



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

**MINUTES**

<b>DATE:</b>	<b>27 JUNE 2024</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM</b>
<b>TIME:</b>	<b>08:00</b>

**OVERSTRAND**  
**MUNICIPAL PLANNING TRIBUNAL**  
**MINUTES OF A MEETING OF THE**  
**MUNICIPAL PLANNING TRIBUNAL,**  
**HELD IN THE**  
**TOWN PLANNING COMMITTEE ROOM ON**  
**27 JUNE 2024 AT 08:00**

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**PRESENT:**

**MEMBERS:**

Mr S Müller, Director : Infrastructure & Planning  
Mr H Blignaut, Deputy Director: Engineering  
Services  
Ms R Louw, Senior Manager : Strategic Planning

**OFFICIALS:**

Mr R Kuchar, Senior Manager : Town & Spatial  
Planning  
Mr S van der Merwe, Senior Town Planner  
Mr H Olivier, Town Planner  
Ms S Swart, Council Support Services

**APOLOGIES:**

Ms H Janser, Directorate Development  
Management  
Mr S Madikane, Director : LED  
Ms H van der Stoep, Senior Town Planner



## MUNICIPAL PLANNING TRIBUNAL

## ATTENDANCE REGISTER

Date: **27 JUNE 2024**

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	Apology
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	
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	Swart

**1. OPENING**

The Vice-Chairperson, Mr S Müller, opened the meeting and welcomed those present.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

Ms H Janser  
Mr S Madikane  
Ms H van der Stoep

**RESOLVED:**

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

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 30 May 2024****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **30 May 2024, be approved.**

**THE VICE-CHAIRPERSON CHANGED THE ORDER OF BUSINESS AND ITEM 4.2 WAS DEALT WITH LAST, BUT FOR THE PURPOSE OF THESE MINUTES THE ITEMS FOLLOW IN THE SAME ORDER AS ON THE AGENDA.**

#### 4. ITEMS FOR CONSIDERATION

##### 4.1

#### **ERF 876, 16 FRIEDA ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, RELAXATION OF TITLE DEED AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF DR. JE COETZEE**

**876 KPRB (4427/2023)**

**H van der Stoep**

**(028) 313 8900**

**Hermanus Administration**

**5 March 2024**

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#### **EXECUTIVE SUMMARY**

An application has been received on 30 June 2023 from Plan Active Town & Regional Planners on behalf of Dr. JE Coetzee on Erf 876, Pringle Bay in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Departure** 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 3,9m to accommodate a portion of the existing covered stoep, and the use change of the existing covered balcony into a braai room.
- ❖ and relax the lateral building line from 2,0m to 1,14m to accommodate a portion of the existing garage.
- ❖ and relax the lateral building line from 2,0m to 1,49m to accommodate a portion of an existing bathroom and outdoor shower.
- ❖ **Relaxation** of Clause B.6.(b) of Title Deed No. T59856/2017 to relax the street building line from 5m to 3,9m to accommodate a portion of the existing covered stoep, and the lateral building line from 1,5m to 1,14m and 1,49m respectively to accommodate a portion of the existing garage, the use change of the existing balcony into a braai room and a portion of an existing bathroom and outdoor shower.
- ❖ **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 to accommodate the unauthorised land uses as stipulated above.

**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 on Erf 876, Pringle Bay for the relaxation of restrictive title deed condition B.6.(b) of Title Deed No. T59856/2017 to relax the street building line from 5m to 3,9m to accommodate a portion of the existing covered stoep, and the lateral building line from 1,5m to 1,14m and 1,49m respectively to accommodate a portion of the existing garage and the use change of the existing balcony into a braai room and a bathroom and outdoor shower, **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 Municipal Land Use Planning, 2020 on Erf 876, Pringle Bay for a departure to relax the street building line from 4m to 3,9m to accommodate the roofed stoep and enclosed balcony (now braai room) on first floor and relaxation of the lateral building line from 2m to 1,49m and 1,144m respectively to accommodate a bathroom, outdoor shower and garage on the property and the use change of the existing covered balcony into a braai room, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in Points 1 and 2 above be subject to the following conditions:
  - (a) that the approval be limited to the building/structures as indicated on Plan numbers C.708.P (1- 6) dated 23 March 2023, as submitted with this 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 this approval does not absolve the 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; and
  - (e) that all the conditions in the Services Report be complied with.
5. 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 876, Pringle Bay to accommodate the unauthorised land uses as stipulated above, **be imposed**, and that an administration penalty fee of R2 866,05 be payable within thirty (30) days of the decision letter; and

