



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

A G E N D A

DATE:	31 OCTOBER 2024
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	12:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

24 October 2024

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session in the **Town Planning Committee Room** on **Thursday, 31 October 2024** at **12:00** to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

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

MUNICIPAL PLANNING TRIBUNAL (MPT)

31 October 2024

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1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 4 October 2024

4. ITEMS FOR CONSIDERATION

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

Report attached

4.2 ERF 124, 20 SERVICE ROAD, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD WOOLNOUGH

Report attached

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Report attached

- 4.7 REMAINDER OF ERF 1253, FAIRWAYS AVENUE, EASTCLIFF, HERMANUS: APPLICATION FOR AMENDMENT OF THE SITE DEVELOPMENT PLAN (SDP) AND CONDITIONS OF APPROVAL: MESSRS WRAP PROJECT OFFICE ON BEHALF OF OVERSTRAND MUNICIPALITY**

Report attached

4.1

ERF 6119, MARINE DRIVE, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: N LLOYD ON BEHALF OF THE TRUSTEES OF THE OLD HARBOUR MUSEUM**6119 HNC (4517/2023)****H van der Stoep
3 October 2024****(028) 313 8900****Hermanus Administration**

1. EXECUTIVE SUMMARY

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

On 29 August 2024, the Municipal Planning Tribunal scrutinized the application, and the matter was referred back to the Legal Department to confirm that the proposed development of the tourist facility (in order to accommodate a restaurant on the subject property) is in compliance with Condition B.(a) stipulated in Title Deed T10445/1983. This item serves to discuss the aforementioned. See Paragraph 12 of this report.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

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

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

4. SUMMARY OF APPLICANT'S MOTIVATION

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

- ❖ The subject property is zoned Open Space Zone 2: Public Open Space (OS2) and the surrounding properties are zoned for Business Zone 1: General Business Bulk Zone 1 and Transport Zone 2: Road and Parking.
- ❖ There is an existing building on the subject property, currently being used for museum purposes.
- ❖ Land uses that surround the subject property are primarily restaurants and businesses. Other land uses that are also found in the area are parking and roads.

- ❖ The Board of Trustees of The Old Harbour Museum, Erf 6119, wish to lease the subject property for a new restaurant and liquor license.
- ❖ The proposed restaurant will be conducted within an existing building with minimal impact on historic fabric. The proposed scope of work includes minor internal alterations and lightweight external hardwood decking.
- ❖ The proposed alterations are internal and will not affect the total coverage of the site.
- ❖ The initiative will be greatly beneficial to the Old Harbour Museum by attracting tourists and locals alike to the Old Harbour and showcasing this important historic site.
- ❖ Access to the site will be gained from the Cliff Path and various other steps leading from the Promenade. No additional access to the site will be required.
- ❖ The site is already serviced. Additional services are not required.
- ❖ The Title Deed T10445/1983 Item B (a) stipulates that the erection of a building/s to be used exclusively for Museum purposes. The proposed restaurant is relevant to the original purpose of the subject building and is integral with regard to the maintenance and upkeep of the building and Old Harbour Museum.
- ❖ The primary zoning of the property (Open Space Zone 2) will be retained; the application is for the consent use to accommodate the new restaurant and is in line with the OMSDF.
- ❖ The proposed application falls within the existing land use planning strategies for the Hermanus area and is in line with the OGMS.
- ❖ The property has a Provincial Heritage approved grading 2 (suggested grading is 1). The Old Harbour is preserved as maritime museum. It includes the old boat winch, table for cleaning fish etc. The subject building forms part of the Fisherman's sheds along the pathway to the harbour that have been rebuilt circa 1986 (on the existing foundations) and incorporated into the museum.
- ❖ As the proposed restaurant will be conducted within the existing building with minimal impact on the historic fabric it is evident that the proposed consent use will not have a negative impact on the heritage value of the subject property or the greater Hermanus area.
- ❖ The proposed development does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

❖ **Planning Principles:**

- Spatial Justice:
Spatial Justice is not applicable to this application.
- Spatial Sustainability:
The proposed consent will not have a negative impact on the current character and land values of the surrounding erven. The proposed restaurant will bring together important resources to give locals and visitors to Hermanus a unique experience within the authentic environs of the Old Harbour and will contribute positively to the Old Harbour Museum and Hermanus in general.
- Efficiency:
The proposed consent use will ensure optimal use of services.
- Spatial Resilience:
Spatial Resilience is not applicable to this application.

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

5. ADMINISTRATIVE COMPLIANCE

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

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

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

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

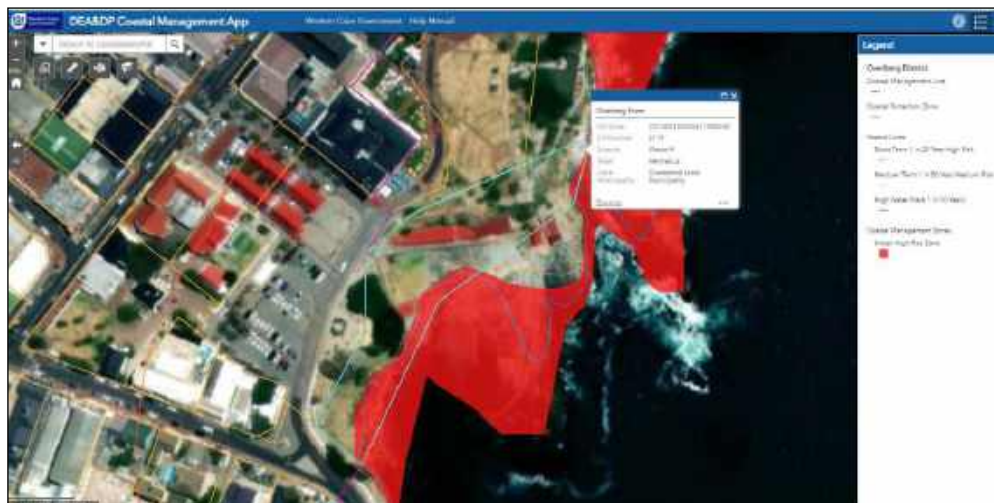
During the public participation process, one (1) letter of non-support was received by the Western Cape Department of Environmental Affairs and Development Planning: Sub-Directorate Coastal Management, refer to Annexure G.

