nd October, 1948:*

By D/T no. 24234 dated 22.10.1948 certain conditions relating to water supply, type of business may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been imposed, as will more fully appear on reference to the said Deed of Transfer.

(4) *Dated 1st December, 1950:*

By Deed of Transfer no. 18870/1950 dated this day certain conditions relating to water supply, type of business may be carried on, planting of trees,, prohibition of petrol station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc., non-subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed

measuring 5960/6615 ha. As will more fully appear on reference to said Deed of Transfer.

(6) *Dated 28th August, 1951:*

By Deed of Transfer no. 14935/1951 certain conditions relating inter alia to: arrangements re water supply; submission of plans for approval; fencing of land for tea garden or room; approval re types of trade to be undertaken; erection of only one building; prohibition against erection of petrol service station, and other certain types of building; slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., which conditions are imposed in favour of the owner and successor in title to the remainder measuring 5954,9428 ha. held hereunder as will more fully appear on reference to the said Deed of Transfer.

C. *SUBJECT to the following conditions contained in Deed of Transfer T12738/1959, namely:*

(i) *“Opgelê deur die Administrateur van die Provinsiale Kaap die Goeie Hoop tydens die goedkeuring van Sunny Seas Dorp in terme van die voorwaardes van Ordonnansie nr. 33 van 1934, soos gewysig:*

5. This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

(b) *It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;*

(d) *No building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf not within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear spar. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;*

(ii) *Opgelê deur Hangklip Beach Estates Limited as synde van toepassing op alle erwe in Sunny Seas Dorp as synde ten gunste van geregistreerde eienaar van enige erf in die Dorp;*

(n) *No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted upon the General Residential erven.*

- ❖ **Departures** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to –
 - relax the street building line from 4m to 0m to accommodate the existing infill area,
 - relax the lateral and rear building lines from 2m to 0m to accommodate the existing dwelling and transmission tower and
 - to exceed the permissible 8m height restriction to accommodate the existing 10m high transmission apparatus on the property.
 - to allow a transmission apparatus on the property
- ❖ **Determination of an Administrative Penalty** in terms of the provisions of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty for unauthorised land uses / building line encroachments on the property.

*It is to be noted that the departure to exceed the permissible 8m height restriction to accommodate the existing 10m high transmission apparatus on the property is **not applicable**. Due to an administrative error it was included in the advertisement during the public participation.*

RESOLUTION:

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 3095, Betty's Bay for the **removal** of restrictive title deed condition Conditions C.(i)5.(b) and C.(i)5.(d) as contained in Title Deed T11954/2019 of the property to accommodate the encroachments of the existing structures on the property, **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 Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3095, Betty's Bay for the **removal** of restrictive title deed Condition B.(4) and Condition C.(ii)(n) as contained in Title Deed T11954/2019 of the property to accommodate the encroachments of the existing structures on the property, **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 Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3095, Betty's Bay for the **removal** of restrictive title deed Conditions B.(2) and B.(6)

as contained in Title Deed T11954/2019 of the property to accommodate the encroachments of the existing structures on the property, **not be approved**, in terms of the provisions of Section 61 of the By-Law; but **be amended** to read as follows:

B.(2)

By D/T no. 24234 dated 22.10.1948 certain conditions relating to water supply, type of business may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, non-division, manufacture of bricks and tiles, have been imposed, as will more fully appear on reference to the said Deed of Transfer.

B.(6)

By Deed of Transfer no. 14935/1951 certain conditions relating inter alia to: arrangements re water supply; submission of plans for approval; fencing of land for tea garden or room; approval re types of trade to be undertaken; prohibition against erection of petrol service station, and other certain types of building; slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., which conditions are imposed in favour of the owner and successor in title to the remainder measuring 5954,9428 ha. held hereunder as will more fully appear on reference to the said Deed of Transfer.

5. (a) that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3095, Betty's Bay for a departure to allow a transmission apparatus, **be approved** in terms of the provisions of Section 61 of the By-Law; and
 - (b) that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3095, Betty's Bay for a departure to allow a transmission apparatus, **be approved**, in terms of the provisions of Section 61 of the By-Law.
6. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3095, Betty's Bay for a departure for the filling of an area over the prescribed building line(s), between the building line and the erf boundary, in terms of Section 16.1.1 a) of the Overstrand Municipality Land Use Scheme, 2020, **be approved**, in terms of the provisions of Section 61 of the By-Law;
7. that the above approvals in Points 2, 4, 5 and 6 be subject to the following conditions:
 - (a) that this is not an approval in terms of any other legislation;

- (b) that the departures of the building lines are restricted as per plan 001, dated 24 October 2024, as submitted with the application;
 - (c) that a visual impact study be done to determine solutions to minimise the tower's impact on the environment;
 - (d) that no additional equipment to be added onto the tower;
 - (e) that a **revised** building plan 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; in compliance with the approval;
 - (f) that the amended title deed be submitted for record purposes to the Municipality;
 - (g) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (i) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
 - (j) that all the conditions in the Services Report be complied with.
8. that the following be adhered to and implemented **within six (6) months of the final date of approval**:
- A structural assessment and confirmation that the landfilled area is stable;
 - A clearance report that no hazardous material has been used as filling;
 - Complete beautification of the road and commitment to maintain, which includes hiding the conservancy tank, and
 - Cleaning up the surrounding area.
9. 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 3095, Betty's Bay for the unauthorised building line encroachments as stipulated above, **be imposed**, and that an administrative penalty fee of **R9 577,67** be payable within thirty (30) days of this decision; and
10. 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 RESOLUTIONPOINT 2

- ❖ The removal of the conditions as proposed will allow the transmission tower to be within the property boundaries.
- ❖ There is a need for internet connection within Betty's Bay, and the service provider is one of the major suppliers of that service.
- ❖ The removal of the conditions will enable the dwelling on the 0m building line, without major re-construction.
- ❖ The removal of the title deed building lines will assist the owner to accommodate the portion of the dwelling transgressing the building line and the transmission tower.

POINT 3

- ❖ It is not necessary to remove the "business" concept from the Title Deed to accommodate the transmission tower, since this type of business was not in existence in South Africa in the 1940's and 1950's and thus cannot be made applicable.

POINT 4

- ❖ The amendment will enable the transmission tower and associated outbuildings to be consistent with the development parameters of the Land Use Scheme.

POINT 5

- ❖ The departure of the buildings lines is necessary to accommodate the existing dwelling and the transmission tower.
- ❖ The building plan for the dwelling was approved in 2006 and was not built according to plan.
- ❖ The applicant bought the property in 2019 and only became aware of the transgression after surveying of the erf.
- ❖ The applicant will be required to demolish the portion of the dwelling transgressing the boundary.
- ❖ The departure to allow the transmission apparatus is necessary to fulfil the need for internet connection within Betty's Bay, and the service provider is one of the major suppliers of the service.
- ❖ The departure of the building line is restricted to the portions of structures transgressing the building line, as indicated on plan 101, dated 16 October 2024.

POINT 6

- ❖ The filling will improve manoeuvrability on site.

- ❖ The conservancy tank above ground level will be concealed to form an integral part of the garden.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 11:18