6. 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:****POINTS 2 & 3**

- ❖ The dwelling on the erf has been incorrectly depicted on the approved building plans and the applicant on its own accord lodged the application to rectify the situation.
- ❖ The dwelling, with the exception of the bathroom and outdoor shower has been in existence on the erf since 2006.
- ❖ The building as depicted on the surveyed plan has been part of the spatial character of Pringle Bay since 2006 and as per Google Earth, 2011 and thus can the present application not be deemed out of character of the town Pringle Bay as per the objection.
- ❖ Previous years land surveyors were not involved in the layout of the development on an erf and applications to rectify transgressions is more prevalent than in years gone by.
- ❖ The total transgression over the building lines is 3m<sup>2</sup> of which 0,5m is over the Title Deed building line. Insignificant transgression, which has no impact on the area.
- ❖ None of the adjacent residents objected to the application.

**POINT 5**

- ❖ The footprint of the stoep remains unchanged and remains habitable. The transgression over the 5m title deed building line is 1,1m and over the 4m land use building line is 0,1m.
- ❖ The applicant built the bathroom without building plans. The transgression over the 1,5m Title Deed is 0,01m and over the 2m land use scheme building line is 0,51m.
- ❖ The owner immediately addressed the transgressions once it was found that the building was not built according to plan by the land survey's survey plan conducted to establish the placement of the building on the erf.
- ❖ It should be noted that the garage can be dealt with neighbour's consent and thus is not part of the determination of the administrative penalty. The determination of the penalty is only applicable for the areas transgressing the building lines.
- ❖ The impact of the transgressions is insignificant and has been in existence from 2006.

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

## 4.2

**PORTION 156 OF FARM HANGKLIP NO. 559, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USES AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF B TOPHAM****KHANG 156/559 (4174/2022)****H van der Stoep****(028) 313 8900****Hermanus Administration****5 April 2024**

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**EXECUTIVE SUMMARY**

An application has been received on 8 June 2022 from WRAP Project Office on behalf of B Topham on Portion 156 of the Farm Hangklip No. 559 for the following:

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a second dwelling unit, tourist accommodation, agriculture to permit beekeeping, harvesting of natural resources to permit small-scale flora harvesting, intensive horticulture to permit the cultivation of flora, aquaculture to permit cultivation and breeding of water flora and fauna, and a plant nursery to permit the sale of plants and gardening products.
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to exceed the maximum permissible size of a second dwelling unit from 120m<sup>2</sup> to 250m<sup>2</sup>.

**RESOLVED:**

1. that the 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 Portion 156 of the Farm Hangklip No. 559 for a consent use to allow tourist accommodation, **not be approved**, in terms of the provisions of Section 61;
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 156 of the Farm Hangklip No. 559 for a consent use to accommodate a second dwelling unit, agriculture to permit beekeeping, harvesting of natural resources to permit small-scale flora harvesting, intensive horticulture to permit the cultivation of flora, aquaculture to permit cultivation and breeding of water flora and fauna, and a plant nursery for own use, **be approved** in terms of the provisions of Section 61;



4. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Portion 156 of the Farm Hangklip No. 559 for a departure to exceed the maximum permissible size of a second dwelling unit from 120m<sup>2</sup> to 250m<sup>2</sup>, **be approved** in terms of the provisions of Section 61;
5. that the approvals in Points 2 and 3 above be subject to the following conditions:
  - (a) that the consent use be limited as follows:
    - second dwelling - 241m<sup>2</sup>;
    - plant nursery and Khoi nursery - 50m<sup>2</sup>;
    - harvesting of natural resources limited for own use;
    - intensive horticulture of indigenous fauna and flora for own use;
    - aquaculture for water plants and koi fish for own use, and
    - agriculture for beekeeping only.
  - (b) that the development footprint be restricted as per Environmental Authorisation approval by the Provincial Department of Environmental Affairs dated 13 April 2023;
  - (c) that building plans be submitted to the Building Department for approval, and that any conditions by the Fire and Building Departments be complied with at that stage;
  - (d) that the EMP be submitted to the Municipality after approval by the Western Cape Government: Department of Environmental Affairs and Planning;
  - (e) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (f) that the owner is responsible for all sewerage generated on the property, and disposal thereof at a licensed municipal sewerage treatment facility;
  - (g) that the conditions in the Western Cape Government: EADP (Environmental) – Environmental Authorisation by the Provincial Department of Environmental Affairs be complied with;
  - (h) that the conditions imposed by BOCMA (previous BGCMA) be complied with;
  - (i) that all the conditions imposed by Cape Nature be complied with;
  - (j) that all the conditions in the Services Report be complied with; and

- (k) that all the conditions imposed by the National Department of Water and Sanitation be complied with.
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 decisions.