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

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

COMMENT 1 - Within CML & near Urban Risk Zone

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



APPLICANT'S RESPONSE

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

TOWN PLANNER'S RESPONSE

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

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

 COMMENT 2 – Overberg District experienced increased storms & floods

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



APPLICANT'S RESPONSE

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

TOWN PLANNER'S RESPONSE

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

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

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



Coastal Management Comment:

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

APPLICANT'S RESPONSE

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

- Subject Site deck: 8.713m Above Sea Level (Rock below 7m ASL)
- Fick's Pool deck: 5.5m Above Sea Level (Rock below 3.89 ASL)
- Perlemoen deck: 6.335m Above Sea Level (Rock below 4.1 ASL, touching highwater mark)

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

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

The topography markup is attached as Annexure I.

TOWN PLANNER'S RESPONSE

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

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

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

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

Refer to point 7 of this report.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Refer to point 7 of this report.

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

10.1 Background

N/A

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

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

Spatial Justice

The proposal will not further perpetuate historic spatial imbalances.

Spatial sustainability

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

Efficiency

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

Spatial Resilience

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

Good administration

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

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

Same as Point 10.2 above.

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

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

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

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

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

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

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

N/A

10.6 Impact on Municipal Engineering Services

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

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

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

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

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

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

10.8 Existing and proposed zoning comparisons and considerations

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

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

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

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

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

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

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

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

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

The application is considered desirable from a town planning perspective.

**THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 29 AUGUST 2024
RESULTED IN THE FOLLOWING:**

The MPT scrutinized the application which was referred back to the Legal Department to confirm that the proposed development of the tourist facility (in order to accommodate a restaurant on the subject property) is in compliance with Condition B.(a) stipulated in Title Deed T.10445/1983. The Legal Department confirmed the following: *“that the land is and will in all probability remain a museum and a monument for posterity, leasing a building on the land for purposes of (another) restaurant will not offend condition B.(a).”* The complete comment provided by the Legal Department is attached as Annexure L.

It is therefore considered that the proposed development is compliant with the restrictive title deed conditions stipulated in Title Deed T.10445/1983 and recommended for approval.

13. RECOMMENDATION

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6119, Hermanus for consent use to allow tourist facilities (museum purposes to accommodate a restaurant), **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions;
 - (a) that the proposed development of a restaurant be limited to the proposal indicated on the plan numbers 823/100, 823/101 and 823/102 dated 26 September 2023, as submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (c) that the drawings for the statutory approval be submitted to the Local Heritage and Aesthetics Committee;
 - (d) that all the conditions imposed by the Engineering Services Report (attached as Annexure E), be complied with;
 - (e) that the disposal of solid waste be conducted as per Waste Management Department comment (attached as Annexure F);
 - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ No objections were received from the public.
- ❖ It is in line with forward planning documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.
- ❖ Similar activities were developed within the immediate surrounding area that are unscathed by the recent storm surges.
- ❖ The motivation from the applicant in terms of surveyed levels from Geomatics was not disputed by Coastal Management nor did they submit any contrary data or why the risk zones may be incorrectly calculated. The latter specifically drafted to protect people, property and natural environment from inappropriate developments.
- ❖ The concerns of DEA& DP (Coastal Management) have been addressed extensively. The applicant and DEA& DP: Directorate: Development Management: Environmental have clearly indicated that Fick's Pool weather damage cannot be correlated to the Old Harbour proposed application.
- ❖ DEA& DP: Directorate: Development Management: Environmental indicated that the proposed activity does not trigger any listed activities.
- ❖ The Land Surveyor submitted a surveyed diagram indicating the height above sea level which is not similar to Fick's Pool.
- ❖ The deck does not fall in any of the risk zones applicable to the site.
- ❖ The proposed land use is in compliance with the Condition B.(a). held in Title Deed T.10445/1983 as confirmed by the Legal Department.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Comment: Property Administration
Annexure E:	Services Report
Annexure F:	Comment: Waste Management
Annexure G:	Comment: DEA&DP: Sub-Directorate: Coastal Management
Annexure H:	Applicant's response to comment from CM
Annexure I:	Comment: DEA& DP: Directorate: Development Management: Environmental
Annexure J:	Comment: Municipal Environmental Management & Conservation Division
Annexure K:	Communication between the applicant and DEA& DP: Directorate: Development Management: Environmental
Annexure L:	Comment: Legal Department
Annexure M:	Title Deed T10445/1983

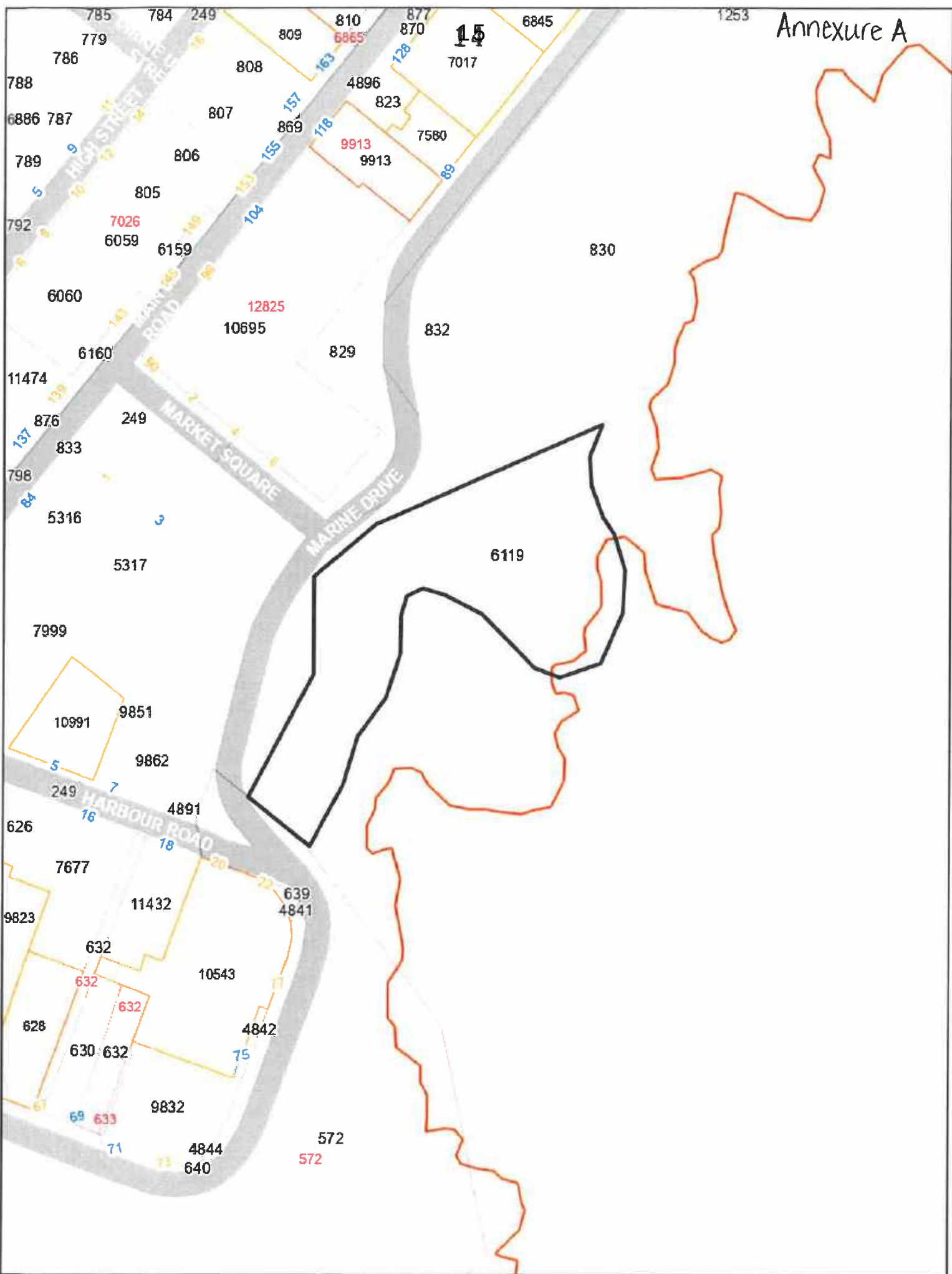
SIGNATURES**REGISTERED PLANNER**

Name: **H VAN DER STOEP**

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

Signature: _____

Date: _____



NICOLETTE LLOYD ma (rca)
Architectural Designer

32 Mitchell Street
Hermanus, 7200
Tel: (028) 312-3771
Fax: (028) 312-2026
e-mail: lloydn@hermanus.co.za

20 September 2023

CONSENT USE APPLICATION

SITE DATA

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

MOTIVATION REPORT

1. BACKGROUND

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

2. APPLICATION DETAILS

Application is made in terms of:

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

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

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

3.2 ZONING

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

Motivation Report

3.3 LAND USE

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

3.4 PROPOSAL

Application is made in terms of :

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

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

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

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

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

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

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

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

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

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

3.5 ACCESS

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

Motivation Report

3.6 SERVICES

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

3.7 TITLE DEED

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

3.8 FORWARD PLANNING

Overstrand Municipal Wide Spatial Development Framework

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

Overstrand Growth Management Strategy

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

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

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

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

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

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

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

Motivation Report

3.10 PLANNING PRINCIPALS

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

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

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

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

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

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

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

3.11 CONCLUSION

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

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

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

NICOLETTE LLOYD

End

bottles to comply with SANS 10087

DWG NO: 823/103
SCALE 1:100
DATE: 26.09.2023
DRAWN: JF



le 4c (DWG04) for Gas Geyser Installation.

GAS:
Gas installation strictly to SANS 10087 Gas Installation Regulations.
Install strictly to safety distances as per SANS 10087.
Install gas shut-off valves at appliances.
Piping through walls to be installed in sleeves.
2no. 8kg Gas Bottles
installed by Registered Gas Installer. Certificate of compliance (GAS) to be issued - Compliance of Gas Installation.
Refer to Table 4c (DWG004) for Gas Geyser installation.



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

INTERNAL MEMORANDUM

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

TO:

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

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

ATTACHMENTS:

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

YOUR DEPARTMENT'S COMMENTS:

Council at a meeting held on 28 June 2023 resolved as follows:

"that the deviation from condition B(a) as contained in Title Deed number T10445/1983 2014 to accommodate tourist facilities in the form of restaurants, be approved, subject thereto that the required land use planning approvals are obtained."

There is thus no objection.

Signature:		Date:	21 February 2024
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Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below**. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

COMMENTS REQUIRED BY: 22 MARCH 2024



120
HERMANUS
7200

Tel: 028 - 316 3724
Fax: 028 - 316 3721

Property Administration

e-mail: anjaleroux@overstrand.gov.za
website: www.overstrand.gov.za

Enquiries: Anja Le Roux

Our Ref:
Your Ref:

15/3/R (HNC6119)

Date: 30 June 2023

Old Harbour Museum
67 Marine Drive
Market Square
HERMANUS
7200

Per email: finance@old-harbour-museum.co.za

Dear Mr Adams

**RE: ERF 6119 HERMANUS – OLD HARBOUR MUSEUM: CONDITION B(a) – CONSENT FOR
ADDITIONAL USE OF PROPERTY**

The abovementioned matter refers.

The Council at the meeting held on 28 June 2023 resolved as follows:

"that the deviation from condition B(a) as contained in Title Deed number T10445/1983 2014 to accommodate tourist facilities in the form of restaurants, be approved, subject thereto that the required land use planning approvals are obtained."

Kindly confirm in writing whether you accept the decision of Council.

We trust you find the above in order.