**REASONS FOR THE RESOLUTION:****POINT 2**

The title deed restricts any business activities on the property and the application did not address this aspect.

**POINT 3 & 4**

- The application for the consent uses is in line with the planning documents.
- The applicant was issued with an ROD.
- Cape Nature, the parastatal dealing with Biodiversity, supports the application.
- The activities and footprint are negligible in terms of the extent of the property.
- The activities proposed is for own use and not commercial purposes.
- The Water License was obtained by the applicant for the proposed activities.

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

## 4.3

**PORTION 231 OF THE FARM AFDAKS RIVIER NO. 575, BENGUELA COVE, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE AND DEPARTURE: HIGHWAVE CONSULTANTS (PTY) LTD ON BEHALF OF BENGUELA COVE INV (PTY) LTD.**

**231/575 HBENG (4327/2023)**

**H Olivier**

**(028) 313 8900**

**Hermanus Administration**

**29 April 2024**

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**EXECUTIVE SUMMARY**

An application was received on 23 January 2023 from Messrs Highwave Consultants (Pty) Ltd on behalf of Benguela Cove Inv (Pty) Ltd, applicable to Portion 231 of the Farm Afdaksrivier No. 575, Division Caledon for the following:

- ❖ **consent use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to erect a transmission apparatus on the above property.
- ❖ **departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to exceed the applicable 12m height restriction to accommodate the proposed 15m high transmission apparatus.

**RESOLVED:**

1. that the objections be noted;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Portion 231 of the Farm Afdaks Rivier No. 575, Division of Caledon for a consent use to erect a transmission apparatus, **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 Portion 231 of the Farm Afdaks Rivier No 575, Division of Caledon for a departure to exceed the applicable 12m height restriction to accommodate the proposed 15m high transmission apparatus, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in Points 2 and 3 above be subject to the following conditions:

- (a) that a tree mast be erected as recommended in the Visual Impact Assessment, and that the Municipal Environmental Branch will have to support the specific tree type for the tree mast;
  - (b) that the transmission apparatus be restricted to the development indicated on Plan 05185-P1 and that an amended elevation plan showing the 15m height tree mast be submitted;
  - (c) that any lighting at the transmission apparatus must shine directly downward to the ground;
  - (d) that all the conditions in the Service Report be complied with;
  - (e) that the conditions in the letter from Telkom be complied with;
  - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (g) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
  - (h) that the conditions in the letter from Cape Nature be complied with; and
  - (i) that the conditions in the letter from Western Cape Government: EADP (Environmental) be complied with.
5. 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 Municipal Land Use Planning, 2020 with regard to the above decision.

#### **REASONS FOR THE RESOLUTION:**

- ❖ A Visual Impact Assessment was done for the proposed transmission apparatus with proposed 15m mast, and it was found that the visual impact would be low.
- ❖ The mitigation measures to put up a tree mast and that all lights must shine towards the ground would ensure limited impact on the surrounding area.
- ❖ The chosen site is zoned for agricultural purposes and is developed with agricultural buildings. There is some existing vegetation on the site where the proposed mast will be placed. The site is a fair distance from existing residences in Benguela Cove and it should thus not impact the character of the area.
- ❖ With an increased demand for coverage more communication infrastructure will have to be placed closer to each other as their radius for coverage gets smaller. This site can serve Benguela Cove and users of the R43 Provincial Road.
- ❖ The Department of Health is the responsible institution to consider the health impact of transmission apparatus, and they support the construction of transmission apparatus.

- ❖ The application is supported in terms of an environmental perspective by the Municipal Environmental Branch, BOCMA, Cape Nature and Western Cape Government: EADP (Environmental).
- ❖ The objections relating to health concerns, environmental impact, visual impact and impact on the character of Benguela Cove Estate have duly been addressed and does not prove the application not to be desirable.