Yours sincerely,

**MS A LE ROUX
MANAGER: PROPERTY ADMINISTRATION**

5.5

**ERF 6119 HERMANUS – OLD HARBOUR MUSEUM: CONDITION B(a) –
CONSENT FOR ADDITIONAL USE OF PROPERTY**

**(ITEM 8 PAGE 260 : INVESTMENT & INFRASTRUCTURE
PORTFOLIO - MAYORAL COMMITTEE MEETING : 21 JUNE 2023)**

RESOLVED (SUPPORTED BY 21 COUNCILLORS):

that the deviation from condition B(a) as contained in Title Deed number T10445/1983 2014 to accommodate tourist facilities in the form of restaurants, **be approved**, subject thereto that the required land use planning approvals are obtained.

RESPONSIBLE OFFICIAL :

A LE ROUX

TARGET DATE FOR IMPLEMENTATION:

28 JULY 2023

TARGET DATE TO INFORM APPLICANT:

28 JULY 2023

TARGET DATE TO INFORM OBJECTOR:

N/A

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

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

Conditions:

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

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

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

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

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

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

Freehold erven:

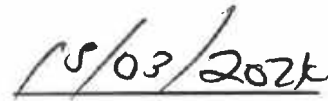
Water	R 27 598.16 x 0.416=	R 11 480.83
Sewerage	R 18 608.30 x 0.416=	R 7 741.05
Roads	R 8 344.32 x 2.933333=	R 24 476.67
Solid Waste	R 1 668.44 x 16.03=	R 26 745.09
TOTAL (inclusive of VAT)	=	R 70 443.64

Note:

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

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


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE



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

INTERNAL MEMORANDUM

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

TO:

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

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

ATTACHMENTS:

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

YOUR DEPARTMENT'S COMMENTS:

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

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

COMMENTS REQUIRED BY: 22 MARCH 2024

27
30
TP: P. Theak
(H. Olivier)

2/2

Loretta Gillion

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
11 APR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

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

Hi All

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

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

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

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

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

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

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

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

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

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

Regards

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

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



Department of Environmental Affairs and Development Planning

Mercia Liddle

Biodiversity and Coastal Management

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

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

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

Attention: Mr A J Fourie

Tel: 028 313 5088

Email: ajfourie@overstrand.gov.za

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

Good day

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

1. CONTEXT

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

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

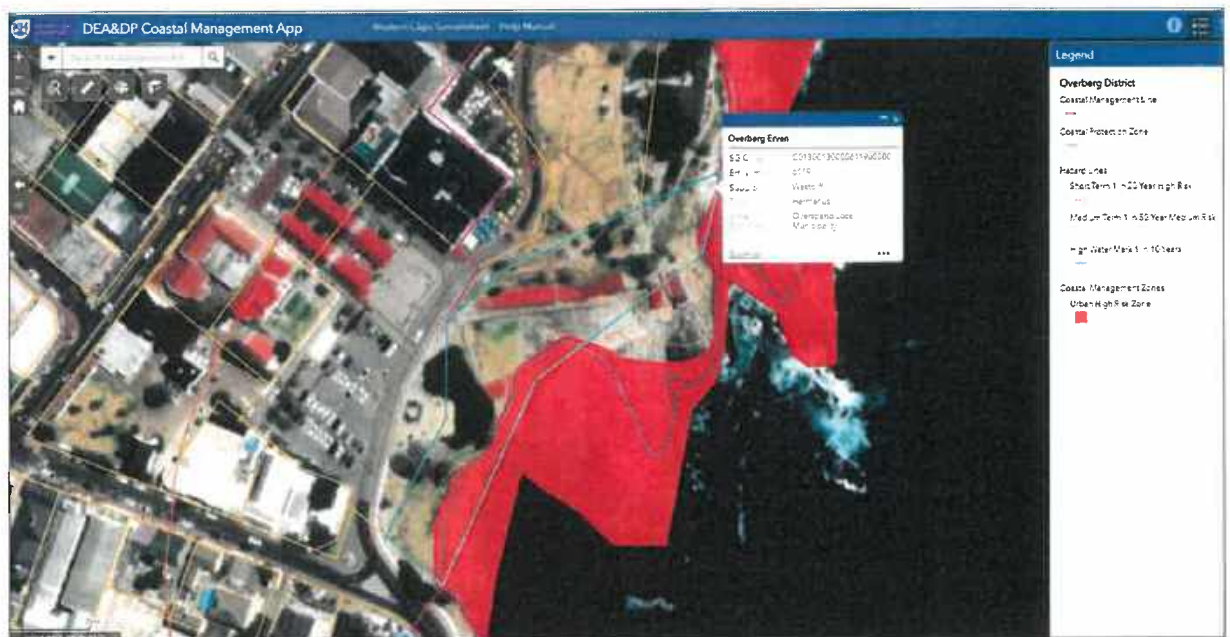
- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is predominantly implemented through the Estuary Management Framework and Implementation Strategy ("EMFIS") project. The Department is implementing estuary management in accordance with the NEM: ICMA and the National Estuarine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

1. COMMENT

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

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

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



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

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

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

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



(Figure 2 depicting the damage of the September 2023 storm event with the wooden decks, furniture and balustrade completely destroyed)

- 2.1.7. In terms of the Departmental Circular, [DEA&DP 0004/2021](#), regarding 'The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and implementation of Coastal Management Lines in terms of the NEM: ICMA', a precautionary approach must be adopted with respect to land use decisions with risk areas. The Circular also suggests development parameters to be considered for general risk areas. This includes maintaining coastal quality; reducing public liability; reducing risk to human life; preventing intensification of development in general risk areas but allow the exercising of existing rights; prevention of encroachment that will impact the integrity of the shoreline ecology; and enables safe evacuation in an emergency.
- 2.1.8. It must be noted that the application was not considered in terms of the NEM: ICMA and also has not made any reference to the impact of recent storm events and as such the

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

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

Yours faithfully

**leptieshaam
Bekko**

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

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

Loretta Gillion

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

OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

06 MAY 2024

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

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

Dear Hanneen

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

Kind Regards

NICOLETTE LLOYD

32 Mitchell Street, Hermanus, 7200

Phone: +27 (0) 28 312 3771

lloydn@hermanus.co.zaTP- n. / heart
(H. Olivier)

FILE NO.

87 6119

SCAN NO.

COLLABORATOR NO.

2042506

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

Thank you Mercia

Dear Ms Bekko

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

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

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

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

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

- 6 MAY 2024

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

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

Kind Regards

NICOLETTE LLOYD

32 Mitchell Street, Hermanus, 7200

Phone: +27 (0) 28 312 3771

lloyd@hermanus.co.za

From: Mercia J Liddle [<mailto:Mercia.Liddle@westerncape.gov.za>]

Sent: Monday, April 22, 2024 7:10 AM

To: Nicolette Lloyd <lloyd@hermanus.co.za>

Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Morning Ms Lloyd,

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

Kind Regards
Mercia

From: Nicolette Lloyd <lloyd@hermanus.co.za>

Sent: Friday, 19 April, 2024 12:43 PM

To: Mercia J Liddle <Mercia.Liddle@westerncape.gov.za>

Subject: RE: EADP: Coastal Management comments - Erf 6119, Marine Drive, Hermanus

Hi Mercia

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

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

Kind Regards

NICOLETTE LLOYD

32 Mitchell Street, Hermanus, 7200

Phone: +27 (0) 28 312 3771

lloyd@hermanus.co.za

Comparison between High Risk Zones

Old Harbour, Hermanus

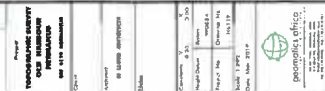


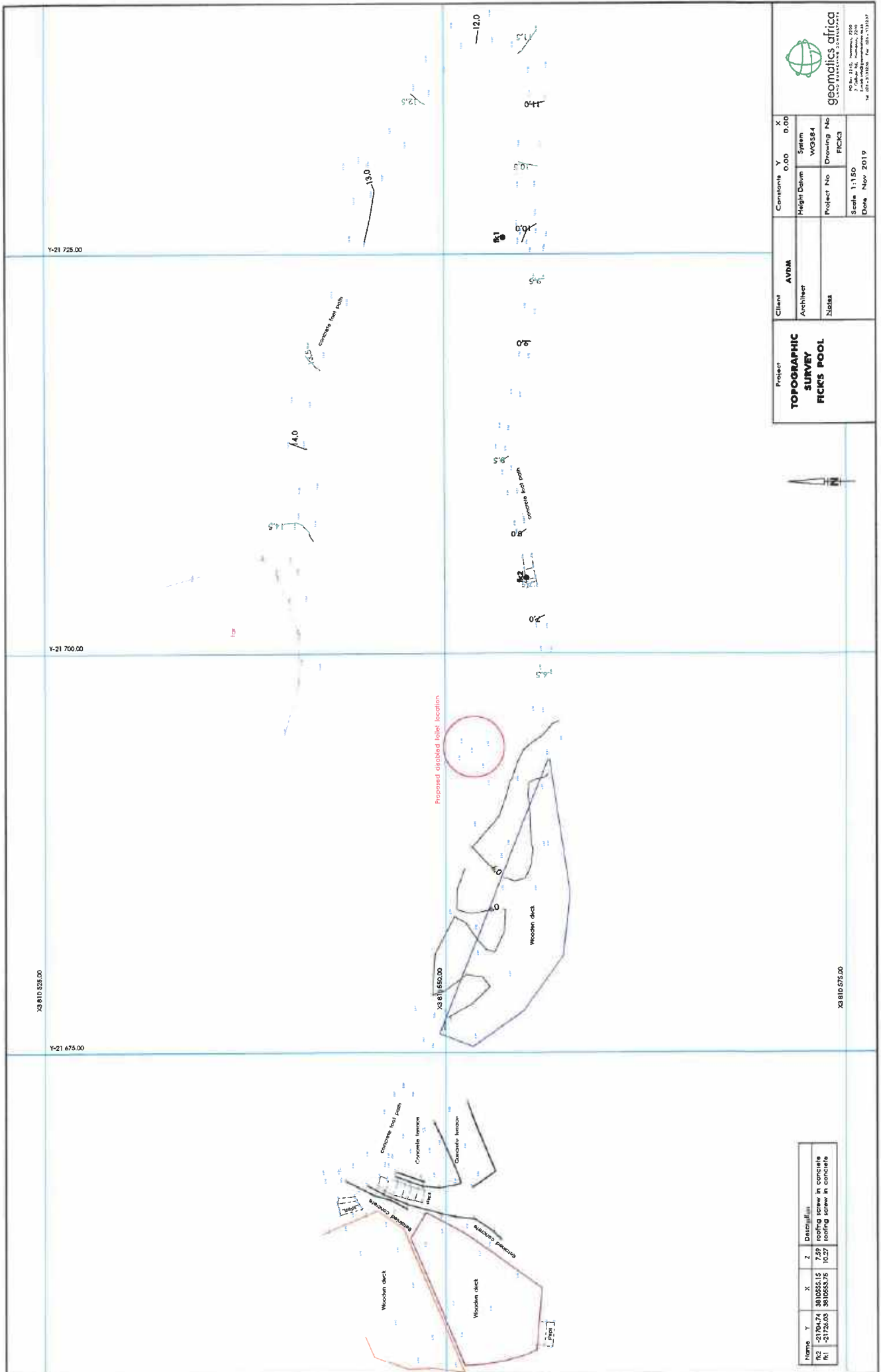
Subject site outside of zone

Fick's Pool, Hermanus



Comparison site within zone





geomatics africa
SURVEYING & CONSULTING

PO Box 1115, Midrand, 2008
P.O. Box 115, Midrand, 2008
Tel: 011-7333338 Fax: 011-7333337

Constants	V	0.00	V	0.00
Height Datum	System	WG84	Project No	FW354
Project No	Drawing No	FW354	Scale	1:150
Done	Nov 2019			

Client	AVDM
Architect	
Notes	

Project
TOPOGRAPHIC SURVEY
HICKS POOL

Name	Y	X	Z	Description
PC	-21726.24	801055.15	7.59	existing screw in concrete
PI	-21726.03	801055.75	10.27	existing screw in concrete

Height Comparison between Fick's Pool & Old Harbour

Fick's Pool, Hermanus



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

Old Harbour, Hermanus



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

**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Tarryn Mouries | Melanese Schippers

Directorate: Development Management, Region 1

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

REFERENCE: 16/3/3/6/6/E2/15/1072/24
DATE OF ISSUE: 15 March 2024The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200**Attention: S Muller**