**RESPONSIBLE OFFICIAL :**

**H OLIVIER**

MR R KUCHAR DECLARED A CONFLICT OF INTEREST AND LEFT THE MEETING AT 08:27 AND WAS NOT PRESENT DURING THE CONSIDERATION OF THE FOLLOWING ITEM:

## 4.4

ERF 2908, 51 ATLANTIC DRIVE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF ADMINISTRATIVE PENALTY: ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE ON BEHALF OF LIANRI TRUST

2908 HON (4437/2024)

H Olivier

(028) 313 8900

Hermanus Administration

8 May 2024

### EXECUTIVE SUMMARY

An application was received on 18 July 2023 from Messrs Engelbrecht and Scorgie on behalf of Liandri Trust in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 2908, Onrustrivier for the following:

- ❖ **Departure** in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to relax the western lateral building line from 2m to ,96m to accommodate proposed alterations to the existing dwelling, alterations to the roof, and the use change of a portion of the carport into a part of a dwelling.
- ❖ **Departure** in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to exceed the permissible coverage from 50% to 51,69%, to accommodate the existing dwelling on the property.
- ❖ **Determination of Administrative Penalty** in terms of Section 16.(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the unauthorized work as mentioned above.

### RESOLVED:

1. that the objection be noted;
2. 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 2908, Onrustrivier for a departure to relax the western lateral building line from 2m to 0,96m to accommodate proposed alterations to the existing dwelling, alterations to the roof, and the use change of a portion of the carport into a part of a dwelling, **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 Municipal Land Use Planning, 2020 on Erf 2908, Onrustrivier for a departure to exceed the permissible coverage from 50% to

51,69%, to accommodate the existing dwelling on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;

4. that approvals in Points 2 and 3 above be subject to the following conditions:
  - (a) that this approval is only for the departure of building lines and coverage and is not an approval in terms of any other legislation;
  - (b) that the approval for the departure is only for the development over the building lines as indicated on plan number J1174, A1 – 01 to 09 revision 16 dated 29 November 2022, submitted with the application;
  - (c) that building plans be submitted for all new work to the Building Department for approval, and that all conditions of the Building and the Fire Departments be complied with at that stage;
  - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
  - (f) that all the conditions in the Services Report be complied with;
  - (g) that the conditions imposed by Telkom be complied with; and
  - (h) that if any pool piping or any pool structure encroach onto Erf 2911, Onrustrivier, it be removed at construction phase.
5. 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 2908, Onrustrivier for the unauthorized exceeding of the coverage over the maximum allowable coverage on the property was considered and that an administrative penalty of **R6 162-50 be imposed** which penalty must be paid within thirty (30) days from the final date of the decision letter of the application; and
6. that the applicant and objector 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 conditions of approval.

#### **REASONS FOR THE RESOLUTION:**

#### **POINTS 2, 3 & 4**

- ❖ The application has followed due procedure.

- ❖ No new municipal services will be needed.
- ❖ The main objection point relates to impact on privacy. The fact that the objector's concern is regarding a proposed new first storey portion overlooking his pool area and this portion of the building does not contravene the Land Use Scheme building lines, the objection cannot be considered as it is within the applicant's right to construct the first storey.
- ❖ The point of concern regarding the existing outbuilding onto the eastern boundary is considered a historic approval, and the new pool complies with the Land Use Scheme and is allowed over the building line up to a maximum height of 1m above natural ground level, and no departure process is required for the swimming pool. The owner of Erf 2908 will however have to deal with pool piping if it traverses onto Erf 2911 at construction phase.
- ❖ The building line encroachment over the western building line is mostly internal changes and changing of roofs and windows, and will not have a negative effect on views, surrounding property owners and the character of the surrounding area.
- ❖ The application for departure to exceed the maximum allowable coverage is to maintain the existing footprint of the dwelling, and further extension on first floor will only cover a portion of the existing footprint. It is the opinion that the legalization of this historic encroachment will not negatively impact surrounding property owners, as it is an existing situation.

**POINT 5**

- ❖ The existing landowner did not have part in exceeding of the coverage. However, when purchasing a property new owner should ensure all buildings on their property is legal. A penalty fee is therefore imposed, but of a lower amount since the existing property owner did not create the illegal building work.

**RESPONSIBLE OFFICIAL :****H OLIVIER****MR R KUCHAR REJOINED THE MEETING AT 08:37****The meeting adjourned at 08:50**