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

OVERSTRAND MUNISIPALITEIT
REKORDBEHERR
15 MAR 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP-n. /theale
(M. Olivier)

Tel: (028) 313 8900

E-mail: alida@overstrand.gov.za

Dear Sir/ Madam

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

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

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

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

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

Yours faithfully

Melanes
Schippers

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

pp HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Ms. Penelope Aplon (Overstrand Municipality)
(2) Ms. Nicolette Lloyd (Architectural Designer)

Email: paplon@overstrand.gov.za

Email: lllycdn@hermanus.co.za

TPA-EMS-240327-04

Town Planning Application on 27-03-2024

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



Basic Information

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

Description

Erf 6119 Hermanus: consent-use

Geographical Information



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

Application Details

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

Application Comments

The site falls outside the low, medium and high-risk zones. The only proposed additions are raised timber decks. The EMOZ does make provision for this type of development (commercial/tourism/cultural/heritage buildings).

This office has no objection to this application.

Application Types

Consent-use

Closing Comments

.....
.....

Name and Surname
Date

.....

Signature

Brady Minnaar

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

Dear Brady

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

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

We look forward to your feedback.

Kind Regards

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

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

Dear Hanneen

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

Kind Regards

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

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

Thank you Mercia

Brady Minnaar

From: Andre Olivier
Sent: Monday, 02 September 2024 12:09
To: Brady Minnaar
Cc: Riaan Kuchar; Jacques Wilkinson
Subject: RE: MPT ITEM - ERF 6119 NORTHCLIFF

Hi Brady

Re your instruction to me the following pertains:

At the outset the registration of transfer was done on 25 March 1983, and I doubt whether the parties to the transaction anticipated or could have anticipated in 1983 how Hermanus would “explode” into a major international tourist attraction 30 + years later which by all accounts will probably increase going forward. A natural consequence of the foregoing is the development of Hermanus together with all the spin-offs, such as among others, restaurants.

Not being a professional in your field, I nevertheless assume that modern urban development, planning and environmental principles and considerations should not stymie progress in this regard albeit always ensuring that development etc is done in accordance with the law.

Against this backdrop I think the applicants have, for the following reasons, presented sound arguments as to why their application warrants a favourable consideration:

1. What they intend doing with the building will in no way detract from the historically intended purpose of the land, ie : to be used for “museum purposes” because it would appear from the application (and I cannot find anything that disproves this) that since 1983 at least, not much for purposes of a museum was given effect to except a fish cleaning table and an old boat winch in one of the 5(?) buildings, and that the other buildings, including the one under consideration, have in effect stood empty, ie, not used for purposes of a museum.

In view of the above and on a strict interpretation of Condition B.(a) the land should have reverted to the Municipality because as mentioned above only one of the buildings has been

used and is still being used, for purposes of a museum while another one is used for ablution/toilet facilities which hardly qualifies as “for museum purposes”). But that said the

condition contains no detail as to what (and to what extent) should have or would have constituted “museum purposes” ? Neither the trustees nor the Council seem to have been concerned about this for the past 41 years.

So, if one considers the general meaning of “museum”, namely:

“ a building in which objects of historical or cultural interests are stored or exhibited”

the Old Harbour does not comply at all.

2. In addition to the above, the condition also states:

“or should the land at any time cease to be used for the said Museum purposes by the transferee... the land shall revert to the Council...” (my emphasis)

The “land” has, since 1983, never ceased to be used for “museum purposes” albeit that only 1(one) building is apparently used as such.

3. Apart from, or in addition to, the above, the heritage value, importance, and popularity *per se* of the Old Harbour should not be affected by this new restaurant, in fact I think it will enhance and increase the reasons to visit it. In this regard the Perlemoen restaurant has not, to my knowledge, had any negative affect on the Old Harbour’s intended heritage value as a museum and monument – considering that Perlemoen’s deck / seating arrangements are more “in your face” (for want of a better description) than the proposed location of the deck and seating arrangements of the applied-for restaurant.
4. DEA&DP’s concerns (the only “objection”) although probably not totally without merit, cannot without qualification be used as reasons to refuse the application. Yes, nobody in her right mind will or can deny the negative influence of emerging climate change in and on the severity and frequency of storms, wind and resultant storm surges along the coast and their potential to cause extreme and extensive damage to infrastructure and more importantly, risk to lives. But somehow, we will have to adapt and get used to it by designing, considering and approving urban development in accordance with it.

In addition to the above I think drawing a comparison between the location of the proposed restaurant and Fick’s Pool is misconstrued and unfortunate because if one thinks about it,

the location of the pool at Ficks (a tidal pool by the way) is perfect and fit-for-purpose to be filled with sea water cascading over the wall and into the pool, so it had to have been chosen

by design. Unfortunately, during a storm and a storm surge this effect is amplified with the result that the decks of the Fick’s Pool establishment will necessarily suffer the consequences

thereof as was the case in the recent past. The location of the proposed new restaurant’s deck on the other hand will be constructed on the rocks at least 7,0 meters above sea level and

would it appear that the building itself has never been damaged or threatened by storm surges.

So, during normal rain and even more so during a storm with high water and surges, I would assume that nobody will want to sit outside on the deck anyway, so the chances of somebody being injured or washed over the railings will probably be zero. In any event I don’t think the proprietor of the establishment will , for obvious reasons, allow it.

5. Further to point 3 above, title deed **condition B.(a)** was, given the fact that the Old Harbour is what it is: an old harbour and nothing else, probably the only logical thing to have been contemplated and therefore protected in the Deed of Transfer by the then

municipality in 1983 due to the fact that **the**, or **a**, museum of sorts had, I assume, already existed pre 1983, given the fact that an endorsement had been made on the Crown Grant of 1955 to have the land proclaimed a monument in **July 1970** already. A monument may be described as:

“ a type of structure commemorating an event, or has become relevant to a social group as part of their remembrance of historic times or cultural heritage due to its historical or architectural importance”

But even then, the municipality envisaged a possible scenario where the land might cease to be used as a museum subsequent to which it would have had to have reverted to the municipality but fortunately this did not happen and is the land still a museum and a monument at least 41 and 54 years later and will probably (hopefully?) still be a museum and a monument for the foreseeable future. What would the municipality have done with the premises anyway – even in this day and age? What seems to have happened is that the Trustees started to feel the pinch of the economy in the form of financial constraints and of necessity decided to allow a restaurant to operate on its premises, ie, Perlemoen. This is probably also the motivation for the proposed second restaurant.

6. As to the building itself, the applicants will only be utilising the interior of the fixed structure and will not affect any alterations to the exterior thereof - not that they would have been given permission to do so anyway. I assume the deck itself will be able to be removed if necessary and will not be attached to the building itself.

Conclusion

In view of the above and the fact that the land is and will in all probability remain a museum and a monument for posterity, leasing a building on the land for purposes of (another) restaurant will not offend condition B.(a).

Furthermore, it would appear from the above that the land and the building/s have never been able to be used exclusively for purposes of a museum and will probably never be so used.

Andre Olivier

2 September 2024

From: Brady Minnaar <bminnaar@overstrand.gov.za>

Sent: Thursday, 29 August 2024 15:58

To: Andre Olivier <aolivier@overstrand.gov.za>

Cc: Riaan Kuchar <rkuchar@overstrand.gov.za>; Jacques Wilkinson <jwilkinson@overstrand.gov.za>

Subject: MPT ITEM - ERF 6119 NORTHCLIFF

Good day Andre,

As discussed earlier, can you please have a look at the ITEM that served at MPT today which was referred back for clarify regarding restrictive title deed conditions B.(a) and B.(b) contained in Title Deed No. T.10445/1983. For ease of reference, I have attached the ITEM that served at MPT as well as the Title Deed which includes the consent from council to permit a restaurant on the subject property.

It is proposed to convert the existing building into a restaurant with a wooden deck. As mentioned above, clarification is required regarding the permitted land use in terms of the title deed.

Your assistance in this regard would be greatly appreciated.

Kind regards,

Brady Minnaar

Town Planner

Town & Spatial Planning

Planning & Development

Overstrand Municipality Hermanus

A: 16 Paterson Street, Hermanus, 7200

T: 028 313 8900 | **E:** bminnaar@overstrand.gov.za

MICRO FILMED MICROVERTILM	
DATE-DATUM	OPERATOR-OPERATEUR
27/4/83	do

DEED OF TRANSFER OF PROPERTY ACT 1954

T	10445	1983
---	-------	------

DEED OF TRANSFER

(By virtue of a Power of Attorney)

ROUTLEDGE-MACCALLUMS
ATTORNEYS
107 ST GEORGE'S STREET CAPE TOWN

Prepared by me,

[Signature]
Conveyancer

THAT
KNOW ALL MEN WHOM IT MAY CONCERN
GEOFFREY HART-DAVIES

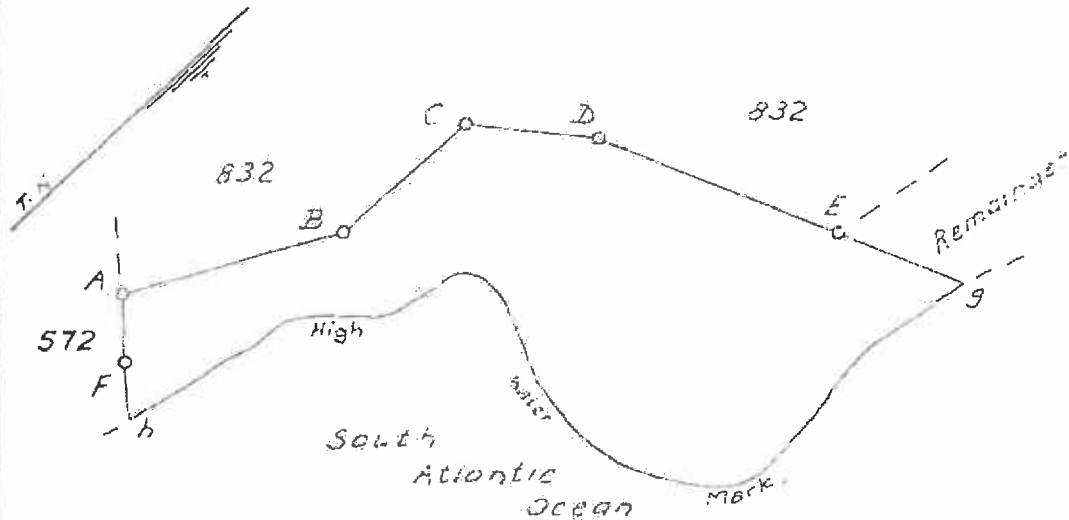
appeared before me, Registrar of Deeds at Cape Town, he being duly authorised thereto by a Power of Attorney executed at HERMANUS on 28th OCTOBER 1982, by

CHARLES SIM
in his capacity as Town Clerk of
THE MUNICIPALITY OF HERMANUS

and as such acting for and on behalf of the said
MUNICIPALITY

which

SIDES Metres		ANGLES OF DIRECTION		CO-ORDINATES System 1912		S.G. No
		CONSTANT				5 6 6 8/81
AB	46,03	237.40.50		422, + 10	Approved	
BC	34,78	180.23.40	B	- 2 343,01 + 10		
CD	27,72	230.14.	C	- 2 440,30 - 10 003,34		
DE	54,31	246.11.10	D	- 2 7,61 + 940,1		
EF	150,54	32.56.40	E	- 2 517,30 + 084,23	Surveyor-General	
FA	15,12	12.30.30	F	- 2 435,33 + 10 090,61		1982-01-13
Eg		246.11.10				
Fh		302.30.30				
		Hermanus A	Δ	- 2 ,11 + 10 216,1		
		16 G 2	⊙	- 2 415,05 + 10 092,65		



BEACONS:

- A - 16mm. iron pipe cemented into top of wall.
- B, D, E - 16mm. iron pipe cemented on to rock.
- C - 16mm. iron pipe cemented on to top of cement drain.
- F - 16mm. iron peg flush - concrete around.

Scale 1:1500

The figure A B C D E g high water mark South Atlantic Ocean h

represents

6 412 square metres

of land, being

ERF 6119 a portion of Erf 830 HERMANUS

situate in Municipality of Hermanus

Administrative District of Caledon

Province of Cape of Good Hope.

Surveyed in June - July 1981

by me.

Land Surveyor

This diagram is annexed to
DEED OF TRANSFER

No.

dated

10445

to THE CHAIR OF TRUSTEES
OF THE OLD HARBOR MUSEUM

Registrar of Deeds

The original diagram is

03-25

No 4000/1921

Transfer/Grant

No. 105/1948.

annexed to

File No. 3473/1982

SR No. 1982

Comp. AT- 01/04/1982

48 Hammonton Municipality
The lawful requirements of my Council in respect of this sub-division
have been complied with.
Town Treasurer [Signature] Date 1980-09-27

APPROVED IN TERMS OF SECT. 9
OF ORD. 33 1934
REF. Sect. 9(13)(b)
DATE 1980 9 21

which Power of Attorney duly executed according to law has been filed on with me.

And the Appraiser declared that on the 17th day of AUGUST 1982 the said Principal had truly and legally sold and that he, the Appraiser in his capacity afore-said did, by these presents cede and transfer in full and free property, to and on behalf of

THE BOARD OF TRUSTEES OF THE OLD HARBOUR MUSEUM

White Group -

or its Assigns

ERF NO. 6119, a portion of Erf 83 HERMANUS in the Municipality of Hermanus, Division of Caledon :

MEASURING 5 x Thousand Four Hundred and Twelve
(6412) Square Metres

AS WILL APPEAR from the annexed Diagram No. 4866,81

HELD BY Crown Grant No. 72/1955

A. SUBJECT to the following conditions as set out and contained in said Crown Grant which read as follows :

1. Subject to the provisions of the Reserved Minerals Development Act, 1926, and of the Precious Stones Act, 1927, as amended, all rights to all minerals, mineral products, mineral oils, coal, base or precious metals or precious stones in or under the land are reserved to the Government in respect of which reservation of mineral rights an endorsement appearing on a Deed of Grant NO. 72/1955 registered on 27th April 1955, which endorsement reads as follows :

"Certificate of Mineral Rights No. 68/1955 issued in terms of Section 72 of Act 47 of 1937 in respect of the minerals, mineral products, mineral oils, coal, base or precious metals or precious stones, etc. reserved herein"

2. That/.....

2 that the State shall have the right at all times of resuming for Government and, for public purposes, such portion or portions of the land as may not have been alienated by the Municipality. In the event of such resumption no compensation shall be payable by the Government except in respect of substantial improvements of a permanent nature effected on the land, whether by the Municipality or any other body or person acting under the express authority of the said Municipality.

B. SUBJECT FURTHER to the following conditions imposed by the Municipality of Hermanus for its benefit:

- (a) The purchaser, or its successors in title, shall utilise the land hereby purchased for the erection of a building/s to be used exclusively for Museum purposes. Should the erection of such building/s not be commenced within a period of (2) two years after transfer or within such further period as the Council with the consent of the Administrator of the Provincial Administration of the Cape of Good Hope may allow, or should the land at any time cease to be used for the said Museum purposes by the transferee or its successors in title, the land shall revert to the Council without payment of compensation of any nature whatsoever and the transferee or its successors in title shall be bound to do all things necessary and to sign all documents for the purpose of effecting re-transfer to the Council, the cost of the transfer to be borne by the transferee or its successors in title, whereafter the land with the approval of the Council and the Administrator may be used for such purpose as agreed to by the Council and the Administrator.
- (b) If the land is required by the local authority or any other statutory body for some or other Municipal purpose, and as a result thereof the Board of Trustees of the Old Harbour Museum Hermanus is forced to acquire other land for Museum purposes, then such local authority or other statutory body will have to negotiate with the Board for the purchase of the said land provided that the local authority or other statutory body shall pay for the land only if the Board is required to purchase an alternative site, and not if a site is obtained by the Board free of charge or at a nominal amount from any source whatsoever, provided that the Council will have to negotiate with the Board of Trustees for any Museum, office buildings etc., which have been erected thereon by the Board after they have taken control of the said land. SUBJECT FURTHER

~~WHEREFORE~~

CL

OR FURTHER INFORMATION SEE
10-8-67 ON AND CROWN 2 IN N.
did

Endorsement i.t. Section 13 of Act 28/1969

The herein mentioned property has been proclaimed a monument by Proclamation No. 19 dated 10/ 197 published in the Government Gazette of the same date.

For further particulars refer to the Proc amati
and Minute Nr. P E G /2 7 dated 17 7/197
from the Department of Cultural Affairs of in
File No. .

WHEREFORE / . . .

G: ...

ve end ; ...

ER ...

TIDINGE ...

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A. ...
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B. ...
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Hi ...

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Baton ...

1500215

heretofore had to the premium in equity of the corporation and the transferor to be entirely disallowed. The court held that the value of these policies

i t s.

Hence, Exemption Agent shall assign or assigns its and his both shall be entitled thereto conformably to local custom, State, however, reserving its rights; and finally acknowledging his said Principal to be fully and satisfactorily paid or secured the whole of the purchase money amounting to the sum of ONE HUNDRED (R1, 00).

IN WITNESS whereof I, said Registrar, have hereunto subscribed to these presents and have caused my name to be written therewith the Appeared a/g have hereunto subscribed to these presents and have caused my name to be written thereon - Seal of Office to be affixed thereto

THUS done and executed, at the office of the Registrar of Deeds, Cape Town, on the 25 day of March in the Year of our Lord One Thousand Nine Hundred and Eighty - ~~two~~ three (1983).

my presence

Registrar of Deeds.

Registered in the

Register of

Book .

.. Folio

John
Clerk in Charge

2. Rates Clearance Certificate
issued by ^{MUNICIPALITY OF} ~~HERMANS~~ ^{and}
~~PROFESSIONAL COUNCIL OF CALLOW~~
available until 30.9.1988

Checked:

2

